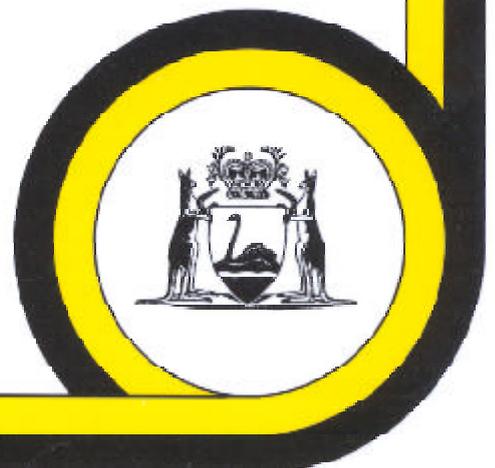


The Law Reform Commission  
of Western Australia

# **ANNUAL REPORT**

1 July 2003 – 30 June 2004



# Contents

A Message from the Chairman .....	1
Highlights .....	3
PART I: Annual Report 2003/04 .....	5
PART II: Performance Indicators .....	15
PART III: Financial Statements .....	20
PART IV: Appendices .....	35
I. Current References .....	36
II. Publications .....	39
III. History of References .....	43

©State Solicitor's Office

ALL RIGHTS RESERVED

Applications for reproduction should be made in writing  
to the Law Reform Commission of Western Australia

ISBN: 1 74035 038 3

# A Message from the Chairman

The Law Reform Commission of Western Australia (the 'Commission') has had an exceptional year, with our Chairman Professor Ralph Simmonds being appointed as a Judge of the Supreme Court. Professor Simmonds, the first academic to be appointed to the bench in Western Australia, was described by the Attorney General as "a breath of fresh air" and "noted for his practical approach, prodigious output and intellectual rigour." Although it is a very sad loss for the Commission, we are extremely grateful for Professor Simmonds' seven years of tireless service and commitment to reforming the law. We wish him well for the next exciting stage of his career.

Professor Simmonds' departure from the Commission left an enormous void, however, the Commission has had the good fortune of appointing a new academic member, Dr Christopher Kendall, who has shown the same dedication and enthusiasm for law reform. Dr Kendall is the Dean of the Murdoch University School of Law and was appointed as a member of the Commission on 23 February 2004. Dr Kendall is a Barrister and Solicitor of the Supreme Court and Court of Appeal of Ontario, Canada and a Barrister and Solicitor of the Supreme Court of Western Australia. He has published extensively in Australia, the United States and Canada and teaches in the areas of law and inequality, jurisprudence, intellectual property and evidence. Dr Kendall is the national editor of *Intellectual Property Forum*, the law journal of the Intellectual Property Society of Australia and New Zealand and was appointed the Director of the Asia Pacific Intellectual Property Law Institute in 2002.

Dr Kendall joins the Commission at a crucial stage of our work on the Aboriginal Customary Laws reference. Our community consultations throughout remote and regional Western Australia resulted in the production of thematic summaries. These summaries record the issues confronting the Indigenous communities visited and were returned to the relevant communities for their consideration and approval. The collection of additional material and feedback occurred during return visits to the communities, demonstrating our ongoing commitment to consult with Indigenous people throughout the research process.



The next phase of the project has now commenced with the release of three background papers, the first of a series to be published throughout 2004. The aim of these background papers is to enhance further discussion amongst interested parties, which will in turn assist us to develop a discussion paper and work towards our final report. Background papers have been well received and have created a great deal of interest. Work has commenced on the drafting of a discussion paper, with the final report anticipated by the middle of 2005.

In April 2004, I attended the 21st biannual Australasian Law Reform Agencies Conference held in Wellington, New Zealand. Justice Ralph Simmonds and Justice Michael Barker presented a paper on the Commission's behalf, discussing the role of tribunals and the establishment of a State Administrative Tribunal in Western Australia. This invitation followed from the body of work the Commission completed last year on the Judicial Review of Administrative Decisions. The conference gave us the opportunity to showcase the legal innovations currently being undertaken in Western Australia. It also gave me the opportunity to consider the advances being made in New Zealand in the areas of restorative justice and the recognition of Indigenous people. The information gained will be reflected in our Aboriginal Customary Laws discussion paper and may assist in the development of our final recommendations.



The Commission gratefully acknowledges the Attorney General for his support of our work and continued commitment to implement our recommendations, both past and present. We would also like to take the opportunity to thank all the individuals and organisations for their contributions and assistance throughout the year.

Gillian Braddock SC  
Chairman

# Highlights

## Aboriginal Customary Laws

- During 2003/04, the Commission continued to carry out extensive community consultations, travelling to various remote and regional areas within Western Australia. The purpose of these visits was to consult and receive submissions on the matters as set out in the Terms of Reference. The information received was drafted into a series of Thematic Summaries and returned to the various communities for feedback and approval before being published on the Commission's website.



- As part of the Commission's commitment to an open and inclusive dialogue with Indigenous people throughout the project, the Thematic Summaries were distributed to the various regional communities, thus enabling participants to consider and approve the information documented. The Commissioners and the project team conducted follow-up visits shortly thereafter, to enable the collection of feedback and any additional material from the community. Any comments and concerns raised by the community were noted and the Thematic Summaries amended.



- In the second half of 2003, the Commission engaged specialised writers to compile a series of Background Papers on various topics taken from the Terms of Reference. The Commission has since published and distributed three Background Papers, the first entitled 'The Approach of Australian Courts to Aboriginal Customary Law in the Areas of Criminal, Civil and Family Law'; the second entitled 'Caught in the Middle: Indigenous Interpreters and Customary Law'; and the third entitled 'The Value of a Benchmarking Framework to the Reduction of Indigenous Disadvantage in the Law and Justice Area'. These papers aim to stimulate further discussion and provide the foundation for the development of the Commission's Discussion Paper and Final Report.
- The Commission envisages the development of a Discussion Paper in the second half of 2004, taking into account all submissions and information received from the Aboriginal communities during the various consultations as well as the research compiled by the project team. It is anticipated that the Final Report, setting out the Commission's recommendations and addressing any additional issues raised by the Discussion Paper, will be complete by the middle of 2005.

## The Law of Contempt

- The Commission's reference on the Review of the Law of Contempt concluded with the publication and distribution of three Discussion Papers and the Final Report. The Commission later republished all four papers on CD-Rom for electronic access and ease of distribution.

## The ALRAC Conference 2004

- The Commission attended the 21st biannual Australasian Law Reform Agencies Conference held in Wellington, New Zealand from 13-16 April 2004. The theme, 'Access to Justice: Rhetoric or Reality', examined the issue of law reform and its pivotal place in the provision of accessible legal services.
- The Commission's Chairman, Professor Ralph Simmonds (as he then was), was invited to speak at the conference and delivered a joint paper with Supreme Court Judge, The Hon Justice Michael Barker on the issue of the role of tribunals and the establishment of a State Administrative Tribunal in Western Australia.
- Attendance at the Conference provided the Commission with several valuable opportunities, including making vital contacts with other law reform agencies, discussing issues relevant to the Commission's current reference on Aboriginal Customary Laws, and introducing Ms Gillian Braddock SC to the law reform fraternity.



## Technological and Administrative Improvements

- The Commission intends to produce all Aboriginal Customary Laws reference findings in a culturally appropriate and user-friendly format. The Commission has already produced an informative video for use by remote Aboriginal communities to assist in answering frequently asked questions about the project. The video also provides a comprehensive project overview and explains the aim of the Commission's community consultations. Other visual or aural media will also be considered for future materials, in addition to the usual print media format.
- The Commission will continue to publish its reports and discussion papers utilising CD-ROM technology wherever possible thus creating significant savings for the Commission.
- During the past year the Commission's staff handled more than 15,000 letters, faxes, e-mail messages and telephone calls – many from members of the public concerned about legal issues and problems with the justice system.
- The Commission's recently updated website also received over 191,000 hits throughout 2003/04.

# Part I: Annual Report

# Annual Report 2003/04

The Law Reform Commission of Western Australia (the 'Commission' or 'LRCWA') reviews areas of the law, upon reference from the Attorney General, to identify the opportunities for reform. References may result from proposals submitted by the Commission, suggestions made by the public or topics of interest to the Attorney General. Section 11 of the *Law Reform Commission Act 1972* (the 'Act') sets out the functions of the Commission. The Attorney General determines the order of priority in which the Commission deals with references. The Attorney General presents the Commission's reports to Parliament as soon as practicable after the Commission completes its work on each reference.



## **The Mission and Performance Indicators**

The Commission's mission is to assist in keeping the law up-to-date and relevant to the needs of society. The performance indicators help to measure the Commission's efforts in achieving its mission. Part II of this Annual Report sets out these indicators.

The performance indicators have recently been reviewed to reflect the changing role of the Commission. The Commission formerly considered implementation of its reports as a performance indicator but the use of this standard has been discontinued. While it is important, implementation is beyond the Commission's area of responsibility and under the control of others. The Commission now considers that the extent to which it meets the Attorney General's requests to review an area of the law in a timely manner is an appropriate performance indicator of the measurement of its effectiveness.

## **The Community Served**

The people of Western Australia are the Commission's primary clients or customers. This must be the case for a law reform organisation funded by the taxpayers in a society governed by law. To be meaningful and effective, law reform must make every effort to be inclusive and fair.

The law reform process should include communication and consultation with the public and the relevant stakeholders concerned with particular projects. Moreover, the Commission's work must be completed in a reasonably timely fashion in order to be efficient and effective.

## **Stakeholders**

The Commission's stakeholders include those governed by particular laws and those charged with enforcing them. With each reference the Commission makes an effort to identify stakeholders concerned with the specific topic. The stakeholders' list changes from project to project. While farmers and country residents may be concerned about stock straying on highways, parents and doctors may be interested in medical treatment for minors. Merchants and finance companies may seek changes to the *Sale of Goods Act 1895*

while builders and suppliers may be concerned with financial protection in the building and construction industry. Once an issue is identified the Commission often invites stakeholders' submissions when developing its recommendations.

## Current Assignments

Work is continuing on the Aboriginal Customary Laws Reference, with the Commission carrying out extensive community consultations, involving travel to various remote and regional areas within Western Australia. The purpose of these visits was to consult and receive submissions on the matters as set out in the Terms of Reference. The information received at these consultation visits was drafted into a series of Thematic Summaries and returned to the various communities for feedback and approval before being made available on the Commission's website.

The Commission also published and distributed three Background Papers on the Aboriginal Customary Laws Reference:

- (i) 'The Approach of Australian Courts to Aboriginal Customary Law in the Areas of Criminal, Civil and Family Law' by Ms Victoria Williams;
- (ii) 'Caught in the Middles: Indigenous Interpreters and Customary Law' by Dr Michael Cooke; and
- (iii) 'The Value of a Benchmarking Framework to the Reduction of Indigenous Disadvantage in the Law and Justice Area' by Mr Greg Marks.

These Background Papers are the first in a series to be published throughout 2004 and will be followed by a Discussion Paper and the Final Report setting out the Commission's recommendations to be published some time in 2005.

The LRCWA concluded its reference on the Law of Contempt by republishing all three Discussion Papers and the Final Report on CD-Rom for electronic access and ease of distribution.

## Diversification

The LRCWA engages consultants for research, writing and editing. This permits individuals who would not previously have been able to participate in the process of law reform to bring their unique and special skills to the Commission's law reform activities on less than a full-time basis. The LRCWA endeavours to use the public tender procedure to select writers, editors and researchers for each project.

## Research and Publications

The Commission's core activities traditionally have been research and development of recommendations for reform. Appendix I provides current Terms of Reference. All references to the Commission since its establishment in 1972 and to its predecessor, the Law Reform Committee, are identified in Appendix III. Appendix II lists all LRCWA publications beginning with the most recent. Publication information is available on the Commission's website: <[www.lrc.justice.wa.gov.au](http://www.lrc.justice.wa.gov.au)>. All previous publications are for sale from the State Law Publisher: <[www.slp.wa.gov.au](http://www.slp.wa.gov.au)>.



## Legislation Affecting the Commission's Activities

In the performance of its functions, the Law Reform Commission complies with the following relevant Acts:

- *Disability Services Act 1993*;
- *Electoral Act 1907*;
- *Equal Opportunity Act 1984*;
- *Evidence Act 1906; Acts Amendment (Evidence) Act 2000*;
- *Freedom of Information Act 1992*;
- *Financial Administration and Audit Act 1985*;
- *Government Employees Superannuation Act 1987*;
- *Industrial Relations Act 1979*;
- *Interpretation Act 1984*;
- *Library Board of Western Australia Act 1951*;
- *Limitation Act 1935*;
- *Minimum Conditions of Employment Act 1993*;
- *Occupational Safety and Health Act 1984*;
- *Public Interest Disclosure Act 2003*
- *Public Sector Management Act 1994*;
- *Salaries and Allowances Act 1975*;
- *State Supply Commission Act 1991*;
- *State Records Act 2000*;
- *State Records (Consequential Provisions) Act 2000*; and
- *The Criminal Code Act 1913*.

## Legislative Change

There were no statutory changes or significant judicial decisions affecting the LRCWA in 2003/04.

## Structure and Membership of the Commission

The Commission may consist of up to five members, two full-time and three part-time, appointed by the Governor of Western Australia. Of the part-time members, one is to be a private legal practitioner with not less than eight years' experience, one must be engaged in teaching law at a university in Western Australia with a status not less than that of Senior Lecturer, and the third is to be a legal officer of the State Solicitor's Office with not less than eight years' experience. Full-time members are to be legal practitioners of at least eight years' standing, or persons suitable for appointment by reason of their legal qualifications and experience, whether in Western Australia or elsewhere.

