



The Law Reform Commission
of Western Australia

ANNUAL REPORT

1 July 2011 – 30 June 2012

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STATEMENT OF COMPLIANCE



Statement of Compliance with the Financial Management Act

Hon Michael Mischin MLC
Attorney General for Western Australia
10th Floor, Dumas House
2 Havelock St
West Perth WA 6005

Dear Minister

In accordance with section 61 of the *Financial Management Act 2006*, I hereby submit for your information and presentation to the Parliament the Annual Report of the Law Reform Commission of Western Australia for the year ending 30 June 2012.

This report has been prepared in accordance with the provisions of the *Financial Management Act 2006*. The content and layout are consistent with the requirements of Treasurer's Instruction 903.

Yours sincerely

A handwritten signature in black ink, appearing to read 'H Kay'.

Heather Kay
Executive Officer
Law Reform Commission of Western Australia

13 September 2012

ABOUT THIS REPORT

This report provides an overview of the activities of the Law Reform Commission (the Commission') during 2011–2012.

The Overview provides a summary of the Commission's activities, operational structure and performance management framework. The Agency Performance – Report on Operations section details the Commission's operations including its financial targets and key performance indicators. This is followed by the section that identifies Significant Issues Impacting the Agency. The last section Disclosure and Legal Compliance covers all financial statements, key performance indicators and governance requirements.

The Appendices include the Commission's Current References, Publications, and the History of References.

For any further information on the operations of the Law Reform Commission or for copies of this Annual Report, or any of the Commission's other publications, please visit the Commission's web page located at www.lrc.justice.wa.gov.au.

Printed copies may be requested from the Commission.

LAW REFORM COMMISSION CONTACT DETAILS

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MESSAGE FROM THE CHAIR



Richard Douglas
Feb–Jun 2012



Mary Anne Kenny
Jun 2011 – Feb 2012

During the year ended 30 June 2012, the Law Reform Commission of Western Australia approaches, on one view, its 45th birthday: the predecessor of the current Commission – the law reform Committee – was first established by a cabinet decision in 1967, although the Act establishing the Commission was not assented to until October 1972.

The Western Australian body is close in age to its sister Commissions: the English and Scottish Law Commissions were established in 1965, New South Wales commenced operation in 1966, Queensland in 1968, Victoria in 1973 and the Federal Commission in 1975. The task of the Western Australian Commission was – and remains – to ascertain and report on whether laws of Western Australia require to be changed, simplified or repealed.

In the current year, the Commission completed its Final Reports and subsequent recommendations on two significant references: the first on the Review of Coronial Practice in Western Australia and the second on the *Community Protection (Offender Reporting) Act 2004*. Both reports concern matters of importance to West Australians.

The Coroner reviews some 14 per cent of the deaths in the State to determine the circumstances and cause of death. The Commission undertook extensive consultations with experts on, providers of and users of coronial processes. The Final Report made 113 recommendations as to how that process could be better. Many, but not all, concerned the written laws that govern the office of the Coroner.

The report's recommendations have received careful consideration by lawmakers and the users and providers of coronial investigations. The Premier of Western Australia, the Hon Colin Barnett

MLA has advised that a comprehensive assessment of the Commission's recommendations for the future operation and funding of the Office of the State Coroner is underway. The Commission understands that, as recommended by the report, an extensive review of the Office of the State Coroner is taking place to improve the efficient and effective conduct of coronial inquiries.

The Commission's final report on *Community Protection (Offender Reporting) Act 2004* considered the application of mandatory registration and reporting of sexual offenders to those who were juveniles when they committed their offences, and low-risk and low-level offenders. The report proposes reforms which will ensure a consistency of reporting obligations across Australia and would introduce a capacity to deal with exceptional cases to the present strict compulsory reporting obligations. It proposes the reallocation of resource-intensive reporting obligations from those at low and very low risks of reoffending, to those at higher risk.

The Commission received a letter from the President of the Children's Court of Western Australia commending the report and its project writers on the recommendations identified. The Commission has received a number of other positive responses since the release of its Final Report, and urges that its recommendations be implemented in the near future.

The Commission's work underway at present includes a report as to the conduct of civil proceedings on behalf of multiple plaintiffs (often referred to as representative proceedings), an area in which Western Australia has not yet reflected changes made to this field in sister states and in the Federal Courts. The Commission is also preparing to publish a discussion paper on establishing a formal procedure to consider complaints against judicial officers.

As in the past, the Commission has benefited from the contributions of a number of outstanding members. It is timely to recall some departures and record some arrivals.

On 25 August 2011 Commissioner Robert Mitchell resigned from the Commission after being appointed as Acting Solicitor General of Western Australia. Rob had worked with the Commission for close to four years and, due to his area of expertise, had a significant involvement in the Commission's reference on Compensation for Injurious Affection. We are grateful for the dedication and professionalism Rob showed during his time with the Commission and for the logical and considered approach he brought to every discussion on law reform.

On 26 August 2011 Mr Alan Sefton was appointed as the State Solicitor's member of the Commission, to replace Commissioner Rob Mitchell. Alan brings with him a wealth of legal knowledge having worked at the State Solicitor's Office since 1992, providing advice on a range of matters including administrative law, land compensation, discrimination law, tax law and commercial litigation.

In February 2012 our former Chair Mary Anne Kenny completed her maximum six-year term of service as a member of the Commission. With the expiry of Mary Anne's term of service, the Commission lost a great advocate for considered and, where necessary, courageous law reform. We are extremely grateful for Mary Anne's lengthy, dedicated, learned and practical efforts during six years. In addition to her tireless and thoughtful contribution to the reform of the law, we shall miss her good humoured and considerate approach to those making submissions to the Commission, and to her colleagues and staff. The Commission wishes the former

Chair swift progress with her continuing academic and law reform engagements beyond the Commission.

In June 2012 the Commission was advised by the then Attorney General the Hon Christian Porter MLA of the appointment of Dr Augusto Zimmermann as the new academic member of the Commission. Dr Zimmermann, a Senior Lecturer and Associate Dean for Research and Postgraduate Studies Director at Murdoch University School of Law, is an accomplished teacher, scholar and author and a prolific contributor to legal journals and literature. He was recently honoured with the 2012 Vice Chancellor's Award for Excellence in Research and Faculty Research Awards in 2010 and 2011. Dr Zimmermann is also a founding editor of a new academic journal with a distinguished international editorial board, published by the Western Australian Legal Theory Association as *The Western Australian Jurist*.

We welcome both Alan and Augusto to the Commission and look forward to working closely with them on our current references.

