

Queensland



LAW REFORM COMMISSION ACT 1968

**Reprinted as in force on 4 August 2000
(includes amendments up to Act No. 16 of 2000)**

Warning—see last endnote for uncommenced amendments

Reprint No. 2

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 4 August 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

Queensland



LAW REFORM COMMISSION ACT 1968

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LAW REFORM COMMISSION ACT 1968

[as amended by all amendments that commenced on or before 4 August 2000]

An Act to constitute a law reform commission and to define its functions, powers and duties

Short title

1. This Act may be cited as the *Law Reform Commission Act 1968*.

Interpretation

2. In this Act—

“**chairperson**” means chairperson of the Commission.

“**Commission**” means the Law Reform Commission constituted under this Act.

“**deputy chairperson**” means deputy chairperson of the Commission.

“**member**” means member of the Commission and includes the chairperson and deputy chairperson.

Constitution of Commission

3.(1) A Law Reform Commission shall be constituted in accordance with this Act.

(2) The Commission must consist of at least 3 members, who may be full-time or part-time members.

(3) So long as there are 2 or more 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.

Members of Commission

4.(1) Each person appointed to be a member shall—

- (a) be a person appearing to the Governor in Council to be suitably qualified by the holding of judicial office or by experience as a barrister or as a solicitor or as a teacher of law in a University; and
- (b) be appointed by the Governor in Council by Gazette notice—
 - (i) in the case of the holder of judicial office—for the term fixed by the Governor in Council; and
 - (ii) in any other case—for a term of not more than 3 years fixed by the Governor in Council.

(1A) A member holds office on the terms not provided for by this Act as are determined by the Governor in Council.

(2) A member whose term of office has expired shall be eligible for re-appointment.

(3) A member is to be appointed under this Act, and not under the *Public Service Act 1996*.

(4) An officer of the public service who is appointed as a member may hold the appointment in conjunction with the public service office held by the officer.

Appointment of chairperson and deputy chairperson

5.(1) The Governor in Council may appoint one of the members to be chairperson of the Commission and one of the members to be deputy chairperson of the Commission.

(2) When the holder of a judicial office is appointed to be a member, he or she shall also be appointed chairperson unless some other member is then holding the appointment of chairperson.

(3) The deputy chairperson shall, during the absence, illness or incapacity of the chairperson or during a vacancy in the office of chairperson, have and may exercise the powers, authorities and duties conferred or imposed upon the chairperson by this Act.

Appointment of holders of judicial office

6.(1) The appointment of a holder of a judicial office as a member shall not, nor shall his or her service as a member, affect his or her tenure of that office or his or her rank, title, status, precedence, salary or other rights or privileges as a holder of that office.

(2) A holder of a judicial office may, notwithstanding that he or she is a member, exercise his or her powers as a holder of that office, but while the holder is a member he or she shall not (unless otherwise provided by the instrument of his or her appointment as a member) be required to perform his or her duties as a holder of that office.

(3) Service, as a member, of a holder of a judicial office shall, for all purposes, be taken to be service as a holder of that judicial office.

Removal and vacation of office

7.(1) A member (not being the holder of a judicial office) shall be deemed to have vacated the member's office as a member if—

- (a) the member is removed from office by the Governor in Council—
 - (i) for inability or misbehaviour; or
 - (ii) for failure to comply with the conditions of the member's appointment; or
 - (iii) for absence from 3 consecutive meetings of the Commission without reasonable cause being shown to the Governor in Council; or
- (b) the member becomes bankrupt, compounds with the member's creditors, or makes any assignment of the member's salary or allowances or of the member's estate for their benefit; or
- (c) the member becomes a patient within the meaning of the *Mental Health Act 1974*; or
- (d) the member is convicted of an indictable offence punishable by imprisonment of at least 1 year; or
- (e) the member's resignation in writing is accepted by the Governor in Council.

(3) A member who is the holder of a judicial office shall cease to hold office as a member if the member ceases to hold judicial office.

Acting members

8. The Governor in Council may appoint any person who is eligible for appointment as a member to act temporarily as a member during the absence through illness or other cause of any member or during a vacancy in the office of a member, and a person so appointed shall, while so acting, be deemed to be a member.

Specialised assistance

9. For the purpose of its examination of a particular branch of the law, the Commission may—

- (a) engage on a temporary basis any person who has technical or specialised knowledge or who is experienced in that particular branch of the law; and
- (b) with the approval of the Minister first had and obtained, fix and pay the remuneration and expenses of any such person.