## Members' Terms

Each of the present members of the Commission was appointed initially for a term of one year.

Member	Appointment Date	Reappointment	Appointment Expiry/ Resignation
Prof R Simmonds	20 January 1997	17 December 2003	23 February 2004
Ms I Petersen	17 December 2001	17 December 2003	17 December 2004
Ms G Braddock	22 October 2002	21 October 2003	22 Oct 2004
Dr C Kendall	23 February 2004		23 February 2005

## Chairman

Pursuant to section 5 of the *Law Reform Commission Act 1972*, the Commission elects its Chairman from among the members. The Chairman may hold office for a term not exceeding one year, but shall be eligible for re-election.

Professor Ralph Simmonds, the academic member, joined the Commission on 20 January 1997 and was appointed as Chairman on 31 August 2001. He was the Foundation Professor of Law and the first Dean of the School of Law at Murdoch University. He holds an LLB with honours from the University of Western Australia and his LLM is from the University of Toronto. Professor Simmonds was an Associate Professor at McGill University for ten years before returning to Perth in 1990 to establish the Murdoch University School of Law. He worked with the Ontario Law Reform Commission as joint project director of its reference on wrongful interference with goods. Between 1994 and 1997 he was a member of the Reference Group for the School Education Bill. On 23 February 2004, Professor Ralph Simmonds was appointed a judge of the Supreme Court of Western Australia.



On 22 October 2002, Gillian Braddock SC was appointed to the Law Reform Commission, replacing Wayne Martin QC as the Commission's member from private practice. On 12 February 2004, Ms Braddock replaced Professor Ralph Simmonds as Chairman of the Commission. She has been a member of the independent bar since 1990 and was appointed Senior Counsel in September 2001. Ms Braddock holds a BA in Law from Cambridge University, England and came to Western Australia from Hong Kong where she was employed as Crown Counsel from 1985-1987. Ms Braddock is currently serving as Vice President of the Western Australian Bar Association and practices primarily in criminal and family law.



## Members

Ilse Petersen replaced Deputy Crown Counsel Lindy Jenkins as the State Solicitor's Office representative on the Law Reform Commission at the end of 2001. Ms Petersen is a Senior Assistant State Solicitor and has served in the State Solicitor's Office for over 10 years. Prior to commencing with the State Solicitor's Office she served with the Australian Government Solicitor. She was formerly a member of the Council of the Law Society of Western Australia and is presently the convener of its Equal Opportunity Committee. Ms Petersen holds degrees in Jurisprudence and Law from the University of Western Australia.



Christopher Kendall was appointed to the Commission on 23 February 2004, replacing Professor Ralph Simmonds as the academic member. Appointed Dean of Law at Murdoch University in November 2003, Dr Christopher Kendall is a graduate of Queen's University, Kingston, Ontario, Canada (BA, Honours, Political Studies, 1988; LLB, 1991) and the University of Michigan Law School (LLM, 1993; SJD 2001). He is a Barrister and Solicitor of the Supreme Court and Court of Appeal of Ontario, Canada. He is also a Barrister and Solicitor of the Supreme Court of Western Australia. Prior to his arrival at Murdoch, Dr Kendall was an Associate Lawyer with the Toronto law firm of Tory, Tory, Deslauriers and Binnington.



## Members' Fees

Fees payable to part-time members from private practice and academia are determined on a formula related to the salaries paid to university lecturers. The State Solicitor's Office representative receives no fee. Former members of the Commission are listed in the LRCWA's 30th Anniversary Reform Implementation Report 1972-2002 and are also detailed on the Commission's website.

## Meetings of the Commission

The Commission held 21 formal meetings and 9 informal meetings during the 2003/04 financial year. These were devoted primarily to the Aboriginal Customary Laws reference, and related project management issues. The Commission also met with the Attorney General once during 2003/04 to discuss the progress of the Aboriginal Customary Laws reference.

## The Staff

The Executive Officer coordinating administrative and legal research activities and currently managing the Aboriginal Customary Laws reference for the Law Reform Commission is Heather Kay, LLB (The University of Western Australia), LLM (The University of Western Australia).



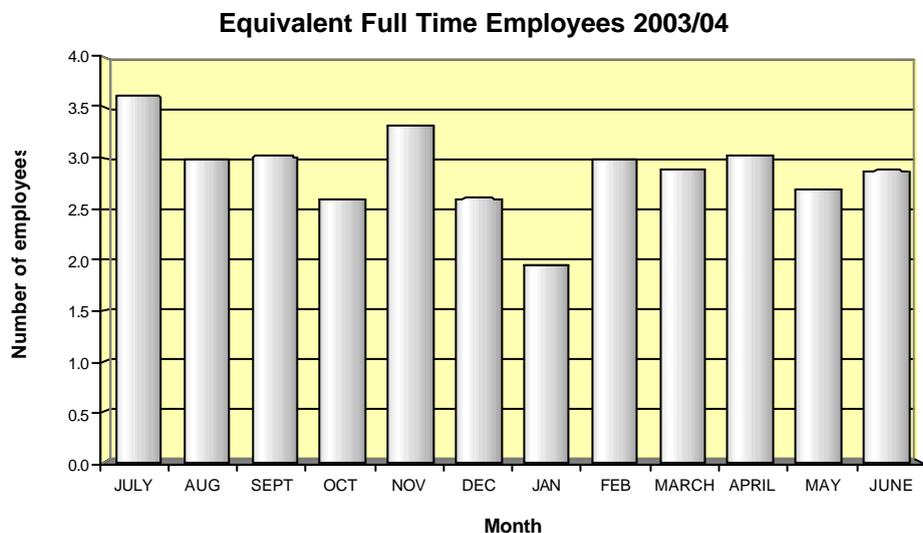
The Commission engages other staff from time to time on a casual basis. The Commission receives payroll and other assistance from the Human Resources Branch of the Department of Justice. Flexibility enabled the Commission to add personnel as necessary to manage the volume of work. The Commission also employs a part-time financial officer, Ms Saras Mohann.

The day-to-day operations of the Commission include dealing with public, managing the regular operations of a government agency, processing submissions, maintaining the Commission's website, and assisting consulting writers, editors and researchers.

## Staff 2003/04

Other staff members throughout 2003/04 included: Sharne Cranston, Beverley Edwards, Tammy Finlay, Tatum Hands, Yuki Kobayashi, Cheryl MacFarlane, Loran Paterson, Carla Yazmadjian and Victoria Williams.

The diagram illustrates the varying numbers of employees engaged during the past year to produce the Commission's publications and operate the agency.



## **Office**

The Commission may be reached by telephone on (08) 9321 4833; fax (08) 9321 5833; and e-mail: [lrcwa@justice.wa.gov.au](mailto:lrcwa@justice.wa.gov.au). The Commission's website is located at: <[www.lrc.justice.wa.gov.au](http://www.lrc.justice.wa.gov.au)>. The administrative office is located at Level 3 of The BGC Centre, 28 The Esplanade, Perth.

## **Corporate Support**

The Commission receives corporate support from the Department of Justice through a service level agreement. This arrangement includes a host of services, including information technology, human resources and financial management, and involves the sharing of library facilities with other Department of Justice Library users.

The Commission acknowledges the valuable contribution made by staff within the Department of Justice for the provision of these services in 2003/04.

## **Occupational Health and Safety**

The Commission continues to provide a safe and secure working environment for employees. There were no worker's compensation claims lodged during the year, and no time was lost from work.

## **Declaration of Interests**

No member of the Commission or its staff had any interest in or benefit from any contract entered into by the LRCWA.

## **Public Sector General Agreement**

The Public Sector General Agreement (PSGA) replaced the Commission's Workplace Agreement 2002, in January 2003. Employees who were employed under the Commission's Workplace Agreement elected to move to the conditions of the Public Service General Agreement (PSGA).

## **Advertising and Sponsorship**

During the 2003/04 financial year the Law Reform Commission had no qualifying expenditures under section 175ZE of the *Electoral Act*.

## **Public Sector Standards and Code of Ethics**

Section 31(1) of the *Public Sector Management Act 1994* requires the Commission to comply with Public Sector Standards, Codes of Ethics and any relevant code of conduct. The Commission believes it has complied with public sector standards and the code of ethics. No applications for breach of standards review have been lodged for the reporting period.

## **Code of Conduct**

The Commission has adopted a template code of conduct for government boards.

## **Information Statement**

Pursuant to sections 94-97 of the *Freedom of Information Act 1992* the LRCWA must publish annually an information statement. This Annual Report endeavours to present the required information. A formal information statement was also published during 2003/04.

The Commission uses *The Australian Guide to Legal Citation* (Melbourne University Law Review Association Inc, 1998) in its publishing and editing work.

The Commission maintains only current files and records in its office. Its publications are available in the JS Batty Library of Western Australian History at the Alexander Library in Perth. All historical records and publication stock are in storage in Welshpool.

Except for submissions, correspondence or other information of a confidential nature covered by exemptions from the *Freedom of Information Act*, LRCWA material is available for inspection. Any requests for access to documents or amendment of any personal information in any document should be addressed to the Executive Officer who is responsible for initial decisions about access or amendment. Appeals from the Executive Officer's decisions would be referred to the Commission.

## **Disability Services**

The LRCWA updated its Disability Services Plan in September 2001 whilst located within the headquarters of the Department of Justice, however, in February 2002, the Commission was required to relocate to the BGC Centre on the Esplanade in Perth. This relocation has not significantly altered the current Disability Services Plan, with the Commission still enjoying the same level of access and facilities available at its previous location.

There has been a significant alteration in the Commission's mode of operation with the work of research and writing no longer being carried out by full-time research officers, but by consultants appointed for particular projects. This has created greater flexibility in the Commission's working arrangements.

The Commission's community outreach program, developed during the 1998/99 year, includes public meetings. The Commission selects all venues with disabled access in mind, including special facilities for the hearing impaired and the projection of discussion notes on large screens so that people attending the meeting can see what is being recorded. Electronic publishing allows documents to be enlarged at will or projected. Modern technology may assist the visually or hearing impaired access to Commission publications.

## **Customer Focus Outcomes**

The restructuring of the Commission's operations enables the Commission to focus on delivering services to the public, the stakeholders and the Attorney General. The elimination of an expensive operational infrastructure enables the Commission to utilise its resources more effectively for law reform and public education purposes.

## **Equal Employment Opportunity**

The LRCWA seeks to promote equal opportunity for all persons. The Commission is committed to eliminating and ensuring the absence of discrimination in employment on the ground of sex, marital status, pregnancy, family responsibility or family status, race, religious or political conviction, impairment or age. The Commission currently employs one full-time regular employee and one part-time Finance Officer who are both women and during the 2003/04 Financial Year it employed nine temporary staff.

The Commission also has in place an equal opportunity management plan for 2001-2004, which recognises that a diverse workforce and diversity management are part of the solution to the successful implementation of workplace reform and cultural change.

## **Language and Cultural Diversity Outcomes**

The Commission continues to be sensitive to people's requirements in respect of language and cultural diversity and ensures that relevant specialists and services are utilised whenever necessary to assist people providing information or submissions to the Commission.

## **Youth Outcomes**

By virtue of the nature of the Commission's business, the agency does not have activities specifically targeted to youth, but staff are mindful of having to deal appropriately with any young people who have dealings with the Commission.

## **Energy Smart Government Policy**

Although the Energy Smart policy does not apply to the Law Reform Commission, by virtue of the size of the agency, the Commission has adopted the principles of the policy as an integral part of our business and as a way of contributing to Western Australia's broad environmental outcomes while pursuing good business practice.

## **Waste Paper Recycling**

Consistent with the Government's and the Commission's commitment to waste reduction and recycling, all staff follow the guidelines for recycling as set out in the WA Waste Reduction and Recycling Policy.

## **Recordkeeping Plan**

In accordance with the *State Records Act 2000*, sections 19 and 61 and State Records Commission Standards, Standard 2, Principle 6, the Law Reform Commission has submitted and received approval for its Recordkeeping Plan (RKP). The Commission's RKP provides an accurate reflection of its recordkeeping program and is complied with by all staff. The efficiency and effectiveness of Commission's recordkeeping systems will be evaluated every five years.

As the Commission is a small organisation, with only three employees based in the office, a training program is unnecessary. However, an induction manual for new employees has been created, which sets out the recordkeeping system and identifies employees' roles and responsibilities regarding their compliance

with the RKP. Both the Commission's induction manual and its RKP will be reviewed periodically or when there are any significant changes to the Commission's functions.

### **Public Interest Disclosures**

The Law Reform Commission has established procedures in accordance with the guidelines issued by the Office of the Public Sector Standards Commissioner to give effect to the *Public Interest Disclosure Act 2003* (WA), which came into operation on 1 July 2003. The Commission will in future provide information to the Commissioner on an annual basis setting out the number of public interest disclosures received, the findings of any investigations conducted and the action taken as a result of each investigation.

# Part II: Performance Indicators

**Government Strategic Goal:  
To enhance the quality of life and wellbeing of all people  
throughout Western Australia**

**The Commission's Strategic Objective –**

MISSION: To assist in keeping the law up to date and relevant to the needs of society.

OUTCOME: Law kept up-to-date and relevant to the needs of society.

The Commission receives its terms of reference from the Attorney General in that it performs reviews of selected legislation at the request of the Attorney General. The extent to which the Commission meets the timeframes set by the Attorney General is therefore considered to be a key performance indicator (KPI) that measures the extent to which the Commission is contributing to keeping the law up-to-date.

