

AUSTRALIAN CAPITAL TERRITORY

Legal Aid (Amendment) Ordinance 1984

No. 3 of 1984

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 9 February 1984.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

GARETH EVANS
Attorney-General

An Ordinance to amend the *Legal Aid Ordinance 1977*

Short title

1. This Ordinance may be cited as the *Legal Aid (Amendment) Ordinance 1984*.¹

Principal Ordinance

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

3. After Part XI of the Principal Ordinance the following Part is inserted:

"PART XIA—INQUIRY RELATING TO AFFAIRS OF COMMISSION

Interpretation

"84A. In this Part, unless the contrary intention appears—

‘assistant’ means a person approved under section 84C;

‘inquiry’ means an inquiry conducted by a prescribed person in pursuance of 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;
- (b) the exercise of a power or the performance of a duty or its function by the Commission under this Ordinance; or
- (c) the exercise of a power or the performance of a duty or function by any person under this Ordinance;

‘prescribed person’ means—

- (a) a person appointed under section 84B; and
- (b) a person who is, by virtue of section 84F, to be deemed to have been appointed under sub-section 84B(1).

Appointment of person to conduct inquiry

“84B. (1) The Commission, with the approval of the Attorney-General, may, by instrument in writing, appoint a person to inquire into and report on such of the prescribed matters as are specified in the instrument.

“(2) The Attorney-General may, by instrument in writing, appoint a person to inquire into and report on such of the prescribed matters as are specified in the instrument.

“(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 Attorney-General; and
- (b) if the appointment of the prescribed person was made by the Attorney-General—to the Attorney-General.

Assistants

“84C. For the purpose of conducting an inquiry, the prescribed person may be assisted by such persons as the Attorney-General approves.

Access to documents, &c.

“84D. (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 sub-section (1).

“(3) The prescribed person or an assistant may require any person to furnish him 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 under sub-section (3) is guilty of an offence and is punishable, upon conviction, by a fine not exceeding \$200.

Professional privilege

“84E. (1) Section 13 shall not be taken to preclude an officer of the Commission from complying with a requirement made of him under sub-section 84D (3).

“(2) Where, 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 by virtue of sub-section 13 (2) between that person and a statutory officer of the Commission who practises 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.

Appointments for particular inquiry

“84F. (1) For the purposes of this Ordinance—

- (a) the person nominated by the Chairman of the Commission to carry out an inquiry pursuant to a resolution adopted by the Commission on 25 January 1984 shall be deemed to have been appointed under sub-section 84B (1) to inquire into and report on the matters specified in paragraph 1 of that resolution; and
- (b) each matter specified in paragraph 1 of that resolution shall be deemed to a prescribed matter.

“(2) The Commission, with the approval of the Attorney-General, may, by instrument in writing, from time to time during the course of the inquiry referred to in sub-section (1), vary the prescribed matters for the purposes of that inquiry in such manner as is specified in the instrument.”.

Secrecy

4. Section 92 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (1) (a) “and”;
- (b) by adding at the end of sub-section (1) the following word and paragraph:
 - “; and (c) a person who is or has been a prescribed person or an assistant.”;
- (c) by inserting in sub-section (2) “or an inquiry” after “Ordinance” (first occurring);
- (d) by inserting in paragraph (2) (a) “or in the course of an inquiry” after “Ordinance” (last occurring);
- (e) by inserting in paragraph (2) (b) “or in the course of an inquiry” after “Ordinance”;
- (f) by inserting after sub-section (3) the following sub-section:
 - “(3A) Nothing in this section shall operate so as to prohibit a prescribed person from referring in a report furnished under Part XIA 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.”; and
- (g) by adding at the end thereof the following sub-section:
 - “(7) For the purposes of this section, expressions used in this section that are defined in Part XIA have the same respective meanings as they have in that Part.”.

NOTES

- 1. Notified in the *Commonwealth of Australia Gazette* on 10 February 1984.
- 2. No. 31, 1977 as amended by Nos. 29 and 46, 1978; No. 15, 1980; No. 84, 1982.