

No. 31 of 1977

## LEGAL AID ORDINANCE 1977

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No. 31 of 1977

AN ORDINANCE

Relating to the provision of Legal Aid.

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 sixth day of July, 1977.

JOHN R. KERR  
Governor-General.

By His Excellency's Command,

R. ELLICOTT  
Attorney-General.

LEGAL AID ORDINANCE 1977

PART I—PRELIMINARY

- 1. This Ordinance may be cited as the *Legal Aid Ordinance 1977*.\* Short title.
- 2. (1) Subject to sub-sections (2) and (3), this Ordinance shall come into operation on the date on which it is notified in the *Gazette*. Commence-ment.  
 (2) Section 3 shall come into operation on the commencing day.  
 (3) Legal assistance shall not be provided under this Ordinance before a date fixed by the Attorney-General, by notice in the *Gazette*, as the date on which legal assistance is to commence to be made available under this Ordinance.
- 3. The *Legal Aid Ordinance 1972* is repealed. Repeal.
- 4. This Ordinance shall be administered by the Attorney-General. Adminis-tration.
- 5. (1) In this Ordinance, unless the contrary intention appears— Interpretation.  
 “approved auditor” means a person appointed by the Treasurer of the Commonwealth to be an approved auditor for the purposes of this Ordinance;

\* Notified in the *Commonwealth of Australia Gazette* on 11 July 1977.

- “Assistant Director” means an Assistant Director of Legal Aid;
- “Bar Association” means the Bar Association of the Australian Capital Territory;
- “commencing day” means the day appointed under subsection 2 (3);
- “Commission” means the Legal Aid Commission established by section 6;
- “Commissioner” means a Commissioner of the Commission and includes the Chairman of the Commission;
- “Commonwealth Legal Aid Commission” means the Commonwealth Legal Aid Commission established by the *Commonwealth Legal Aid Commission Act 1977*;
- “consultative committee” means a consultative committee established under Part XI;
- “Director” means the Director of Legal Aid;
- “duty lawyer services” means legal services provided by a solicitor or a barrister and solicitor 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 connexion with, the proceeding, otherwise than by prior arrangement with the person;
- “Fund” means the Legal Aid Fund established by section 41;
- “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 Ordinance;
- “member of a Legal Aid Committee” includes a deputy of a member of a Legal Aid Committee other than a deputy of the Director;
- “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 or 63;
- “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 Ordinance 1970*;
- “previous Committee” means the Legal Aid Committee of the Australian Capital Territory established by the repealed Ordinance;

- “previous Fund” means the Legal Aid Fund of the Australian Capital Territory established by the repealed Ordinance;
- “private legal practitioner” means a person who is practising as a barrister, as a solicitor, or as a barrister and solicitor, on his own account or in partnership;
- “produce” includes permit access to;
- “Remuneration Tribunal” means the Remuneration Tribunal established by the *Remuneration Tribunals Act 1973*;
- “repealed Ordinance” means the *Legal Aid Ordinance 1972*;
- “Review Committee” means a Review Committee established under Part VI;
- “Statutory Interest Account” means an account maintained at a bank in accordance with sub-section 74A (2) of the *Legal Practitioners Ordinance 1970*;
- “statutory officer of the Commission” means the Director or an Assistant Director;
- “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 Ordinance 1970*.

(2) A reference in this Ordinance to the provision of legal assistance shall be construed as a reference to the provisions 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.

(3) For the purposes of this Ordinance, the Jervis Bay Territory shall be deemed to be part of the Australian Capital Territory.

## PART II—ESTABLISHMENT AND FUNCTION OF LEGAL AID COMMISSION

6. (1) There is established by this section a Commission by the name of the Legal Aid Commission (A.C.T.).

Establishment of Commission.

(2) The Commission—

- (a) is a body corporate;
- (b) shall have a common seal;
- (c) may acquire, hold and dispose of real and personal property;
- (d) may enter into such agreements and arrangements as it considers desirable for the purposes of this Ordinance; and
- (e) may sue and be sued in its corporate name.

(3) All courts and persons holding judicial office or acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall presume that it was duly affixed.

**Constitution  
of Com-  
mission.**

**7. (1)** Subject to sub-section (2), the Commission shall be constituted by—

- (a) a Chairman;
- (b) a Commissioner nominated by the Attorney-General to represent the Attorney-General;
- (c) a Commissioner being a member of the Australian Capital Territory Legislative Assembly nominated by that Assembly;
- (d) a Commissioner nominated by the Australian Capital Territory Legislative Assembly, not being a member of that Assembly;
- (e) a Commissioner nominated by the Council of the Bar Association;
- (f) 2 Commissioners nominated by the Council of the Law Society; and
- (g) a Commissioner nominated by the Executive Committee of the Council of Social Service of the Australian Capital Territory.

(2) The Director shall, *ex officio*, be a Commissioner of the Commission.

(3) The Chairman and the other Commissioners other than the Director shall be appointed by the Governor-General and shall hold office on a part-time basis.

(4) The performance of the function, 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 connexion with his nomination.

(6) In this section, a reference to the Director shall, if there is a person acting in the office of Director, be read as a reference to the person so acting.

**Function of  
Com-  
mission.**

**8. (1)** The function of the Commission is to provide legal assistance in accordance with this Ordinance.

(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.

**Powers of  
Com-  
mission.**

**9. (1)** The Commission may do all things necessary or convenient to be done for or in connexion with the performance of its function.

(2) Where 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) Where the Commission provides legal assistance by arranging for the services of private legal practitioners, the Commission shall, except where 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 sub-sections 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 moneys or other property on trust and may act as trustee of moneys or other property held by the Commission upon trust.

(5) Notwithstanding anything contained in any other provision of this Ordinance, but subject to sub-section (7), any moneys or other property held by the Commission upon trust shall be dealt with in accordance with the powers and duties of the Commission as trustee under the *Trustee Ordinance 1957*.

(6) The provisions of the *Legal Practitioners Ordinance 1970* relating to the keeping of accounts by solicitors in respect of moneys held by them upon trust, and the audit of such accounts, do not apply in relation to moneys held by the Commission upon trust.

(7) The provisions of Division 7 of Part VII of the *Legal Practitioners Ordinance 1970* apply to and in relation to moneys held by the Commission upon trust for persons who are or have been legally assisted persons and, in the application of those provisions by reason of this sub-section, a reference in those provisions to a solicitor shall be read as a reference to the Commission.