<b>Effectiveness Indicator</b>	<b>Progress against target timelines.</b> The extent to which the Commission is meeting the Attorney General's law reform requests in a timely manner.
--------------------------------	---

The following table shows progress to date and phases to be completed for the Aboriginal Customary Laws (ACL) project by the revised completion date of 30 June 2005.

**Table A – Progress towards Project Outcomes**

January 2001	May 2002	December 2004 *	June 2005
ACL	Tendering	Consultations completed. Background papers commenced.	Complete Background Papers. Further phases to be completed: <ul style="list-style-type: none"> <li>• Discussion</li> <li>• Feedback</li> <li>• Final report</li> </ul>

Key: \*Original planned completion date. As noted below, due to delays the planned project completion has been revised to 30 June 2005. At June 2004, the project was estimated to be 70% complete in terms of elapsed time (see Table B below).

The following table shows the percentage of the project completed in terms of elapsed time, and should be read in conjunction with Table A above.

**Table B - Percentage of ACL project completed (elapsed time)**

	At 30/06/2004
Original Target	82%
Actual	70%
Variance	-12%

The Commission originally anticipated that it would complete its Aboriginal Customary Laws Reference by 31 December 2004. This completion date has since been revised to 30 June 2005, to take into account the various unexpected delays experienced by the project team. These delays resulted from matters beyond the control of the Commission and included such issues as tendering and contract difficulties, having to reschedule consultations to remote communities due to cyclones or the unexpected death of a community member, and electing to revisit some remote communities, to conduct additional consultations and receive further feedback and submissions.

**Efficiency Indicator**

**Publications on Law Reform**

The extent to which the efforts of the Commission resulted in recommendations and public awareness.

**OUTPUT: Publications on Law Reform**

The Commission's output 'Publications on Law Reform' is achieved through the production of various papers and reports (printed reports, web notes, videos, leaflets etc) compiled in relation to references and the extent to which the Commission was able reach the stakeholders to keep them informed relating to matters of law. The Commission reviewed its performance indicators following the change in the methodology in accounting for them and has revised the cost allocation between the publications and community contacts, for the current year, and for the prior year comparative information.

	2003/04	2002/03	2001/02
Output:			
Total Publications	10	7	6
Average Cost Per Publication	\$74,848	\$128,348	\$144,020
Total Community Contacts	15,005	17,036	14,549
Average Cost Per Contact	\$5.54	\$5.86	\$6.60

The Commission relies on the services provided 'free of charge' by the Department of Justice for many of its administrative functions. Although the services are free to the Commission, the Department of Justice allocates a percentage of its annual cost to the Commission and such costs are reflected in the average cost of publications and the average cost of community contacts. The Department of Justice reviewed and redrafted a new service level agreement with the Commission. As a result the 'resources received free of charge' is significantly reduced. This together with the increased number of publications has resulted in the lower average cost per publication.

## Law Reform Commission of Western Australia

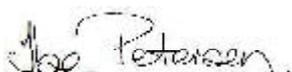
### CERTIFICATION OF PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2004

We hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the performance of the Law Reform Commission of Western Australia, and fairly represent the performance of the Law Reform Commission of Western Australia for the year ending 30 June 2004.



AG BRADDOCK SC  
Chairman

23 August 2004



ID PETERSEN  
Member

23 August 2004



H KAY  
Executive Officer

23 August 2004



## AUDITOR GENERAL

### INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

### LAW REFORM COMMISSION OF WESTERN AUSTRALIA PERFORMANCE INDICATORS FOR THE YEAR ENDED JUNE 30, 2004

#### **Audit Opinion**

In my opinion, the key effectiveness and efficiency performance indicators of the Law Reform Commission of Western Australia are relevant and appropriate to help users assess the Commission's performance and fairly represent the indicated performance for the year ended June 30, 2004.

#### **Scope**

##### ***The Commission's Role***

The Commission is responsible for developing and maintaining proper records and systems for preparing performance indicators.

The performance indicators consist of key indicators of effectiveness and efficiency.

##### ***Summary of my Role***

As required by the Financial Administration and Audit Act 1985, I have independently audited the performance indicators to express an opinion on them. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the performance indicators is error free, nor does it examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the performance indicators.

A handwritten signature in black ink, appearing to read 'D D R Pearson'.

D D R PEARSON  
AUDITOR GENERAL  
August 26, 2004

# Part III: Financial Statements

# Financial Statements

for year ending 30 June 2004

Note: The Law Reform Commission of Western Australia ("the Commission") uses the financial services of the Department of Justice. Hall Chadwick (Perth) performed its 2003/04 internal audit.

LAW REFORM COMMISSION OF WESTERN AUSTRALIA			
Statement of Financial Performance			
for the year ended 30 June 2004			
	Note	2004 \$	2003 \$
<b>COST OF SERVICES</b>			
Expenses from ordinary activities			
Employee expenses	2	338,448	395,097
Supplies and services	3	341,341	398,441
Depreciation expense	4	6,528	18,685
Accommodation expenses	5	42,800	39,218
Capital user charge	6	45,200	60,680
Other expenses from ordinary activities	7	<u>105,538</u>	<u>86,142</u>
Total cost of services		<u>879,855</u>	<u>998,263</u>
Revenues from ordinary activities			
<i>Revenue from operating activities:</i>			
Sale of goods	8	195	404
Proceeds from disposal of non-current assets	9	223	–
<i>Revenue from non-operating activities:</i>			
Other revenue from ordinary activities	10	<u>15,000</u>	<u>–</u>
Total revenues from ordinary activities		<u>15,418</u>	<u>404</u>
<b>NET COST OF SERVICES</b>		<u>864,437</u>	<u>997,859</u>
<b>REVENUES FROM STATE GOVERNMENT</b>			
Output appropriation	11	839,000	819,000
Resources received free of charge		<u>61,896</u>	<u>165,508</u>
Total revenues from State Government		<u>900,896</u>	<u>984,508</u>
<b>CHANGE IN NET ASSETS</b>		36,459	(13,351)
Total changes in equity other than those resulting from transactions with WA State Government as owners		<u>36,459</u>	<u>(13,351)</u>
The Statement of Financial Performance should be read in conjunction with the accompanying notes.			

## Statement of Financial Position

as at 30 June 2004

	Note	2004 \$	2003 \$
<b>CURRENT ASSETS</b>			
Cash assets	21(a)	848,553	771,484
Restricted cash assets	12	6,723	8,618
Receivables	13	14,015	11,970
Amounts receivable for outputs	14	10,000	10,000
Other assets	15	–	1,775
Total current assets		<u>879,291</u>	<u>803,847</u>
<b>NON-CURRENT ASSETS</b>			
Amounts receivable for outputs	14	7,000	–
Equipment	16	15,081	11,064
Total non-current assets		<u>22,081</u>	<u>11,064</u>
Total assets		<u>901,372</u>	<u>814,912</u>
<b>CURRENT LIABILITIES</b>			
Payables	17	92,404	53,060
Provisions	18	24,479	1,811
Other liabilities	19	12,050	8,360
Total current liabilities		<u>128,933</u>	<u>63,231</u>
<b>NON-CURRENT LIABILITIES</b>			
Provisions	18	6,393	22,093
Total non-current liabilities		<u>6,393</u>	<u>22,093</u>
Total liabilities		<u>135,326</u>	<u>85,324</u>
NET ASSETS		<u>766,046</u>	<u>729,587</u>
<b>EQUITY</b>			
Contributed equity	20	11,000	11,000
Accumulated surplus		755,046	718,587
TOTAL EQUITY		<u>766,046</u>	<u>729,587</u>

The Statement of Financial Position should be read in conjunction with the accompanying notes.

## Statement of Cash Flows

for the year ended 30 June 2004

	Note	2004 \$	2003 \$
CASH FLOWS FROM STATE GOVERNMENT			
Output appropriations		823,000	809,000
Capital contributions			1,000
Holding account drawdowns		9,000	9,000
Net cash provided by State Government		<u>832,000</u>	<u>819,000</u>
Utilised as follows:			
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments:			
Employee costs		(288,896)	(354,525)
Supplies and services		(425,558)	(403,607)
Capital user charge		(45,200)	(60,680)
GST payments		(40,743)	(39,041)
Receipts:			
Receipts from sale of goods and services		15,250	484
GST receipts		38,643	35,087
Net cash provided by/(used in) operating activities	21(b)	<u>(746,504)</u>	<u>(822,282)</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Proceeds from sale of non-current assets		223	-
Purchase of non-current assets		(10,545)	(1,618)
Net cash provided by/(used in) investing activities		<u>(10,322)</u>	<u>(1,618)</u>
Net increase in cash held		75,174	(4,900)
Cash assets at the beginning of the financial year		780,102	785,002
CASH ASSETS AT THE END OF THE FINANCIAL YEAR	21(a)	<u>855,276</u>	<u>780,102</u>

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

## Notes to the Financial Statements

for the year ended 30 June 2004

### 1. Significant accounting policies

The following accounting policies have been adopted in the preparation of the financial statements of the Law Reform Commission of Western Australia (for the purpose of these notes the "Commission"). Unless otherwise stated these policies are consistent with those adopted in the previous year.

#### General Statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board and Urgent Issues Group (UIG) Consensus Views as applied by the Treasurer's Instructions. Several of these are modified by the Treasurer's Instructions to vary the application, disclosure, format and wording. The Financial Administration and Audit Act and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board and UIG Consensus Views. The modifications are intended to fulfil the requirements of general application to the public sector together with the need for greater disclosure and also satisfy accountability requirements.

If any such modification has a material or significant financial effect upon the reported results, details of that modification and where practicable, the resulting financial effect are disclosed in individual notes to these financial statements.

#### Basis of Accounting

The financial statements have been prepared on the accrual basis of accounting using the historical cost convention, except for certain assets and liabilities which, as noted, are measured at fair value.

The statements have been prepared on the accrual basis of accounting using the historical cost convention, subject to the exceptions noted in these accounting policies.

#### (a) Output Appropriations

Output Appropriations are recognised as revenues in the period in which the Commission gains control of the appropriated funds. The Commission gains control of appropriated funds at the time those funds are deposited into the Commission's bank account or credited to the holding account held at the Department of Treasury and Finance. *Refer to Note 11 for further commentary on output appropriations.*

#### (b) Contributed Equity

Under UIG 38 "Contributions by Owners Made to Wholly-Owned Public Sector Entities" transfers in the nature of equity contributions must be designated by the Government (owners) as contributions by owners (at the time of, or prior to transfer) before such transfers can be recognised as equity contributions in the financial statements. Capital contributions (appropriations) have been designated as contributions by owners and have been credited directly to Contributed Equity in the Statement of Financial Position. All other transfers have been recognised in the Statement of Financial Performance. Prior to the current reporting period, capital appropriations were recognised as revenue in the Statement of Financial Performance. *Capital appropriations which are repayable to the Treasurer are recognised as liabilities. Refer to Note 11 for further commentary on the application of UIG 38.*

#### (c) Revenue Recognition

Revenue from the sale of goods and disposal of other assets and the rendering of services, is recognised when the Commission has passed control of the goods or other assets or delivery of the service to the customer.

#### (d) Acquisition of Assets

The cost method of accounting is used for all acquisitions of assets. Cost is measured as the fair value of the assets given up or liabilities undertaken at the date of acquisition plus incidental costs directly attributable to the acquisition.

Assets acquired at no cost or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

#### (e) Depreciation of Non-Current Assets

All non-current assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of their future economic benefits.

Depreciation is calculated on the straight line basis, using rates which are reviewed annually. Useful lives for each class of depreciable asset are:

Office equipment and computers      3 to 10 years

(f) Leases

The Commission has entered into an operating lease for the rent of the building where the lessor effectively retains all of the risks and benefits incident to ownership of the items held under the operating lease. Equal instalments of the lease payments are charged to the Statement of Financial Performance over the lease term as this is representative of the pattern of benefits to be derived from the leased property.

(g) Cash

For the purpose of the Statement of Cash Flows, cash includes cash assets and restricted cash assets.

(h) Inventories

Inventories are valued at lower of cost and net realisable value. Costs are assigned on a first in first out basis.

(i) Receivables

Receivables are recognised at the amounts receivable as they are due for settlement no more than 30 days from the date of recognition.

Collectability of receivables is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off. A provision for doubtful debts is raised where doubt as to the collection exists.

(j) Payables

Payables, including accruals not yet billed, are recognised when the Commission becomes obliged to make future payments as a result of a purchase of assets or services. Payables are generally settled within 30 days.

(k) Employee Entitlements

*Annual leave*

This benefit is recognised at the reporting date in respect to employees' services up to that date and is measured at the nominal amounts expected to be paid when the liabilities are settled.

*Long service leave*

Leave benefits are calculated at remuneration rates expected to be paid when the liabilities are settled. A liability for long service leave is recognised after an employee has completed four years of service. An actuarial assessment of long service leave undertaken by Price Waterhouse Coopers in 2003 determined that the liability measured using the short hand method was not materially different from the liability measured using the present value of expected future payments.

This method of measurement of the liability is consistent with the requirements of Accounting Standards AASB 2028 "Employment Benefits".

*Superannuation*

Staff may contribute to the Pension Scheme, a defined benefits pension scheme now closed to new members, or to the Gold State Superannuation Scheme, a defined benefit lump sum scheme now also closed to new members. All staff who do not contribute to either of these schemes become non-contributory members of the West State Superannuation Scheme, an accumulation fund complying with the Commonwealth Government's Superannuation Guarantee (Administration) Act 1992. All of these schemes are administered by the Government Employees Superannuation Board (GESB).

