

**LAW REFORM COMMISSION ACT.**

**New South Wales**



ANNO SEXTO DECIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 39, 1967.**

An Act to constitute a Law Reform Commission; to define its powers, authorities, duties and functions; and for purposes connected therewith. [Assented to, 25th September, 1967.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Law Reform Commission Act, 1967".

Interpretation.

2. In this Act, unless the context or subject matter otherwise indicates or requires—

"Chairman" means the Chairman of the Commission.

"Commission"

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“Commission” means the Law Reform Commission No. 39, 1967 constituted under this Act.

“Commissioner” means a commissioner appointed under section three of this Act.

“Executive member” means the officer of the Commission appointed under section six of this Act.

“Reference” means a reference referred to in section ten of this Act.

3. (1) There shall be a Law Reform Commission which shall have and may exercise the powers, authorities, duties and functions conferred and imposed upon it by this Act. Constitution of the Commission.

(2) Subject to this section, the Commission shall consist of not less than three nor more than six commissioners appointed by the Governor, that is to say—

- (a) a chairman of the Commission who shall be a judge or a retired judge of the Supreme Court; and
- (b) other persons each of whom appears to the Minister to be suitably qualified by the holding of judicial office or by experience as a barrister or solicitor or as a teacher of law in a university.

(3) A commissioner shall, subject to this Act, hold office—

- (a) in the case of the Chairman being, at the time of his appointment, a judge of the Supreme Court, until he attains the age of seventy years, or, if by the instrument of his appointment his appointment is for a term enduring beyond the time when he attains the age of seventy years, until that term expires; and
- (b) in any other case, until the expiry of such term, not exceeding seven years, as the Governor shall by the instrument of appointment of that commissioner specify, but shall be eligible for re-appointment.

(4)

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(4) So long as there are two or more commissioners, no act or proceeding of the Commission or any commissioner shall be vitiated by reason only that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of any commissioner.

Appoint-  
ment of  
holders of  
judicial  
office as  
commis-  
sioners.

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

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

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

Deputy  
Chairman.

5. (1) The Governor may appoint a commissioner to be Deputy Chairman.

(2) Subject to subsection two of section ten of this Act, the Deputy Chairman shall during the absence, illness or incapacity of the Chairman have and may exercise the powers, authorities, duties and functions conferred or imposed upon the Chairman by this Act.

Executive  
member.

6. (1) The Governor may appoint a person who appears to the Minister to be suitably qualified to be the executive member of the Commission.

(2) The executive member shall, subject to this Act, hold office for such term, not exceeding seven years, as the Governor shall by the instrument of appointment of the executive member specify, but shall be eligible for re-appointment.

(3)

*Law Reform Commission.*

(3) The executive member shall have such powers No. 39, 1967 and shall perform such duties as the Chairman shall direct.

7. (1) The persons named and described in the Schedule to this Act shall be deemed to have been appointed by the Governor under this Act as the first Chairman, first commissioners and first executive member of the Commission as shown beside the name and description of each in that Schedule. First appointments.

(2) Each of the first commissioners (other than the Chairman) and the first executive member shall, subject to this Act, hold office for the term stated beside his name and description in the Schedule to this Act computed from the first day of January, one thousand nine hundred and sixty-six.

8. (1) Each commissioner (other than the holder of a judicial office) and the executive member shall receive such remuneration and allowances as the Governor may from time to time determine. Remuneration, allowances and rights.

(2) The appointment of a commissioner (other than the holder of a judicial office) and the executive member shall, subject to this Act, be in accordance with such terms and conditions as may be specified in the instrument of his appointment or as may be agreed upon by the Governor and the commissioner or executive member.

(3) The provisions of the Public Service Act, 1902, or any Act amending that Act, shall not apply to the appointment of any commissioner or the executive member and a commissioner and the executive member shall not, in that capacity, be subject to any such Act.

9. (1) The Governor may remove the Chairman or a commissioner, being the holder of a judicial office, from office upon the address of both Houses of Parliament, but not otherwise. Removal and vacation of office.

