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No 21



House of Representatives

Supplementary Order Paper

Friday, 7 April 2000

Legal Services Bill

Proposed amendments

Hon Phil Goff, in Committee, to move the following amendments:

Clause 2(1)

To omit the definition of **legal services** (page 5, lines 22 to 29), and substitute the following definition:

legal services,—

- (a) in relation to legal aid, means legal advice, representation, and assistance, which includes assistance—
 - (i) with resolving disputes other than by legal proceedings; and
 - (ii) with taking steps preliminary or incidental to any proceedings; and
 - (iii) in arriving at or giving effect to any out-of-court settlement that avoids or brings to an end any proceedings:
- (b) in relation to any community law centre, includes—
 - (i) legal advice, representation, and assistance (including the kinds of assistance described in **subparagraphs (i) to (iii) of paragraph (a)**); and
 - (ii) the provision of legal information and law-related education; and
 - (iii) undertaking law-reform and advocacy work on behalf of the community it serves:
- (c) in relation to anything else, includes all the things in **paragraphs (a) and (b)**, unless otherwise specified

Clause 3

To omit subclause (2) (page 7, lines 12 to 14), and substitute the following subclause:

- (2) Community law centres provide, under contract with the Agency, specified legal services (other than services provided under a scheme) to people and communities with insufficient means to pay for them (*see Part 4*).

Clause 47

To omit the words “services in the form of advice, or” (page 29, line 23), and substitute the words “advice or legal”.

Clause 49

To omit the word “legal” (page 30, line 9).

Part 4 (clauses 52 to 55)

To omit this Part (page 31, line 1 to page 32, line 7), and substitute the following Part:

Part 4
Community law centres

52 What is a community law centre?

- (1) For the purposes of this Act, a **community law centre** is a body whose function is, or includes, the provision of legal services (other than services provided under a scheme) to communities with insufficient means to pay for them.
- (2) Every community law centre must identify a particular community that it is intended primarily to serve, and the community can be defined geographically, or by reference to some common interest or characteristic, or both.
- (3) A body may, for the purposes of this Act, be a community law centre even if it performs functions other than that described in **subsection (1)**.
- (4) In this Part, **community** includes the individuals who are part of it.

53 Agency’s role in setting up community law centres

- (1) In performing its function under **section 78(aa)**, the Agency may investigate the need for community law centres to service particular communities and, if it considers that a particular law centre is needed, may assist in setting it up.
- (2) When investigating the need for a community law centre to serve a particular community, the Agency may do anything it considers necessary, including—
- (a) assessing the extent to which the community is unable to access legal services because it has insufficient means to pay for them;
- (b) providing advice on, and, if the Agency considers it appropriate, financial support for, setting up a pilot scheme to operate for a specified period;
- (c) assessing any pilot scheme.
- (3) The kind of assistance that the Agency may provide in assisting to set up a community law centre includes—

- (a) giving advice on the most appropriate way in which the services of the community law centre can be provided to a particular community; and
- (b) making grants of money to help with establishment costs.

Compare: 1991 No 71 s 95(1)(d)

54 Agency to contract with community law centres for provision of services

- (1) The Agency may enter into a contract under this section with any community law centre for the provision of any legal services, other than services provided under a scheme.
- (2) A contract under this section may be for any term of up to 5 years, but the amount of money provided under it must be reviewed annually.
- (3) The money provided by the Agency to a community law centre under a contract under this section must come from either or both—
 - (a) the Special Fund;
 - (b) any other money held by the Agency specifically for the support of community law centres.
- (4) **Subsection (1)** does not prevent a community law centre obtaining money under any other kind of arrangement, including (for example) receiving money from the Agency for services provided under a scheme.

Compare: 1991 No 71 s 95(1)(d), (e)

55 Allocation of funding between community law centres

- (1) If, in any year, there is a greater demand from community law centres for funding than there is money available, the Agency's funding of contracts under **section 54** must be made on the basis of obtaining, for the amount of money available, the maximum access to legal services (other than services provided under a scheme) by communities with insufficient means to pay for them.
- (2) When considering the amount of money to be provided under a contract with a community law centre, the Agency must have regard to—
 - (a) the level of need for legal services in the community served by the community law centre, relative to the need in other communities; and
 - (b) the capacity of the community to pay for legal services, relative to the capacity of other communities to pay for them; and
 - (c) the effectiveness, or likely effectiveness, of the community law centre in providing those services to the community; and
 - (d) the benefit of ensuring continuity in the delivery of services; and

- (e) the need to provide reasonable access to community law centres throughout the country; and
- (f) alternative providers of legal services that are (or will be) available in practice to the community.