The liabilities for the superannuation charges under the Gold State Superannuation Scheme and West State Superannuation Scheme are extinguished by payment of employer contributions to the GESB.

The note disclosure required by paragraph 6.10 of AASB 1028 (being the employer's share of the difference between employees' accrued superannuation benefits and the attributable net market value of plan assets) has not been provided. State scheme deficiencies are recognised by the State in its whole of government reporting. The GESB's records are not structured to provide the information for the Commission. Accordingly, deriving the information for the Commission is impractical under current arrangements, and thus any benefits thereof would be exceeded by the cost of obtaining the information.

*Employee benefit on-costs*

Employee benefit on-costs, including payroll tax, are recognised and included in employee benefit liabilities and costs when the employee benefits to which they relate are recognised as liabilities and expenses. (See notes 2 and 18)

(l) Accrued Salaries

Accrued salaries (refer note 19) represent the amount due to staff but unpaid at the end of the financial year, as the end of the last pay period for that financial year does not coincide with the end of the financial year. The Commission considers the carrying amount approximates net fair value.

(m) Resources Received Free of Charge

Resources received free of charge or for nominal value which can be reliably measured are recognised as revenues and as assets or expenses as appropriate at fair value.

(n) Comparative figures

Comparative figures are, where appropriate, reclassified so as to be comparable with the figures presented in the current financial year.

(o) Rounding of amounts

Amounts in the financial statements have been rounded to the nearest dollar.

	2004	2003
	\$	\$
2. Employee expenses		
Salaries	284,639	344,529
Annual and long service leave	14,915	10,699
Superannuation	24,850	31,274
Other related expenses	14,044	8,595
	<u>338,448</u>	<u>395,097</u>
3. Supplies and services		
Goods and supplies	6,831	19,466
Services and contracts	272,614	213,467
Resources received free of charge (note 11)	61,896	165,508
	<u>341,341</u>	<u>398,441</u>
4. Depreciation expense		
Office equipment and furnishings	6,528	18,685
	<u>6,528</u>	<u>18,685</u>
5. Accommodation expense		
Building rent operating lease expense	42,800	39,218
	<u>42,800</u>	<u>39,218</u>
6. Capital user charge		
Capital user charge	45,200	60,680
	<u>45,200</u>	<u>60,680</u>
A capital user charge rate of 8% has been set by the Government for 2003-04 and represents the opportunity cost of capital invested in the net assets of the Commission used in the provision of outputs. The charge is calculated on the net assets adjusted to take account of exempt assets. Payments are made to the Department of Treasury and Finance on a quarterly basis.		
7. Other expenses from ordinary activities		
Printing	13,142	7,083
Insurance	13,718	14,452
Equipment repairs and maintenance	–	780
Advertising	1,228	11,992
Communication expenses	5,879	5,658
Other expenses	71,571	46,177
	<u>105,538</u>	<u>86,142</u>
8. Sale of goods		
Publication sales	195	404
	<u>195</u>	<u>404</u>
9. Net profit/(loss) on disposal of non-current assets		
Gain on Disposal of Non-Current Assets:		
Office equipment and computers	223	–
Loss on Disposal of Non-Current Assets:		
Office equipment and computers	–	–
Net profit/(loss)	<u>223</u>	<u>–</u>
10. Other revenues from ordinary activities		
Insurance recoup	15,000	–
	<u>15,000</u>	<u>–</u>

	2004 \$	2003 \$
11. Revenues from State Government		
Appropriation revenue received during the year:		
Output appropriations (i)	839,000	819,000
Resources received free of charge (ii)		
Determined on the basis of the following estimates provided by agencies:		
Office of the Auditor General (iii)	–	8,000
Department of Justice –		
Accounting, human resources and information technology services	59,875	156,170
Department of Housing and Works – Property management services	2,021	1,338
	<u>61,896</u>	<u>165,508</u>
(i) Output appropriations are accrual amounts reflecting the full cost of outputs delivered. The appropriation revenue comprises a cash component and a receivable (asset). The receivable (holding account) comprises the depreciation expense for the year and any agreed increase in leave liability during the year.		
(ii) Where assets or services have been received free of charge or for nominal consideration, the Commission recognises revenues (except where the contribution of assets or services is in the nature of contributions by owners, in which case the Commission shall make a direct adjustment to equity) equivalent to the fair value of the assets and/or the fair value of those services that can be reliably determined and which would have been purchased if not donated, and those fair values shall be recognised as assets or expenses, as applicable.		
(iii) Commencing with the 2003-04 audit, the Office of the Auditor General will be charging a fee for auditing the accounts, financial statements and performance indicators. The fee for the 2003-04 audit (\$8,500) will be due and payable in the 2004-05 financial year.		
12. Restricted cash assets		
Current – Capital contributions remaining at year end (i)	<u>6,723</u>	<u>8,618</u>
(i) Cash held in the account is to be used only for the purchase of computers and office equipment.		
13. Receivables		
Trade debtors	–	55
GST receivable	14,015	11,915
	<u>14,015</u>	<u>11,970</u>
14. Amounts receivable for outputs		
Current	10,000	10,000
Non Current	7,000	–
	<u>17,000</u>	<u>10,000</u>
This asset represents the non-cash component of output appropriations. It is restricted in that it can only be used for asset replacement.		
15. Other assets		
Prepayments	<u>–</u>	<u>1,775</u>
16. Equipment		
Equipment		
At cost	90,827	90,547
Accumulated depreciation	(75,746)	(79,483)
	<u>15,081</u>	<u>11,064</u>

	2004	2003
	\$	\$
Reconciliations:		
Equipment		
Carrying amount at start of year	11,064	28,131
Additions	10,545	1,618
Disposals	–	–
Depreciation	(6,528)	(18,685)
Carrying amount at end of year	<u>15,081</u>	<u>11,064</u>
17. Payables		
Trade and other creditors	<u>92,404</u>	<u>53,060</u>
18. Provisions		
<u>Current</u>		
Annual leave	3,609	1,811
Long service leave	20,870	–
	<u>24,479</u>	<u>1,811</u>
<u>Non-current</u>		
Long service leave	<u>6,393</u>	<u>22,093</u>
The Commission considers the carrying amount of employee entitlements approximates the net fair value.		
<u>Employee Benefit Liabilities</u>		
The aggregate employee entitlement liability recognised and included in the financial statements is as follows:		
Provision for employee benefits:		
Current	24,479	1,811
Non-current	6,393	22,093
	<u>30,872</u>	<u>23,904</u>
19. Other liabilities		
Accrued Salaries		
Amounts owing for the 9 working days from 18 June to 30 June 2004. (2003– 7 working days).	<u>12,050</u>	<u>8,360</u>
20. Equity		
Contributed equity		
Opening balance	11,000	10,000
Capital contributions (i)	–	1,000
Closing balance	<u>11,000</u>	<u>11,000</u>
(i) Capital Contributions have been designated as contributions by owners and are credited directly to equity in the Statement of Financial Position.		
Accumulated surplus / (deficiency)		
Opening balance	718,587	731,938
Change in net assets	36,459	(13,351)
Closing balance	<u>755,046</u>	<u>718,587</u>
21. Notes to the Statement of Cash Flows		
(a) Reconciliation of cash		
Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows:		
Cash assets	848,553	771,484
Restricted cash assets (refer note 12)	6,723	8,618
	<u>855,276</u>	<u>780,102</u>

	2004 \$	2003 \$
(b) Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities		
Net cost of services	(864,437)	(997,859)
Non-cash items:		
Depreciation	6,528	18,685
Resources received free of charge	61,896	165,508
Loss on sale of property, plant and equipment	(223)	–
(Increase) / decrease in assets:		
Receivables	55	80
Other current assets	1,775	1,134
Increase / (decrease) in liabilities:		
Payables	39,344	(6 580)
Other current liabilities	3,690	2,019
Current provisions	22,668	(5,389)
Non-current provisions	(15,700)	4,074
Change in GST receivables	(2,100)	(3,954)
Net cash provided by/(used in) operating activities	<u>(746,504)</u>	<u>(822,282)</u>

## 22. Commitments for expenditure

### Lease commitments

Commitments in relation to leases contracted for at the reporting date but not recognised as liabilities are payable as follows:

Within 1 year	41,632	24,544
Later than 1 year and not later than 5 years	31,224	–
	<u>72,856</u>	<u>24,544</u>

## 23. The Impact of Adopting International Accounting Standards

The transition to Australian equivalents to International Accounting Standards is being managed by the Department of Justice on behalf of the Commission as part of its corporate financial support function. Justice Finance staff are keeping abreast of changes through the review of available information, such as publications on the CPA Australia and Department of Treasury and Finance websites and by attending relevant workshops. Staff within the Office will be briefed on any IAS issue that affects the Office.

The adoption of Australian equivalents to International Accounting Standards is expected to have minimal impact on future financial reporting requirements of the Office.

The application of IAS 36 (Impairment of Assets) requires an annual assessment be carried out for impairment. Office equipment will be assessed for impairment on a regular basis.

AASB 119, the Australian version of the IFRS covering employee benefits, will be effective from 1 January 2005. This will replace the current standard for employee benefits, AASB 1028. For the long service leave liability, the only significant difference under AASB 119 is that a high quality corporate bond yield will be used for the discount rate (rather than the Government bond yield). This would normally result in a lower liability.

## 24. Events Occurring After Reporting Date

A retrospective pay adjustment of 3.8%, effective 26 February 2004, for staff on the Public Sector General Agreement was announced by Government after the 30 June reporting date. The payment is estimated to be in the region of \$2,360. The financial effect of this event was not recognised in the 30 June 2004 financial statements.

## 25. Remuneration of Members of the Accountable Authority and Senior Officers

### Remuneration of Members of the Accountable Authority

The number of members of the Accountable Authority, whose total of fees, salaries, superannuation and other benefits for the financial year fall within the following bands are:

	2004	2003
\$0 - \$10,000	1	-
\$10,001 - \$20,000	*1	1
\$20,001 - \$30,000	-	2
\$30,000 - \$40,000	1	-

\* Former Chairman Ralph Simmonds resigned in February 2004

	\$	\$
The total remuneration of the members of the Accountable Authority is:	<u>51,733</u>	<u>50,672</u>

The superannuation included here represents the superannuation expense incurred by the Commission in respect of members of the Accountable Authority.

No members of the Accountable Authority are members of the Pension Scheme.

### Remuneration of Senior Officers

The number of Senior Officers other than senior officers reported as members of the Accountable Authority, whose total of fees, salaries, superannuation and other benefits for the financial year fall within the following bands are:

\$70,001 - \$80,000	-	1
\$80,001 - \$90,000	1	-
The total remuneration of senior officers is:	<u>89,696</u>	<u>79,141</u>

The superannuation included here represents the superannuation expense incurred by the Commission in respect of Senior Officers other than senior officers reported as members of the Accountable Authority.

No Senior Officers are members of the Pension Scheme.

## 26. Financial instruments

### (a) Interest rate risk exposure

The Commission does not have any interest bearing accounts and is therefore not subject to any interest rate risk exposure.

### (b) Credit risk exposure

All financial assets are unsecured.

Amounts owing by other government agencies are guaranteed, therefore no credit risk exists in respect of those amounts. In respect of other financial assets the carrying amounts represent the Commission's maximum exposure to credit risk.

## 27. Supplementary financial information

- There were no losses of public moneys or other public property through theft or default during the financial year (2003, nil).
- There were no write offs of public money or other public property during the financial year (2003, nil).
- There were no gifts of public property during the financial year (2003, nil).
- There were no contingent liabilities as at 30 June 2004 (2003, nil).
- The Commission had no related bodies during the financial year (2003, nil).
- The Commission had no affiliated bodies during the financial year (2003, nil).

## 28. Explanatory Statement

### (i) Significant variations between actual revenues and expenditures for the financial year

Details and reasons for significant variations between actual results with the corresponding items of the preceding year are detailed below. Significant variations are considered to be those greater than 5% and \$7,000.

	Actual 2004 \$	Estimate 2004 \$	Variance \$
Employee expenses	338,448	264,000	74,448
Supplies and services	341,341	788,000	(446,659)
Depreciation expense	6,528	17,000	(10,472)
Accommodation expense	42,800	60,000	(17,200)
Capital user charge	45,200	11,000	34,200
Other expenses from ordinary activities	105,538	59,000	46,538
Other revenue from ordinary activities	15,000	–	15,000
Resources received free of charge	61,896	200,000	(138,104)

#### Employee expenses

The variance is largely due to consultants for research, writing and editing services being engaged as short term casual employees rather than fixed priced contract for services.

#### Supplies and services

The Aboriginal Customary Laws reference has continued to be a complex and challenging project because of the nature of the subject matter. The unforeseen delay in various aspects of this Reference has resulted in actual expenses being significantly less than the estimate. In addition, the actual resources free of charge was significantly less than estimated due to the Commission renegotiating a new Service Level Agreement with the Department of Justice and the Office of the Auditor General now charging for their audit service (refer to note 11(iii)).

#### Depreciation expense

The Commission planned to replace it's laptops in 2004. However, the purchase of this equipment did not occur due to a delay in awarding the Common Use Contract for IT equipments for Government procurement. Consequently, depreciation for 2004 was less than estimated.

#### Accommodation expenses

The decrease in accommodation expenses is due to the lower cost of rent charges at the Commission's new premises.

#### Capital user charge

The variance resulted from a higher bank balance than was estimated. This higher bank balance was caused by a delay in the progress of the Aboriginal Customary Law Reference resulting in less expenditure.

