

# CONCURRENCE COPY

## LEGAL SERVICES COMMISSION (AMENDMENT) BILL, 1982

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### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Legal Services Commission Act, 1979 ("the Act"), so as—

- (a) to provide that a penalty of \$1,000 or imprisonment for 6 months may be imposed on a private legal practitioner who demands or receives payment from a person in contravention of section 41 of the Act (Schedule 1 (2));
- (b) to vary the provisions relating to the liability of legally assisted persons to contribute towards the costs and expenses of legal services provided to them (Schedule 1 (3));
- (c) to absolve the Legal Services Commission of New South Wales from liability for the payment of costs which have been awarded against accused legally assisted persons in respect of criminal proceedings (Schedule 1 (4)); and
- (d) to make amendments of a consequential or ancillary nature.

The Bill also contains a transitional provision (clause 4).

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# CONCURRENCE COPY

LOCAL (FRONT) (MAGAZINE) (PUBLICATION) BILL, 1981

1981 (FRONT) (MAGAZINE) (PUBLICATION) BILL

(1) This Bill is to give effect to the recommendations of the Commission on the Law of the Sea, established by the Government in 1979, and to provide for the regulation of the activities of persons engaged in the exploration and exploitation of the continental shelf and the exclusive economic zone of the United Kingdom.

(2) The Commission was established by a letter from the Secretary of State to the Chairman of the Commission, dated 12th July 1979, and its terms of reference were set out in a letter from the Secretary of State to the Chairman of the Commission, dated 12th July 1979.

(3) The Commission's report, published in 1980, recommended that the Government should take steps to give effect to the provisions of the United Nations Convention on the Law of the Sea, 1982, in relation to the continental shelf and the exclusive economic zone of the United Kingdom.

(4) The Commission also recommended that the Government should take steps to give effect to the provisions of the United Nations Convention on the Law of the Sea, 1982, in relation to the continental shelf and the exclusive economic zone of the United Kingdom.

(5) This Bill is to give effect to the recommendations of the Commission on the Law of the Sea, established by the Government in 1979, and to provide for the regulation of the activities of persons engaged in the exploration and exploitation of the continental shelf and the exclusive economic zone of the United Kingdom.

**LEGAL SERVICES COMMISSION (AMENDMENT) BILL, 1982**

No.           , 1982.

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**A BILL FOR**

An Act to amend the Legal Services Commission Act, 1979, so as to vary the provisions of that Act relating to liability for payment of certain costs and expenses; and for other purposes.

[MR WALKER—1 April, 1982.]

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*Legal Services Commission (Amendment).*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**5 Short title.**

1. This Act may be cited as the "Legal Services Commission (Amendment) Act, 1982".

**Principal Act.**

2. The Legal Services Commission Act, 1979, is referred to in this Act 10 as the Principal Act.

**Amendment of Act No. 78, 1979.**

3. The Principal Act is amended in the manner set forth in Schedule 1.

**Transitional provision.**

4. Nothing in this Act affects the liability under section 46 of the Principal 15 Act of a legally assisted person to make any payment in respect of the costs and expenses of legal services provided to him, as a legally assisted person, as a consequence of legal aid granted to him before the date of assent to this Act.

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**SCHEDULE 1.**

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**AMENDMENTS TO THE PRINCIPAL ACT.**

(Sec. 3.)

(1) Section 36 (1) (b)—

After "will", insert " , subject to section 47,".

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*Legal Services Commission (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (2) Section 41—

At the end of the section, insert:—

5           Penalty: \$1,000 or imprisonment for 6 months.

## (3) (a) Section 46 (1)—

Omit “subsection (2)”, insert instead “subsection (2C) (a)”.

## (b) Section 46 (2), (2A), (2B), (2C)—

Omit section 46 (2), insert instead:—

10           (2) Where a legally assisted person receives an amount of money as a consequence of the provision of legal services to him as a legally assisted person, the Commission shall determine the amount payable by him in respect of the costs and expenses of the legal services.

15           (2A) The amount determined under subsection (2) in respect of a legally assisted person shall not exceed—

(a) where the amount of money received by him does not exceed the prescribed amount—one-third of the amount of money received by him; or

20           (b) where the amount of money received by him exceeds the prescribed amount—an amount equal to the sum of one-third of the prescribed amount and the amount of money received by him in excess of the prescribed amount.

25           (2B) For the purposes of subsection (2A), the prescribed amount is \$6,000 or such other amount as the Commission may from time to time determine.

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*Legal Services Commission (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (2C) Where the amount determined under subsection (2) in respect of the costs and expenses of legal services provided to a legally assisted person—

10 (a) exceeds such amount, if any, as the legally assisted person has paid to the Commission pursuant to section 36 (1) (a) in respect of those costs and expenses—the legally assisted person shall, if the Commission so directs, pay to it an amount equal to the difference between the amount so determined and any amount so paid; or

15 (b) does not exceed such amount as the legally assisted person has paid to the Commission pursuant to section 36 (1) (a) in respect of those costs and expenses—the Commission shall refund to him an amount equal to the difference, if any, between the amount so determined and the amount so paid.