Also in June 2012, the office of the State Attorney General lost the services of the Hon Christian Porter to contest the Federal Seat of Pearce, and gained the Hon Michael Mischin MLC as the new Attorney General of Western Australia.

The Commission welcomes the appointment of the Hon Michael Mischin to the position of Attorney General and looks to being of practical assistance to constant and careful improvement of the State's laws.

Each reference the Commission undertakes involves a thorough and detailed research and consultation process. The Commission has been

fortunate to have had the assistance of many diligent and dedicated experts and specialists who willingly deliver their knowledge and skills to the Commission's reports. Their involvement ensures the reports are comprehensive, accurate and considered works, which carefully record the existing laws and their operations, and approach in a considered way the alternatives to the existing arrangements. They are essential to the ongoing work of the Commission.

In particular, the Commission records its appreciation for the indefatigable work of our writers Dr Tatum Hands and Victoria Williams.

The reports prepared by the Commission would not be possible without the considerable efforts of many individuals and organizations who make submissions to the Commission. Their views are gratefully received, and the effort they make to distill their experiences of the difficulties of current laws and identify how those difficulties may be overcome is essential to the work of the Commission.

The Commission thanks the former and present Attorneys General for their continued support of, and interest in, our work. We would also like to acknowledge the support of the Department of the Attorney General for providing us with services in the areas of IT, HR and Finance.

Finally, it is a pleasure to record the Commissioners' appreciation for the work of the staff of the Commission, Heather Kay and Sharne Cranston. It takes vigilance and constant tending to keep the Commission travelling smoothly, and we are grateful for your efforts.

Richard Douglas

OVERVIEW OF THE LAW REFORM COMMISSION

EXECUTIVE SUMMARY

The Law Reform Commission's role is to keep the law up-to-date and relevant to the needs of society. The Commission achieves this by receiving terms of reference and reviewing selected legislation at the request of 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. 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 Law Reform Commission's output measures the progress of a reference against target timelines. The extent to which the Commission meets the timeframes set by the Attorney General is therefore considered to be a key performance indicator that measures the extent to which the Commission is contributing to keeping the law up-to-date. This gives the Commission responsibility for achieving outcomes by which its performance can be measured.

The Executive Officer, Heather Kay, has charge of the day-to-day business of the Commission. Through a tender process, the Commission engages the services of consultants who have expertise in the area being investigated. This enables 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.

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 physicians 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.

OVERVIEW OF THE LAW REFORM COMMISSION

PERFORMANCE HIGHLIGHTS

A Review of Coronial Practice in Western Australia

In January 2012, the Commission released its long awaited Final Report on the *Review of Coronial Practice in Western Australia*. The Final Report made 113 recommendations for reform in response to the 57 submissions received from the Commission's 108 proposals outlined in its Discussion Paper. Throughout the review process the Commission undertook extensive consultations: it met with recognised experts in the field of coronial law, people who are intimately involved in the delivery of coronial services and users of the coronial system. This ensured that the Commission's Final Report was both comprehensive and thorough and will ensure improved transparency of the coronial process, greater accountability of the Coroner's Court, public confidence in the coronial system and ultimately innovation in coronial law and practice for all Western Australians.



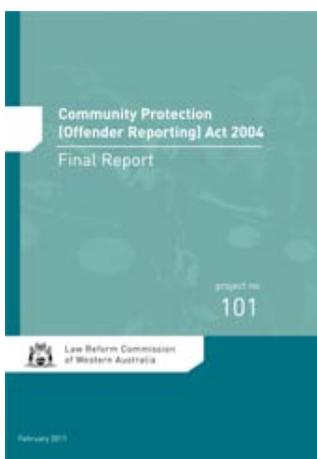
2012 the Commission completed its Final Report presenting 20 recommendations to Parliament for reform of the *Community Protection (Offender Reporting) Act 2004*. The Final Report took into account extensive consultations and detailed submissions, and recommended that a degree of flexibility is required and should be incorporated into the Western Australian sex offender registration scheme in order to ensure that it is not unfairly applied to low-risk offenders or less serious offences. The Commission's recommendations are designed to introduce a degree of discretion and assessment of risk to ensure that it is only applied to those offenders from whom the community must be protected.

Complaints Against Judiciary

On May 2011 the Commission received a new reference on *Complaints Against Judiciary*. The Commission has since completed a thorough foundation research exercise and has engaged former Supreme Court Judge, the Hon Neville Owen, to complete a Discussion Paper on the reference. The draft Discussion Paper is in the process of being finalised and the Commission anticipates its release early in the 2012–13 financial year.

Community Protection (Offender Reporting) Act 2004

Following the release of its Discussion Paper on the *Community Protection (Offender Reporting) Act 2004* in February 2011, the Commission received 22 submissions in response to the 19 proposals for reform. The majority of the submissions were overwhelmingly supportive of the Commission's proposed changes which would involve a more lenient and discretionary approach for juvenile offenders and a limited degree of discretion for adult offenders. In January



Representative Proceedings

On 6 July 2011 the Commission received a new reference on *Representative Proceedings*. The Commission, having engaged barrister Tim Hammond as project writer on the reference, now anticipates the release of a Discussion Paper outlining its proposals for reform early in the 2012–13 financial year.

TECHNOLOGICAL AND ADMINISTRATIVE IMPROVEMENTS

For ease of reference and increased accessibility, the Commission's reports and papers can be downloaded from its website immediately upon release and at no cost.

The Commission's user-friendly website at www.lrc.justice.wa.gov.au also features an e-news subscription service that informs subscribers when reports and papers are released, as well as keeping subscribers up-to-date with the Commission's activities. The service also enables the Commission to maintain an accurate database of organisations and individuals who wish to receive the Commission's materials electronically, thus eliminating the need for large and costly hard copy print runs.

The Commission website received more than approximately 184,000 hits throughout 2011–12.

During the past year the Commission's staff handled over 6,600 letters, faxes, e-mail messages and telephone calls – many from members of the public concerned about legal issues and problems they had experienced with the justice system.

FINANCIAL FORECAST

The Commission's reference on *Review of Coronial Practice in Western Australia* required the allocation of a great deal of resources and as a result the Commission's capacity to take on additional references was limited. In May and July 2011 the Commission received two targeted references, one on *Complaints Against Judiciary* and one on *Representative Proceedings*. Since the completion of the *Review of Coronial Practice in Western Australia* in January 2012, the Commission now has capacity and will be seeking additional references to complete within its current budget structure.



