

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

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 40, 1982.

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

Legal Services Commission (Amendment).

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

Short title.

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

Principal Act.

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

Amendment of Act No. 78, 1979.

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

Transitional provision.

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

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 36 (1) (b)—

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

Legal Services Commission (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) Section 41—

At the end of the section, insert:—

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

(3) (a) Section 46 (1)—

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

(b) Section 46 (2), (2A), (2B), (2C)—

Omit section 46 (2), insert instead:—

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

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

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

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

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

Legal Services Commission (Amendment).

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

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

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

(c) Section 46 (3)—

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

(4) (a) Section 47 (1)—

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

(b) Section 47 (3A)—

After section 47 (3), insert:—

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

Legal Services Commission (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) Section 63 (1) (h)—

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