

LAW REFORM COMMISSION.

No. 91 of 1978.

**AN ACT to amend the Law Reform Commission Act,
1972-1976.**

[Assented to 8th November, 1978.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Law Reform Commission Act Amendment Act, 1978.* Short title and citation.

(2) In this Act the Law Reform Commission Act, 1972-1976, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Law Reform Commission Act, 1972-1978.

Commence-
ment.

2. This Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation.

Section 3
amended.

3. Section 3 of the principal Act is amended in the definition of "member" by inserting, after the word "means", the words "full-time member or part-time".

Section 4
amended.

4. Section 4 of the principal Act is amended—

(a) in line four of subsection (1) by deleting the words "consist of three" and substituting the passage ", subject to subsection (1a) of this section, consist of five";

(b) by inserting, after subsection (1), the following subsection—

(1a) Of the five members appointed under subsection (1) of this section—

(a) three members shall be members who are part-time members; and

(b) two members shall be members who are full-time members. ;

and

(c) in line one of subsection (2) by deleting the word "two" and substituting the word "three".

Section 5
amended.

5. Section 5 of the principal Act is amended—

(a) by repealing subsection (3) and substituting the following subsection—

(3) The outgoing Chairman shall be eligible for re-election at the next succeeding election, and at each subsequent election, of the Chairman. ; and

- (b) in lines four, five and six of subsection (4) by deleting the passage “, without affecting his eligibility for election at the next succeeding election of the Chairman,”.

6. Section 6 of the principal Act is repealed and the following section is substituted—

Section 6
repealed and
substituted.

6. (1) Of the members who are part-time members—

Qualification
of members.

- (a) one shall be a certificated practitioner within the meaning of section 3 of the Legal Practitioners Act, 1893, who is practising as a practitioner on his own account, whether alone or in partnership, and who has had, in this State or elsewhere, not less than eight years' experience as a legal practitioner;
- (b) one shall be a person who is engaged in the teaching of law at a university in the State with a status not less than that of senior lecturer or the equivalent thereof;
- (c) one shall be a practitioner within the meaning of section 3 of the Legal Practitioners Act, 1893, who is an officer of the Crown Law Department of the State and who has had, in this State or elsewhere, not less than eight years' experience as a legal practitioner.

(2) A person shall not be eligible for appointment as a member who is a full-time member unless he—

- (a) is or has been a barrister or solicitor of the High Court of Australia or of the Supreme Court of a State or Territory of the Commonwealth of not less than eight years' standing; or

- (b) is, in the opinion of the Governor, suitable for appointment as a member by reason of his legal qualifications and experience, whether in this State or elsewhere. .

Section 7
amended.

7. Section 7 of the principal Act is amended—

- (a) in line one of subsection (1) by inserting, after the word “Each”, the words “member who is a part-time”; and
- (b) by repealing subsection (2) and substituting the following subsections—

(2) Each member who is a full-time member shall hold office for such period, not exceeding five years, as is specified in the instrument of his appointment.

(3) A member whose term of office has expired shall be eligible for reappointment, but—

- (a) a member who is a part-time member shall not hold office for a period exceeding six consecutive years; or
- (b) a member who is a full-time member shall not hold office for a period exceeding eight consecutive years,

unless, in the opinion of the Governor, there are special circumstances warranting an extension of that period. .

Section 9
amended.

8. Section 9 of the principal Act is amended—

- (a) in line two of subsection (2) by inserting, before the word “member”, the words “member who is a part-time”; and

- (b) by repealing subsection (4) and substituting the following subsections—

(4) Acceptance of or acting in the office of member by any person shall not of itself—

- (a) render the provisions of the Public Service Act, 1904, or any other Act applying to persons as officers of the Public Service of the State, applicable to him; or
- (b) in the case of a member who is a part-time member, affect or prejudice the application to him of the provisions referred to in paragraph (a) of this subsection if those provisions applied to him at the time of the acceptance of or acting in that office.

(5) A member who is a full-time member who, immediately prior to his appointment, occupied an office under the Public Service Act, 1904—

- (a) shall, if he resigns his office or if his term of office expires by effluxion of time, other than by his attaining the age of sixty-five years, and he is not reappointed, be entitled to be appointed to an office under that Act not lower in status than the office which he occupied immediately prior to his appointment as a full-time member; and
- (b) shall continue to retain his existing and accruing rights, including his rights under the Superannuation and Family Benefits Act, 1938, as if his service as a full-time member were service as an officer under the Public Service Act, 1904.

(6) In relation to a member who is a full-time member to whom subsection (5) of this section does not apply—

- (a) the Commission is deemed to be a department; and
- (b) that full-time member is deemed to be an employee,

within the meaning and for the purposes of the Superannuation and Family Benefits Act, 1938, but he is not compelled to become a contributor for pension, superannuation or benefits under that Act. .