(8) Moneys held by the Commission upon trust (other than moneys required to be deposited with the Law Society in pursuance of Division 7 of Part VII of the *Legal Practitioners Ordinance 1970*) may be invested by the Commission in any manner in which trust funds may, for the time being, be invested under the *Trustee Ordinance 1957*, but not otherwise, and any moneys resulting from investments so made shall be paid to the credit of the Fund.

**10.** (1) In the performance of its function, the Commission shall— Duties of  
Commission.

- (a) ensure that legal assistance is provided in the most effective, efficient and economical manner;
- (b) ensure that its activities are carried on consistently with, and do not prejudice, the independence of the private legal profession;
- (c) liaise and co-operate 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 Territory or elsewhere;



- (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;
- (e) make maximum use of services which private legal practitioners offer to provide on a voluntary basis;
- (f) have regard to the recommendations of the Commonwealth Legal Aid Commission;
- (g) liaise and co-operate with the Commonwealth Legal Aid Commission in the performance by that Commission of its functions and, in particular, provide to the Commonwealth Legal Aid Commission such statistics and other information as that Commission requests;
- (h) 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;
- (j) determine priorities in the provision of legal assistance as between different classes of persons or classes of matters;
- (k) arrange for the provision of duty lawyer services at sittings in the Territory of such courts and tribunals as the Commission considers appropriate;
- (l) endeavour to secure the services of language interpreters, marriage counsellors, welfare officers and other appropriate persons to assist legally assisted persons in connexion with matters in respect of which they are provided with legal assistance; and
- (m) 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 Attorney-General 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 function; 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 Territory.

(3) In the performance of its function, the Commission shall have regard to the amount of moneys for the time being standing to the credit of the Fund and of any moneys likely to be received by the Commission for the purposes of the Fund.

**11.** 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:—

Guidelines  
for  
allocation  
of work.

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

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

Guidelines  
for provision  
of assistance.

- (a) in the application of section 28 for the purposes of determining whether legal assistance may be provided to a person under this Ordinance;
- (b) in determining whether the granting of legal assistance to a person will be subject to either or both of the conditions mentioned in sub-section 31 (1);
- (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.** (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, in pursuance of this Ordinance—

Professional  
conduct by  
officers of  
Commission.

- (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 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 profession.

(2) The like privileges as those that arise from the relationship of client and solicitor acting in his professional capacity and in the course of his professional employment shall arise between a person who has applied for legal assistance, or to whom legal assistance is being provided, under this Ordinance and a statutory officer of the Commission who practises as, or performs any of the functions of, a solicitor for the person in pursuance of this Ordinance.

(3) For the purposes of the application of sub-section (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 Territory on behalf of a legally assisted person—

(a) if there are no Assistant Directors—

(i) the Director shall be deemed to be a solicitor lawfully practising on his own account in the Territory and retained by the person to act on his behalf; and

(ii) the members of the staff of the Commission shall be deemed to be employed by the Director; or

(b) if there is an Assistant Director or there are Assistant Directors—

(i) the Director and the Assistant Director or Assistant Directors shall be deemed to be a firm of solicitors lawfully practising in partnership in the Territory and retained by the person to act on his 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 Director” includes a person acting in the office of Assistant Director;

“Director” includes a person acting in the office of Director.

### PART III—ESTABLISHMENT AND FUNCTIONS OF THE LEGAL AID COMMITTEES

Establishment of Committees.

14. For the purposes of this Ordinance, there shall be such Legal Aid Committees as the Commission establishes in accordance with this Part.

Constitution of Committees.

15. (1) Each Legal Aid Committee shall consist of the Director and 3 other members.

(2) The members of a Legal Aid Committee, other than the Director, shall be appointed by the Commission.

(3) The Commission shall appoint as a member of a Legal Aid Committee one person who is not a lawyer.

(4) The members of a Legal Aid Committee, other than the Director and the person appointed under sub-section (3), shall be persons nominated by the Law Society or Bar Association.

(5) Subject to sub-section (6), the Director may appoint another officer of the Commission to be his deputy, or may appoint other officers of the Commission to be his deputies, in relation to his 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 Director under sub-section (5) unless he holds a current practising certificate.

(7) In the event of the absence of the Director from a meeting of a Legal Aid Committee, the deputy of the Director, or, if there is more than one deputy, one 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 Director 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, "Director" includes a person acting in the office of Director.

16. 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 Ordinance.

Functions of Committees.

#### PART IV—OFFICERS OF COMMISSION

17. (1) There shall be a Director of Legal Aid, who shall be the chief executive officer of the Commission.

Director and Assistant Directors.

(2) The Director shall be appointed by the Governor-General.

(3) The Governor-General may appoint such number of Assistant Directors of Legal Aid as he thinks fit to assist the Director in the performance of his functions under this Ordinance.

(4) The Director and the Assistant Directors shall be persons nominated by the Commission.

18. A person is not eligible for appointment as a statutory officer of the Commission unless he has been admitted to practise as a barrister and solicitor of the Supreme Court and holds a current unrestricted practising certificate.

Qualifications for appointment.

19. An Assistant Director shall perform such duties in relation to the management of the affairs of the Commission as the Director directs.

Duties of Assistant Directors.

20. (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 function.

Staff of Commission.

(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. (1) The Director may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to another officer of the Commission any of his powers under this Ordinance, other than this power of delegation.

Delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Ordinance, be deemed to have been exercised by the Director.

(3) A delegation under this section does not prevent the exercise of a power by the Director.

Rights of officers of Commission in respect of legal practice.

**22.** (1) A statutory officer of the Commission shall not perform any functions under this Ordinance unless he 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 Ordinance unless he holds a current practising certificate.

(3) Subject to sub-section (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 Territory and in any court of the Territory and has a right of audience in any court of the Territory.

(4) Subject to sub-section (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 Territory, and such rights of audience in any court of the Territory, as he would have if the Director were a solicitor lawfully practising on his own account in the Territory and the member of the staff were employed by that solicitor.

(5) An officer of the Commission whose name is on the Roll of Barristers and Solicitors referred to in section 13 of the *Legal Practitioners Ordinance* 1970 is entitled to practise as a barrister, and to perform the functions of a barrister, in the Territory and in any court of the Territory.

(6) In practising as a solicitor or performing any of the functions of a solicitor in pursuance of this section—

- (a) a statutory officer of the Commission has all the rights and privileges of a solicitor practising on his 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 own account.

(7) In appearing for a legally assisted person in a proceeding in a court or before a tribunal in pursuance of 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) The preceding provisions of this section have effect only for the purposes of the performance by the Commission of its function.