OVERVIEW OF THE LAW REFORM COMMISSION

OPERATIONAL STRUCTURE

ENABLING LEGISLATION

The Law Reform Commission was established as a Statutory Authority under the *Law Reform Commission Act 1972*, on 31 October 1972.

RESPONSIBLE MINISTER

The Hon. Michael Mischin MLC LLB (Hons), BJuris (Hons), Attorney General.

Law Reform Commission of Western Australia (the 'Commission') 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* 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.

MISSION

The Commission's mission is to assist in keeping the law up-to-date and relevant to the needs of society.

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.



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.

On February 15 2012, Ms Mary Anne Kenny, having commenced with the Commission in



2006, completed her six year term of office at the Commission. In accordance with s7(3)(a) of the *Law Reform Commission Act 1972*, a member

whose term of office has expired shall be eligible for reappointment, but a member who is a part-time member shall not hold office for a period exceeding six consecutive years.

The Commissioners nominated Mr Richard Douglas to replace Ms Kenny as the Chair of the Commission. Mr Douglas BA(Hons) LLB(Hons) was appointed to the Commission on 1 June 2010. He is a barrister at Francis Burt



Chambers having obtained a Bachelor of Arts and a Bachelor of Laws from the Australian National University. Prior to joining the bar in Western Australia, he practised as a solicitor at Blake Dawson in Perth and as an attorney with Simpson Thacher & Bartlett in New York. He specialises in the areas of civil, commercial and securities litigation and corporate reconstruction and insolvency.

Members

Mr Alan Sefton (BComm, LLB (Hons)) joined the Commission on 26 August 2011. He is an

Adviser employed in the State Solicitor's Office, where he has worked in various capacities since 1992. He provides advice and acts as counsel for the State government and its agencies in relation to a range of matters, principally in areas of administrative law, land compensation, discrimination law, tax law and commercial litigation. He is a graduate of the Australian National University.



Dr Augusto Zimmermann LLB, LLM (PUC-Rio), PhD (Monash) joined the Commission on 12 June 2012. Dr Zimmermann is

a Senior Lecturer and Associate Dean for Research and Postgraduate Studies Director at Murdoch University, School of Law. He is the Founder and President of the Western Australian Legal Theory Association, a Vice-President of the Australian Society of legal Philosophy, and Editor of *The Western Australian Jurist*, a law journal published by Murdoch Law School. Dr Zimmermann was awarded the 2012 Vice Chancellor's Award for Excellence in Research, and Faculty Research Awards in 2010 and 2011.



Members' Fees

The remuneration of Commissioners is set by the Governor in Executive Council. Section 9 of the *Law Reform Commission Act 1972* (WA) states that a member 'shall be paid such remuneration and allowances as the Governor may from time to time determine'.

Fees payable to part-time members from private practice are determined on a formula related to 35 per cent of the median between the highest and lowest points of the salary scale for Associate Professors at a University in the State, as adjusted from time to time.

Fees payable to part-time members from academia are determined on a formula related to 25 per cent of the salary paid to a General Division Class 1 public servant, as adjusted from time to time.

The State Solicitor's Office representative receives no fee.

Former members of the Commission are listed in the Commission's *30th Anniversary Reform Implementation Report 1972-2002*.

Senior Officer

Heather Kay, LLB (UWA), LLM (UWA) (Executive Officer) has been with the Commission for 12 years and is responsible for coordinating administrative and legal research activities, and managing the various references.



OVERVIEW OF THE LAW REFORM COMMISSION

ADMINISTERED LEGISLATION

Key Legislation Impacting on the Law Reform Commission's Activities

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

- Auditor General Act 2006;
- Disability Services Act 1993;
- Electoral Act 1907;
- Equal Opportunity Act 1984;
- Evidence Act 1906; Acts Amendment (Evidence) Act 2000;
- Financial Administration and Audit Act 1985;
- Freedom of Information Act 1992;
- 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;
- The Criminal Code Act 1913; and
- Workers Compensation and Injury Management Act 1981.

In the financial administration of the Law Reform Commission, we have complied with the requirements of the *Financial Management Act 2006* and every other relevant written law, and exercised controls which provide reasonable assurance that the receipt and expenditure of moneys and the acquisition and disposal of public property and incurring of liabilities have been in accordance with legislative provisions.

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

DIVERSIFICATION

The Commission 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 Commission endeavours to use the public tender procedure to select writers, editors and researchers for each project.

PUBLICATIONS

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 the Commission's publications beginning with the most recent. Publication information is available on the Commission's website: www.lrc.justice.wa.gov.au

LEGISLATIVE CHANGE

There were no statutory changes or significant judicial decisions affecting the Commission in 2011–12.

MEETINGS OF THE COMMISSION

The Commission held 10 Project Meetings and five Commission Meetings during the 2011–12 financial year. These meetings were primarily devoted to discussing the progress of the Commission's references on the *Review of Colonial Practice in Western Australia*, the *Community Protection (Offender Reporting) Act 2004*, *Complaints Against Judiciary* and *Representative Proceedings*.

THE STAFF

The Commission has two permanent administrative employees, a part-time Finance Officer, Ms Saras Mohann and a full-time Executive Assistant, Ms Sharne Cranston. Throughout 2011–12 Ms Mohann was on secondment to the Department of Health and the Finance Officer's position remained vacant during this time.

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 the Attorney General. Flexibility enables the Commission to add personnel as necessary to manage the volume of work.

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

Staff 2011–12

Other staff members throughout 2011–12 were:

Heather Anderson
Robert Clarke
Claire Cummings
Alice Drury
Julie Falck
Edward Fearis
Thomas Fearis
Amy Green
Laura Groves
Annabel Lagrange
Cheryl MacFarlane
Clare McKay
Alexander McVey
Julia Moore
Michelle Taylor
Elizerbeth Scaife
Rosie Staude
Nicholas Tiverios
Joanna Vincent
Michael Workman
Joanna Yoon.

The diagram below 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. The Commission's website is located at: www.lrc.justice.wa.gov.au. The administrative office is located at Level 3 of The BGC Centre, 28 The Esplanade, Perth.

