

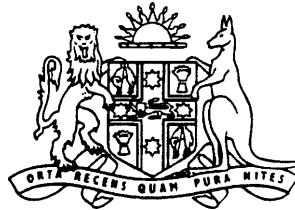


New South Wales

Legal Aid Commission Amendment Act 1997 No 50

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Legal Aid Commission Act 1979 No 78	2
Schedule 1 Amendments	3



New South Wales

Legal Aid Commission Amendment Act 1997 No 50

Act No 50, 1997

An Act to amend the *Legal Aid Commission Act 1979* to vary the constitution of the Legal Aid Commission to remove the Commonwealth representation from it; and for other purposes. [Assented to 2 July 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Legal Aid Commission Amendment Act 1997*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsections (2) and (3).
- (2) Schedule 1 [10] and [11] (other than the part of Schedule 1 [11] that inserts clause 50 (3) and (4)) commence on the date of assent.
- (3) Schedule 1 [2] commences on the day that is 7 days after the date of assent.

3 Amendment of Legal Aid Commission Act 1979 No 78

The *Legal Aid Commission Act 1979* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 8 Part-time commissioners

Omit section 8 (1) (b). Insert instead:

- (b) 3 persons who, in the opinion of the Minister, possess skills or experience that would benefit the Commission,

[2] Section 8 (1) (b1)

Omit the paragraph.

[3] Section 10 Functions of the Commission

Omit section 10 (2) (g1).

[4] Section 12 Duties to be observed in the provision of legal aid

Insert “and” at the end of section 12 (i).

[5] Section 12 (j)

Omit “work; and”. Insert instead “work.”.

[6] Section 12 (k)

Omit the paragraph.

[7] Section 34 Determination of application

Insert after section 34 (4):

- (4A) Subsection (4) does not apply in respect of any condition of the kind referred to in section 56 (1AA) that is imposed on the grant.

[8] Section 56 (1AA)

Insert after section 56 (1A):

- (1AA) Despite subsection (1), an appeal may not be made in respect of the imposition of a condition on a grant of legal aid (whether imposed by way of a determination or redetermination of an application for legal aid, or by way of a variation or redetermination of a variation of a grant of legal aid) if the condition is to the effect that the Commission is to provide the legal aid concerned by either of the following means:
- (a) by making available the services of the Managing Director or members of the staff of the Commission, or
 - (b) by arranging for the services of the Public Defenders to be made available.

[9] Section 72A Commonwealth/State agreement or arrangement

Omit section 72A (1). Insert instead:

- (1) The State may from time to time enter into an agreement or arrangement with the Commonwealth for or with respect to the provision of legal aid.
- (1A) The matters for which any such agreement or arrangement may provide include (but are not limited to) the following:
 - (a) the money to be made available by the Commonwealth, or by the State and the Commonwealth, for the purposes of the provision of legal aid and other legal services,
 - (b) the priorities to be observed, in relation to money made available by the Commonwealth, in the provision of legal aid and other legal services.

[10] Schedule 8 Savings, transitional and other provisions

Insert at the end of clause 1A (1):

Legal Aid Commission Amendment Act 1997.

[11] Schedule 8, Part 10

Insert after clause 48:

**Part 10 Provisions consequent on enactment of
Legal Aid Commission Amendment Act
1997**

49 Definition

In this Part:

the amending Act means the *Legal Aid Commission Amendment Act 1997*.

50 Commissioners cease to hold office

- (1) A person holding the office of commissioner under section 8 (1) (b1) immediately before the repeal of that paragraph by the amending Act ceases to hold that office on that repeal.
- (2) On and from the repeal of section 8 (1) (b1), and until the commencement of Schedule 1 [1] to the amending Act:
 - (a) a reference in section 7 to 10 commissioners is taken to be a reference to 8 commissioners, and
 - (b) section 7 (b) is to be construed as if the figure 9 were the figure 7, and
 - (c) a reference in clause 3 of Schedule 3 to 6 commissioners is taken to be a reference to 5 commissioners.
- (3) A person holding the office of commissioner under section 8 (other than section 8 (1) (b) or (b1)) immediately before the commencement of Schedule 1 [1] to the amending Act ceases to hold that office on that commencement.
- (4) A person holding the office of commissioner under section 8 (1) (b) immediately before the commencement of Schedule 1 [1] to the amending Act ceases to hold that office on that commencement.

51 No compensation for loss of office

A person who ceases to hold office as provided by clause 50 is not entitled to any remuneration or compensation because of the loss of the office concerned.

52 Determination of application

Section 34 (4A), as inserted by the amending Act, does not apply to a determination or a redetermination made, but not notified to the applicant, before the commencement of this clause.

53 Appeals

The amendments made to section 56 by Schedule 1 [8] to the amending Act do not apply in respect of a determination or redetermination of an application for legal aid, or in respect of a variation or redetermination of a variation of a grant of legal aid, being a determination, redetermination or variation made (and whether or not notified to the applicant) before the commencement of those amendments.

[Minister's second reading speech made in—
Legislative Council on 23 June 1997
Legislative Assembly on 27 June 1997 p.m.]