Clause 78

To insert, before paragraph (a) (page 38, line 12), the following paragraph:

- (aa) to ensure, as far as possible, that people with insufficient means to pay for legal services nonetheless have access to them:

To omit paragraphs (b) and (c) (page 38, lines 13 to 25), and substitute the following paragraphs:

- (b) to receive, from the Special Fund, money derived from interest paid on solicitors' trust accounts, and to apply that money under contracts with community law centres entered into under **section 54**;
- (c) to undertake law-related education for the public or any section of the public;
- (ca) to sponsor and initiate research into the provision of legal services to people with insufficient means to pay for them:

Clause 88(1)

To omit paragraphs (e) and (f) (page 40, lines 40 and 41, and page 41, lines 1 to 9), and substitute the following paragraphs:

- (e) the total amount paid by the Agency from money from the Special Fund under contracts with community law centres; and
- (f) the total amount paid by the Agency in investigating the need for, and assisting in setting up, community law centres; and

New clause 101A

To insert, after *clause 101* (page 46, line 23), the following clause:

101A Community law centres

Any funding arrangement in place on the day before the transition date between the Board and a community law centre established under the former Act continues, on and after the transition date, until the earlier of—

- (a) the date of commencement of a contract entered into under **section 54**; or
 - (b) the date on which the funding arrangement ends.
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Explanatory note

This Supplementary Order Paper amends the Legal Services Bill in relation to community law centres. The Bill is currently before the Justice and Electoral Select Committee, and I intend to refer this Supplementary Order paper to that Committee for consideration.

The Bill as introduced largely repeated the provisions relating to community law centres that are in the Legal Services Act 1991, but modified them to take into account that District Legal Services Committees are abolished by the Bill. The resulting provisions were inadequate.

This Supplementary Order paper substitutes a *new Part 4*, which now relates solely to community law centres, and makes some significant related amendments to other provisions. It also provides a transitional provision.

The definition of **legal services** in *clause 2* of the Bill is amended. In relation to legal aid, **legal services** means legal advice, representation, and assistance, including assistance for settling disputes other than through proceedings. In relation to community law centres, **legal services** includes the same matters, but in addition includes providing legal information and law-related education, and undertaking law-reform and advocacy work. The effect of this change to the definition of **legal services** is that community law centres will be able to provide a wider range of services than is presently possible. (It also clarifies what services are available under a grant of legal aid.)

The amendments to *clauses 3, 47, and 49* are consequential upon changes made elsewhere.

In the *new Part 4, clause 52* provides that a community law centre is a body whose function is, or includes, the provision of legal services, other than services provided under a scheme (such as legal aid or the duty solicitor scheme), to those with insufficient means to pay for them. Under this clause, it will be possible for bodies or organisations that do things in addition to providing legal services to be treated as community law centres.

Clause 53 describes the Legal Services Agency's role in setting up community law centres as being to investigate the need for, and, if necessary, assist in setting up, community law centres. This is stated as relating to the Agency's functions, as described in *clause 78*. An amendment to that clause gives the Agency a new, generic function—ensuring that people with insufficient means to pay for legal services nonetheless have access to them.

Clause 54 provides for the Legal Services Agency to enter into contracts with community law centres for the provision of legal services. Money for community law centres will continue to come from the Special Fund, but provision is made for the possibility that other discrete funding may be made available to support community law centres.

Clause 55 gives guidance to the Legal Services Agency on how to allocate funds as between different community law centres.

As well as the amendment to *clause 78* referred to above, further amendments to that clause deal with the education and research functions of the Legal Services Agency that were previously provided for in *Part 4* of the Bill.

New clause 101A is a transitional provision that provides that current funding arrangements for existing community law centres remain in place until either they expire, or a contract under *clause 54* is entered into.