#### Other expenses from ordinary activities

The variance is largely due to the Commission spending more on travel than was estimated. Regional Travel and consultations, which were expected to occur in 2003 actually occurred in 2004. This was caused by unforeseen delays in the progress of the Aboriginal Customary Laws project.

#### Other revenue from ordinary activities

The Commission received \$15,000 compensation from the Insurance Commission as a result of expenses incurred in recovering data from a damaged Commission data base.

#### Resources received free of charge

The Commission negotiated a new service level agreement with the Department of Justice and consequently the 'Resources free of charge' was considerably reduced. In addition, the fees for the audit by the Office of the Auditor General is now payable and is not included in 2004 as a 'Resource free of charge' (Refer to note 11(iii)).

(ii) Significant variations between actual revenues and expenditure for the financial year and revenues and expenditures for the immediately preceding financial year

Details and reasons for significant variations between actual results with the corresponding items of the preceding year are detailed below. Significant variations are considered to be those greater than 5% and \$7,000.

	2004	2003	Variance
	\$	\$	\$
Employee expenses	338,448	395,097	(56,649)
Supplies and services	341,341	398,441	(57,100)
Depreciation expense	6,528	18,685	(12,157)
Accommodation expenses	42,800	39,218	3,582
Capital user charge	45,200	60,680	(15,480)
Other expenses from ordinary activities	105,538	86,142	19,396
Other revenue from ordinary activities	15,000	–	15,000
Output appropriation	839,000	819,000	20,000
Resources received free of charge	61,896	165,508	(103,612)

Employee expenses

The Commission engaged more writers as consultants in 2004 compared to 2003 resulting in a reduction in the employee expenses.

Supplies and services

The Commission negotiated a new service level agreement with the Department of Justice in 2004 and consequently the 'Resources free of charge' was considerably reduced. In addition, the fees for the audit by the Office of the Auditor General is now payable and is not included in 2004 as a 'Resource free of charge' (Refer to note 11(iii)). There were also a number of contractual difficulties relating to the progress of the Aboriginal Customary Law Reference, resulting in the reduction of the expenses compared to 2003.

Depreciation expense

The variance is largely due to a significant proportion of the Commission assets being written down to zero in 2003 resulting in decrease in depreciation expense in 2004.

Accommodation expenses

The lease was renewed in April 2004 and the increase in the accommodation cost is due to management and legal fees associated with the renewal.

Capital user charge

The variance is largely due to the increase in payables in 2004 compared to 2003 resulting in a reduction in the net asset value upon which the Capital User Charge is calculated.

Other expenses from ordinary activities

The variance is largely increased travel costs due to the Commission undertaking more regional travel relating to the consultation phase of the reference in 2004 compared to 2003.

Other revenue from ordinary activities

The Commission received \$15,000 compensation from the Insurance Commission as a result of expenses incurred in recovering data from a damaged Commission data base.

Output appropriation

The Commission received an increased appropriation in line with expected additional costs in 2004 compared to 2003.

Resources received free of charge

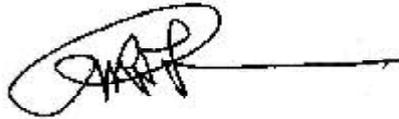
The Commission negotiated a new service level agreement with the Department of Justice in 2004 and consequently the 'Resources free of charge' was considerably reduced. In addition, the fees for the audit by the Office of the Auditor General is now payable and is not included in 2004 as a 'Resource free of charge' (Refer to note 11(iii)).

**Law Reform Commission of Western Australia**

**CERTIFICATION OF FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2004**

The accompanying financial statements of the Law Reform Commission of Western Australia have been prepared in compliance with the provisions of the Financial Administration and Audit Act 1985 from proper accounts and records to present fairly the financial transactions for the year ending 30 June 2004 and the financial position as at 30 June 2004.

At the date of signing we are not aware of any circumstances which would render any particulars included in the financial statements misleading or inaccurate.



PE ROBINSON  
Principal Accounting Officer  
20 August 2004



AG BRADDOCK SC  
Chairman  
23 August 2004



H KAY  
Executive Officer  
23 August 2004



## AUDITOR GENERAL

### INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

### LAW REFORM COMMISSION OF WESTERN AUSTRALIA FINANCIAL STATEMENTS FOR THE YEAR ENDED JUNE 30, 2004

#### **Audit Opinion**

In my opinion,

- (i) the controls exercised by the Law Reform Commission of Western Australia provide reasonable assurance that the receipt and expenditure of moneys, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (ii) the financial statements are based on proper accounts and present fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions, the financial position of the Commission at June 30, 2004 and its financial performance and cash flows for the year ended on that date.

#### **Scope**

##### ***The Commission's Role***

The Commission is responsible for keeping proper accounts and maintaining adequate systems of internal control, preparing the financial statements, and complying with the Financial Administration and Audit Act 1985 (the Act) and other relevant written law.

The financial statements consist of the Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and the Notes to the Financial Statements.

##### ***Summary of my Role***

As required by the Act, I have independently audited the accounts and financial statements to express an opinion on the controls and financial statements. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the financial statements is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements.

D D R PEARSON  
AUDITOR GENERAL  
August 26, 2004

# Part IV: Appendices

## **Appendix I:**

# **Current References**

The Commission makes recommendations for the reform of areas of the law, referred to it by the Attorney General. Once the terms of reference are settled, the work generally goes through a number of stages.

### **The traditional approach to law reform in Western Australia**

The approach varies according to the nature of each reference. In the past primary responsibility for a particular project was allocated to an individual research officer, under the general direction of the Executive Officer and Director of Research and the members of the Commission. An alternative but infrequently used procedure was to engage a consultant with expertise in the subject-matter of the project. A preliminary paper was generally prepared on the scope of the project and the approach to be taken by the Commission.

### **A new approach for an improved Commission**

In an effort to revitalise the LRCWA and keep pace with changing societal demands and law reform requirements, the members of the Commission, after consultation with the Attorney General, embarked upon a plan to restructure the Commission's operations. Changes planned during the 1996-1997 financial year were implemented in the years 1997-1998 and 1998-1999. One goal of the restructure of the Law Reform Commission was to give the Commission an increased ability to draw upon the experience and expertise of specialists.

On 22 September 1997 the LRCWA received the most significant reference in its 30-year history: a request for a Review of the Criminal and Civil Justice System. Using the traditional approach it would not have been possible to review the Criminal and Civil Justice System within a limited period of time.

The restructure therefore had the added benefit of enabling the Commission to engage specialists with experience and expertise and of increasing the overall efficiency of reviews. This structure has since been improved upon, with the Commission adopting a more project team structure, which will allow for the management of multiple references.

The LRCWA presently employs only one person full-time who acts primarily as an administrative and legal officer and engages additional temporary staff as needed to assist with particular projects. The LRCWA engages consultants for research, writing and editing. This permits individuals who would not previously have been able to participate in the process of law reform to bring their unique and special skills to the Commission's law reform activities on less than a full-time basis. The LRCWA endeavours to use the public tender procedure to select writers, editors and researchers for each project.

## ABORIGINAL CUSTOMARY LAWS – Project 94

### Terms of Reference

Recognising that all persons in Western Australia are subject to and protected by this State's legal system; and there may be a need to recognise the existence of, and take into account within this legal system, Aboriginal customary laws:

The Law Reform Commission of Western Australia is to enquire into and report upon Aboriginal customary laws in Western Australia other than in relation to Native Title and matters addressed under the *Aboriginal Heritage Act 1972* (WA).

Particular reference will be given to:

1. how those laws are ascertained, recognised, made, applied and altered in Western Australia;
2. who is bound by those laws and how they cease to be bound; and
3. whether those laws should be recognised and given effect to; and, if so, to what extent, in what manner and on what basis, and in particular whether:
  - (a) the laws of Western Australia should give express recognition to Aboriginal customary laws, cultures and practices in the administration or enforcement of Western Australian law;
  - (b) the practices and procedures of the Western Australian courts should be modified to recognise Aboriginal customary laws;
  - (c) the laws of Western Australia relating to the enforcement of criminal or civil law should be amended to recognise Aboriginal customary laws; and
  - (d) whether other provisions should be made for the identification and application of Aboriginal customary laws.



For the purposes of carrying out this inquiry, the Commission is to have regard to:

- matters of Aboriginal customary law falling within state legislative jurisdiction including matters performing the function of or corresponding to criminal law (including domestic violence); civil law (including personal property law, contractual arrangements and torts); local government law; the law of domestic relations; inheritance law; law relating to spiritual matters; and the laws of evidence and procedure;
- relevant Commonwealth legislation and international obligations;
- relevant Aboriginal culture, spiritual, sacred and gender concerns and sensitivities; and
- the views, aspirations and welfare of Aboriginal persons in Western Australia.

PETER FOSS QC MLC, 2 December 2000

On 2 December 2000, the Commission commenced what may prove to be one of the broadest reviews of Aboriginal customary laws ever undertaken in Western Australia. This new reference aims to canvas issues relating to the recognition of traditional Aboriginal laws and customs within the Western Australian justice system. The reference resulted from the LRCWA's Review of Criminal and Civil Justice System where concerns were expressed in relation to the treatment received by Indigenous Australians in the current justice system. The Commission believed that these concerns would be best dealt with as a separate reference in its own right.

The Aboriginal Customary Laws Reference will also trial the Commission's new project team structure, as discussed above (see also Part 1 of the report), with the appointment of an Aboriginal Project Manager in March 2002 and two Research Directors shortly thereafter. An Aboriginal Reference Council has since been assembled from representatives of the Indigenous community people and key Aboriginal organisations. The Attorney General also approved the appointment of a prominent Aboriginal male and female representative of the Western Australian Aboriginal community as the project's Aboriginal Special Commissioners.

It is anticipated that the project will conclude sometime in 2005 and has already involved extensive public consultations and travel to remote and regional Aboriginal communities. The Commission is very enthusiastic about the work involved on this significant reference and aims to follow closely the thorough consultation process made so successful in its Review of the Criminal and Civil Justice System.



## Appendix II: Publications

Following is a list of reports and discussion papers produced by the Commission.

Year	Topic	Ref No	Publication type
2004	ACL: Thematic Summaries - Metropolitan Consultations	94	Consultation Report
	Thematic Summaries - Goldfields Consultations	94	Consultation Report
	Thematic Summaries - North West Consultations	94	Consultation Report
	Thematic Summaries - Murchison Consultations	94	Consultation Report
	Thematic Summaries - Great Southern Consultations	94	Consultation Report
	'The Value of a Benchmarking Framework to the Reduction of Indigenous Disadvantage in the Law and Justice Area'	94	Background Paper
2003	ACL: 'The Approach of Australian Courts to Aboriginal Customary Law in the Areas of Criminal, Civil and Family Law'	94	Background Paper
	'Caught in the Middle: Indigenous Interpreters and Customary Law'	94	Background Paper
	Annual Report 2002-2003		Report
	Contempt	93	Report & CD-ROM
	Aboriginal Customary Laws ('ACL')	94	Video
	Judicial Review of the Administrative Decisions	95	Report
	Contempt by Disobedience	93(III)	Discussion Paper
Final Report on the Law of Contempt	93	Report	
Annual Report 2002-2003			
2002	30th Anniversary Reform Implementation Report		Report
	Reports and Working Papers 1972-2002		CD-ROM
	Boxed set containing all LRCWA publications – Project Nos 1-92		CD-ROM
	Judicial Review of the Administrative Decisions	95	Discussion Paper
	Contempt in the Face of the Court	93(I)	Discussion Paper
	Contempt by Publication	93(II)	Discussion Paper
Annual Report 2001-2002		Report	
2001	Writs and Warrants of Execution	67	Report
	Annual Report 2000-2001		Report
2000	19th Australian Law Reform Agencies Conference		CD-ROM
	Annual Report 1999-2000		Report
1999	Review of the Criminal and Civil Justice System:	92	
	• Final Report		Report
	• Consultation Drafts (2 volumes)		Report
	• Project Summary		Report
	• Executive Summary		
	• Submissions Summary		Report
	• 2 CDs, containing reports in electronic format		CD-ROM
Annual Report 1998-1999	Report		
1998	Financial Protection in the Building and Construction Industry	82	Report
	Sale of Goods Act 1895	89	Report
	Reforming the Justice System	92	Issues Paper
	Annual Report 1997-1998		Report
1997	Limitation and notice of actions	36 Pt II	Report
	Restrictive covenants	91	Report
	Annual Report 1996-1997		Report
1996	Annual Report 1995-1996		Report
1995	Enforcement of judgments of Local Courts	16 Pt II	Working Paper
	Enforcement of judgments of Local Courts	16 Pt II	Report
	Restrictive covenants	91	Discussion Paper
	Implied terms in the Sale of Goods Act 1895	89	Discussion Paper
	Equitable rules in contracts for the sale of goods	89	Discussion Paper
	Financial protection in the building and construction industry	82	Discussion Paper
	Annual Report 1994-1995		