CORPORATE SUPPORT

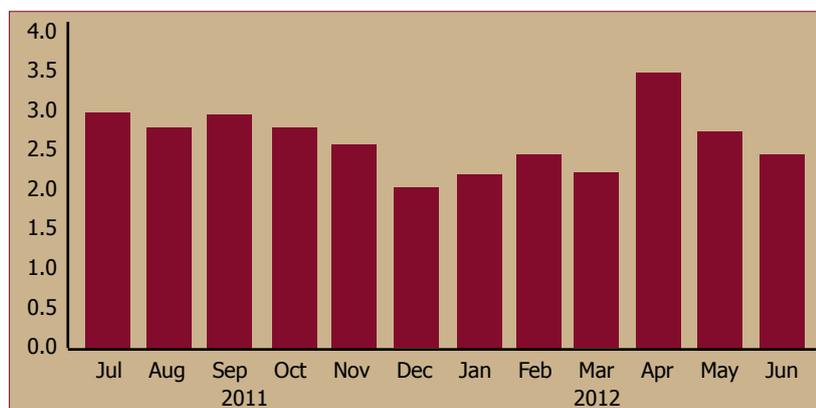
The Commission receives corporate support from the Department of the Attorney General through a service level agreement. This arrangement includes a host of services, including information technology, human resources and financial management.

The Commission acknowledges the valuable contribution made by staff within the Department of the Attorney General for the provision of these services in 2011–12.

CUSTOMER FOCUS OUTCOMES

The Commission's operations 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.

Equivalent Full-Time Employees 2011–2012



OVERVIEW OF THE LAW REFORM COMMISSION

PERFORMANCE MANAGEMENT FRAMEWORK

OUTCOME BASED MANAGEMENT FRAMEWORK

Government Goal:

Outcomes Based Service Delivery – Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.

The Law Reform Commission's desired outcome:

'The law is reviewed as requested by the Attorney General and stakeholders are kept informed' is best aligned with the Government's Goal to provide a 'greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.'

To achieve this outcome, the Commission receives its terms of reference from the Attorney General and performs reviews of selected legislation at the request of the Attorney General. The extent to which the Commission meets the timeframes set 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.

The Commission provides publications on law reform as its service to the Western Australian community. In performing this service the Commission, upon receipt of references from the Attorney General to review particular areas of the law, examines current law and practice, consults widely, issues discussion papers for public comment and prepares reports making recommendations for reform.

CHANGES TO OUTCOME BASED MANAGEMENT FRAMEWORK

The Law Reform Commission's Outcome Based Management Framework did not change during 2011–12.

SHARED RESPONSIBILITIES WITH OTHER AGENCIES

The Law Reform Commission did not share any responsibilities with other agencies in 2011–12.

REPORT ON OPERATIONS

Coronial Practice in Western Australia

In January 2012, the Commission completed its Final Report on the *Review of Coronial Practice in Western Australia* which was tabled in Parliament on 23 February 2012. The Final Report presented 113 recommendations to improve processes and practices in the Coroners Court. The Report was well received by politicians, legal practitioners, family members and the like. On 28 March 2012 the Commission received a letter from the Premier of Western Australia, the Hon Colin Barnett MLA, congratulating it on the Report and advising that a comprehensive assessment of the recommendations for the future operation and funding of the Office of the State Coroner was underway.

Community Protection (Offender Reporting) Act

The Commission also completed its report on *Community Protection (Offender Reporting) Act 2004* in January 2012. The Final Report which was tabled in Parliament on 3 May 2012, presented 20 recommendations which took into account extensive consultations and detailed submissions, and recommended that a degree of flexibility is required and should be incorporated into the Western Australian sex offender registration scheme in order to ensure that it is not unfairly applied to low-risk offenders or less serious offences.

Complaint Against Judiciary

Work has continued on the Commission's reference on *Complaints Against Judiciary*. The Commission has engaged Project Writer the Hon Neville Owen, former Supreme Court Judge, to complete the necessary consultations and to draft a Discussion Paper. The Commission is in the process of finalising the Discussion Paper which it expects to publish in the very near future.

Representative Proceedings

The Commission has completed a thorough research and consultation process and has engaged Project Writer, barrister Tim Hammond to complete a draft Discussion Paper on its reference on *Representative Proceeding*. The Commission expects to publish its Discussion Paper early in the 2012–13 financial year.

AGENCY PERFORMANCE

FINANCIAL TARGETS

ACTUAL RESULTS VERSUS BUDGET TARGETS

| | 2011-12 Target⁽¹⁾ \$000 | 2011-12 Actual \$000 | Variation⁽²⁾ \$000 |
|---|---|-------------------------------------|--|
| Total cost of services (expense limit) (sourced from Income Statement) | 1,007 | 814 | (193) ^(a) |
| Net cost of services (sourced from Income Statement) | 1,007 | 810 | (197) ^(a) |
| Total equity (sourced from Balance Sheet) | 831 | 1,270 | 439 ^(a) |
| Net increase/ (decrease) in cash held (sourced from Cash Flow Statement) | (9) | 289 | 280 ^(a) |
| | No. | No. | No. |
| Approved full-time equivalent (FTE) staff level | 4 | 3 ^(b) | (1) |

(1) As specified in the budget statements for the year in question.

(2) Further explanations are also contained in Note 19 'Explanatory Statement' to the financial statements.

(a) The variation is due in part to delays in the progress of references and associated expenses (research, writing, editing, printing, postage etc) that were budgeted for this financial year but will be carried out in the next financial year.

(b) The decrease is due to the Commission's continued use of contracts for service to engage project writers, researchers and editors.

KEY PERFORMANCE INDICATORS

ACTUAL RESULTS VERSUS BUDGET TARGETS

| Summary of key performance indicators | Target ⁽¹⁾ | Actual | Variation ⁽²⁾ |
|--|---|--|--|
| <p>Outcome: <i>The law is reviewed as requested by the Attorney General and stakeholders are kept informed</i></p> <p>Key Effectiveness Indicator: Progress against target timelines – The extent to which the Commission is meeting the Attorney General’s law reform requests in a timely manner</p> | 100% | 98.215% | (1.785%) |
| <p>Service: <i>Publications on Law Reform</i></p> <p>Key Efficiency Indicator:</p> <p>Average Cost per Publication</p> <p>Total Community Contacts</p> <p>Average Cost per Contact</p> <p>Number of Publications on Law Reform</p> | <p>\$238,668</p> <p>3,000</p> <p>\$16.75</p> <p>4</p> | <p>\$154,666</p> <p>6,642</p> <p>\$6.13</p> <p>5</p> | <p>\$(84,002)</p> <p>3,642</p> <p>\$10.62</p> <p>1</p> |

(1) As specified in the budget statements for the year in question.

(2) Explanations for the variations between target and actual results of individual references are presented on pages 44–47 of this Annual Report.

SIGNIFICANT ISSUES IMPACTING THE AGENCY

CURRENT AND EMERGING ISSUES AND TRENDS

The most fundamental issue for the Law Reform Commission is to assist in keeping the law up-to-date and relevant to the needs of society.

