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**LAW REFORM COMMISSIONER ACT 1988**

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**No. 9 of 1988**

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## LAW REFORM COMMISSIONER ACT 1988

No. 9 of 1988

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**AN ACT to provide for the appointment, functions, and powers of the Law Reform Commissioner.**

**[Royal Assent 26 May 1988]**

**B**E it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1**—This Act may be cited as the *Law Reform Commissioner Act 1988*. Short title.

**2**—This Act shall commence on 1st January 1988, but if this Act does not receive the Royal assent on or before that date, it shall be deemed to have commenced on that date. Commencement.

**3**—In this Act, unless the contrary intention appears— Interpretation.

“Commissioner” means the Law Reform Commissioner appointed under section 4;

“committee” means a committee appointed under section 10;

“employee” has the meaning assigned to that expression by the *Tasmanian State Service Act 1984*;

“practitioner” has the meaning assigned to that expression by the *Legal Practitioners Act 1959*;

“sub-committee” means a sub-committee appointed under section 11.

Office of Law  
Reform  
Commissioner.

4—(1) There is established by this Act the office of Law Reform Commissioner of Tasmania.

(2) The Governor may appoint a qualified person to hold the office of Law Reform Commissioner.

(3) For the purposes of subsection (2), a qualified person is a person who is—

(a) a judge of the Supreme Court;

(b) a former judge of the Supreme Court; or

(c) a practitioner of not less than 7 years' standing.

(4) Except as provided by subsection (5), the *Tasmanian State Service Act 1984* does not apply to the office of Law Reform Commissioner or to a person holding that office.

(5) If for any reason the person holding office as Law Reform Commissioner is unable to perform the functions of that office or that office is for the time being vacant, the Governor may appoint a person (including an employee employed under the *Tasmanian State Service Act 1984*) to act in that office until the Law Reform Commissioner is able to resume his duties as such or until the vacancy is filled.

(6) A person shall be appointed Law Reform Commissioner for such term, not exceeding 3 years, as is specified in the instrument of appointment.

(7) A person shall, if otherwise qualified, be eligible for re-appointment for such term, not exceeding 3 years, as is specified in the instrument of appointment.

Remuneration  
and allowances.

5—The Commissioner is entitled to be paid such remuneration and allowances as the Governor may determine.

Vacation of  
office of  
Commissioner.

6—(1) A person holding the office of Commissioner vacates that office—

(a) on resignation from that office in accordance with any terms specified in the instrument of appointment;

(b) on removal from office in accordance with subsection (2); or

(c) at the expiration of the term of office.

(2) The Governor may remove from office a person holding the office of Commissioner if he is satisfied that the person—

- (a) is permanently incapable of carrying out the duties of that office;
- (b) is guilty of misconduct in the performance of the duties of that office;
- (c) has failed to comply with the terms and conditions specified in the instrument of appointment;
- (d) has applied to take, or takes, advantage of any law relating to bankruptcy, or has compounded, or entered into an arrangement with his creditors; or
- (e) has been convicted in this State or elsewhere of an offence or crime of such a nature that, in the opinion of the Governor, renders it improper for him to continue to hold that office.

7—(1) The functions of the Commissioner are as follows:— Functions of Commissioner.

- (a) to place before the Attorney-General suggestions and suggested programmes for the reform of the law applicable to this State;
- (b) to review the area of law applicable to this State where any reference is made by the Attorney-General with a view to the development and reform of the law including—
  - (i) the modernization of the law by bringing it into accord with current conditions and needs;
  - (ii) the elimination of defects in the law;
  - (iii) the simplification of the law; and
  - (iv) the adoption of new or more effective methods for the administration of the law and the dispensation of justice;
- (c) subject to the approval of the Attorney-General, to consider proposals relating to—
  - (i) the making of laws that may appear necessary or desirable;
  - (ii) the consolidation of any laws applicable to this State;
  - (iii) the repeal of laws applicable to this State that are obsolete or unnecessary; and
  - (iv) uniformity between laws of the State and laws of other States and the Commonwealth;

- (d) to make reports to the Attorney-General arising out of any review or consideration referred to in this subsection and, in those reports, to make such recommendations as the Commissioner thinks fit;
- (e) to monitor proposals for reform to the laws in any other jurisdiction with a view to their adoption in the State, either in whole or in part, and with or without modification.

(2) The Attorney-General may—

- (a) make a reference to the Commissioner;
- (b) modify the terms of such a reference; and
- (c) give directions to the Commissioner as to the order in which he is to deal with references.

Powers of  
Commissioner.

**8—(1)** The Commissioner may do all things that are necessary or convenient to be done in connection with the carrying out of his functions under this Act.

(2) Without limiting the generality of subsection (1), the powers of the Commissioner are as follows:—

- (a) to enter into arrangements with a university, corporation or any other body or any person with respect to any investigation, study, or research that in his opinion is desirable for the purposes of this Act;
- (b) to defray any expenses incurred by the Commissioner for the purposes of this Act;
- (c) to enter into agreements with other bodies in this State or elsewhere in respect of any matter which is necessary or convenient for the purposes of this Act.

