

**ACTS AMENDMENT AND REPEAL (COURTS AND LEGAL PRACTICE) BILL 2002**

*Consideration in Detail*

On motion by Mr J.A. McGinty (Attorney General), resolved -

That in relation to the Acts Amendment and Repeal (Courts and Legal Practice) Bill 2002, the amendments listed on the Notice Paper standing in the name of the Attorney General be made pro forma.

The amendments were as follows -

Clause 8.

Page 5, lines 18 and 19 - To delete “managing clerk who has qualified for admission under those provisions” and substitute the following -

person who is a managing clerk immediately

Clause 10.

Page 6, line 24 - To delete “right” and substitute the following -  
rights

New clause.

Page 11, after clause 18 - To insert the following new clause -

**19.     *Civil Liability Act 2002 amended***

(1)     The amendments in this section are to the *Civil Liability Act 2002*.

[\*Act No. 35 of 2002.]

(2)     Section 16 is amended by deleting the definition of “legal practitioner” and inserting the following definition instead -

“

**“legal practitioner”** means a legal practitioner as defined in the *Legal Practice Act 2002*.

”.

(3)     Section 17(2)(a)(i) is amended by deleting “an agreement under the Legal Practitioners Act 1893 section 59” and inserting instead -

“

a costs agreement within the meaning of the *Legal Practice Act 2002*

”.

Clause 53.

Page 31, lines 18 to 24 - To delete the lines and substitute the following -

(2)     Section 5(5) is repealed and the following is inserted instead -

“

(5)     The amount of costs ordered, other than Court fees, shall be in accordance with the scale fixed from time to time by a legal costs determination (as defined in the *Legal Practice Act 2002*).

”.

Clause 101

Page 58, line 11 - To delete “the Minister determines” and substitute the following -

is agreed between the Minister and the person entitled to the pension

Clause 103.

Page 60, line 6 - To insert after “Commonwealth” the following -

or any other Act of the Commonwealth prescribed for the purposes of this definition

Page 61, after line 26 - To insert the following -

**18. Conversion of lump sum to meet surcharge debt**

- (1) A Judge who becomes entitled to a lump sum benefit under section 17 and is liable to pay a surcharge as a result of becoming entitled to that benefit may -
  - (a) convert all or part of the benefit into a commutable pension; and
  - (b) fully commute that pension.
- (2) A Judge wanting to convert a benefit under subsection (1) is to give to the Minister a notice to that effect, setting out the amount that the Judge wants to be paid in the form of the commuted pension (the **“requested amount”**), which cannot be more than the surcharge.
- (3) On receipt by the Minister of a notice under subsection (2) -
  - (a) the benefit to which the Judge is entitled under section 17 is reduced by the amount of the requested amount;
  - (b) the Judge becomes entitled to a pension of an amount calculated to be actuarially equivalent to a lump sum benefit of the requested amount; and
  - (c) that pension is commuted into, and the Judge becomes entitled to, a lump sum of the amount of the requested amount.
- (4) In this section -  
**“surcharge”** has the same meaning as in section 16.

Clause 122.

Page 75, line 11 - To delete “(or, if applicable, the Commonwealth)”.

New clause.

Page 77, after line 4 - To insert the following new clause -

**125. Family Court Act 1997 amended**

- (1) The amendments in this section are to the *Family Court Act 1997*\*.  
[\*Act 40 of 1997.  
*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 124 and Acts Nos. 3 and 25 of 2002.*]
- (2) Schedule 1 item 1 is amended by deleting “Her Majesty Queen Elizabeth the Second, Her heirs and successors” in each place where it occurs and in each place inserting instead -  
the State of Western Australia