

EXPLANATORY MEMORANDUM

LEGAL AID COMMISSION AMENDMENT BILL 2005

Clause 1 sets out the correct citation of the Bill once it has been proclaimed.

Clause 2 deals with commencement of the Bill (which is the day on which it receives the Royal Assent).

Clause 3 states the purpose of this Part of the Bill - to amend the *Legal Aid Commission Act 1976* ("the Act").

Clause 4 amends section 37 of the Act (which deals with the provision of legal aid) in the following ways-

- Subclause 4(1) of the Bill amends subsection 37(2) of the Act to make the provision of legal aid subject to subsection 37(4d), which is inserted by this Bill;
- Subclause 4(2) of the Bill inserts 3 new subsections after subsection 37(4c) of the Act-
 - Subsection 37(4d) gives the Attorney General the power to issue a notice in writing which authorises a legal aid authority to provide legal aid to a person or class of persons, specified in the notice, without making a decision as to whether the person is a person referred to in subsection 37(2)(a) of the Act (unable to afford the full costs of private legal services). Note that subsection 37(2)(b) of the Act (reasonable in all the circumstances) still applies;
 - Subsection 37(4e) gives the Attorney General the power to vary or revoke an authorisation given under subsection 37(4d). Any such variation or revocation must be in writing; and
 - Subsection 37(4f) requires that any notice issued under either subsections 37(4d) or 37(4e) be given to the Director of Legal Aid (see s4 of the Act for definition of Director).