



LAW REFORM COMMISSION of WESTERN AUSTRALIA

CHARTER

Purpose of this Charter

The purpose of this Charter is to formally acknowledge the Law Reform Commission of Western Australia (the 'Commission') as an independent statutory authority established under the *Law Reform Commission Act 1972* (WA) (the 'Act'). While the Commission takes its terms of reference and priorities from the Attorney General, it is independent of Government. This Charter sets out the role, responsibilities, values and operational structure of the Commission that are to be upheld and adhered to by the Government and the Commission for the primary purpose of maintaining the Commission's independence, integrity and good standing. This Charter is subject to review where appropriate to ensure it continues to reflect the status of the Commission as required by the people of Western Australia and the Government as constituted from time to time.

Role of the Commission

The role of the Commission is to advise the Government on measures to keep the law up-to-date and relevant to the needs of the people of Western Australia. The Commission achieves this by receiving terms of reference and reviewing selected legislation at the request of the Attorney General to identify opportunities for reform.

References may result from proposals submitted by the Commission, suggestions made by the public or matters referred by the Attorney General. The Attorney General determines the order of priority in which the Commission deals with references and then presents the Commission's reports to State Parliament as soon as practicable after the Commission completes its work on each reference.

Independence as expressed in the *Law Reform Commission Act 1972* (WA)

While the Commission only publishes reports and recommendations on matters referred to it by the Attorney General, it is implicit in the Act that the Commission and its members must act independently. The Act relevantly provides that the Commission:

- Must examine critically the law with respect to the matter mentioned in the reference [section 11(3)(a)]; and
- May hold and conduct such inquiries as it thinks fit, and inform itself on any matter in such manner as it thinks fit, and obtain such information as to the law and the administration of justice of other countries as appears to the Commission likely to facilitate the performance of any of its functions [section 11(6)].

The Attorney General has an obligation to ensure that the Commission's proposals and reports (including the recommendations) are presented to each House of Parliament as soon as practicable after they have been submitted to him or her [section 11(7)].

Commitments aimed at maintaining the independence and integrity of the Commission

Government

The Government and its agencies must ensure:

- non-interference in Commission matters, save for genuine input as a stakeholder during the Commission's consideration of any terms of reference;
- the provision of means necessary for the Commission to perform its statutory functions, such as the provision of financial and administrative support; and
- the Commission is provided an opportunity to take part in or be heard on discussions taken in respect to these matters.

Commission and members

The Commission and its members are responsible to the Government and to the people of Western Australia in reviewing and reporting on potential reform to the laws of the State of Western Australia.

In acknowledging this responsibility, the Commission and its members must ensure:

- they provide frank and fearless advice to the Government;
- every effort is made to be inclusive and fair in satisfying their obligations by maintaining an appropriate level of engagement through communication and consultation with the public and relevant stakeholders;

- work is completed in a reasonably timely fashion so as to ensure the delivery of an efficient and effective service;
- where a member is part-time, the member's contribution to the work of the Commission is provided independently of that member's substantive position in private practice, as an academic member or at the State Solicitor's Office;
- members notify the Commission of any actual or potential conflict of interest that may arise, promptly after becoming aware.

Public consultation and engagement

Being an organisation that spends public funds, the Commission and each of its members understand the importance and the right of the public to be involved in the law reform process and consequently value all input from interested stakeholders. The Commission (and, where applicable, its contractors), is to give due consideration to all submissions it receives and is to specifically acknowledge these in reporting its opinions on law reform.

The Commission must consult with the people of Western Australia in an open and transparent way. Such consultation may be through publication of one or more Discussion Papers on the issues arising in the reference along with proposals for reform and by then allowing the people of Western Australia a reasonable opportunity to provide submissions before taking those submissions into account when drafting any final report to the Government.

Where appropriate, the Commission is to actively engage in targeted consultation with stakeholders who have a particular interest or expertise in the subject matter of any reference to ensure that all reasonable views are taken into account in the formulation of recommendations to the Government.

Values

Integrity –

The Commission undertakes open, impartial and ethical research on law reform, performing its duties to a high standard of professionalism to reflect the transparency of its operations and maintain its good standing in the eyes of the people of Western Australia and Government.

Accountability –

The Commission responsibly and appropriately utilises State resources in discharging its obligations, acting in accordance with governing legislation, including ensuring review by external auditors as provided for in legislation.

Operational structure

The Commission is structured according to the provisions of the Act and engages with consultants for research, writing and editing purposes. The operational structure of the Commission is subject to change as the Act changes.

Membership

Under Section 5 of the Act, the Commission may consist of up to five members: two full-time and three part-time, appointed by the Governor of Western Australia. No member may be appointed for a term that in aggregate exceeds six years. The Commission elects its Chairman from its members. The Chairman may hold office for a term not exceeding one year but shall be eligible for re-election.

Members' fees

The remuneration for Commissioners is set by the Governor in Executive Council. Section 9 of the Act states that a member "shall be paid such remuneration and allowances as the Governor may from time to time determine".

Contractors

Under Section 14(2) of the Act, the Attorney General may, at the request of the Commission, engage, under contract for services, such professional and research or other assistance as may be necessary to enable the Commission to carry out its functions under this Act. Contractors must be engaged by way of fair and transparent procurement practices.

The Government, through its Department of Justice, may also engage contractors on behalf of the Commission under Government procurement practices.

Chair of the Law Reform Commission
of Western Australia

Attorney General
of Western Australia