Employees and  
assistance.

**9—(1)** Subject to and in accordance with the *Tasmanian State Service Act 1984*, such persons may be appointed or employed as may be necessary to enable the Commissioner to perform his functions and exercise his powers under this Act.

(2) The Secretary of the Law Department, if requested to do so by the Commissioner, may provide such employees employed in that department as may reasonably be necessary for the purpose of assisting the Commissioner in the performance of his functions and the exercise of his powers under this Act.

(3) The Attorney-General may engage under contract for services such professional research and other assistance as may be necessary to assist the Commissioner in the performance of his functions and the exercise of his powers under this Act.

(4) The Attorney-General may enter into arrangements with any person for the conduct of any study or inquiry that may be necessary or desirable for the purposes of this Act.

(5) Without prejudice to the generality of subsection (4), arrangements may be entered into under that subsection with a Minister of the Crown of any State of the Commonwealth, a Minister of State of the Commonwealth, or the holder of any office or any body established under the law of the Commonwealth or any State.

(6) Where arrangements under subsection (5) are entered into with the holder of an office or with a body established under the law of this State, the holder of that office for the time being or that body, as the case may be, shall have power to enter into and carry out those arrangements.

**10**—(1) The Commissioner may appoint a committee for the purpose of assisting him in relation to a reference made to the Commissioner. Committees.

(2) A committee shall—

(a) consist of such person or persons as the Commissioner considers qualified on the grounds of interest and experience relevant to the reference in respect of which the committee is appointed; and

(b) continue for such period as the Commissioner may determine.

(3) The Commissioner shall be the chairman of any committee.

(4) A committee is subject to any directions made by the Commissioner in respect of its proceedings and the manner of the exercise of its functions.

(5) The Commissioner may delegate to any committee any of his functions or powers under this Act, except this power of delegation.

(6) A committee, in addition to, or in place of, appointing a sub-committee, may do all things that are necessary or convenient to be done in connection with the carrying out of its functions.

(7) Subject to subsection (4), a committee may regulate its own proceedings.

Sub-committees.

**11—(1)** A committee, with the approval of the Commissioner, may appoint a sub-committee—

(a) to investigate any matter connected with its functions; and

(b) to advise it on the exercise of its functions.

(2) A sub-committee may consist of, or include, a person who is not a member of the committee.

(3) A sub-committee shall continue for such period as the committee may determine.

(4) A sub-committee is subject to any directions given by the committee which appointed it in respect of its proceedings and the manner of the exercise of its functions.

(5) Subject to subsection (4), a sub-committee may regulate its own proceedings.

Records and accounts.

**12—(1)** The Commissioner shall cause to be kept proper records and accounts in relation to his affairs and activities.

(2) Any accounts kept pursuant to subsection (1) are subject to the *Audit Act 1918*.

Annual and special reports.

**13—(1)** The Commissioner shall, as soon as practicable after 31st July in each year, submit to the Attorney-General a report on his activities and proceedings during the period of 12 months ended on that day.

(2) A report under subsection (1) shall include—

(a) a copy of any financial statements prepared under section 12 in respect of the year to which the report relates; and

(b) a copy of the Auditor-General's report with respect to such financial statements.

(3) In addition to a report under subsection (1), the Commissioner shall furnish the Attorney-General, as and when the Attorney-General directs, with such reports as the Attorney-General may require in relation to particular matters.

(4) The Attorney-General shall cause each report submitted to him to be laid on the table of each House of Parliament within the first 10 sitting days of the House after the report is received by him.



**14**—The expenses of the Commissioner shall be defrayed out of money provided by Parliament for the purpose. Financial provision.

**15**—The Governor may make regulations for the purposes of this Act. Regulations.

**16**—(1) On the commencement of this Act, the person holding office as research director of the Law Reform Commission immediately before the commencement of this Act shall be deemed to be appointed as a permanent employee under the *Tasmanian State Service Act 1984*. Transitional and savings provisions.

(2) Any reference made to the Law Reform Commission under the *Law Reform Commission Act 1974* before the commencement of this Act shall, if not completed or reported on before that commencement, be deemed to be a reference made to the Commissioner under this Act.

**17**—The Law Reform Commission of Tasmania established under the *Law Reform Commission Act 1974* is abolished. Abolishment of Law Reform Commission.

**18**—The Acts specified in Schedule 1 are repealed. Repeal.

**19**—This Act shall expire on 31st May 1991. Expiry.

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## SCHEDULE 1

Section 18

## ACTS REPEALED

Number and year of Act	Name of Act
Act No. 17 of 1974 .....	<i>Law Reform Commission Act 1974</i>
Act No. 41 of 1975 .....	<i>Law Reform Commission Act 1975</i>
Act No. 29 of 1979 .....	<i>Law Reform Commission Amendment Act 1979</i>
Act No. 31 of 1979 .....	<i>Law Reform Commission Amendment Act (No. 2) 1979</i>
Act No. 10 of 1982 .....	<i>Law Reform Commission Amendment Act 1982</i>
Act No. 32 of 1984 .....	<i>Law Reform Commission Amendment Act 1984</i>