Functions and duties of Commission

10.(1) The function of the Commission shall be to take and keep under review all the law applicable to the State with a view to its systematic development and reform, including in particular—

- (a) the codification of such law; and
- (b) the elimination of anomalies; and
- (c) the repeal of obsolete and unnecessary enactments; and
- (d) the reduction of the number of separate enactments; and
- (e) generally the simplification and modernisation of the law.

(2) To remove any doubt, it is declared that the law applicable to the State includes both substantive law and procedural law, including, for example, court rules.

(3) For the purposes of carrying out its functions, the Commission shall—

- (a) receive and consider any proposal for the reform of the law which may be made or referred to it;
- (b) at the request of the Minister, provide assistance to any department or instrumentality of the Government by undertaking the examination of any particular branch of the law and making recommendations for the reform of that branch of the law to bring it into accord with current conditions;
- (c) prepare and submit to the Minister from time to time, or at the request of the Minister at any time, a program for the examination, in order of priority, of different branches of the law for the purposes of reform, consolidation or statute law revision;
- (d) undertake, pursuant to approval by the Minister of any program, and in accordance with the approved order of priority, the examination of particular branches of the law, and the formulation of recommendations for reform, consolidation or statute law revision;

and may for these purposes hold and conduct such inquiries as it thinks fit, and inform itself on any matter in such manner as it thinks fit.

(4) The Minister may vary—

- (a) any program submitted to the Minister by the Commission by adding or deleting or making such alteration to any particular branch or branches of the law as the Minister thinks fit; and
- (b) the order of priority on any such program.

(5) For the purpose of assisting the Commission to formulate a program or recommendation the Commission may publish its working and discussion papers and such other papers as it thinks fit and may circulate those papers to such persons as it thinks fit.

(6) Any programs of and recommendations formulated by the Commission and approved by the Governor in Council shall be laid before Parliament.

Powers of Commission

11.(1) For the purposes of any inquiry under this Act by the Commission, a member shall have the powers, authorities, protections and immunities, conferred on a commissioner by the *Commissions of Inquiry Act 1950*, and the chairperson or member presiding shall have the powers and authorities conferred on a chairperson of a commission within the meaning of those Acts.

(2) The provisions of the *Commissions of Inquiry Act 1950* shall, with necessary changes, apply to and in respect of any such inquiry and to and in respect of any witness or person summoned by or appearing before the Commission.

Proceedings of Commission

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

(2) The quorum for a meeting shall be 2 members.

(3) A question arising at a meeting of the Commission shall be decided by a majority of the votes of members present at the meeting and voting.

(4) The chairperson shall preside at all meetings at which the chairperson is present.

(5) In the event of the absence of the chairperson from a meeting, the deputy chairperson shall preside at that meeting.

(6) In the absence of the chairperson and deputy chairperson from a meeting, the members present shall choose one member to preside.

(7) At a meeting, the chairperson or other member who presides shall have a deliberative vote and, in the event of votes being equal, shall have a casting vote.

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

(9) Subject to this Act, the Commission may delegate any of its powers and authorities to any member.

Remuneration of members

13.(1) Any member (including an acting member) other than the holder of a judicial office who is appointed on a full-time basis shall receive such salary as the Governor in Council may from time to time determine.

(2) Any member (including an acting member) other than the holder of a judicial office who is appointed on a part-time basis shall receive—

- (a) such remuneration for the performance of the ordinary duties of a part-time member including attendance at any meeting of the Commission as the Governor in Council may from time to time determine; and
- (b) such remuneration for work or services performed by the member which is additional to the ordinary duties of a part-time member, as the Governor in Council may from time to time in each particular case determine.

(3) All members (including acting members) shall receive such allowances for reasonable travelling expenses as the Governor in Council may from time to time determine.

Superannuation benefits for certain members

13A.(1) Subject to this section, the Minister may cause to be taken out and maintained on behalf of any member who is appointed on a full-time basis, other than the holder of a judicial office or an acting member, a policy of assurance that will provide for such member, the member's spouse and children or any of them, as the Governor in Council approves, superannuation benefits of such a nature as the Governor in Council approves.

(2) A policy of assurance referred to in subsection (1), if taken out, shall be on terms that in the Minister's opinion are the best terms available at the time the policy is sought.

(3) So long as a member on whose behalf a policy of assurance referred to in subsection (1) is maintained holds an appointment on a full-time basis as a member, there shall be paid from moneys from time to time appropriated by Parliament for the purpose the amount of all premiums and other moneys required to be paid to maintain such policy.