An issue that emerges from this is the need to make law reform as meaningful and effective as possible.

ECONOMIC AND SOCIAL TRENDS

To achieve that end, the Commission continues to make improvements in the areas of:

- wide ranging and unbiased research and analysis;
- effective communication and consultation with the public and stakeholders to identify areas of law in need of reform;
- an accessible and user friendly website; and
- plain English publications.

CHANGES IN WRITTEN LAW

There were no changes in any written law that affected the Commission during the financial year.

LIKELY DEVELOPMENT AND FORECAST RESULTS OF OPERATIONS

The structure of the Commission allows it to conduct research on more than one reference at a time. The Commission is currently undertaking work on two targeted references and has the capacity to undertake additional references in the 2012–13 financial year.

DISCLOSURES AND LEGAL COMPLIANCE



Auditor General

INDEPENDENT AUDITOR'S REPORT

To the Parliament of Western Australia

LAW REFORM COMMISSION OF WESTERN AUSTRALIA

Report on Financial Statements

I have audited the accounts and financial statements of the Law Reform Commission of Western Australia.

The financial statements comprise the Statement of Financial Position as at 30 June 2012, the Statement of Comprehensive Income, Statement of Changes in Equity and Statement of Cash Flows for the year then ended, and Notes comprising a summary of significant accounting policies and other explanatory information.

Commission's Responsibility for the Financial Statements

The Commission is responsible for keeping proper accounts, and the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the Treasurer's Instructions, and for such internal control as the Commission determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the financial statements based on my audit. The audit was conducted in accordance with Australian Auditing Standards. Those Standards require compliance with relevant ethical requirements relating to audit engagements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Commission, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the financial statements are based on proper accounts and present fairly, in all material respects, the financial position of the Law Reform Commission of Western Australia at 30 June 2012 and its financial performance and cash flows for the year then ended. They are in accordance with Australian Accounting Standards and the Treasurer's Instructions.

7th Floor Albert Facey House 469 Wellington Street Perth MAIL TO: Perth BC PO Box 8489 Perth WA 6849 TEL: 08 6557 7500 FAX: 08 6557 7600

Report on Controls

I have audited the controls exercised by the Law Reform Commission of Western Australia during the year ended 30 June 2012.

Controls exercised by the Law Reform Commission of Western Australia are those policies and procedures established by the Commission to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions.

Commission's Responsibility for Controls

The Commission is responsible for maintaining an adequate system of internal control to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of public and other property, and the incurring of liabilities are in accordance with the Financial Management Act 2006 and the Treasurer's Instructions, and other relevant written law.

Auditor's Responsibility

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the controls exercised by the Law Reform Commission of Western Australia based on my audit conducted in accordance with Australian Auditing and Assurance Standards.

An audit involves performing procedures to obtain audit evidence about the adequacy of controls to ensure that the Commission complies with the legislative provisions. The procedures selected depend on the auditor's judgement and include an evaluation of the design and implementation of relevant controls.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the controls exercised by the Law Reform Commission of Western Australia are sufficiently adequate to provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions during the year ended 30 June 2012.

Report on the Key Performance Indicators

I have audited the key performance indicators of the Law Reform Commission of Western Australia for the year ended 30 June 2012.

The key performance indicators are the key effectiveness indicators and the key efficiency indicators that provide information on outcome achievement and service provision.

Commission's Responsibility for the Key Performance Indicators

The Commission is responsible for the preparation and fair presentation of the key performance indicators in accordance with the Financial Management Act 2006 and the Treasurer's Instructions and for such controls as the Commission determines necessary to ensure that the key performance indicators fairly represent indicated performance.

Auditor's Responsibility

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the key performance indicators based on my audit conducted in accordance with Australian Auditing and Assurance Standards.

An audit involves performing procedures to obtain audit evidence about the key performance indicators. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the key performance indicators.

In making these risk assessments the auditor considers internal control relevant to the Commission's preparation and fair presentation of the key performance indicators in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the relevance and appropriateness of the key performance indicators for measuring the extent of outcome achievement and service provision.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the key performance indicators of the Law Reform Commission of Western Australia are relevant and appropriate to assist users to assess the Commission's performance and fairly represent indicated performance for the year ended 30 June 2012.

Independence

In conducting this audit, I have complied with the independence requirements of the Auditor General Act 2006 and the Australian Auditing Standards, and other relevant ethical requirements.

Matters Relating to the Electronic Publication of the Audited Financial Statements and Key Performance Indicators

This auditor's report relates to the financial statements and key performance indicators of the Law Reform Commission of Western Australia for the year ended 30 June 2012 included on the Commission's website. The Commission's management is responsible for the integrity of the Commission's website. This audit does not provide assurance on the integrity of the Commission's website. The auditor's report refers only to the financial statements and key performance indicators described above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements or key performance indicators. If users of the financial statements and key performance indicators are concerned with the inherent risks arising from publication on a website, they are advised to refer to the hard copy of the audited financial statements and key performance indicators to confirm the information contained in this website version of the financial statements and key performance indicators.



DON CUNNINGHAM
ASSISTANT AUDITOR GENERAL ASSURANCE SERVICES
Delegate of the Auditor General for Western Australia
13 September 2011

FINANCIAL STATEMENTS

LAW REFORM COMMISSION OF WESTERN AUSTRALIA

DISCLOSURE AND LEGAL COMPLIANCE

Financial Statements

CERTIFICATION OF FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

The accompanying financial statements of the Law Reform Commission of Western Australia have been prepared in compliance with the provisions of the *Financial Management Act 2006* from proper accounts and records to present fairly the financial transactions for the financial year ending 30 June 2012 and the financial position as at 30 June 2012.

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.