(c) Section 46 (3)—

20 Omit “subsection (2)”, insert instead “subsection (2C) (a)”.

(4) (a) Section 47 (1)—

After “(3)” wherever occurring, insert “, (3A)”.

(b) Section 47 (3A)—

After section 47 (3), insert:—

25 (3A) Where a court or tribunal makes an order as to costs against a legally assisted person in respect of proceedings for a criminal offence in which the legally assisted person was the accused person, the legally assisted person shall be liable for the payment of the whole of those costs.

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*Legal Services Commission (Amendment).*

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**SCHEDULE 1—*continued.***

**AMENDMENTS TO THE PRINCIPAL ACT—*continued.***

(5) Section 63 (1) (h)—

Omit “section 46 (2)”, insert instead “section 46 (2c) (a)”.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982

(24c)

Legal Services Commission (Amendment)

SCHEDULE 1—continued

AMENDMENTS TO THE PRINCIPAL ACT—continued

(2) Section 63 (1) (b) —

Omit "section 46 (2)", insert instead "section 46 (2c) (a)".

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**LEGAL SERVICES COMMISSION (AMENDMENT) ACT, 1982,  
No. 40**

**New South Wales**



ANNO TRICESIMO PRIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 40, 1982.**

An Act to amend the Legal Services Commission Act, 1979, so as to vary the provisions of that Act relating to liability for payment of certain costs and expenses; and for other purposes. [Assented to, 5th May, 1982.]

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*Legal Services Commission (Amendment).*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title.**

1. This Act may be cited as the "Legal Services Commission (Amendment) Act, 1982".

**Principal Act.**

2. The Legal Services Commission Act, 1979, is referred to in this Act as the Principal Act.

**Amendment of Act No. 78, 1979.**

3. The Principal Act is amended in the manner set forth in Schedule 1.

**Transitional provision.**

4. Nothing in this Act affects the liability under section 46 of the Principal Act of a legally assisted person to make any payment in respect of the costs and expenses of legal services provided to him, as a legally assisted person, as a consequence of legal aid granted to him before the date of assent to this Act.

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SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 36 (1) (b)—

After "will", insert " , subject to section 47,".

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*Legal Services Commission (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) Section 41—

At the end of the section, insert:—

Penalty: \$1,000 or imprisonment for 6 months.

(3) (a) Section 46 (1)—

Omit “subsection (2)”, insert instead “subsection (2C) (a)”.

(b) Section 46 (2), (2A), (2B), (2C)—

Omit section 46 (2), insert instead:—

(2) Where a legally assisted person receives an amount of money as a consequence of the provision of legal services to him as a legally assisted person, the Commission shall determine the amount payable by him in respect of the costs and expenses of the legal services.

(2A) The amount determined under subsection (2) in respect of a legally assisted person shall not exceed—

- (a) where the amount of money received by him does not exceed the prescribed amount—one-third of the amount of money received by him; or
- (b) where the amount of money received by him exceeds the prescribed amount—an amount equal to the sum of one-third of the prescribed amount and the amount of money received by him in excess of the prescribed amount.

(2B) For the purposes of subsection (2A), the prescribed amount is \$6,000 or such other amount as the Commission may from time to time determine.

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*Legal Services Commission (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2C) Where the amount determined under subsection (2) in respect of the costs and expenses of legal services provided to a legally assisted person—

- (a) exceeds such amount, if any, as the legally assisted person has paid to the Commission pursuant to section 36 (1) (a) in respect of those costs and expenses—the legally assisted person shall, if the Commission so directs, pay to it an amount equal to the difference between the amount so determined and any amount so paid; or
- (b) does not exceed such amount as the legally assisted person has paid to the Commission pursuant to section 36 (1) (a) in respect of those costs and expenses—the Commission shall refund to him an amount equal to the difference, if any, between the amount so determined and the amount so paid.

(c) Section 46 (3)—

Omit “subsection (2)”, insert instead “subsection (2C) (a)”.

(4) (a) Section 47 (1)—

After “(3)” wherever occurring, insert “, (3A)”.

(b) Section 47 (3A)—

After section 47 (3), insert:—

(3A) Where a court or tribunal makes an order as to costs against a legally assisted person in respect of proceedings for a criminal offence in which the legally assisted person was the accused person, the legally assisted person shall be liable for the payment of the whole of those costs.

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*Legal Services Commission (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) Section 63 (1) (h)—

Omit “section 46 (2)”, insert instead “section 46 (2c) (a)”.

*In the name and on behalf of Her Majesty I assent to this Act.*

J. A. ROWLAND,  
*Governor.*

*Government House,  
Sydney, 5th May, 1982.*

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982





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