

NORTHERN TERRITORY OF AUSTRALIA

LEGAL AID AMENDMENT BILL 1998

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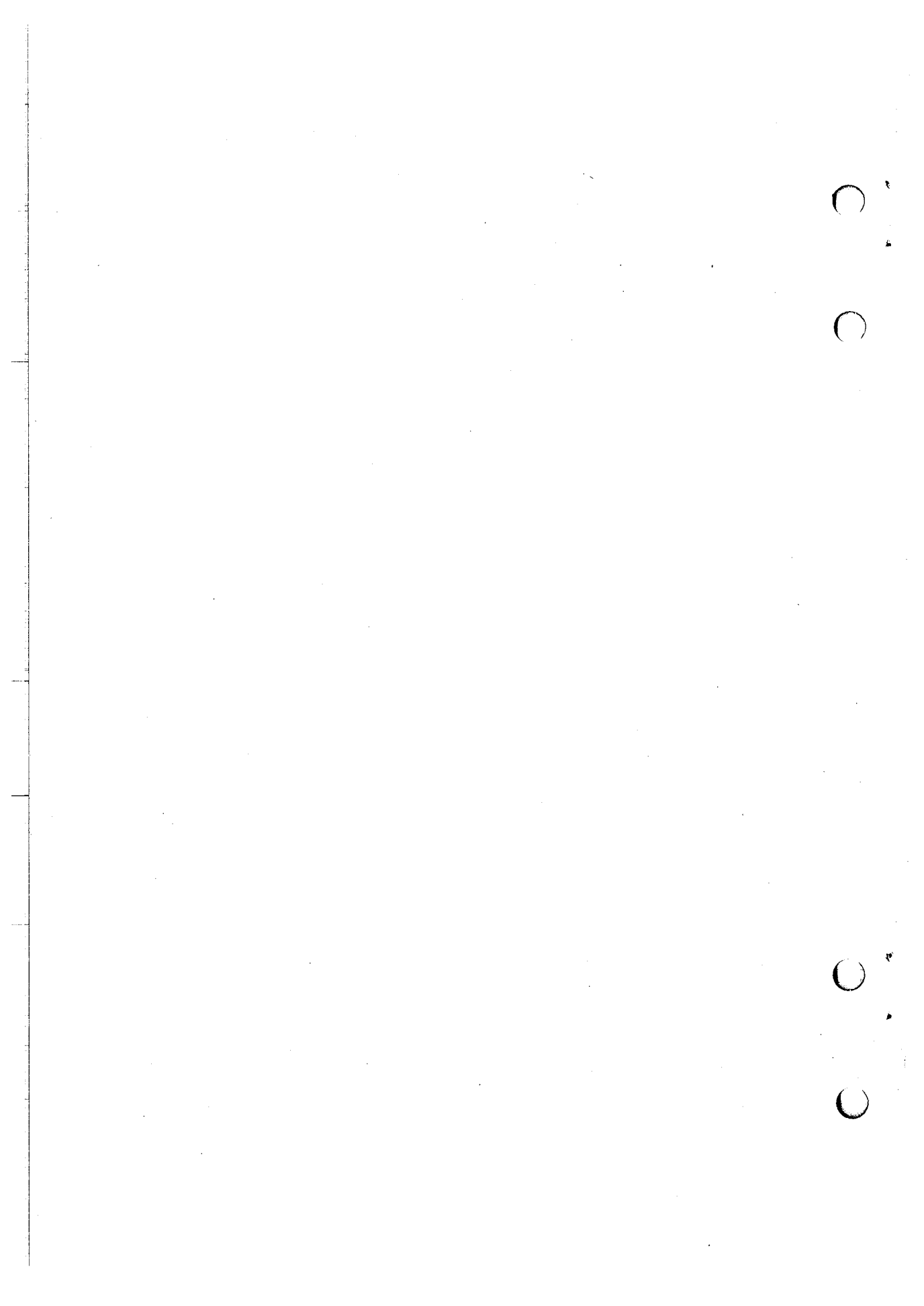
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## NORTHERN TERRITORY OF AUSTRALIA

# A BILL for AN ACT

to amend the *Legal Aid Act*

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

### PART 1 — PRELIMINARY

#### 1. SHORT TITLE

This Act may be cited as the *Legal Aid Amendment Act 1998*.

#### 2. COMMENCEMENT

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

#### 3. PRINCIPAL ACT

The *Legal Aid Act* is in this Act referred to as the Principal Act.

### PART 2 — AMENDMENTS TO LEGAL AID ACT

#### 4. INTERPRETATION

Section 4 of the Principal Act is amended —

- (a) by inserting after the definition of "assisted person" in subsection (1) the following:

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"'audit' has the same meaning as in the Audit Act;" and

- (b) by omitting from the definition of "officer" in subsection (1) "an employee as defined in the *Public Sector Employment and Management Act* employed in the service of" and substituting "a person employed by".

5. COMMISSION MAY HOLD MONEY ON TRUST

Section 11 of the Principal Act is amended -

- (a) by inserting in subsection (1) ", in accordance with the *Trustee Act*," after "and may"; and
- (b) by omitting from subsection (3) all words after "otherwise".

6. DIRECTOR

Section 18 of the Principal Act is amended -

- (a) by adding at the end of subsection (1) ", including the administration of staff employment"; and
- (b) by adding at the end the following:

"(4) The salary, allowances and expenses payable to the Director are to be paid out of the Legal Aid Fund."