Mr. Alan Andersson
Chief Finance Officer

6 September 2012



Mr. Alan Sefton
Commissioner of Law Reform Commission

6 September 2012



Mr. Richard Douglas
Chairman of Law Reform Commission

6 September 2012

STATEMENT OF COMPREHENSIVE INCOME

For the Year Ended 30 June 2012

| | Note | 2012 \$ | 2011 \$ |
|---|------|------------------|------------------|
| COST OF SERVICES | | | |
| Expenses | | | |
| Employee benefit expenses | 4 | 338,752 | 361,432 |
| Supplies and services | 5 | 314,251 | 382,131 |
| Depreciation and amortisation expense | 6 | 397 | 1,246 |
| Accommodation expenses | 7 | 105,757 | 79,061 |
| Other expenses | 8 | 54,877 | 56,109 |
| Total cost of services | | 814,034 | 879,979 |
| Income | | | |
| Revenue: | | | |
| Other revenue | 9 | 3,743 | 3,319 |
| Total revenue | | 3,743 | 3,319 |
| Total income other than income from State Government | | 3,743 | 3,319 |
| NET COST OF SERVICES | | 810,291 | 876,660 |
| INCOME FROM STATE GOVERNMENT | | | |
| Service appropriation | 10 | 1,007,000 | 971,000 |
| Resources received free of charge | | 85,697 | 62,004 |
| Total income from State Government | | 1,092,697 | 1,033,004 |
| SURPLUS/(DEFICIT) FOR THE PERIOD | | 282,406 | 156,344 |
| TOTAL COMPREHENSIVE INCOME FOR THE PERIOD | | 282,406 | 156,344 |

The Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

FINANCIAL STATEMENTS

STATEMENT OF FINANCIAL POSITION

As at 30 June 2012

| | Note | 2012 \$ | 2011 \$ |
|--------------------------------------|------|------------------|------------------|
| ASSETS | | | |
| Current Assets | | | |
| Cash and cash equivalents | 17 | 1,387,373 | 1,098,182 |
| Receivables | 11 | 8,378 | 10,076 |
| Other current assets | 12 | – | 404 |
| Total Current Assets | | <u>1,395,751</u> | <u>1,108,662</u> |
| Non-Current Assets | | | |
| Property, Plant and Equipment | 13 | – | 397 |
| Total Non-Current Assets | | <u>–</u> | <u>397</u> |
| TOTAL ASSETS | | <u>1,395,751</u> | <u>1,109,059</u> |
| LIABILITIES | | | |
| Current Liabilities | | | |
| Payables | 14 | 30,573 | 35,248 |
| Provisions | 15 | 82,937 | 80,863 |
| Total Current Liabilities | | <u>113,510</u> | <u>116,111</u> |
| Non-Current Liabilities | | | |
| Provisions | 15 | 12,384 | 5,497 |
| Total Non-Current Liabilities | | <u>12,384</u> | <u>5,497</u> |
| TOTAL LIABILITIES | | <u>125,894</u> | <u>121,608</u> |
| NET ASSETS | | <u>1,269,857</u> | <u>987,451</u> |
| EQUITY | | | |
| Contributed equity | 16 | 17,000 | 17,000 |
| Accumulated surplus/(deficit) | | 1,252,857 | 970,451 |
| TOTAL EQUITY | | <u>1,269,857</u> | <u>987,451</u> |

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

STATEMENT OF CHANGES IN EQUITY

For the Year Ended 30 June 2012

| | Note | Contributed equity \$ | Accumulated surplus/(deficit) \$ | Total equity \$ |
|---|------|-----------------------------|--|--------------------|
| BALANCE AT 1 JULY 2010 | 16 | 17,000 | 814,107 | 831,107 |
| Total comprehensive income for the period | | — | 156,344 | 156,344 |
| Balance at 30 June 2011 | | <u>17,000</u> | <u>970,451</u> | <u>987,451</u> |
| BALANCE AT 1 JULY 2011 | | <u>17,000</u> | <u>970,451</u> | <u>987,451</u> |
| Total comprehensive income for the period | | — | 282,406 | 282,406 |
| Balance at 30 June 2012 | | <u>17,000</u> | <u>1,252,857</u> | <u>1,269,857</u> |

The Statement of Changes in Equity should be read in conjunction with the accompanying notes.

STATEMENT OF CASH FLOWS
For the Year Ended 30 June 2012

| | Note | 2012 | 2011 |
|--|------|-------------------------|-------------------------|
| | \$ | \$ | |
| CASH FLOWS FROM STATE GOVERNMENT | | | |
| Service appropriation | | 1,007,000 | 971,000 |
| Holding account drawdowns | | – | 17,000 |
| Net cash provided by State Government | | <u>1,007,000</u> | <u>988,000</u> |
| Utilised as follows: | | | |
| CASH FLOWS FROM OPERATING ACTIVITIES | | | |
| Payments: | | | |
| Employee benefits | | (323,030) | (346,228) |
| Supplies and services | | (294,464) | (368,950) |
| Accommodation | | (105,757) | (79,061) |
| GST payments on purchases | | (37,919) | (44,722) |
| Receipts: | | | |
| Other receipts | | 3,216 | 3,320 |
| GST receipts from taxation authority | | 40,145 | 44,900 |
| Net cash provided by/(used in) operating activities | 17 | <u>(717,890)</u> | <u>(790,741)</u> |
| Net increase/(decrease) in cash held and cash equivalents | | 289,191 | 197,259 |
| Cash and cash equivalents at the beginning of period | | 1,098,182 | 900,923 |
| CASH AND CASH EQUIVALENTS AT THE END OF PERIOD | 17 | <u><u>1,387,373</u></u> | <u><u>1,098,182</u></u> |

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

NOTES TO THE FINANCIAL STATEMENTS

1. Australian Accounting Standards

General

The financial statements for the Law Reform Commission of Western Australia (the "Commission" for the purpose of these notes) for the year ended 30 June 2012 have been prepared in accordance with Australian Accounting Standards. The term 'Australian Accounting Standards' includes Standards and Interpretations issued by the Australian Accounting Standards Board (AASB).

The Commission has adopted any applicable new and revised Australian Accounting Standards from their operative dates.

Early adoption of standards

The Commission cannot adopt an Australian Accounting Standard earlier than the commencement date unless specifically permitted by Treasurer's Instruction [TI] 1101 *Application of Australian Accounting Standards and Other Pronouncements*. There has been no early adoption of Australian Accounting Standards that have been issued or amended (but not yet operative) by the Commission for the annual reporting period ended 30 June 2012.

2. Summary of significant accounting policies

(a) General Statement

The Commission is a not-for-profit reporting entity that prepares general purpose financial statements in accordance with Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the AASB as applied by the TI. Several of these are modified by the TI to vary the application, disclosure, format and wording.

The *Financial Management Act* and the TI are legislative provisions governing the preparation of financial statements and take precedence over Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the AASB.

Where modification is required and has had a material or significant financial effect upon the reported results, details of that modification and the resulting financial effect are disclosed in the notes to the financial statements.

(b) Basis of preparation

The financial statements have been prepared on the accrual basis of accounting using the historical cost convention.

The accounting policies adopted in the preparation of the financial statements have been consistently applied throughout all periods presented unless otherwise stated.

The financial statements are presented in Australian dollars and all values are rounded to the nearest dollar.

(c) Reporting entity

The reporting entity comprises the Commission and no other related bodies.