(4) A member on whose behalf a policy of assurance referred to in subsection (1) is maintained, the member's spouse and each child of the member shall according to the terms of the policy be entitled to receive such benefits as are secured to him or her under the policy upon the fulfilment of the conditions on which such benefits become payable under the policy.

Secretary and other staff

14. The secretary and other staff of the Commission are to be employed under the *Public Service Act 1996*.

Reports

15.(1) The department's annual report for a financial year must include a report about the operations of this Act during the year.

(2) The Commission may from time to time and shall, at the request of the Minister, make a report to the Minister on its examination of any particular branch of the law, its formulation of recommendations for reform, consolidation or statute law revision or on any other matters affecting or having relation to the functions and duties of the Commission.

(3) A report made by the chairperson and 1 other member shall be a report of the Commission for the purposes of this Act.

Reports to be tabled

16. The Minister must cause a copy of each report made by the Commission to be laid before the Legislative Assembly within 14 sitting days after its receipt by the Minister.

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 4 August 2000. Future amendments of the Law Reform Commission Act 1968 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 68 of 1992	15 September 1994
1A	to Act No. 79 of 1996	5 February 1997
1B	to Act No. 79 of 1996	14 March 1997
1C	to Act No. 38 of 1997	8 August 1997
1D	to Act No. 82 of 1997	16 December 1997

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Obsolete and redundant provisions	1

6 List of legislation

Law Reform Commission Act 1968 No. 37

date of assent 11 December 1968

commenced on date of assent

as amended by—

Law Reform Commission Act Amendment Act 1972 No. 14

date of assent 15 December 1972

commenced 1 January 1973 (proc pubd gaz 23 December 1972 p 1982)

Law Reform Commission Act Amendment Act 1976 No. 55

date of assent 1 October 1976

commenced on date of assent

Law Reform Commission Act Amendment Act 1984 No. 47

date of assent 10 May 1984

commenced on date of assent

Public Service (Administrative Arrangements) Act (No. 2) 1990 No. 80 s 3 sch 1

date of assent 14 November 1990

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 s 3 sch 1

date of assent 17 December 1991

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 s 3 sch 1

date of assent 7 December 1992

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Justice Legislation (Miscellaneous Provisions) Act 1996 No. 79 pts 1, 21

date of assent 12 December 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 28 February 1997 (1997 SL No. 35)

Courts Reform Amendment Act 1997 No. 38 ss 1–2 pt 10

date of assent 18 July 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 1997 (1997 SL No. 235)

Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82 ss 1–2, pt 16

date of assent 5 December 1997

commenced on date of assent

Mental Health Act 2000 No. 16 ss 1–2, 590 sch 1 pt 2

date of assent 8 June 2000

ss 1–2, 590 commenced on date of assent (see s 2(1))

remaining provisions not yet proclaimed into force**7 List of annotations****Interpretation**s 2 def “**Minister**” sub 1990 No. 80 s 3 sch 1
om 1991 No. 97 s 3 sch 1**Constitution of Commission**

s 3 amd 1972 No. 14 s 3l; 1997 No. 82 s 67

Members of Commission

s 4 amd 1972 No. 14 s 4; 1992 No. 68 s 3 sch 1; 1996 No. 37 s 147 sch 2

Removal and vacation of offices 7 amd 1972 No. 14 s 5; 1992 No. 68 s 3 sch 1; 2000 No. 16 s 590 sch 1 pt 2**Specialised assistance**

s 9 sub 1972 No. 14 s 6

Functions and duties of Commission

s 10 amd 1972 No. 14 s 7; 1984 No. 47 s 2; 1997 No. 38 s 70

Powers of Commission

s 11 amd 1992 No. 68 s 3 sch 1

Remuneration of members

s 13 sub 1972 No. 14 s 8

Superannuation benefits for certain members

s 13A ins 1976 No. 55 s 2

Secretary and other staffs 14 amd 1984 No. 47 s 3
sub 1992 No. 68 s 3 sch 1
amd 1996 No. 37 s 147 sch 2**Reports**

s 15 amd 1972 No. 14 s 9; 1996 No. 79 s 70

Reports to be tabled

s 16 ins 1991 No. 97 s 3 sch 1

8 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Mental Health Act 2000 No. 16 s 590 sch 1 pt 2 reads as follows—

LAW REFORM COMMISSION ACT 1968

1. Section 7(1)(a)(i), ‘inability or’—

omit.

2. Section 7(1)(a)—

insert—

‘(iv) because the member becomes mentally or physically incapable of performing the duties of office; or’.

3. Section 7(1)(c)—

omit.