(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) Part V of the *Legal Practitioners Ordinance 1970* applies to and in relation to officers of the Commission who are barristers and solicitors within the meaning of that Ordinance in like manner as it applies to and in relation to other persons who are barristers and solicitors within the meaning of that Ordinance.

**23. (1) Where—**

- (a) in any proceeding, a document is required or permitted to be signed by a solicitor 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,

Solicitor on the record.

the signature of the Director, or of an officer of the Commission authorized in writing by the Director to sign documents on behalf of the Director for the purposes of this section, shall be deemed to be the signature of a solicitor for that party.

(2) In this section, "Director" includes a person acting in the office of Director.

**PART V—PROVISION OF LEGAL ASSISTANCE BY COMMISSION**

**24.** 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 duties, bring those services to the attention of the public or to the attention of particular persons.

Bringing services of Commission to public notice.

**25. (1)** An application for legal assistance, other than legal assistance consisting of the giving of legal advice or the provision of duty lawyer services—

Application for legal assistance.

- (a) shall be made to the Commission in writing and shall be substantially in accordance with a form approved by the Commission; and
- (b) shall contain such information as is required by that form.

(2) The Commission may, in special circumstances, treat an application that does not comply with all the requirements of sub-section (1) as having been duly made.

(3) An applicant for legal assistance to which sub-section (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) Where legal advice is being provided to a person under this Ordinance 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 sub-sections (1) and (3) and, where such a requirement is made, those sub-sections and sub-sections 28 (1), (2) and (3), section 31 and sub-section 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.

Determin-  
ation of  
applications  
for legal  
assistance.

**26.** (1) An application for legal assistance shall, in accordance with the directions of the Commission, be decided by a Legal Aid Committee, by the Director or by another officer of the Commission authorized by the Director 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) Where 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 in pursuance of 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;
- (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 either or both of the conditions referred to in sub-section 31 (1).

(4) The Director 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 Ordinance.

(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.

Termination  
or variation  
of legal  
assistance.

**27.** A decision to provide legal assistance to a person under this Ordinance may be varied at any time so as to—

- (a) terminate the provision of the legal assistance;
- (b) alter the nature or extent of the legal assistance;
- (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) in a case where the decision was made by a Legal Aid Committee—by such a Committee; or

- (f) in a case where the decision was made by an officer of the Commission—by the Director or by an appropriate officer of the Commission in accordance with arrangements made or approved by the Director.

**28.** (1) Subject to this section, 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 Ordinance if, and only if—

Circumstances in which legal assistance may be provided.

- (a) the person is in need of that legal assistance by reason that he 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 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; and
- (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 Ordinance to a person who is not ordinarily resident in the Territory unless the assistance relates to—

- (a) a proceeding in a court, or before a tribunal, in the Territory; or
- (b) a matter arising under the law in force in the Territory.



(5) Legal assistance shall not be provided under this Ordinance to a person in or in connexion with a review by a Review Committee under Part VI.

(6) Legal assistance may be provided under this Ordinance to a body corporate in special circumstances determined by the Commission, but not otherwise.

Commission may assist person having interests adverse to the Commonwealth.

29. Legal assistance may be provided under this Ordinance (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 Commonwealth, the interests of an authority or body established for a public purpose by or under a law of the Commonwealth or a law of a Territory or the interests of an incorporated company in which the Commonwealth or such an authority or body has an interest.

Legal advice and duty lawyer services.

30. (1) Legal assistance provided under this Ordinance, being legal assistance consisting of—

(a) legal advice, other than legal advice mentioned in sub-section 25 (4); or

(b) the provision of duty lawyer services, shall, subject to sub-section (2), be provided without charge.

(2) In special circumstances determined by the Commission, legal assistance to which sub-section (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 sub-section (1) shall not be provided to a person.

Contribution towards costs and expenses.

31. (1) The granting under this Ordinance of an application by a person for legal assistance, other than legal assistance to which sub-section 30 (1) applies, may be on the basis that the assistance will be provided without charge or may be subject to either or both 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.

(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) If a person who is or has been a legally assisted person has not paid an amount payable by him 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.

**32.** (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.

Arranging  
for services  
of private  
legal  
practitioners.

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

- (a) refuse to include in the list maintained under sub-section (1) the name of a private legal practitioner who has notified the Commission that he is willing to act as a barrister or solicitor on behalf of legally assisted persons;
- (b) remove the name of a private legal practitioner from the list maintained under that sub-section; 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 the purposes of this Ordinance.

(3) The Commission shall not refuse to include the name of a private legal practitioner in the list maintained under sub-section (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 the purposes of this Ordinance, 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.

(4) Where the Commission has—

- (a) refused to include the name of a private legal practitioner in the list maintained under sub-section (1);
- (b) removed the name of a private legal practitioner from that list; or
- (c) included in that list, in relation to a private legal practitioner, a limitation as mentioned in paragraph (2) (c),

the private legal practitioner may, before the expiration of 6 months after receipt of the notice given to him under sub-section (3), apply to the Supreme Court by way of originating summons for an order directing the Commission to include his name in the list, to restore his name in the list or to remove the limitation, as the case may be.

(5) Where an application is made to the Supreme Court under sub-section (4), the Court may—

- (a) make the order applied for;
- (b) postpone the making of the order applied for with liberty to apply; or
- (c) dismiss the application,

and, subject to sub-section (6), the decision of the Court is final and conclusive.

(6) Where an application (including a further application made in pursuance of a previous application of this sub-section) is dismissed, the applicant may, at any time after the expiration of 6 months after the date of the dismissal, make a further application for an order as mentioned in sub-section (4), and sub-section (5) applies in relation to any such further application.

(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 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 sub-section (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 sub-section (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 Ordinance shall be less than the ordinary professional cost of those services.

(11) The Director 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 connexion 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 Ordinance and shall make the record available for inspection on request by the Law Society or Bar Association.

Entitlement  
of legally  
assisted  
persons  
to costs in  
proceedings.

33. (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 in or in connexion with that proceeding and any disbursements (including barristers' fees) and out-of-pocket expenses incurred in or in connexion with the provision of those services.

(2) Where an amount is recoverable by a legally assisted person (whether in a proceeding or by virtue of 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 Director, having regard to guidelines determined by the Commission in pursuance of paragraph 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 connexion 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 sub-section (2), the Director 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 Director under sub-section (4).

(4) The Director 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) Where an amount is recoverable by a legally assisted person (whether in a proceeding or by virtue of a settlement or compromise) in respect of the matter in which the legal assistance was given, the Director may, by writing under his hand, direct the legally assisted person to assign his right to recover the amount to the Commission within 21 days after the day on which the direction is given.