(d) Contributed Equity

AASB Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities* requires transfers in the nature of equity contributions, other than as a result of a restructure of administrative arrangements, to be designated by the Government (the owner) as contributions by owners (at the time of, or prior to transfer) before such transfers can be recognised as equity contributions. Capital appropriations have been designated as contributions by owners by TI 955 *Contributions by Owners made to Wholly Owned Public Sector Entities* and have been credited directly to Contributed Equity.

(e) Mission

The Commission's mission is to assist in keeping the law up-to-date and relevant to the needs of society.

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

(f) Income

Revenue Recognition

Revenue is recognised and measured at the fair value of consideration received or receivable. The following specific recognition criteria must also be met before revenue is recognised for the major business activities as follows:

Sale of goods

Revenue is recognised from the sale of goods and disposal of other assets when the significant risks and rewards of ownership transfer to the purchaser and can be measured reliably.

Provision of services

Revenue is recognised by the stage of completion of the transaction.

Service Appropriations

Service Appropriations are recognised as revenues at fair value 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 to the bank account or credited to the 'Amounts receivable for services' (holding account) held at Treasury.

Grants, donations, gifts and other non-reciprocal contributions

Revenue is recognised at fair value when the Commission obtains control over the assets comprising the contributions, usually when cash is received.

Other non-reciprocal contributions that are not contributions by owners are recognised at their fair value. Contributions of services are only recognised when a fair value can be reliably determined and the services would be purchased if not donated.

Gains

Realised or unrealised gains are usually recognised on a net basis. These include gains arising on the disposal of non-current assets and some revaluations of non-current assets.

(g) Property, Plant and Equipment

Capitalisation/expensing of assets

Items of property, plant and equipment costing \$5,000 or more are recognised as assets and the cost of utilising assets is expensed (depreciated) over their useful lives. Items of property, plant and equipment costing less than \$5,000 are immediately expensed direct to the Statement of Comprehensive Income.

Initial recognition and measurement

All items of property, plant and equipment are initially recognised at cost. For items of property, plant and equipment acquired at no cost or for nominal cost, the cost is the fair value at the date of acquisition.

Subsequent measurement

After initial recognition as an asset, the cost model is used for the measurement of property, plant and equipment. Items of property, plant and equipment are stated at historical cost less accumulated depreciation and accumulated impairment losses

Depreciation

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

Depreciation is calculated using the straight line method, using rates which are reviewed annually. Expected useful lives for each class of depreciable asset are:

| | |
|------------------|---------------|
| Office equipment | 3 to 10 years |
|------------------|---------------|

(h) **Impairment of Assets**

Property, plant and equipment assets are tested for any indication of impairment at the end of each reporting period. Where there is an indication of impairment, the recoverable amount is estimated. Where the recoverable amount is less than the carrying amount, the asset is considered impaired and is written down to the recoverable amount and an impairment loss is recognised. As the Commission is a not-for-profit entity, unless an asset has been identified as a surplus asset, the recoverable amount is the higher of an asset's fair value less costs to sell and depreciated replacement cost.

The risk of impairment is generally limited to circumstances where an asset's depreciation is materially understated, where the replacement cost is falling, or where there is significant change in useful life. Each relevant class of assets is reviewed annually to verify that the accumulated depreciation/amortisation reflects the level of consumption or expiration of the asset's future economic benefits and to evaluate any impairment risk from falling replacement costs.

(i) **Leases**

The Commission holds an operating lease for offices and a motor vehicle. Operating lease payments are expensed on a straight line basis over lease terms as this represents the pattern of benefits derived from the leased properties.

(j) **Financial Instruments**

In addition to Cash, the Commission has two categories of financial instrument:

- Receivables; and
- Financial liabilities measured at amortised cost.

These have been disaggregated into the following classes:

Financial Assets

- Cash and cash equivalents
- Receivables
- Amounts receivable for services

Financial Liabilities

- Payables

Initial recognition and measurement of financial instruments is at fair value which normally equates to the transaction cost or the face value. Subsequent measurement is at amortised cost using the effective interest method.

The fair value of short-term receivables and payables is the transaction cost or the face value because there is no interest rate applicable and subsequent measurement is not required as the effect of discounting is not material.

(k) **Cash and Cash equivalents**

For the purpose of the Statement of Cash Flows, cash and cash equivalent includes restricted cash and cash equivalent, cash on hand and short-term deposits with original maturities of three months or less that are readily convertible to a known amount of cash and which are subject to insignificant risk of changes in value.

(l) **Accrued salaries**

Accrued salaries (see note 14 'Payables') represent the amount due to staff but unpaid at the end of the financial year. Accrued salaries are settled within a fortnight of the financial year end. The Commission considers the carrying amount of accrued salaries to be equivalent to its net fair value. The last pay day in 2011–12 was 21 June 2012, therefore an accrual of 6 days was provided for this financial year.

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

(m) Amounts receivable for services (holding account)

The Commission receives income from the State Government partly in cash and partly as an asset (holding account receivable). The accrued amount appropriated is accessible on the emergence of the cash funding requirement to cover leave entitlements and asset replacement.

(n) Receivables

Receivables are recognised at original invoice amount less an allowance for any uncollectible amounts (i.e. impairment). The collectability of receivables is reviewed on an ongoing basis and any receivables identified as uncollectible are written-off against the allowance account. The allowance for uncollectible amounts (doubtful debts) is raised when there is objective evidence that the Commission will not be able to collect the debts. The carrying amount is equivalent to fair value as it is due for settlement within 30 days.

(o) Payables

Payables are recognised when the Commission becomes obliged to make future payments as a result of a purchase of assets or services. The carrying amount is equivalent to fair value, as settlement is generally within 30 days.

(p) Provisions

Provisions are liabilities of uncertain timing or amount and are recognised where there is a present legal or constructive obligation as a result of a past event and when the outflow of resources embodying economic benefits is probable and a reliable estimate can be made of the amount of the obligation. Provisions are reviewed at the end of each reporting period.

Provisions – employee benefits

Annual Leave and Long Service Leave

The liability for annual and long service leave expected to be settled within 12 months after the reporting period is recognised and measured at the undiscounted amounts expected to be paid when the liabilities are settled.

Long service leave expected to be settled more than 12 months after the reporting period is measured at the present value of amounts expected to be paid when the liabilities are settled. Leave liabilities are in respect of services provided by employees up to the end of the reporting period.

When assessing expected future payments consideration is given to expected future wage and salary levels including non-salary components such as employer superannuation contributions. In addition, the long service leave liability also considers the experience of employee departures and periods of service.

