

No. 29 of 1978

AN ORDINANCE

To amend the *Legal Aid Ordinance 1977*

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 this twenty-first day of September 1978.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

P. DURACK
Attorney-General

LEGAL AID (AMENDMENT) ORDINANCE 1978

1. This Ordinance may be cited as the *Legal Aid (Amendment) Ordinance 1978*.^{*} Short title

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

3. Section 5 of the Principal Ordinance is amended— Interpretation

(a) by omitting "Treasurer of the Commonwealth" from the definition of "approved auditor" in sub-section (1) and substituting "Minister of State for Finance"; and

(b) by omitting from sub-section (2) "provisions of legal services" and substituting "provision of legal services".

4. After section 39 of the Principal Ordinance the following section is inserted:

"39A. A Review Committee that reviews a decision referred to it under sub-section 36 (3) shall not make a decision on the review unless it has afforded to the person who requested the review a reasonable opportunity— Person requesting review to have opportunity to be heard

(a) to attend a meeting of the Review Committee;

^{*} Notified in the *Commonwealth of Australia Gazette* on 26 September 1978.
[†] Ordinance No. 31, 1977.

- (b) to address the Review Committee in relation to the review; and
- (c) to place before the Committee any document relevant to the review.”.

Establishment of Fund

5. Section 41 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (2) “The Fund” and substituting “Subject to sub-section (4), the Fund”; and
- (b) by adding at the end thereof the following sub-section:

“ (4) Moneys paid to the Commission, being moneys appropriated by the Parliament for the purpose of the provision of financial assistance to voluntary legal assistance organizations, do not form part of the Fund.”.

Bank accounts

6. Section 42 of the Principal Ordinance is amended—

- (a) by inserting in sub-section (3) “and moneys referred to in sub-section 41 (4)” after “upon trust”; and
- (b) by inserting after sub-section (4) the following sub-section:

“ (4A) The Commission shall ensure that moneys referred to in sub-section 41 (4) are paid into an account that does not, or accounts that do not, contain moneys of the Commission other than moneys referred to in that sub-section.”.

Application of Fund

7. Section 43 of the Principal Ordinance is amended by omitting “Trustee Ordinance 1959” from sub-section (2) and substituting “Trustee Ordinance 1957”.

8. The following section is inserted in Part XII of the Principal Ordinance after section 90:

Payment for legal assistance provided before commencing day

“ 90A. (1) Notwithstanding section 43, the Commission may, out of moneys in the Fund, discharge the liability of the Commonwealth to a person in respect of the provision by that person, before the commencing day, of legal assistance.

“ (2) A payment may not be made to a person for the purpose of sub-section (1) unless, at the time at which he provided the legal assistance to which the payment relates, he was practising in the Territory as a barrister, as a solicitor or as a barrister and solicitor, on his own account or in partnership.”.

9. After section 91 of the Principal Ordinance the following section is inserted:

Grants to voluntary legal assistance organizations

“ 91A. (1) In this section, ‘voluntary legal assistance organization’ means a voluntary organization that conducts a scheme for the provision of legal assistance in the Territory.

“ (2) The Commission may grant to a voluntary legal assistance organization, upon such terms and conditions as the Commission thinks fit, a sum by way of financial assistance.

“ (3) A grant under sub-section (2) shall not be made except out of moneys appropriated by the Parliament for the purpose of the provision of financial assistance to voluntary legal assistance organizations.”.

10. Section 94 of the Principal Ordinance is amended by omitting “ under this Ordinance ” and substituting “ under section 8 ”.

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

11. Section 97 of the Principal Ordinance is amended by omitting from sub-section (1) “ Treasurer ” and substituting “ Minister of State for Finance ”.

Annual
report and
financial
statements