(2)

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(2) A commissioner (not being the holder of a judicial office) and the executive member shall be deemed to have vacated his office if—

- (a) he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- (b) he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or allowances or of his estate for their benefit;
- (c) he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (d) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid; or
- (e) he resigns his office by writing under his hand addressed to the Governor.

Powers  
and  
duties of  
Commission.

**10.** (1) The Commission, in accordance with any reference to it made by the Minister—

- (a) shall consider the law, enacted or promulgated by the Legislature of New South Wales or by any person under the authority of that Legislature, with a view to, or for the purpose of—
  - (i) eliminating defects and anachronisms in the law;
  - (ii) repealing obsolete or unnecessary enactments;
  - (iii) consolidating, codifying or revising the law;
  - (iv) simplifying or modernising the law by bringing it into accord with current conditions;

(v)

*Law Reform Commission.*

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- (v) adopting new or more effective methods No. 39, 1967 for the administration of the law and the dispensation of justice;
  - (vi) systematically developing and reforming the law;
- (b) shall consider proposals relating to matters in respect of which it is competent for the Legislature of New South Wales or any person under the authority of that Legislature to enact or promulgate laws; and
  - (c) may for the purposes of this section hold and conduct such inquiries as it thinks fit.
- (2) For the purposes of any inquiry under this section—
- (a) the Commission and the Chairman shall have the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part II of the Royal Commissions Act, 1923, as amended by subsequent Acts, and that Act, as so amended, (section thirteen and Division 2 of Part II excepted) shall, *mutatis mutandis*, apply to any witness summoned by or appearing before the Commission; and
  - (b) the provisions of Division 2 of Part II of that Act, as so amended, shall apply where the Chairman or the Deputy Chairman, if he is a judge of the Supreme Court and is acting as Chairman, is presiding at the inquiry.

**11.** The provisions of the Defamation Act, 1958, shall **Privilege.** extend and apply to any inquiry, and report as a result of an inquiry, made by the Commission under the authority of this Act and to the proceedings of the Commission and to reports of those proceedings as if those proceedings were an inquiry made by the Commission under the authority of this Act.

**12.**

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**No. 39, 1967** **12.** (1) The Commission shall meet from time to time at such places and times as the Chairman directs.

Proceedings  
of the  
Commission

(2) The quorum for a meeting shall be two commissioners.

(3) The Chairman shall preside at all meetings at which he is present and, in the event of the votes being equal, shall have a casting as well as a deliberative vote.

(4) In the absence of the Chairman and Deputy Chairman from a meeting the commissioners present shall choose one of themselves to preside.

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

(6) Subject to this Act, the Commission may delegate to any of the commissioners any of its powers, authorities, duties and functions.

Reports.

**13.** (1) The Commission may from time to time and shall, upon direction by the Minister, make an interim report on its work under any reference.

(2) The Commission shall at the end of its work under any reference make a final report on its work under the reference.

(3) The Commission shall, as soon as practicable after the thirtieth day of June in each year, make a report of the proceedings of the Commission during the period of twelve months ending on that day.

(4) A report made by the Chairman and one other commissioner shall be a report of the Commission for the purposes of this Act.

(5) The Commission shall furnish each of its reports to the Minister for presentation to Parliament.

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**14.** (1) The staff of the Commission (other than the executive member) shall be appointed under and be subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts. No. 39, 1967  
Staff.

(2) The Commission may with the approval of the Minister administering any Department and of the Public Service Board and on such terms as may be arranged make use of the services of an officer or employee of that Department.

## SCHEDULE.

Sec. 7.

Office	Name and Description	Term of Office
Chairman ..	The Honourable Mr. Justice James Kenneth Manning, Puisne Judge of the Supreme Court of New South Wales.	
Commissioner ..	David Gilbert Benjafield, Esquire, Professor of Law in the University of Sydney.	Two years.
Commissioner ..	Robert Davy Conacher, Esquire, Barrister.	Seven years.
Commissioner ..	Hector McDonald Scott, Esquire, Solicitor.	Three years.
Executive Member	Ronald Earle Walker, Esquire, Barrister.	Five years.

POISONS