Year	Topic	Ref No	Publication type
1994	Annual Report 1993-1994 Enforcement of orders of Courts of Petty Sessions United Kingdom statutes in force in Western Australia Consent to sterilisation of minors Joint tenancy and tenancy in common	55 Pt III 75 77 Pt II 78	Report Report Report Report
1993	Annual Report 1992-1993 Professional privilege for confidential communications	90	Report
1992	Limitation and notice of actions Police Act offences Annual Report 1991-1992	36 Pt II 85	Discussion Paper Report
1991	Criminal process and mental disorder Effect of marriage or divorce on wills Medical treatment for the dying Evidence of children and other vulnerable witnesses Professional privilege for confidential communications Annual Report 1990-1991	69 76 Pt II 84 87 90	Report Report Report Report Discussion Paper
1990	Confidentiality of medical records and medical research Effect of marriage or divorce on wills Administration Act Evidence of children and other vulnerable witnesses Annual Report 1989-1990	65 Pt II 76 Pt II 88 87	Report Discussion Paper Report Discussion Paper Report
1989	Confidentiality of medical records and medical research Payment of witnesses in civil proceedings Police Act offences Incitement to racial hatred Incitement to racial hatred Annual Report 1988-1989	65 Pt II 83 85 86 86	Discussion Paper Report Discussion Paper Issues Paper Report Report
1988	Local Courts Minors' contracts Administration of assets Medical treatment for minors Payment of witnesses in civil proceedings Medical treatment for the dying Annual Report 1987-1988	16 Pt I 25 Pt II 34 Pt VII 77 83 84	Report Report Report Research Paper Discussion Paper Discussion Paper Report
1987	Criminal process and mental disorder Annual Report 1986-1987	69	Discussion Paper Report
1986	Judicial review of administrative decisions Alteration of ground levels Courts of Petty Sessions Problem of old convictions Annual Report 1985-1986	26 Pt II 44 55 Pt II 80	Report Report Report Report
1985	Wills: substantial compliance Pawnbrokers Act Pawnbrokers Act Annual Report 1984-1985	76 Pt I 81 81	Report Discussion Paper Report Report
1984	Recognition of interstate and foreign grants of probate and administration Trustees' powers of investment Alteration of ground levels Courts of Petty Sessions Wills: substantial compliance Problem of old convictions Annual Report 1983-1984	34 Pt IV 34 Pt V 44 55 Pt II 76 Pt I 80	Report Report Discussion Paper Discussion Paper Discussion Paper Discussion Paper Report
1983	Local Courts Annual Report 1982-1983	16 Pt I	Working Paper Report
1982	Appeals from administrative decisions Limitation and notice of actions: latent disease and injury Strata Titles Act Annual Report 1981-1982	26 Pt I 36 Pt I 56	Report Report Report Report
1981	Liability for stock straying on to the highway (2nd report) Judicial review of administrative decisions Trustees' powers of investment Liability of highway authorities for non-feasance Privacy	11 26 Pt II 34 Pt V 62 65	Report Working Paper Working Paper Report Working Paper

Year	Topic	Ref No	Publication type
1981	Interest on judgments	70	Report
	Absconding Debtors Act	73	Report
	Annual Report 1980-1981		Report
1980	Liability for stock straying on to the highway (2nd W/P)	11	Working Paper
	Admissibility in evidence of computer records	27	Report
	Recognition of interstate and foreign grants of probate and administration	34 Pt IV	Working Paper
	Unclaimed money	51	Report
	Privilege for journalists	53	Report
	Exemption from jury service	71	Report
	Retention of court records	72	Report
	Absconding Debtors Act	73	Working Paper
	Annual Report 1979-1980		Report
1979	Annual Report 1978-1979		Report
	Defamation	8	Report
	Appeals from Courts of Petty Sessions	55 Pt I	Report
	Small Debts Court	63	Report
	Bail	64	Report
	Retention of court records	72	Working Paper
1978	Minors' contracts	5 Pt II	Working Paper
	Appeals from administrative decisions	26 Pt I	Working Paper
	Admissibility in evidence of computer records	27	Working Paper
	Official attestation of forms and documents	28	Report
	Administration of deceased insolvent estates	34 Pt III	Report
	Appeals from Courts of Petty Sessions	55 Pt I	Working Paper
	Liability of highway authorities for non-feasance	62	Working Paper
	Small Debts Court	63	Working Paper
	Fatal accidents	66	Working Paper
	Fatal accidents	66	Report
	Exemption from jury service	71	Working Paper
	Annual Report 1977-1978		Report
1977	Official attestation of forms and documents	28	Working Paper
	Competence and compellability of spouses as witnesses	31	Report
	Administration of deceased insolvent estates	34 Pt III	Working Paper
	Compensation for new street alignments	39	Report
	Suitors' Fund Act Part B: criminal proceedings	49	Report
	Privilege for journalists	53	Working Paper
	Strata Titles Act	56	Working Paper
	Section 2 of the Gaming Act	58	Report
	Enforcement of judgment debts	61	Report
	Bail	64	Working Paper
	Annual Report 1976-1977		Report
1976	Administration bonds and sureties	34 Pt II	Report
	Compensation for persons detained in custody	43	Working Paper
	Suitors' Fund Act Part A: civil proceedings	49	Report
	Unclaimed money	51	Working Paper
	Section 2 of the Gaming Act	58	Working Paper
	Protection of money awarded as damages	-	Report
Annual Report 1975-1976		Report	
1975	Special constables	29	Report
	Dividing fences	33	Report
	Administration bonds and sureties	34 Pt II	Working Paper
	Production of medical and technical reports in court proceedings	40	Report
	Tenancy bonds	41	Report
	Criminal injuries compensation	46	Working Paper
	Criminal injuries compensation	46	Report
	Suitors' Fund Act	49	Working Paper
	Local body election practices	52	Working Paper
	Local body election practices	52	Report
	Alternatives to cautions	60	Working Paper
	Alternatives to cautions	60	Report
	Annual Report 1974-1975		Report
1974	Commercial arbitration and commercial causes	18	Report
	Special constables	29	Working Paper
	Competence and compellability of spouses as witnesses	31	Working Paper
	Land Agents Act *	37	Report
	Production of medical and technical reports in court proceedings	40	Working Paper

Year	Topic	Ref No	Publication type
1974	Tenancy bonds	41	Working Paper
	Mortgage brokers	45	Working Paper
	Mortgage brokers	45	Report
	Contractors' liens	54	Working Paper
	Contractors' liens	54	Report
	Annual Report 1973-1974		Report
1973	Protection for purchasers of home units	1 Pt III	Report
	Innocent misrepresentation	22	Report
	Immunity of suit between spouses	32	Working Paper
	Immunity of suit between spouses	32	Report
	Dividing fences	33	Working Paper
	Distribution on intestacy	34 Pt I	Report
	Land Agents Act	37	Working Paper
	Sale of undivided shares in land	38	Working Paper
	Sale of undivided shares in land	38	Report
	Annual Report 1972-1973		Report
1972	Retention of trust money by land agents	1 Pt II	Working Paper
	Protection for purchasers of home units	1 Pt III	Working Paper
	Defamation: privileged reports	8	Report
	Motor vehicle insurance	10	Working Paper
	Motor vehicle insurance	10	Report
	Payment of costs in criminal cases	12	Working Paper
	Payment of costs in criminal cases	12	Report
	Evidence of criminal convictions in civil proceedings	20	Report
	Associations Incorporation Act	21	Report
	Innocent misrepresentation	22	Working Paper
	Legal representation of children	23	Working Paper
	Legal representation of children	23	Report
	Legal capacity of minors	25 Pt I	Report
	Legal capacity of minors	25 Pt I	Working Paper
	Distribution on intestacy	34 Pt I	Working Paper
1971	Offices of profit under the Crown	14	Report
	Imposition of driving disqualifications	15	Working Paper
	Imposition of driving disqualifications	15	Report
	Commercial arbitration and commercial causes	18	Working Paper
	Evidence of criminal convictions in civil proceedings	20	Working Paper
	Associations Incorporation Act	21	Working Paper
	Succession rights of adopted children	24	Working Paper
	Succession rights of adopted children	24	Report
1970	Testator's Family Maintenance Act	2	Report
	Succession rights of illegitimate children	3	Report
	Committal proceedings	4	Report
	Summary trial of indictable offences	6	Report
	Disposal of uncollected goods	7	Report
	Liability for stock straying on to the highway (1st working paper)	11	Working Paper
	Liability for stock straying on to the highway (1st report)	11	Report
	Affiliation proceedings	13	Report
	Motor car manslaughter	17	Report
	Motor car manslaughter	17	Working Paper
1969	Protection for purchasers of land	1 Pt I	Report
	Interim hearings in personal injury cases	5	Report
	Defamation: privileged reports	8	Working Paper
1968	Protection for purchasers of land	1 Pt I	Working Paper
	Testator's Family Maintenance Act	2	Working Paper
	Succession rights of illegitimate children	3	Working Paper
	Committal proceedings	4	Working Paper
	Interim hearings in personal injury cases	5	Working Paper
	Summary trial of indictable offences	6	Working Paper
	Disposal of uncollected goods	7	Working Paper

## Appendix III: History of References

Appendix III details the history of references received by the Law Reform Commission of Western Australia and the legislative action on the reports from 1968–2004.

Year	Project	Recommendations	Legislative Action
1 (Pt I)	Protection for Purchasers of Land Referred: 1968 WP: October 1968 Report: September 1969	(1) In a terms contract for the sale of land the purchaser be given notice before the vendor can act against the purchaser on default; (2) (Supplementary report) A person be prohibited from selling subdivisational land containing five or more lots unless that person is the registered proprietor of that land.	Sale of Land Act 1970
1 (Pt II)	Retention of Trust Money by Land Agents WP: June 1972 [see Ref No 37]	The Commission's recommendations were included in its Report on Project No 37 (see below).	
1 (Pt III)	Protection for Purchasers of Home Units WP: June 1972 Report: March 1973	Part III of the Sale of Land Act 1970 be amended so as to apply to the sale of strata title lots. <sup>1</sup>	Acts Amendment (Strata Titles) Act 1985
2	Testator's Family Maintenance Act Referred: 1968 WP: December 1968 Report: August 1970	The classes of possible claimants under the Testator's Family Maintenance Act be widened as specified.	Inheritance (Family and Dependants Provision) Act 1972
3	Succession Rights of Illegitimate Children Referred: 1968 WP: December 1968 Report: August 1970	Illegitimate children be treated as legitimate for all purposes relating to succession.	Administration Act Amendment Act 1971; Property Law Act Amendment Act 1971; Wills Act Amendment Act 1971
4	Committal Proceedings Referred: 1968 WP: December 1968 Report: May 1970	Subject to prescribed limitations, written statements of witnesses be admitted in evidence for purposes of the committal, trial and sentencing of persons charged with indictable offences, and that an accused person be permitted to elect to go to trial without any preliminary hearing.	Justices Act Amendment Act 1976
5	Interim Hearings in Personal Injury Cases Referred: 1968 WP: October 1968 Report: May 1969	The court be empowered to decide the issue of liability before the issue of damages, and to order interim payments meanwhile. <sup>2</sup>	
6	Summary Trial of Indictable Offences Referred: 1968 WP: December 1968 Report: June 1970	The jurisdiction of courts to deal with indictable offences summarily be extended as specified.	Criminal Code Amendment Act 1972; Justices Act Amendment Act 1972; Child Welfare Act Amendment Act (No 2) 1972
7	Disposal of Uncollected Goods Referred: 1968 WP: December 1968 Report: April 1970	Legislation be enacted dealing with the disposal of uncollected goods along specified lines.	Disposal of Uncollected Goods Act 1970
8	Defamation Referred: 1968 Privileged Reports WP: July 1969 Report: August 1972	The class of privileged reports of legislative and judicial proceedings, conferences and meetings be extended in specified ways.	Criminal Code Amendment Act 1977 section 2

1. This recommendation (extended so as to include the sale of two or more strata lots) was endorsed in the Commission's report on the *Strata Titles Act* (Project No 56).

Year	Project	Recommendations	Legislative Action
8	Defamation Report: October 1979	A uniform defamation code be enacted which reforms the law both in respect of matters of substance and of procedure. <sup>3</sup>	
9	Statute Law Revision Referred: 1968	Withdrawn	
10	Motor Vehicle Insurance Referred: 1968 W/P: May 1972 Report: December 1972	That the law of motor vehicle insurance be amended in specified ways in the interests of the insured. <sup>4</sup>	
11	Liability for Stock Straying on to the Highway 1st Referred: 1969 1st W/P: June 1970 1st Report: Dec 1970 2nd Referred: 1978 2nd W/P: August 1980 2nd Report: June 1981	1st Report: legislation be enacted to provide that liability for stock straying on to the highway be in accordance with ordinary principles of negligence. 2nd Report: liability for stock straying on to the highway be determined according to the law of negligence only, but that a maximum limit be imposed on the amount of damages recoverable by a successful claimant.	Highways (Liability for Straying Animals) Act 1983;  Dog Amendment Act 1983
12	Payment of Costs in Criminal Cases Referred: 1969 W/P: March 1972 Report: August 1972	This report recommended introducing legislation making the Crown liable to pay costs when a complaint is dismissed or withdrawn in summary proceedings. <sup>5</sup>	Official Prosecutions (Defendants' Costs) Act 1973
13	Affiliation Proceedings Referred: 1969 Report: March 1970	That statutory provision be made for blood tests in affiliation proceedings.	Family Court Act 1975 (WA) s 82E
14	Offices of Profit Under The Crown Referred: 1969 Report: March 1971	That the law be modified as to the circumstances in which persons who hold offices of profit under the Crown, or who have contracts with the Government, can be members of Parliament.	Acts Amendment and Repeal (Disqualification for Parliament) Act 1984
15	Imposition of Driving Disqualifications Referred: 1969 W/P: February 1971 Report: June 1971	The Commission was asked to consider the need for legislation imposing driving disqualifications on persons who committed crimes involving the use of a motor vehicle. No legislative action was called for in this report.	
16 (Pt I)	Local Courts Act and Rules Referred: 1969 Local Courts W/P: April 1983 Report: June 1988	That Local Courts and Courts of Petty Sessions be merged, <sup>6</sup> and that the jurisdiction, procedure and administration of Local Courts be reformed along specified lines.	
16 (Pt II)	Enforcement of Judgments of Local Courts DP: February 1995 Report: December 1995	That the means of enforcing judgments of Local Courts be reformed as specified; that attachment of earnings be introduced, and imprisonment for debt abolished. <sup>7</sup>	
17	Motor Car Manslaughter Referred: 1969 W/P: June 1970 Report: August 1970	That except for minor drafting amendments, the relevant provisions of the Criminal Code be left unaltered.	Criminal Code Amendment Act 1972 (WA) ss 277, 291A, 595 Road Traffic Act 1974 (WA) s 59

- The Motor Vehicle (Third Party Insurance) Act Amendment Act (No 2) 1969 enacts legislation covering one of the recommendations in this report.
- This report, and the report of the Australian Law Reform Commission on the same subject, Unfair Publication: Defamation and Privacy (ALRC 11 1979), together with a draft uniform Defamation Bill, were considered by the Standing Committee of Attorneys General. In May 1985 the Standing Committee announced that it had been unable to agree on a uniform defamation law for Australia: Press Release from Attorney General of Western Australia (Hon J M Berinson), 3 May 1985. However, the issue of uniform defamation legislation is now again being considered by the Standing Committee.
- The major recommendations in this report were implemented administratively by the State Government Insurance Commission.
- The Family Court Act 1975 s82E (added 1988) provides that when the parentage of a child is in issue in proceedings under the Act (which include proceedings for maintenance and findings of parenthood), the court may order a parentage testing procedure and make other necessary or desirable orders. It is therefore unnecessary to take any further action on the Commission's Report.
- A similar recommendation was made earlier in Project No 55 Part II. A Ministry of Justice Report published in October 1996 contains proposals that would implement this recommendation: Ministry of Justice: *Court Services Amalgamation of Courts of Summary Jurisdiction Draft Report* (1996).