(6) Where a legally assisted person fails to comply with a direction under sub-section (5) to assign to the Commission his right to recover an amount as referred to in that sub-section, the legally assisted person shall be deemed to have assigned to the Commission his right to recover the amount at the expiration of the period referred to in that sub-section and, for the purpose of recovering the amount, the Commission shall stand in place of the legally assisted person and may use all the remedies and, if necessary, the name, of the legally assisted person in any action or other proceeding at law or in equity to recover the amount.

(7) The amount that a person is liable to pay to the Commission under sub-section (2) is recoverable by the Commission by action in a court of competent jurisdiction as a debt due and payable to the Commission.

Payment by Commission of costs awarded against legally assisted persons.

**34. (1) Where—**

- (a) legal assistance is provided under this Ordinance 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 sub-section (1) shall be decided, in accordance with guidelines determined by the Commission in pursuance of paragraph 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 sub-section (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.

Notification of decisions.

**35. (1) Where 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 an officer of the Commission or by a Legal Aid Committee under this Ordinance, the Commission shall, within 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, in a case where the decision is a decision refusing to provide, or imposing a condition on the provision of, legal assistance under this Ordinance, 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 sub-section (1), other than a decision in relation only to the provision of legal advice or duty lawyer services, shall be effected—

- (a) in a case where 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 authorized by the person.

#### PART VI—RECONSIDERATION AND REVIEW OF DECISIONS

36. (1) Where a decision has been made—

- (a) refusing to provide legal assistance under this Ordinance;
- (b) refusing to provide legal assistance under this Ordinance of the nature, or to the extent, applied for;
- (c) imposing a condition on the provision of legal assistance under this Ordinance or varying adversely to a legally assisted person a condition so imposed;
- (d) terminating the provision of legal assistance under this Ordinance; or
- (e) refusing to pay the whole or a part of any amount that the Commission has been requested to pay under section 34,

Recon-  
sideration of  
decisions.

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

(2) Where a notice requesting that a decision be reconsidered is received by the Commission, the decision shall be reconsidered—

- (a) in a case where the decision was made by a Legal Aid Committee—by such a Committee; or
- (b) in a case where 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 Director,

and may either be confirmed or varied.

(3) Where a decision is confirmed or varied following a reconsideration of the decision under sub-section (2), 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.

(4) A request by a person for a reconsideration or review of a decision shall be made before the expiration of 3 months after the person received notice of the relevant decision or such longer period as the Commission, in special circumstances, allows.

**Establishment and Constitution of Review Committees.**

**37.** (1) For the purposes of this Ordinance, there shall be such Review Committees as the Commission establishes in accordance with this Part.

(2) A Review Committee shall consist of—

- (a) a private legal practitioner;
- (b) an officer of the Commission who holds a current practising certificate; and
- (c) a person, not being a private legal practitioner or an officer of the Commission, who has qualifications or experience relevant to the performance of the function of a Review Committee.

**Appointment of members of Review Committees.**

**38.** (1) The members of a Review Committee shall be appointed by the Commission.

(2) The Commission shall appoint a member of each Review Committee to be Chairman of that Committee.

(3) The Commission may appoint as a deputy of a member of a Review Committee—

- (a) in the case of a member referred to in paragraph 37 (2) (a)—a private legal practitioner;
- (b) in the case of a member referred to in paragraph 37 (2) (b)—an officer of the Commission who holds a current practising certificate; and
- (c) in the case of a member referred to in paragraph 37 (2) (c)—a person, not being a private legal practitioner or an officer of the Commission, who has qualifications or experience relevant to the performance of the function of a Review Committee.

(4) In the event of the absence of a member of a Review Committee from a meeting of the Review Committee, the deputy of that member is entitled to attend the meeting and, while so attending shall be deemed to be a member of the Review Committee.

**Function of Review Committee.**

**39.** The function of a Review Committee is to review decisions referred to the Committee under sub-section 36 (3).

**Decision of Review Committee.**

**40.** (1) A Review Committee that reviews a decision of an officer of the Commission or of a Legal Aid Committee referred to it under sub-section 36 (3) (in this section referred to as a “primary decision”) shall give a decision in writing—

- (a) confirming the primary decision;
- (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 the purposes of this Ordinance (other than subsection 36 (3) ), be deemed to be a decision made by the officer of the Commission who, or the Legal Aid Committee 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.

#### PART VII—FINANCES OF COMMISSION

41. (1) There is established by this section a fund to be known as the Legal Aid Fund. Establishment of Fund.

(2) The Fund shall consist of—

- (a) moneys paid to, or recovered by, the Commission under this Ordinance (other than moneys received or held by the Commission upon trust);
- (b) moneys paid to the Commission out of a Statutory Interest Account;
- (c) moneys paid to the Commission, being moneys appropriated by the Parliament for the purposes of the Commission;
- (d) any other moneys paid to the Commission for the purpose of the provision of legal assistance or otherwise for the purposes of the Fund; and
- (e) income derived from the investment of moneys forming part of the Fund.

(3) The Fund shall be controlled and administered by the Commission.

42. (1) The Commission may open and maintain an account or accounts with an approved bank or approved banks in the Territory and shall maintain at all times at least one such account. Bank accounts.

(2) The Commission shall pay all moneys received by it into an account referred to in this section.

(3) Payment of moneys (other than moneys received or held by the Commission upon trust) into an account referred to in this section shall be deemed to be payment of those moneys into the Fund.

(4) The Commission shall ensure that any moneys received or held by the Commission upon trust are paid into an account that does not, or accounts that do not, contain any moneys of the Commission not held upon trust.



(5) In this section, "approved bank" means the Reserve Bank of Australia or another bank approved by the Treasurer of the Commonwealth.

Application  
of Fund.

**43.** (1) Moneys in the Fund shall be applied only—

- (a) in the discharge of obligations and liabilities of the Commission arising under this Ordinance; and
- (b) in the payment of remuneration and allowances payable under this Ordinance.

(2) Moneys 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 Ordinance 1959*, but not otherwise.

Limitation  
on contracts.

**44.** The Commission shall not, except with the approval of the Attorney-General, enter into a contract involving the payment or receipt of an amount exceeding \$50,000 or, if a higher amount is prescribed, that higher amount.

Estimates of  
expenditure.

**45.** (1) The Commission shall prepare estimates, in such form as the Attorney-General directs, of receipts and expenditure of the Commission for each financial year and, if the Attorney-General so directs, for any other period specified by the Attorney-General, and shall submit estimates so prepared to the Attorney-General not later than such date as the Attorney-General directs.

