Purpose

To amend the Commonwealth Legal Aid Commission Act 1977 to replace the Commonwealth Legal Aid Commission in line with the announced decision following the Review of Commonwealth functions.

Background

The Principal Act established a Commission with the function of keeping under review the need for legal aid in Australia. The Commission also undertakes research and collects statistics on legal aid matters. Consequent on these review functions it makes recommendations to the Attorney General and to State and Territory Legal Aid Commissions.

Following the Review of Commonwealth Functions the Government announced that the Commission would be replaced by a new advisory body. This body will be called the Commonwealth Legal Aid Council. In his Second Reading speech on the Bill, Senator Durack explained that several changes would be made to implement the decisions of the Review. The new body will be serviced by officers of the Attorney General's Department. The Council will carry out similar functions to those presently performed by the Commission. Some functions however will return to the Attorney General's Department to be performed by its officers. There will also be much closer liaison between the Council and departmental officers performing similar functions.

Main Provisions

Clause 6 repeals Parts II and III of the principal Act and replaces them with new Parts II and III. Part II deals with the establishment and functions of a Commonwealth Legal Aid Council and Part III covers the administrative arrangements relating to the council.
Section 4 provides for a Commonwealth Legal Aid Council to consist of a Chairman, two members to be appointed following consultation with the States which have Legal Aid Commissions, one member to be appointed following consultations with the Law Council of Australia, one member to be appointed following consultation with the Australian Council of Social Service, and two other members. The proposed new section provides that members shall hold office on a part time basis (new sub-section 4(3)).

New section 5 sets out three functions for the Council. These are:-

(a) to keep under review the question of the need for legal assistance in Australia, especially in relation to Commonwealth matters (proposed paragraph 5(a));

(b) to advise on the provision of financial assistance relating to legal aid including the administrative arrangements for providing financial assistance (proposed paragraph 5(b));

(c) to provide advice on other legal aid matters as requested by the Attorney General (proposed paragraph 5(c)).

Proposed new Part III consists of provisions governing the following matters: tenure of office for members (proposed new section 6), qualifications for appointment of members (proposed new section 7), remuneration and allowances (proposed new section 8), resignation and removal from office (proposed new sections 9 and 10), provision for an acting Chairman (proposed new section 11), arrangements for meetings of the Council (proposed new section 12), disclosure of interests by members of the Council (proposed new section 13).

Apart from minor amendments executed by clauses 7 and 8, Parts IV and V of the principal Act have been left intact. These parts deal respectively with the transfer of Commonwealth personnel to State and Territory Legal Aid Commissions, and with miscellaneous matters.

For further information, if required, contact:

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