Year	Project	Recommendations	Legislative Action
18	Commercial Arbitration and Commercial Causes Referred: 1969 WP: October 1971 Report: January 1974	That the Arbitration Act be revised as specified.	Commercial Arbitration Act 1985
19	Chattel Securities and the Bills of Sale Act Referred: 1970	Withdrawn 1983	
20	Evidence of Criminal Convictions In Civil Proceedings Referred: 1970 WP: September 1971 Report: April 1972	That in defamation actions conviction after trial be made conclusive evidence that the party committed the offence. <sup>8</sup>	
21	Associations Incorporation Act Referred: 1971 WP: June 1971 Report: March 1972	That the Associations Incorporation Act be revised as specified.	Associations Incorporation Act 1987
22	Innocent Misrepresentation Referred: 1971 WP: May 1972 Report: October 1973	That the legal remedies available for an innocent misrepresentation inducing a contract be revised. <sup>9</sup>	
23	Legal Representation of Children Referred: 1971 WP: March 1972 Report: June 1972	That courts be empowered to order the separate representation of children.	Legal Representation of Infants Act 1977; Suitors' Fund Act Amendment Act 1977
24	Succession Rights of Adopted Children Referred: 1971 WP: April 1971 Report: July 1971	That the Adoption Act be amended to provide for the complete assimilation of the legal position of adopted children to that of the legitimate children of the adopting parents.	Adoption of Children Act Amendment Act 1971, ss 13, 14, 15 Adoption Act 1994 Property Law Act 1969
25 (Pt I)	Legal Capacity of Minors Referred: 1971 WP: January 1972 Report: April 1972	That the age of majority be lowered to 18 years.	
25 (Pt II)	Minors' Contracts WP: June 1978 Report: May 1988	That all contracts made by minors be recognised as binding, but that courts be empowered to grant various kinds of relief to minors where the contract is prejudicial to the minor's best interests.	Age of Majority Act 1972
26 (Pt I)	Appeals From Administrative Decisions Referred: 1971 WP: November 1978 Report: January 1982	That the existing rights of appeal from administrative decisions be rationalised along suggested lines. <sup>10</sup>	
26 (Pt II)	Judicial Review of Administrative Decisions WP: June 1981 Report: January 1986	That the procedure and remedies for obtaining judicial review be reformed along specified lines, and that a right to reasons for decisions be created. <sup>11</sup>	

7. A Ministry of Justice Report published in June 1997 contains proposals for a uniform civil judgment debt recovery system for all courts, adopting many of the Commission's recommendations: Ministry of Justice: Court Services Division *Civil Judgment Debt Recovery System: Part 1 Legislative Recommendations Report* (1997).

8. In September 1985, the Attorney General (Hon J M Berinson) announced that the Government had decided that it was now unnecessary to act on this report, in view of the decision of the Supreme Court of Western Australia (Full Court) in *Mickelberg v Director of the Perth Mint* [1986] WAR 365 in which it was held that evidence of a criminal conviction could be admissible as prima facie evidence of the facts on which the conviction depended: Media Statement from Attorney General, 26 September 1985.

9. In September 1984, the Attorney General (Hon J M Berinson) announced that the Government had decided not to take any further action on this report in view of developments in the law since it had been submitted: News Statement from Attorney General, 5 September 1984.

10. *The Report of the Royal Commission into Commercial Activities of Government and Other Matters Part II* (1992) para 3.4.8 recommended that this report should be implemented forthwith, subject only to the observations in para 3.5.2 about the establishment of an Administrative Appeals Tribunal. The failure to implement the report was criticised by the Commission on Government in its Report No 4 (1996) para 5.2.

11. The Report of the Royal Commission into Commercial Activities of Government and Other Matters Part II (1992) recommended that an Administrative Decisions (Reasons) Act be enacted as a matter of urgency (para 2.210) and that the other recommendations in this report be implemented forthwith (para 3.4.8).

Year	Project	Recommendations	Legislative Action
26 (Pt III)	New Rights of Appeal	Withdrawn 1986	
27 (Pt I)	Admissibility in Evidence of Computer Records Referred: 1971 WVP: May 1978 Report: July 1980	That the range of cases in which computer records and other documentary statements are admissible in evidence be extended as specified.	Evidence Amendment Act 1987
27 (Pt II)	Admissibility in Evidence of Reproductions	Withdrawn 1983	
28	Formalities of Oaths, Declarations and Attestation of Documents Referred: 1972		
28 (Pt I)	Official Attestation of Forms and Documents WVP: April 1977 Report: November 1978	That legislation be introduced to provide for an unattested statutory declaration; and that the signing of affidavits with a rubber stamp be prohibited.	
28 (Pt II)	Formalities of Oaths, Declarations and Attestation of Documents	Withdrawn 1983	
29	Special Constables Referred: 1972 WVP: June 1974 Report: March 1975	That the law and practice as to appointment and control of special constables be revised as specified.	Police Amendment Act 1980
30	Imposition of Fines Referred: 1972	Withdrawn 1982	
31	Competence and Compellability of Spouses as Witnesses Referred: 1972 WVP: February 1974 Report: January 1977	That the law in this area be amended in certain respects.	Acts Amendment (Evidence) Act 1991
32	Immunity of Suit Between Spouses Referred: 1972 WVP: June 1973 Report: September 1973	That immunity of action in tort between spouses be abolished. <sup>12</sup>	
33	Dividing Fences Referred: 1972 WVP: December 1973 Report: November 1975	That the Dividing Fences Act 1961 be amended in certain respects.	
34	Trusts and Administration of Estates Referred: 1972	That the law relating to the distribution of intestate estates be amended in certain respects and enacted in local legislation.	
34 (Pt I)	Distribution on Intestacy WVP: December 1972 Report: May 1973	That administration bonds be abolished, the duties of personal representatives be specified by statute and the Supreme Court be empowered to require sureties to guarantee the due administration of the estate.	Administration Act Amendment Act 1976; Administration Amendment Act 1984
34 (Pt II)	Administration Bonds And Sureties WVP: June 1975 Report: March 1976	That the Administration Act be amended to provide for the administration of deceased insolvent estates as specified.	Administration Act Amendment Act 1976
34 (Pt III)	Administration of Deceased Insolvent Estates WVP: April 1977 Report: December 1978	That the rules governing resealing of grants of probate and administration in each Australian jurisdiction be unified, and that a system of automatic recognition of grants within Australia be introduced. <sup>13</sup>	Acts Amendment (Insolvent Estates) Act 1984
34 (Pt IV)	Recognition of Interstate and Foreign Grants of Probate and Administration WVP: December 1980 Report: November 1984		

12. The Family Law Act 1975 (Cth) s 119 provides that "either party to a marriage may bring proceedings in contract or tort against the other party".

13. Implementation of the Commission's recommendations is being discussed by the Queensland Law Reform Commission in its reference on Uniform Succession Law.

Year	Project	Recommendations	Legislative Action
34 (Pt V)	Trustees' Powers of Investment WVP: December 1981 Report: January 1984	That the investment powers of trustees contained in section 16 of the Trustees Act be amended in specified ways.	Trustees Amendment Act 1987 <sup>14</sup>
34 (Pt VI)	Charitable Trusts	Withdrawn 1996	
34 (Pt VII)	Administration of Assets Report: June 1988	That the old order of application of assets of a solvent deceased estate towards the payment of debts and legacies be replaced by a statutory order modelled on the <i>Queensland Succession Act 1981</i> .	
34 (Pt VIII)	Protection and Remuneration of Trustees	Withdrawn 1996	
35	Unauthorised Disposal of Goods Interstate: Right to Repossession Referred: 1972	Withdrawn 1983	
36	Limitation and Notice of Actions Referred: 1972		
36 (Pt I)	Latent Disease and Injury Report: October 1982	The limitation period for all personal injury actions continue to be six years, but that this period should not apply where a court determines that it is just for it not to apply.	Acts Amendment (Asbestos Related Diseases) Act 1983 <sup>15</sup>
36 (Pt II)	Limitation and Notice of Actions DP: February 1992 Report: January 1997	A new Limitation Act be enacted providing for most causes of action to be governed by two standard limitation periods, with a possibility of extension in exceptional cases where the interests of justice so required.	
37	Land Agents Act Referred: 1972 WVP: June 1973 Report: January 1974	That a new real estate and business agents authority be established, empowered to license and regulate agents in ways specified in the report.	Real Estate and Business Agents Act 1978
38	Sale of Undivided Shares in Land Referred: 1972 WVP: March 1973 Report: May 1973	That the Sale of Land Act be amended to regulate the sale of undivided shares in land.	Sale of Land Act Amendment Act 1974
39	Compensation for New Street Alignments Referred: 1973 Report: March 1977	The Commission was asked to comment in this report on proposed amendments to section 364 of the Local Government Act. No legislative action was called for in the report.	
40	Production of Medical and Technical Reports in Court Proceedings Referred: 1973 WVP: June 1974 Report: July 1975	That provision be made for medical and expert reports to be produced to the other party before trial.	Acts Amendment (Expert Evidence) Act 1976
41	Tenancy Bonds Referred: 1973 WVP: June 1974 Report: January 1975	That changes be made to the Small Claims Tribunals Act 1974 to facilitate the hearings of claims in respect of tenancy bonds.	Small Claims Tribunals Amendment Act 1975 section 2
42	Unrepresented Defendants Referred: 1973	Withdrawn 1982	
43	Compensation for Persons Detained in Custody Referred: 1973	Withdrawn 1983	

14. Note also the Public Trustee Amendment Act 1984, which extended the Public Trustee's power to invest in land in terms generally in line with the recommendations in the report.

15. This Act extended the limitation period for claims for death or injury caused by asbestos-related diseases. It did not implement the wider reforms recommended by the Commission.

Year	Project	Recommendations	Legislative Action
44	Alteration of Ground Levels Referred: 1973 DP: September 1984 Report: February 1986	That common law rights of support for land should be extended to buildings, and that the statutory and by-law powers of local authorities to deal with alterations of ground levels should be widened in specified ways. <sup>16</sup>	
45	Mortgage Brokers Referred: 1973 WP: February 1974 Report: September 1974	That mortgage brokers should be subject to statutory control in specified ways.	Finance Brokers Control Act 1975
46	Criminal Injuries Compensation Referred: 1974 WP: June 1975 Report: October 1975	That the Criminal Injuries (Compensation) Act 1970 be revised in specified ways.	Criminal Injuries (Compensation Act) Amendment Act 1976; Criminal Injuries Compensation Act 1982
47	Jailing of First Offenders Referred: 1973	Withdrawn 1982	
48	Appeals from Courts of Petty Sessions Referred: 1973	Became No 55 (Pt I)	
49	Suitors' Fund Act Referred: 1973 WP: March 1975 Report: • Pt A (civil proceedings) Mar 76 • Pt B (criminal proceedings) May 77	That the Suitors' Fund Act 1964 be revised to extend the classes of civil proceedings for which compensation for costs may be claimed, and that provision for compensation for costs in criminal proceedings be removed from that Act and re-enacted, with amendments, in the Official Prosecutions (Defendants' Costs) Act 1973.	Suitors' Fund Act Amendment Act 1978; Suitors' Fund Act Amendment Act (No 2) 1978
50	Appeals to the Privy Council Referred: 1973	Withdrawn 1976	
51	Unclaimed Money Referred: 1973 WP: October 1976 Report: December 1980	That the Unclaimed Moneys Act be revised and consolidated to enable unclaimed money to be used for public purposes.	Unclaimed Money Act 1990
52	Local Body Election Practices Referred: 1974 WP: May 1975 Report: October 1975	That the law in this area should be tightened in certain respects.	Local Government Act 1995 s 4.87
53	Privilege for Journalists Referred: 1974 WP: June 1977 Report: February 1980	That journalists called to give evidence in judicial proceedings should not be granted a statutory right to refuse to disclose the sources of their information. <sup>17</sup>	
54	Contractors' Liens Referred: 1974 WP: August 1974 Report: October 1974	That legislation providing for the registration of contractors' liens or for the creation of contractors' charges should not be introduced.	
55 55 (Pt I)	Justices Act Referred: 1974 Appeals from Courts of Petty Sessions Referred: 1974 WP: February 1978 Report: April 1979	That the Justices Act be amended to provide for a single mode of appeal. That Courts of Petty Sessions and Local Courts be merged and that the rules relating to justices of the peace and procedure in Courts of Petty Sessions be reformed along specified lines.	Justices Amendment Act 1989 Miscellaneous Repeals Act 1991 <sup>18</sup>

16. In September 1992 the Working Party on the Integrated Building Act reported to the Minister for Local Government in respect of a proposed Western Australia Building Act. The Working Party considered the Commission's report in part, but its recommendation on the right of support for the land of an adjoining owner does not adopt the Commission's recommendation.