(2) Moneys of the Commission (other than moneys held by the Commission upon trust) shall not be expended otherwise than in accordance with estimates of expenditure approved by the Attorney-General.

Proper  
accounts  
to be kept  
by Com-  
mission.

**46.** 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 moneys held by the Commission upon trust) and shall do all things necessary to ensure that all payments out of the Fund or out of moneys held by the Commission upon trust are correctly made and properly authorized 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.

Audit.

**47.** (1) The Commission shall cause the accounts and records of financial transactions of the Commission (including transactions relating to moneys held by the Commission upon trust) and records relating to assets of, or in the custody of, the Commission to be audited by an approved auditor.

(2) The approved auditor shall forthwith draw the attention of the Attorney-General to any irregularity disclosed by the inspection and audit that, in the opinion of the approved auditor, is of sufficient importance to justify his so doing.

(3) So far as is necessary for the purposes of this section, the approved auditor, or a person authorized by him, is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission relating directly or indirectly to the receipt of moneys by the Commission, to the payment of moneys out of the Fund, to the payment by the Commission of moneys held by the Commission upon trust or to the acquisition, receipt, custody or disposal of assets by the Commission.

(4) The approved auditor, or a person authorized by him, may make copies of, or take extracts from, any such accounts, records, documents or papers.

(5) The approved auditor, or a person authorized by him, 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 approved auditor or authorized person considers necessary for the purposes of the functions of the approved auditor under this section, and the person shall comply with the requirement.

(6) A person who contravenes sub-section (5) is guilty of an offence and is punishable, upon conviction, by a fine not exceeding \$200.

## PART VIII—ADMINISTRATIVE PROVISIONS RELATING TO COMMISSION

### *Division 1—Commissioners*

**48.** Subject to this Division, a Commissioner other than the Director holds office for such period, not exceeding— Tenure of  
office.

- (a) in the case of the Chairman of the Commission—5 years;  
or
- (b) in the case of a Commissioner other than the Chairman—  
3 years,

as is specified in the instrument of his appointment, but is eligible for re-appointment.

**49.** (1) A Commissioner other than the Director shall be paid such remuneration as is prescribed or, if a determination of the Remuneration Tribunal is in force in relation to the office of that Commissioner, such remuneration as is determined by that Tribunal. Remunera-  
tion and  
allowances.

(2) A Commissioner other than the Director shall be paid such allowances as are prescribed.

(3) Sub-section (2) has effect subject to any determination of the Remuneration Tribunal.

(4) If a person who is a Judge is the Chairman of the Commission, he is not, while he receives remuneration or allowances as a Judge, entitled to remuneration or allowances, as the case may be, under this section.

Qualifica-  
tions for  
appointment.

**50.** (1) A person is not eligible for appointment as the Chairman of the Commission unless—

- (a) he is or has been a Judge; or
- (b) he is enrolled as a barrister, as a solicitor, or as a barrister and solicitor of the High Court, of another federal court or of the Supreme Court of a State or Territory and has been so enrolled for a period of not less than 5 years.

(2) A person is not eligible for appointment as a Commissioner referred to in paragraph 7 (1) (c), (d) or (g) if he is enrolled as a barrister, as a solicitor, or as a barrister and solicitor, of a court, whether in the Territory or elsewhere.

Resignation.

**51.** A Commissioner other than the Director may resign his office by writing under his hand delivered to the Governor-General.

Removal  
from office.

**52.** (1) The Governor-General may remove a Commissioner other than the Director from office for misbehaviour or physical or mental incapacity.

(2) If a Commissioner other than the Director—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent, except by leave of the Attorney-General, from 3 consecutive meetings of the Commission; or
- (c) fails to comply with his obligations under section 55,

the Governor-General shall remove him from office.

(3) If the Commissioner referred to in paragraph 7 (1) (c) ceases to be a member of the Australian Capital Territory Legislative Assembly, the Governor-General shall remove him from office.

(4) Sub-section (2) does not apply to a Commissioner if he is a Judge but, if a Commissioner being a Judge ceases to be a Judge, the Governor-General may terminate his appointment.

Acting  
Chairman  
of the  
Commission.

**53.** (1) The Attorney-General, after consultation with the Commission, may appoint a person who is eligible for appointment as Chairman of the Commission to act in the office of Chairman—

- (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 Chairman is, or is expected to be, absent from duty or from Australia or is, for any reason, unable to perform the duties of his 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 Chairman of the Commission holds office on such terms and conditions as the Attorney-General determines.

(3) The Attorney-General may at any time terminate an appointment under this section.

(4) Where a person is acting in the office of Chairman of the Commission in accordance with paragraph (1) (b) and the office becomes vacant while that person is so acting, that person may continue so to act until the Attorney-General 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 Chairman of the Commission may resign his appointment by writing under his hand delivered to the Attorney-General.

(6) The validity of anything done by a person acting in the office of Chairman of the Commission shall not be called in question on the ground that the occasion for his appointment had not arisen or that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

**54.** (1) The Commission shall hold such meetings as are necessary **Meetings.** for the performance of its function.

(2) The Chairman of the Commission may at any time convene a meeting of the Commission.

(3) The Chairman 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, 5 Commissioners constitute a quorum.

(5) The Chairman of the Commission shall preside at all meetings of the Commission at which he is present.

(6) If the Chairman of the Commission is not present at a meeting of the Commission, the Commissioners present shall elect one 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 Chairman of the Commission—

- (a) a reference in this section to the Chairman of the Commission shall be read as a reference to the person so acting; and
- (b) a reference in this section to a Commissioner shall be read as including a reference to the person so acting.

Interests to  
be disclosed.

**55.** (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 is not a director, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

(2) A disclosure under sub-section (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 shall, if there is a person acting in the office of Chairman of the Commission, be read as including a reference to the person so acting.

#### *Division 2—Officers of Commission*

Conditions  
of appoint-  
ment.

**56.** (1) A statutory officer of the Commission holds office for such period, not exceeding 7 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as a statutory officer of the Commission and a person shall not be appointed or re-appointed as a statutory officer of the Commission for a period that extends beyond the date on which he will attain the age of 65 years.

(3) A statutory officer of the Commission holds office on such terms and conditions (if any) in respect of matters not provided for by this Ordinance as are determined by the Governor-General on the recommendation of the Commission.

Remunera-  
tion and  
allowances.