7. NEW SECTION

The Principal Act is amended by inserting after section 19 the following:

"19A. COMMISSION STAFF

"(1) The Commission may employ persons necessary to enable it to perform its functions and exercise its powers under this Act.

"(2) All salaries, allowances and expenses payable to an employee of the Commission are to be paid out of the Legal Aid Fund."

8. ARRANGING FOR SERVICES OF PRIVATE LEGAL PRACTITIONERS

Section 30 of the Principal Act is amended by omitting from subsection (8) "Commissioner" and substituting "Commission".

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9. NEW DIVISIONS

Part VII of the Principal Act is amended by inserting before section 43 the following:

*"Division 1 - Accountability and Reporting*

"42. AUDIT ACT TO APPLY

"The Audit Act applies to and in relation to -

- (a) the Commission - as if a reference in that Act to an Agency were a reference to the Commission; and
- (b) the Director - as if a reference in that Act to an Accountable Officer were a reference to the Director.

"42A. FINANCIAL RESPONSIBILITIES OF DIRECTOR

"(1) The Director is responsible for the financial administration of the Commission.

"(2) The Director must ensure that -

- (a) proper records of all transactions affecting the Commission are kept;
- (b) employees of the Commission observe the requirements imposed by or under this Act in relation to financial matters; and
- (c) procedures that ensure proper internal control of financial matters of the Commission are in place.

"(3) The Director must ensure that the Commission has an adequate internal audit capacity.

"42B. ACCOUNTING AND PROPERTY MANUAL TO BE KEPT

"(1) The Commission must issue and maintain an accounting and property manual for the use of the Director and employees of the Commission.

"(2) The accounting and property manual is to include -

- (a) information about and an explanation of legislation that governs the operation of the Commission;
- (b) information about and an explanation of agreements that govern the operation of the Commission; and

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(c) information about, explanations of and directions as to the management and control of the assets of the Commission.

"(3) A copy of, or in an appropriate case, an extract from the accounting and property manual is to be made available to the Director and each employee of the Commission.

"(4) The accounting and property manual is to be complied with by the Director and each employee of the Commission.

"42C. ANNUAL FINANCIAL STATEMENTS

"(1) The Director must prepare a financial statement relating to each financial year.

"(2) The financial statement is to be prepared -

- (a) within 3 months after the end of the financial year to which it relates; or
- (b) within another period, after the end of the financial year, determined by the Treasurer.

"(3) The financial statement -

- (a) is to be prepared in the form the Treasurer directs; and
- (b) except to the extent that the Treasurer directs otherwise - is to be a general purpose financial report prepared in accordance with the Australian Accounting Standards determined by the Australian Accounting Standards Board.

"(4) The Director must provide a copy of the financial statement to the Auditor-General.

"(5) The Auditor-General must audit the statement provided under subsection (4).

"(6) The Auditor-General must, before 2 months after receiving the statement provided under subsection (4) or another period determined by the Administrator -

- (a) report on the statement to the Minister; and
- (b) provide a copy of the report to the Director.

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"42D. ANNUAL REPORTS

"(1) The Commission must provide a report to the Minister on the operations of the Commission during each financial year.

"(2) The report is to contain information about —

- (a) the organisation of the Commission, including the number of employees at each salary level or salary range in the Commission and any variation in those numbers since the last report;
- (b) the Commission's operations, initiatives and achievements (including those relating to planning, efficiency, effectiveness and performance and, where appropriate, delivery of services to the community);
- (c) the financial planning and performance of the Commission;
- (d) equal opportunity management programs and other initiatives designed to ensure that employees employed in the Commission have equal employment opportunities;
- (e) management training and staff development programs in the Commission; and
- (f) occupational health and safety programs in the Commission.

"(3) The report is to include —

- (a) the financial statement prepared under section 42C; and
- (b) the report provided to the Director under section 42C(6)(b),

in relation to the financial year.

"(4) The report is to be provided to the Minister —

- (a) within 6 months after the end of the financial year to which it relates; or
- (b) within a longer period determined by the Treasurer.

"(5) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days of the Legislative Assembly after he or she receives the report.

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"Division 2 - Funds of the Commission".

10. APPLICATION OF FUNDS

Section 45 of the Principal Act is amended by omitting from subsection (3) "*Financial Management Act*" and substituting "*Trustee Act*".

11. REPEAL

Section 63 of the Principal Act is repealed.

12. TRANSITIONAL

(1) A person, other than the Director, who was a member of the staff of the Commission immediately before the commencement of the *Legal Aid Amendment Act 1998* is, immediately after the commencement, an employee of the Commission employed on the same terms and conditions as applied to the employee immediately before that commencement.

(2) For the avoidance of doubt, sections 42C and 42D of the *Legal Aid Act* as inserted in that Act by this Act apply in relation to the 1998-1999 financial year as if this Act came into operation on 1 July 1998.

PART 3 - CONSEQUENTIAL AMENDMENTS

13. CONSEQUENTIAL AMENDMENT TO *PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT ACT*

The *Public Sector Employment and Management Act* is amended by omitting from Schedule 1 "*Legal Aid Commission*" and "*Director of Legal Aid*".

14. CONSEQUENTIAL AMENDMENTS TO *JURIES ACT*

The *Juries Act* is amended -

(a) by omitting from Schedule 7 ", the Office of Courts Administration or the Legal Aid Commission," and substituting "or the Office of Courts Administration,"; and

(b) by omitting from Schedule 7 "*Commissioner of Police*" and substituting "*Commissioner of Police*

a person employed by the Legal Aid Commission within the meaning of the *Legal Aid Act*".