

Legal Aid Commission (Amendment) Bill

No.

TABLE OF PROVISIONS

Clause

PART 1—PRELIMINARY

1. Purpose
2. Commencement

PART 2—AMENDMENTS TO THE LEGAL AID COMMISSION ACT 1978

3. Additional matter to be considered when certain guidelines determined
4. Commission to be able to delegate powers to private practitioners
5. Restriction on ability of person to choose a private practitioner
6. Specific references to delegates included to remove doubt
7. Amendments concerning confidentiality requirements
8. Repeal of spent transitional provisions

PART 3—AMENDMENTS TO THE LEGAL PROFESSION PRACTICE ACT 1958

9. Insertion of section 58A into the **Legal Profession Practice Act 1958**
58A. Fund management agents

By Authority L. V. North, Government Printer Melbourne



LEGISLATIVE ASSEMBLY

Read 1° 30 March 1994

(Brought in by Mrs Wade and Mr Gude)

A BILL

to amend the **Legal Aid Commission Act 1978** and the **Legal Profession Practice Act 1958**.

Legal Aid Commission (Amendment) Act 1994

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The main purposes of this Act are—

- 5 (a) to amend the **Legal Aid Commission Act 1978**
to enable the Legal Aid Commission—
- (i) to call for tenders from private lawyers to
conduct particular cases on behalf of people
the Commission is assisting; and
- 10 (ii) to delegate to private lawyers its power to
grant legal aid; and

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

Legal Aid Commission (Amendment)

(b) to amend the **Legal Profession Practice Act 1958** to enable the Law Institute to appoint an agent for the purposes of the investment of money in the Solicitor’s Guarantee Fund and money held on trust by the Institute.

5

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

PART 2—AMENDMENTS TO THE LEGAL AID COMMISSION ACT 1978

10

3. Additional matter to be considered when certain guidelines determined

After section 10 (1) (e) (v) of the **Legal Aid Commission Act 1978** insert—

“; and

15

(vi) the effective and efficient use of the Fund;”.

4. Commission to be able to delegate powers to private practitioners

In section 11 (1) (b) of the **Legal Aid Commission Act 1978**, after “officer of the Commission,” insert “a private practitioner.”

20

5. Restriction on ability of person to choose a private practitioner

For section 30 (1) of the **Legal Aid Commission Act 1978** substitute—

25

“(1) If—

(a) legal services are to be performed on behalf of an assisted person by a private practitioner; and

(b) the Commission has not assigned the conduct of the assisted person’s case to a

30

private practitioner chosen after the Commission called for tenders to conduct the case from private practitioners—

5 the assisted person is entitled to select a sole practitioner or firm of solicitors from the names on a referral panel.”.

6. *Specific references to delegates included to remove doubt*

In the **Legal Aid Commission Act 1978**—

- 10 (a) in section 34 (1), after “review committee”
insert “or a delegate of the Commission”;
- (b) in section 34 (2), after “review committee”
insert “or the delegate”;
- (c) in section 35 (1), after “an officer” **insert** “or delegate”;
- 15 (d) in section 39, after “officers” **insert** “and delegates”;
- (e) in section 40 (2), after “of the Commission”
insert “(and any relevant delegate of the Commission)”.

20 **7. *Amendments concerning confidentiality requirements***

- (1) At the end of section 43 (1) of the **Legal Aid Commission Act 1978 insert**—

“Penalty: 25 penalty units or imprisonment for 6 months.”.

- 25 (2) After section 43 (2) of the **Legal Aid Commission Act 1978 insert**—

“(3) Sub-sections (1) and (2) also apply to a delegate of the Commission and to any person employed by a delegate as if a reference to a member of the Commission was a reference to the delegate or person.

- 30 (4) If the Commission calls for tenders from private practitioners to conduct a case, a private practitioner who is supplied with any

Legal Aid Commission (Amendment)

information about the case by the Commission, and any person who is a partner of, or who is employed by, such a private practitioner, must not, without the consent of the Commission—

(a) communicate or permit to be communicated to any person, or give in evidence in a court, any of that information; or 5

(b) produce in a court any document received from the Commission in relation to the case. 10

Penalty: 25 penalty units or imprisonment for 6 months.

(5) A court does not have the power to compel any private practitioner or employee of a private practitioner to communicate, or give in evidence, any such information or to produce any such document unless the Commission, or the person on whose behalf the case is being (or was) conducted, has consented to the communication or production.”. 15 20

8. *Repeal of spent transitional provisions*

Part IX of the **Legal Aid Commission Act 1978** is repealed.

PART 3—AMENDMENTS TO THE LEGAL PROFESSION PRACTICE ACT 1958 25

9. *Insertion of section 58A into the Legal Profession Practice Act 1958*

After section 58 of the **Legal Profession Practice Act 1958** insert— 30

“58A. *Fund Management agents*

(1) The Council may appoint any person to act as its agent for the purposes of the

investment in authorised investments of money in the Fund and money deposited with the Institute under section 40.

5

- (2) The Council may terminate the appointment of an agent.
- (3) The Council may pay to a fund management agent the remuneration that is agreed upon between the Council and the agent.”.