17. The Commission reconsidered this issue in its report on *Professional privilege for confidential communications* (Project No 90).

18. This Act repeals imperial enactments relating to justices, as recommended in the report. A Ministry of Justice Report published in October 1996 contains proposals that would implement the recommendation that Courts of Petty Sessions and Local Courts be merged: Ministry of Justice: Court Services Amalgamation of Courts of Summary Jurisdiction Draft Report (1996).

Year	Project	Recommendations	Legislative Action
55 (Pt II)	Courts of Petty Sessions Referred: 1974 WP: June 1984 Report: November 1986	The report commented on proposals of a Ministry of Justice Project dealing with methods of enforcing the payment of fines. It recommended changes designed to ensure that indigent fine defaulters were not disadvantaged.	Fines, Penalties and Infringement Notices Enforcement Act 1994; Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994
55 (Pt III)	Enforcement of Orders of Courts of Petty Sessions Referred: 1974 Report: April 1994		
56	Strata Titles Act Referred: 1974 WP: February 1977 Report: December 1982	That the Strata Titles Act 1966 be revised as specified.	Strata Titles Act 1985; Acts Amendment (Strata Titles) Act 1985
57	Enforcement of Custody Orders Referred: 1974	Withdrawn 1976	
58	Section 2 of The Gaming Act Referred: 1975 WP: February 1976 Report: January 1977	That section 2 of the Gaming Act 1835 be repealed and section 1 of that Act and section 84I of the Police Act 1892 be amended.	Betting Control Act Amendment Act 1978; Gaming & Betting (Contracts & Securities) Act 1985; Acts Amendment (Gaming & Related Provisions) Act 1985
59	Audit Provisions of the Local Government Act Referred: 1975	Withdrawn 1982	
60	Alternatives to Cautions Referred: 1975 WP: August 1975 Report: November 1975	That the court's power to dismiss a proved charge without conviction, or discharge a convicted offender without penalty after conviction, should be extended as specified.	Criminal Code Amendment Act 1979
61	Enforcement of Judgment Debts Referred: 1975 Report: April 1977	This report was a commentary on a draft report entitled 'Enforcement of judgment debts' prepared for the Commonwealth Commission of Enquiry into Poverty. No legislative action was called for in the report.	
62	Liability of Highway Authorities for Non-Feasance Referred: 1975 WP: March 1978 Report: May 1981	That the non-feasance rule be abolished and highway authorities be required to take such care as is reasonable in all the circumstances to safeguard persons using their highways against dangers which make them unsafe for normal use.	
63	Small Debts Court Referred: 1976 WP: July 1978 Report: April 1979	That the Local Courts Act and Rules be amended to create a special Small Debts Division in Local Courts.	Local Courts Amendment Act 1982
X <sup>19</sup>	Protection of Money Awarded as Damages Referred: 1976 Report: August 1976	That the power of the court to make a protection order in respect of money awarded as damages be revised as specified.	
64	Bail Referred: 1976 WP: November 1977 Report: March 1979	That a Bail Act be enacted to deal comprehensively with bail.	Bail Act 1982; Bail Amendment Act 1984; Bail Amendment Act 1988
65 (Pt I)	Privacy Referred: 1976 WP: 1981	Withdrawn 1993	
65 (Pt II)	Confidentiality of Medical Records and Medical Research DP: March 1989 Report: August 1990	That the law be clarified to control the disclosure of patient-identifiable information for medical research purposes.	

19. This reference was not given a project number.

Year	Project	Recommendations	Legislative Action
66	Fatal Accidents Referred: 1976 WP: February 1978 Report: December 1978	That the Fatal Accidents Act be amended to extend the class of claimants, to provide for an award for loss of assistance and guidance and various other matters.	Fatal Accidents Amendment Act 1985
67	Writs and Warrants of Execution Referred: 1976 Report: 2001	That the law relating to writs and warrants be revised in specified ways including the implementation of a unified civil debt recovery system for the Local, District and Supreme Courts and the amendment of s 133 of the <i>Transfer of Land Act 1895</i> .	
68	Illegitimacy Referred: 1976	Withdrawn 1986	
69	Criminal Process and Mental Disorder Referred: 1976 DP: February 1987 Report: August 1991	That the law relating to the defence of insanity, fitness to stand trial and review of the detention of those acquitted under the insanity defence or found unfit to stand trial be revised in specified ways.	Criminal Law (Mentally Impaired Defendants) Act 1996; Mental Health (Consequential Provisions) Act 1996
70	Interest on Judgments Referred: 1977		
70 (Pt I)	Pre-judgment Interest Report: August 1981	That sections 32 and 33 of the Supreme Court Act be replaced by a new provision giving courts a broader power to award pre-judgment interest.	Supreme Court Amendment (No 2) Act 1982
70 (Pt II)	Interest on Judgments	Withdrawn 1987	
71	Exemption from Jury Service Referred: 1977 WP: 29 August 1978 Report: June 1980	That the Juries Act be amended in a number of respects, in particular so as to replace the notion of exemption from jury service with the notions of ineligibility and excusal as of right.	Juries Amendment Act 1984
72	Retention of Court Records Referred: 1977 WP: March 1979 Report: June 1980	With certain exceptions, Courts of Petty Sessions and Local Courts should be empowered to destroy their records after they have been kept for 15 years.	Local Courts Amendment Act 1981; Justices Amendment Act 1982; District Court of WA
73	Absconding Debtors Act Referred: 1978 WP: December 1980 Report: November 1981	The Absconding Debtors Act should be repealed and replaced by a new Act to allow a creditor, in certain circumstances, to prevent a debtor from leaving the State or removing assets.	Restraint of Debtors Act 1984
74	Limited Partnerships Referred: 1978	Withdrawn 1992	
75	United Kingdom Statutes in Force in Western Australia Referred: 1978 Report: October 1994	That various statutes passed in England between 1235 and 1829 which are still in force in Western Australia should be either repealed, preserved or reenacted in modern Western Australian legislation. <sup>20</sup>	
76 (Pt I)	Wills: Substantial Compliance Referred: 1979/80 DP: November 1984 Report: November 1985	That the Supreme Court should be given power to dispense with Wills Act formalities if satisfied that there is no doubt that testator intended the document to constitute his/her will.	Wills Amendment Act 1987; Wills Amendment Act 1989
76 (Pt II)	Effect of Marriage or Divorce on Wills DP: March 1990 Report: December 1991	That the exceptions to the rule that a will is revoked on marriage be widened, and that on divorce a gift in a will in favour of a former spouse should be revoked. <sup>21</sup>	
77 (Pt I)	Medical Treatment for Minors Referred: 1981 DP: 1988 Report: December 1992	Withdrawn 1998	

20. In 1996 Parliamentary Counsel prepared a first draft of legislation (the Imperial Acts (Law Reform) Bill) to implement this report

21. The Commission has been consulted by the Crown Solicitor's Office concerning proposals for legislation to implement this report.

Year	Project	Recommendations	Legislative Action
77 (Pt II)	Consent to Sterilisation of Minors Referred: 1981 Report: Oct 1994	A scheme should be established for decisions about sterilisation of minors to be made by an appropriate decision-making body, in an informal setting, applying the principle that it should act in the child's best interests.	
78	Joint Tenancy and Tenancy in Common Referred: 1980 Report: November 1994	The law relating to whether a joint tenancy or tenancy in common is created should be made more certain, the common law right to sever a joint tenancy secretly should be abolished and notice should become a statutory precondition for severance.	
79	Prescribed Interests Under the Companies Code Referred: 1981	Withdrawn 1984	
80	Problem of Old Convictions Referred: April 1982 DP: March 1984 Report: June 1986	A legislative scheme (set out in detail in the report) should be adopted to limit the effects of convictions which have become "spent".	Spent Convictions Act 1988; Spent Convictions Amendment Act 1988
81	Pawnbrokers Act Referred: 1984 DP: January 1985 Report: June 1985	The Pawnbrokers Act should be redrafted in modern terms, with amendments as specified.	Pawnbrokers and Secondhand Dealers Act 1994
82	Financial Protection in the Building and Construction Industry Referred: 1985 DP: December 1995 Report: March 1998	That the law be amended to regulate the payment of those working in the building and construction industry, by the setting up of a trust scheme, with payment bonds available as an alternative.	
83	Payment of Witnesses in Civil Proceedings Referred: 1986 DP: February 1988 Report: July 1989	No changes should be made to the law relating to payment of witnesses in civil proceedings.	
84	Medical Treatment for the Dying Referred: 1986 DP: June 1988 Report: February 1991	Persons should be able to appoint an agent to make treatment decisions on their behalf if they are terminally ill and unable to make such decisions for themselves. <sup>22</sup>	Criminal Code Amendment (Racist Harassment and Incitement to Racial Hatred) Act 1990
85	Police Act Offences Referred: 1986 DP: June 1989 Report: August 1992	Specified offences in the Police Act be abolished, and that the surviving offences be incorporated in a Summary Offences Act. <sup>23</sup>	Acts Amendment (Sexual Offences) Act 1992; Acts Amendment (Evidence of Children and Others) Act 1992
86	Incitement to Racial Hatred Referred: 1988 DP: May 1989 Report: October 1992	New provisions should be included in the Criminal Code to outlaw certain kinds of racially inflammatory activity.	
87	Evidence of Children and Other Vulnerable Witnesses Referred: 1989 DP: April 1990 Report: April 1991	The Evidence Act should be amended to reform the rules relating the giving of evidence by children, and that new procedures to assist the court to receive children's evidence should be introduced.	
88	Administration Act Referred: 1989 Report: August 1990	The Administration Act 1903 should be reformed in specified ways.	

22. The Medical Care for the Dying Bill, which implements some of the recommendations in this report, was introduced into the Legislative Assembly by an opposition member in March 1995. It was considered in Committee in May 1996: see Western Australia Parliamentary Debates, Legislative Assembly, 15 May 1996, 2027-2036. The Commission has been asked to give advice on drafts of the Medical Treatment for the Dying Bill, a Government Bill which would implement most of the recommendations in the report. This Bill has not yet been introduced into Parliament.

23. In 1995 Parliamentary Counsel prepared a first draft of legislation (the Simple Offences Bill, the Criminal Investigation and Procedure Bill, the Simple Offences and Criminal Investigation (Consequential Provisions) Bill and the Intoxicated Persons Bill) to implement this report.

Year	Project	Recommendations	Legislative Action
89	Sale of Goods Act 1895 Referred: 1989 DPs: Aug & Oct 1995 Report: June 1998	The Sale of Goods Act 1895 should be reformed in several minor ways.	
90	Professional Privilege for Confidential Communications Referred: 1990 DP: December 1991 Report: May 1993	Judges should be given a discretion to excuse witnesses from disclosing information in breach of a confidential relationship. <sup>24</sup>	
91	Restrictive Covenants Referred: 1995 DP: June 1995 Report: June 1997	The law relating to the extinguishment, modification and enforcement of restrictive covenants should be reformed in specified ways.	
92	Review of the Criminal and Civil Justice System Referred: 1997 Issues Paper: June 1998 Consultation Drafts: 1999 Final Report: October 1999 Project Summary: 1999 Submissions Summary: 1999	447 recommendations for reform of the criminal and civil justice system.	
93(Pt I)	Contempt in the Face of the Court Referred: 2000 DP: August 2001 Report: June 2003	The law of contempt of court in Western Australia, other than as applicable under the Family Court Act, should be codified and the procedures for prosecution made uniform.	
93(Pt II)	Contempt by Publication Referred: 2000 DP: March 2002 Report: June 2003		
93(Pt III)	Contempt by Disobedience to the Orders of the Court Referred: 2000 DP: Nov 2002 Report: June 2003		
94	Aboriginal Customary Law Referred: 2000 Background papers: 2003-2004	Project is ongoing.	
95	Judicial Review of the Administrative Decisions Referred: 2001 DP: June 2002 Report: Dec 2002	The law relating to the judicial review of administrative action in Western Australia should be reformed in specified ways.	

24. This matter was considered by the Standing Committee of Attorneys General: Western Australia Parliamentary Debates, 16 May 1995, 2967.

Law Reform Commission of Western Australia  
Level 3, BGC Centre  
28 The Esplanade  
PERTH WA 6000

Telephone: (08) 9321 4833  
Facsimile: (08) 9321 5833

E-mail: [lrcwa@justice.wa.gov.au](mailto:lrcwa@justice.wa.gov.au)  
Web: [www.lrc.justice.wa.gov.au](http://www.lrc.justice.wa.gov.au)

