

LAW REFORM COMMISSION.

No. 59 of 1972.

AN ACT to establish the Law Reform Commission of Western Australia and for purposes incidental thereto.

[Assented to 31st October, 1972.]

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. This Act may be cited as the *Law Reform Commission Act, 1972.* Short title.
2. This Act shall come into operation on a date to be fixed by proclamation. Commencement.

Interpre-
tation.

3. In this Act, unless the context otherwise requires—

“Chairman” means Chairman of the Commission;

“member” means member of the Commission;

“section” means section of this Act; and

“the Commission” means the Law Reform Commission of Western Australia established under this Act.

Constitution
of Commis-
sion.

4. (1) There shall be a Commission to be known as the Law Reform Commission of Western Australia which, except as provided in section 10, shall consist of three members, appointed by the Governor.

(2) So long as there are two members, no act or proceeding of the Commission or of any member shall be vitiated by reason only that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of any member.

Chairman.

5. (1) The Commission shall elect the Chairman from amongst its members.

(2) The member elected as the Chairman shall hold that office for a term not exceeding one year.

(3) The outgoing Chairman shall not be eligible for election at the next succeeding election of the Chairman.

(4) Where the Chairman is absent, the Commission shall elect another member to act temporarily as the Chairman during that absence and, while so acting, that other member shall, without affecting his eligibility for election at the next succeeding election of the Chairman, be deemed to be the Chairman.

6. Of the members—

Qualifica-
tions 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 full-time member of the academic staff of the Law School of the University of Western Australia who has an academic status or position of Associate Professor or Professor;
- (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.

7. (1) Each member shall hold office for such period, not exceeding three years, as is specified in the instrument of his appointment.

Tenure of
office.

(2) A member whose term of office has expired shall be eligible for re-appointment, but no member shall hold office for a period exceeding six consecutive years unless in the opinion of the Governor there are special circumstances warranting an extension.

8. (1) If a member ceases to have the qualifications under which he was appointed, his office shall become vacant.

Removal
from office.

(2) A member may resign his office in writing under his hand addressed to the Attorney General.

(3) The Governor may remove a member from office if he—

- (a) becomes incapable of performing his duties as member;
- (b) is guilty of misconduct;
- (c) is convicted of an indictable offence; or
- (d) fails to comply with the conditions of his appointment.

Conditions of
appointment.

9. (1) A member shall be paid such remuneration and allowances as the Governor may from time to time determine.

(2) The Governor shall not determine the remuneration and allowances to be paid to a member who is a person to whom the Public Service Act, 1904 applies except with the prior approval in writing of the Chairman of the Public Service Board.

(3) The appointment of a member shall, subject to this Act, be in accordance with such terms and conditions as may be specified in the instrument of his appointment.

(4) Acceptance of or acting in the office of member of the Commission by any person shall not of itself 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 that member, or affect or prejudice the application to him of those provisions if they applied to him at the time of the acceptance of or acting in such office.

Acting
members.

10. (1) The Attorney General may, on such terms and conditions as he thinks fit, appoint a person to act temporarily as a member during the absence of any member, and a person so appointed shall, while so acting, be deemed to be a member.

(2) A person shall not be appointed an acting member unless he has the like qualification, within the meaning of section 6, as the member who is absent.

11. (1) The Commission shall prepare and submit to the Attorney General from time to time proposals for the review of any area of law with a view to reform, and for this purpose may consider any proposals for the reform of the law which may be made to it by any person.

(2) The Attorney General may refer to the Commission—

- (a) any of the matters in the proposals submitted to him by it under subsection (1) of this section; or
- (b) any other matter.

(3) On a reference made to it by the Attorney General under subsection (2) of this section, the Commission shall—

- (a) examine critically the law with respect to the matter mentioned in the reference; and
- (b) report to the Attorney General on the results of the examination of that law and make any recommendations with respect to the reform of that law, that it considers to be desirable.

(4) Without limiting the generality of subsection (3) of this section, the Commission shall examine the law to which the reference relates for the purposes of ascertaining and reporting whether that law—

- (a) is obsolete, unnecessary, incomplete or otherwise defective;
- (b) ought to be changed so as to accord with modern conditions;
- (c) contains anomalies; or
- (d) ought to be simplified, consolidated, codified, repealed or revised,

and, if appropriate, whether new or more effective methods for the administration of that law should be developed.

(5) The Commission shall deal with references made by the Attorney General in the order of priority, if any, approved by him.

(6) The Commission may for the purposes of this section hold and conduct such inquiries as it thinks fit, and inform itself on any matter in such manner as it thinks fit, and obtain such information as to the law and the administration of justice of other countries as appears to the Commission likely to facilitate the performance of any of its functions.

(7) The Attorney General shall cause the proposals and reports (including the recommendations) made by the Commission pursuant to the other provisions of this section and to the provisions of section 13 to be presented to each House of Parliament as soon as practicable after they have been submitted to him.

Proceedings
of
Commission.

12. (1) The Commission shall meet from time to time at such places and times as the Chairman directs.

(2) The Commission may regulate and conduct the proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.

(3) Subject to this Act, the Commission may delegate to any of the members any of its powers, authorities, duties, or functions except this power of delegation.

(4) The Commission may revoke a delegation given under subsection (3) of this section and no delegation so given prevents the exercise or discharge by the Commission of any of its powers, authorities, duties, or functions.

Annual
Report.

13. The Commission shall, as soon as practicable after the thirtieth day of June in each year, make a report to the Attorney General on the activities

and proceedings of the Commission during the period of twelve months ending on that date and shall include in the report a statement of the receipts and payments in connection with the accounts of the Commission for that period and an estimate of the payments for the immediately succeeding year.

14. (1) There shall be appointed under and subject to the Public Service Act, 1904, such officers and temporary employees as may be necessary to provide administrative, research, and other services to the Commission to enable it to exercise and perform the powers, functions, and duties conferred on the Commission by this Act, and to permit the Commission to undertake studies and research concerning law reform and to make investigations and reports with regard to the carrying out of this Act. Staff.

(2) The Minister may, on the request of the Commission, engage, under contract for services, such professional and research or other assistance as may be necessary to enable the Commission to carry out effectively its functions under this Act, and enter into arrangements with—

- (a) a Minister of the Crown of any State of the Commonwealth, a Minister of State of the Commonwealth, a department or an instrumentality of the Commonwealth or any State of the Commonwealth; or
- (b) a university or other tertiary institution; or
- (c) any other body or person,

with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of this Act.

15. (1) The funds available to the Commission for the purpose of enabling it to exercise its functions, powers, and duties under this Act are—

- (a) moneys from time to time appropriated by Parliament for that purpose;

Funds of
Commission.

(b) any other moneys made available to the Commission for the purposes of this Act.

(2) The moneys referred to in subsection (1) of this section shall be paid into, and placed to the credit of, an account at the Treasury to be called the "Law Reform Commission Account".

(3) All expenditure incurred by the Commission for the purposes of giving effect to this Act shall be paid from the account referred to in subsection (2) of this section.