**57.** (1) A statutory officer of the Commission shall be paid such remuneration as is prescribed or, if a determination of the Remuneration Tribunal is in force in relation to the office of that statutory officer of the Commission, such remuneration as is determined by that Tribunal.

(2) A statutory officer of the Commission shall be paid such allowances as are prescribed.

(3) Sub-section (2) has effect subject to any determination of the Remuneration Tribunal.

Leave of  
absence.

**58.** The Commission may grant leave of absence to a statutory officer of the Commission upon such terms and conditions as to remuneration or otherwise as the Commission determines.

Resignation.

**59.** A statutory officer of the Commission may resign his office by writing under his hand delivered to the Governor-General.

Removal  
from office.

**60.** (1) The Governor-General may remove a statutory officer of the Commission from office for misbehaviour or physical or mental incapacity.

(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 creditors or makes an assignment of his 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 Governor-General shall remove him from office.

**61.** Except in the performance of the duties of his office or with the approval of the Commission, a statutory officer of the Commission shall not engage in practice as a barrister or solicitor or engage in paid employment. Outside employment.

**62.** (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 a statutory officer of the Commission— Acting appointments.

- (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 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 a statutory officer of the Commission holds office on such terms and conditions as the Commission determines.

(3) The Commission may at any time terminate an appointment under this section.

(4) Where a person is acting in the office of a statutory officer of the Commission in accordance with paragraph (1)(b) and the office becomes vacant while that person is so acting, that person may continue to act until the Commission 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 a statutory officer of the Commission may resign his appointment by writing under his hand delivered to the Commission.

(6) While the appointment of a person to act in the office of a statutory officer of the Commission is in force, he has all the rights, powers and privileges, and is subject to all the duties, of the statutory officer of the Commission.

(7) 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 appointment had not arisen or that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

Election to  
be employed  
by  
Commission.

**63.** (1) The Commission may, by notice in writing addressed to an eligible person, inform the person that he may elect to be employed by the Commission.

(2) A notice to a person under sub-section (1)—

- (a) shall include particulars of the proposed employment; and
- (b) may be given by sending the notice by post to the address of the person last known to the Commission.

(3) An eligible person who has received a notice under sub-section (1), may, within 21 days after the date of the notice, or within such further period as the Commission, within that period of 21 days, allows, by notice in writing, elect to be employed by the Commission.

(4) Where, before the commencing day, a person elects, in pursuance of sub-section (3), to be employed by the Commission, the Commission shall employ the person accordingly, with effect from the commencing day.

(5) Where, on or after the commencing day, a person elects, in pursuance of sub-section (3), to be employed by the Commission, the Commission shall employ the person accordingly, with effect from the day on which the person so elects.

(6) In this section—

“eligible person” means a person who, immediately before the eligible employment date, was employed in the Australian Capital Territory Branch of the Australian Legal Aid Office and includes a person who, immediately before that date, held, but was not performing the duties of, an office in that Branch; and

“eligible employment date” means a date fixed by the Attorney-General, by notice in the *Gazette*, as the eligible employment date for the purposes of this section.

Rate of  
remunera-  
tion.

**64.** (1) Subject to this section and to any terms and conditions of employment relating to a reduction in salary by reason of—

- (a) the transfer of a member of the staff of the Commission to a position of lower classification; or
- (b) misconduct, inefficiency or incapacity,

a member of the staff of the Commission employed under section 63 is entitled to be paid remuneration at a rate not less than the rate at which remuneration was payable to him in respect of the office in the Australian Public Service held by him immediately before the date on which he was employed by the Commission.

(2) Subject to sub-section (3), where a person employed by the Commission under section 63 would, if he had continued to be employed in the Australian Legal Aid Office, have become entitled at any time (in this sub-section referred to as the “relevant time”) to be paid an increment of salary by virtue of section 31 of the *Public Service Act*

1922, he shall, if he is a member of the staff of the Commission at the relevant time, become entitled to be paid an increment of salary of an amount not less than the amount that would have become payable to him under that last-mentioned section at the relevant time if—

- (a) the scale of rates of salary that, immediately before he was employed by the Commission, was applicable to officers of the Australian Public Service of the same designation as the person were also applicable at the relevant time; and
- (b) the person had the same designation at the relevant time as that which he had immediately before he was employed by the Commission.

(3) In determining for the purposes of sub-section (2) whether a person would have become entitled at any time to be paid an increment of salary by virtue of section 31 of the *Public Service Act 1922*, sub-sections (4), (5) and (6) of that section and regulations made for the purposes of sub-section (2) of that section shall be disregarded.

(4) If, having regard to the conduct, diligence, efficiency or attendance for duty of a member of the staff of the Commission, the Director is of the opinion that the member of the staff should not immediately be paid an increment of salary that the member of staff would, but for this sub-section, be entitled to be paid by virtue of sub-section (2), the Director may, by order in writing, direct that the increment shall not be paid until the expiration of such period as the Director thinks fit and, in that case, payment of the increment shall be deferred until the expiration of that period.

(5) A member of the staff of the Commission in relation to whom the Director has made an order under sub-section (4) may appeal to the Commission and the Commission shall, after enquiry, determine the appeal.

(6) The Director or a person acting in the office of Director shall not, in his capacity as a Commissioner, take part in an enquiry for the purposes of an appeal under sub-section (5) or in the determination of an appeal under that sub-section.

(7) In this section, “remuneration”, in relation to a member of the staff of the Commission employed under section 63, means salary or pay and includes such allowances as the Commission, after consultation with the Public Service Board, considers should be regarded as having formed part of the salary or pay of the member of the staff in the position that he normally occupied immediately before his employment by the Commission.

(8) For the purposes of sub-section (1), an unattached officer, or an employee, who performs duties in the Australian Capital Territory Branch of the Australian Legal Aid Office—

- (a) shall be deemed to be the holder of an office in the Australian Public Service; and
- (b) shall be deemed to be entitled to be paid salary in respect of that office at a rate equal to the rate at which salary is payable to him as an unattached officer or employee, as the case may be.



Prior service to be reckoned as employment with the Commission.

**65.** Where the employment of a member of the staff of the Commission employed under section 63 is continuous with a continuous period of service under the *Public Service Act* 1922 (including any employment deemed under that Act to have been continuous with service under that Act), that continuous period of service shall be reckoned, for the purposes of terms and conditions of employment with the Commission, as employment by the Commission.

Accrued recreation leave.

**66.** Where a member of the staff of the Commission employed under section 63 had, immediately before his employment under that section, accrued an eligibility for the grant of a period of leave of absence for recreation or on account of illness, he becomes eligible, upon his employment under that section, for the grant of an equal period of leave of absence for recreation or leave of absence on account of illness, as the case may be.

