

LAW REFORM COMMISSION ACT 2009



BERMUDA

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LAW REFORM COMMISSION ACT 2009

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WHEREAS it is expedient to make provision for the establishment and constitution of an independent Law Reform Commission for Bermuda;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Short title

1 This Act may be cited as the Law Reform Commission Act 2009.

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Interpretation

2 In this Act—

“Chairman” means the person appointed as the Chairman of the Commission under section 4(1);

“Commission” means the Law Reform Commission established under section 3;

“Commissioner” means a member of the Commission;

“Director” means the person appointed as the Director of the Commission under section 9(1);

“Minister” means the Minister responsible for justice.

Establishment of Law Reform Commission

3 There shall be a Law Reform Commission for Bermuda, which shall consist of a Chairman and between four and seven other Commissioners, appointed by the Governor in accordance with section 4.

Appointment of Chairman and Commissioners

4 (1) The Governor may appoint a Chairman and Commissioners who—

(a) in the opinion of the Governor, are suitable for appointment by reason of their qualifications, training or experience; and

(b) have been nominated for appointment by at least two of the following—

(i) the Attorney-General;

(ii) the Chief Justice; and

(iii) the President of the Bar Council.

(2) The appointment of a Chairman and Commissioners shall be for such period not exceeding five years, and on such terms and conditions as may be determined by the Governor.

(3) At the expiration of their term of office, the Chairman and Commissioners are eligible for re-appointment.

(4) For the avoidance of doubt, age shall not be a consideration in the appointment of the Chairman or a Commissioner.

(5) The validity of any proceedings of the Commission shall not be affected by any vacancy in the office of Chairman or among the Commissioners, or by any defect in the appointment of the Chairman or a Commissioner.

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Resignation and revocation of appointment

5 (1) The Chairman or a Commissioner may resign his office at any time, by writing under his hand addressed to the Governor.

(2) The Governor may, after consultation with the persons mentioned in section 4(1)(b), revoke the appointment of the Chairman or a Commissioner if he is satisfied that the Chairman or the Commissioner—

(a) has been absent from meetings of the Commission for more than six months without the consent of the Commission;

(b) has become bankrupt, that his estate has been sequestered or that he has made an arrangement with, or granted a trust deed for, his creditors; or

(c) is unable or unfit to discharge his functions.

(3) Where the Chairman or a Commissioner resigns or has his appointment revoked, the Governor may appoint another person to replace him.

(4) If the Chairman is unable to act, dies, resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, the remaining Commissioners may nominate one of their number to act temporarily as Chairman until the Governor appoints a replacement.

Functions of the Commission

6 (1) The functions of the Commission are to study and keep under review the law of Bermuda with a view to its systematic development and reform.

(2) Without prejudice to the generality of subsection (1), those functions include in particular —

(a) the development of the law with the aim of making it more responsive to the changing needs of Bermudian society;

(b) the adoption of new or more effective methods for the administration of the law and the dispensation of justice;

(c) ensuring that the law of Bermuda is in conformity with the Bermuda Constitution and with international treaty obligations assumed by Her Majesty in respect of Bermuda; and

(d) making recommendations to the Minister for the elimination of anomalies in the law, the repeal of

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obsolete and unnecessary Acts or provisions of an Act, and the simplification and modernization of the law.

Powers of the Commission

7 In the performance of its functions, the Commission may—

- (a) review and consider any proposals for the reform of the law which may be referred to it by any person or authority;
- (b) initiate and carry out, or direct the initiation and carrying out of, studies and research necessary for the improvement and modernisation of the law;
- (c) prepare and submit to the Minister from time to time, a programme for the study and examination of any branch or area of the law with a view to making recommendations for its improvement, modernisation and reform;
- (d) undertake, pursuant to any such recommendations approved by the Minister, the formulation and preparation of draft legislation;
- (e) provide, at the instance of any Ministry, Department or agency of the Government of Bermuda, proposals for reform or amendment of any branch or area of the law; and
- (f) appoint or empanel committees, whether from among the members of the Commission including the Chairman, or from among persons outside the Commission or both, to study and make recommendations to the Commission on any aspect of the law referred to it by the Commission.

Meetings of the Commission

8 (1) The Commission shall meet at least once every three months at such time and place as the Chairman may determine.

(2) At every meeting of the Commission, the Chairman shall preside and if the Chairman is absent the Commissioners present shall elect from among their number a Commissioner to preside as chairman at that meeting.

(3) The quorum for meetings of the Commission shall be a majority of the members of the Commission.

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(4) All decisions at meetings of the Commission shall be taken by a majority of Commissioners present and voting and, in the event of an equality of votes, the Chairman shall have a casting vote.

(5) Subject to this section, the Commission may determine its own procedure.

Staff of the Commission

9 (1) The Governor, acting upon the recommendation of the Public Service Commission, shall appoint a public officer to be the Director of the Commission.

(2) The Director is responsible for the administration of the Commission and shall carry out such functions as may be assigned by the Commission.

(3) The Governor, acting on the recommendation of the Public Service Commission, shall appoint such public officers as are necessary to carry out the work of the Commission.

(4) The expenses of the Commission shall be met out of funds to be appropriated annually by the Legislature.

Consultants and experts

10 The Minister may engage consultants and experts, who shall be paid such remuneration as the Minister approves, to assist the Commission in the performance of its functions.

Records of the Commission

11 The Director shall cause to be established and maintained—

- (a) a register containing the names and addresses of—
 - (i) the Chairman and the Commissioners;
 - (ii) the members of any committee of the Commission; and
 - (iii) any consultants and experts engaged under section 10;
- (b) a minute book recording the minutes of all meetings of the Commission;
- (c) records of the work and activities of the Commission and any committees of the Commission; and
- (d) such other records or particulars with respect to the Commission as the Commission may consider necessary.

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Reports and recommendations

12 (1) When the Commission completes a study undertaken or directed by it, it shall prepare and submit to the Minister a report on the results of the study.

(2) Any such report shall include the Commission's recommendations in such form as it considers appropriate, which may include draft legislation.

Annual report

13 (1) The Commission shall, by 1 April of each year, prepare and submit to the Minister a report containing a summary of its activities for the preceding year in such form and containing such information as it considers appropriate.

(2) The report shall also include any proposals for the reform of the law, made by the Commission on its own initiative or which have been referred to it by any person or authority, and indicate—

(a) which proposals are being worked on by the Commission and the proposed timetable for addressing those proposals; and

(b) which proposals, if any, have been rejected as unsuitable for study by the Commission, giving reasons.

Laying of reports

14 (1) The Minister shall, as soon as practicable after receipt of an annual report under section 13, cause it to be laid before both Houses of the Legislature.

(2) The Minister may table in both Houses of the Legislature a report of the Commission referred to in section 12.

Government Authorities (Fees) Act 1971

15 In Part B of the First Schedule to the Government Authorities (Fees) Act 1971 (fees payable to members of authorities for attending meetings), delete "Law Reform Committee" and substitute the following—

"Law Reform Commission – established under section 3 of the Law Reform Commission Act 2009".

Commencement

16 This Act comes into operation on such day as the Minister appoints by notice in the Gazette.