Special conditions of employment.

**67.** (1) Subject to this section, the Commission shall ensure that the conditions of employment of each member of the staff of the Commission employed under section 63 are, as far as possible, as favourable as those that, in the opinion of the Commission, he enjoyed immediately before he was so employed and, for that purpose, the Commission may—

- (a) determine any conditions of employment that are to apply to him; and
- (b) determine that an allowance is payable to him as compensation,

or both.

(2) Before forming an opinion as to the terms and conditions that were enjoyed by a member of the staff of the Commission employed under section 63 immediately before he was so employed, the Commission shall consult the Public Service Board.

(3) The Commission shall not make a determination under subsection (1) except with the approval of the Public Service Board.

(4) In this section, “conditions of employment” includes conditions relating to salary, pay or allowances, but does not include conditions relating to superannuation.

Terms and conditions generally.

**68.** The terms and conditions of employment of members of the staff of the Commission are, subject to this Ordinance, such as are from time to time determined by the Commission with the approval of the Public Service Board.

Certain provisions of Legal Practitioners Ordinance not to apply to officers of Commission.

**69.** Nothing in Part VIII, IX or X of the *Legal Practitioners Ordinance* 1970 applies to or in relation to an officer of the Commission in his official capacity.

PART IX—ADMINISTRATIVE PROVISIONS RELATING TO LEGAL AID COMMITTEES

**70.** A member of a Legal Aid Committee other than the Director holds office, subject to this Part, for a period of 1 year, but is eligible for re-appointment. Tenure of office.

**71.** (1) The members of a Legal Aid Committee shall elect one of their number to be the Chairman of the Committee. Chairman, &c., of Committee.

(2) The members of a Legal Aid Committee shall elect one of their number (not being the member elected as Chairman) to preside at meetings of the Committee at which the Chairman is not present.

**72.** A member of a Legal Aid Committee other than the Director may resign his office by writing under his hand delivered to the Commission. Resignation.

**73.** (1) The Commission may remove a member of a Legal Aid Committee other than the Director from office for misbehaviour or physical or mental incapacity. Removal from office.

(2) If a member of a Legal Aid Committee other than the Director—

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors;

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

(c) fails to comply with his obligations under section 75, the Commission shall remove him from office.

**74.** (1) A Legal Aid Committee shall hold such meetings as are necessary for the performance of its functions. Meetings of Committee.

(2) The Chairman of a Legal Aid Committee or the member of a Legal Aid Committee elected under sub-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 Chairman of a Legal Aid Committee shall preside at all meetings of the Committee at which he is present.

(5) If the Chairman of a Legal Aid Committee is not present at a meeting of the Committee, the member elected under sub-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.

Interests to be disclosed.

75. (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 is not a director, shall as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Committee.

(2) A disclosure under sub-section (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 X—ADMINISTRATIVE PROVISIONS RELATING TO REVIEW COMMITTEES

Tenure of office.

76. A member of a Review Committee holds office, subject to this Part, for a period of 1 year, but is eligible for re-appointment.

Resignation.

77. A member of a Review Committee may resign his office by writing under his hand delivered to the Commission.

Removal from office.

78. (1) The Commission may remove a member of a Review Committee from office for misbehaviour or physical or mental incapacity.

(2) If a member of a Review Committee—

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors;

(b) is absent, except by leave of the Commission, from 3 consecutive meetings of the Review Committee; or

(c) fails to comply with his obligations under section 81, the Commission shall remove him from office.

Allowances.

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

Meetings of Review Committee.

80. (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 Chairman of the Committee or, if for any reason the Chairman is unavailable, by another member of the Committee.

(3) The Chairman of a Review Committee shall preside at all meetings of the Review Committee at which he is present.

(4) If the Chairman of a Review Committee is not present at a meeting of the Committee, the members present shall elect one of their number to preside at that meeting and the member so elected shall preside accordingly.

(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.

**81.** (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 is not a director, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Review Committee. Interests to be disclosed.

(2) A disclosure under sub-section (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 XI—CONSULTATIVE COMMITTEES

**82.** (1) The Attorney-General may establish such consultative committees as he thinks desirable to assist the Commission in the performance of its function. Establishment of consultative committees.

(2) In deciding whether to establish a consultative committee to assist the Commission to perform its function in a particular locality, the Attorney-General shall take into account any representations received from any local community organization or from persons living, or carrying on a business, profession or trade, in that locality.

**83.** (1) Each consultative committee shall consist of— Constitution of consultative committees.

- (a) a person who is a member of the Law Society or a member of the Bar Association;
- (b) an officer of the Commission; and
- (c) such other persons as the Attorney-General considers appropriate.

(2) In selecting persons to be appointed as members of a consultative committee to assist the Commission to perform its function in a particular locality, the Attorney-General 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 Attorney-General and, subject to sub-section (4), shall hold office for a period of 1 year, but are eligible for re-appointment.

(4) A member of a consultative committee may resign his office by writing under his hand delivered to the Attorney-General.

General provisions relating to consultative committees.

**84.** (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 XII—TRANSITIONAL

Transfer of rights and liabilities.

**85.** Upon the commencing day—

- (a) all rights and property that, immediately before the commencing day, were vested in the previous Committee are, by force of this section, vested in the Commission; and
- (b) the Commission is, by force of this section, liable to perform all the duties, and to discharge all the liabilities and obligations of the previous Committee that existed immediately before the commencing day.

Transfer of moneys.

**86.** Upon the commencing day—

- (a) any moneys that, immediately before the commencing day, were in the previous Fund shall, by force of this section, form part of the Legal Aid Fund established by section 41; and
- (b) any amounts that, immediately before the commencing day, were required to be paid out of the previous Fund shall be paid out of the Legal Aid Fund established by section 41.

Contracts.

**87.** Any contract or other instrument subsisting immediately before the commencing day to which the previous Committee was a party has effect after the commencing day as if—

- (a) the Commission were substituted for the previous Committee as a party to the contract or other instrument; and
- (b) any reference in the contract or other instrument to the previous Committee were (except in relation to matters that occurred before the commencing day) a reference to the Commission.

Previous Committee to continue for certain purposes.

**88.** (1) Notwithstanding the repeal of the repealed Ordinance, the previous Committee, as constituted immediately before the commencing day, shall, for the purpose of complying with its obligations under subsection (2), continue in existence until it has complied with those obligations.

(2) As soon as practicable after the commencing day, the previous Committee shall—

- (a) pay to the Commission any moneys standing to the credit of the previous Fund;

- (b) deliver to the Commission any movable property (including files and other records) that is vested in the Commission in pursuance of paragraph 85 (a); and
- (c) prepare and furnish to the Attorney-General a report on its operations during the period that—
  - (i) commenced at the expiration of the last period in respect of which that Committee prepared a report under section 23 of the repealed Ordinance; and
  - (ii) ended immediately before the commencing day, together with financial statements in respect of that period.

(3) Sub-sections 23 (2) to (6), inclusive, of the repealed Ordinance have effect for the purposes of the preparation and furnishing of the report referred to in sub-section (2) of this section in like manner as those sub-sections have effect for the purposes of the preparation and furnishing of reports referred to in sub-section 23 (1) of that Ordinance.

(4) The Commission shall provide the previous Committee with such clerical and other assistance as is reasonably required by that Committee to enable it to prepare the report and financial statements referred to in sub-section (2) and is liable to pay and discharge any debts and liabilities incurred by that Committee in connexion with the preparation and furnishing of the report and financial statements.

**89.** (1) Where an application for legal aid made under the repealed Ordinance had not been determined before the commencing day, the application shall be deemed to be an application for legal assistance duly made to the Commission on the commencing day.

Previous applications for legal aid.

(2) Where the previous Committee decided before the commencing day to grant legal aid to a person and the person was being, or about to be, provided with legal aid in accordance with that decision immediately before the commencing day, this Ordinance has effect as if—

- (a) the grant of that legal aid were the provision of legal assistance under this Ordinance; and
- (b) in a case where the grant of legal aid was subject to conditions—any legal assistance provided to the person under this Ordinance were subject to the same conditions.

**90.** Upon the commencing day, the Director shall be deemed, by force of this section, to be the solicitor for a person in any proceeding in a court, or in any matter, in which the Director of Legal Aid for the Australian Capital Territory referred to in Part ID of the *Legal Practitioners Ordinance* 1970 was acting as the solicitor for that person immediately before the commencing day.

Change of solicitor.

#### PART XIII—MISCELLANEOUS

**91.** (1) The Commission shall indemnify an officer of the Commission against any liability incurred by him for any negligent act or omission by him in the course of the performance of his duties or in good faith in the purported performance of those duties.

Liabilities of Commission and of the Commonwealth.

(2) If a private legal practitioner provides any services without charge in connexion with the provision of legal assistance under this Ordinance, the Commission shall indemnify him against any liability incurred by him for any negligent act or omission by him 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 duties as a master has for any acts or omissions by his 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 is a member, if the act was done, or the omission occurred, in good faith in the performance of any function under this Ordinance.

(5) The Commonwealth is responsible for the payment of any moneys owing by the Commission but nothing in this sub-section authorizes a person to sue the Commonwealth in respect of a claim against the Commission or an officer of the Commission.

**Secrecy.**

**92.** (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
- (b) any person who has performed any function under section 47 or 97.

(2) A person to whom this section applies shall not, either directly or indirectly, except for the purposes of this Ordinance—

- (a) make a record of, or divulge or communicate to any person, any information concerning the affairs of another person acquired by him by reason of his office or employment under or for the purposes of this Ordinance or in the performance of a function under this Ordinance; or
- (b) produce to any person a document relating to the affairs of another person furnished for the purposes of this Ordinance.

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

(3) Subject to sections 47 and 97, 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 has the custody, or to which he has access, by virtue of his office or employment under or for the purposes of this Ordinance or in the performance of a function under this Ordinance, or to divulge or to communicate to any court any information concerning the affairs of another person obtained by him by reason of such an office or employment or in the performance of such a function.

(4) Sub-section (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.

(5) 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 Ordinance.

(6) In this section, "court" includes any tribunal.

93. (1) No fees are payable in respect of—

Exemption  
from fees  
and taxes.

- (a) the institution in a court or before a tribunal of a proceeding on behalf of a legally assisted person;
- (b) the filing or lodging of a document with a court or tribunal on behalf of a legally assisted person;
- (c) the service or execution by a member of the Police Force of the Territory 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 Ordinance.

94. (1) The Commission shall perform its function under this Ordinance under the name of the "Legal Aid Office (A.C.T.)".

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

(2) The *Business Names Ordinance* 1963 does not apply to or in relation to the Commission.

95. (1) A person shall not—

- (a) make, whether orally or in writing, a false or misleading statement in connexion with, or in support of, an application for legal assistance; or
- (b) furnish to the Commission in connexion with an application for legal assistance a document that is false or misleading in a material particular.

False or  
misleading  
statements.

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

(2) Where—

- (a) a person is convicted of an offence against sub-section (1) in respect of an application for legal assistance;
- (b) legal assistance under this Ordinance 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.

(3) For the purposes of sub-section (2), a certificate in writing signed by the Director, or by a person acting in the office of Director, 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.



Certificate  
as to  
amounts  
owing to  
Com-  
mission.

96. 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 Director, or by a person acting in the office of Director, certifying that the sum specified in the certificate was, at the date of the certificate, payable by the first-mentioned person to the Commission under that section is *prima facie* evidence of the matters stated in the certificate.

Annual  
report and  
financial  
statements.

97. (1) The Commission shall, as soon as practicable after each 30 June, prepare and furnish to the Attorney-General a report of the operations of the Commission during the year that ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves.

(2) The Commission shall cause a copy of the report and financial statements of the Commission to be furnished to the Commonwealth Legal Aid Commission and to the Australian Capital Territory Legislative Assembly.

(3) Before furnishing financial statements to the Attorney-General, the Commission shall submit the statements to an approved auditor, who shall report to the Attorney-General—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Commission during the year have been in accordance with this Ordinance; and
- (d) as to such other matters arising out of the statements as the approved auditor considers should be reported to the Attorney-General.

(4) The Attorney-General shall cause a copy of the report and financial statements of the Commission, together with a copy of the report of the approved auditor, to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Attorney-General.

(5) Sub-sections 47 (3), (4), (5) and (6) apply in relation to the performance of the functions of an approved auditor under this section in like manner as they apply in relation to the performance of the functions of an approved auditor under section 47.

Super-  
annuation.

98. Nothing in this Ordinance authorizes the provision of super-annuation benefits to an officer of the Commission otherwise than under the *Superannuation Act 1976*.

Regulations.

99. The Attorney-General may make regulations, not inconsistent with this Ordinance, prescribing all matters required or permitted by this Ordinance to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.