The expected long service leave future payments are discounted using market yields at the end of the reporting period on national government bonds with terms to maturity that match, as closely as possible, the estimated future cash outflows.

All annual leave and unconditional long service leave provisions are classified as current liabilities as the Commission does not have an unconditional right to defer settlement of the liability for at least 12 months after the reporting period. Conditional long service leave provisions are classified as non-current liabilities because the Commission has an unconditional right to defer the settlement of the liability until the employee has completed the requisite years of service.

Superannuation

The Government Employees Superannuation Board (GESB) administers public sector superannuation arrangements in Western Australia in accordance with legislative requirements. Eligibility criteria for membership in particular schemes for public sector employees varies according to commencement and implementation dates.

Eligible employees contribute to the Pension Scheme, a defined benefit pension scheme, closed to new members since 1987, or the Gold State Superannuation Scheme (GSS), a defined benefit lump sum scheme closed to new members since 1995.

Employees commencing employment prior to 16 April 2007 who were not members of either the Pension Scheme or the GSS became non-contributory members of the West State Superannuation Scheme (WSS). Employees commencing employment on or after 16 April 2007 became members of the GESB Super Scheme (GESBS). From 30 March 2012, existing members of the WSS or GESBS and new employees became able to choose their preferred superannuation fund. The Commission makes concurrent contributions to GESB or other funds on behalf of employees in compliance with the *Commonwealth Government's Superannuation Guarantee (Administration) Act 1992*. Contributions to these accumulation schemes extinguish the Commission's liability for superannuation charges in respect of employees who are not members of the Pension Schemes or GSS.

The GESB makes all benefit payments in respect of the Pension Scheme and GSS, and is recouped from the Treasurer for the employer's share.

Provisions – Other

Employment on-costs, including workers' compensation insurance, are not employee benefits and are recognised separately as liabilities and expenses when the employment to which they relate has occurred. Employment on-costs are included as part of 'Other expenses' and are not included as part of the Commission's 'Employee benefits expense'. The related liability is included in 'Employment on-costs provision'.

(q) Superannuation expense

The superannuation expense in the Statement of Comprehensive Income comprises employer contributions paid to the GSS (concurrent contributions), WSS, the GESBS, or other superannuation fund.

(r) Resources Received Free of Charge or for nominal cost

Resources received free of charge or for nominal cost that can be reliably measured are recognised as income at fair value. Where the resource received represents a service that the Commission would otherwise pay for a corresponding expense is recognised. Receipts of assets are recognised in the Statement of Financial Position.

Assets or services received from State Government agencies are separately disclosed under Income from State Government in the Statement of Comprehensive Income.

(s) Comparative figures

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

3. Disclosure of changes in accounting policy and estimates

Initial application of an Australian Accounting Standard

The Commission has applied the following Australian Accounting Standards effective for annual reporting periods beginning on or after 1 July 2011 that impacted on the Commission.

AASB 1054

Australian Additional Disclosures

This Standard, in conjunction with AASB 2011-1 *Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project*, removes disclosure requirements from other Standards and incorporates them in a single Standard to achieve convergence between Australian and New Zealand Accounting Standards. There is no financial impact.

AASB 2009-12

Amendments to Australian Accounting Standards [AASBs 5, 8, 108, 110, 112, 119, 133, 137, 139, 1023 & 1031 and Interpretations 2, 4, 16, 1039 & 1052].

This Standard makes editorial amendments to a range of Australian Accounting Standards and Interpretations. There is no financial impact.

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

AASB 2010-4

Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project AASB 1, 7, 101 & 134 and Interpretation 13].

The amendments to AASB 7 clarify financial instrument disclosure in relation to credit risk. The carrying amount of financial assets that would otherwise be past due or impaired whose terms have been renegotiated is no longer required to be disclosed. There is no financial impact.

The amendments to AASB 101 clarify the presentation of the Statement of Changes in Equity. The disaggregation of other comprehensive income reconciling the carrying amount at the beginning and the end of the period for each component of equity can be presented in either the Statement of Changes in Equity or the Notes. There is no financial impact.

AASB 2010-5

Amendments to Australian Accounting Standards [AASB 1, 3, 4, 5, 101, 107, 112, 118, 119, 121, 132, 133, 134, 137, 139, 140, 1023 & 1038 and Interpretations 112, 115, 127, 132 & 1042].

This Standard makes editorial amendments to a range of Australian Accounting Standards and Interpretations. There is no financial impact.

AASB 2010-6

Amendments to Australian Accounting Standards - Disclosures on Transfers of Financial Assets [AASB 1 & AASB 7].

This Standard introduces additional disclosures relating to transfers of financial assets in AASB7. An entity shall disclose all transferred financial assets that are not derecognised and any continuing involvement in a transferred asset, existing at the reporting date, irrespective of when the related transfer transaction occurred. There is no financial impact.

AASB 2011-1

Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project [AASB 1, 5, 101, 107, 108, 121, 128, 132 & 134 and Interpretation 2, 112 & 113].

This Standard, in conjunction with AASB 1054, removes disclosure requirements from other Standards and incorporates them in a single Standard to achieve convergence between Australian and New Zealand Accounting Standards. There is no financial impact.

Future impact of Australian Accounting Standards not yet operative

The Commission cannot adopt an Australian Accounting Standard earlier than the commencement date unless specifically permitted by TI 1101 *Application of Australian Accounting Standards and Other Pronouncements*. Consequently, the Commission has not applied early any of the following Australian Accounting Standards that have been issued that may impact the Commission. Where applicable, the Commission plans to apply these Australian Accounting Standards and Interpretations from their application date.

Title

Operating for reporting periods beginning on/after

AASB 9

1 January 2013

Financial Instruments

This Standard supersedes AASB 139 *Financial Instruments: Recognition and Measurement*, introducing a number of changes to accounting treatments.

The Standard was reissued on 6 Dec 2010. The Commission has not yet determined the application or the potential impact of the Standard for agencies.

| Title | Operating for reporting periods beginning on/after |
|--|--|
| <p>AASB 119 <i>Employee Benefits</i></p> <p>This Standard supersedes AASB 119 (October 2010). As the Commission does not operate a defined benefit plan, the impact of the change is limited to measuring annual leave as a long-term employee benefit. The resultant discounting of the annual leave benefit has an immaterial impact.</p> | 1 January 2013 |
| <p>AASB 1053 <i>Application of Tiers of Australian Accounting Standards.</i></p> <p>This Standard establishes a differential financial reporting framework consisting of two tiers of reporting requirements for preparing general purpose financial statements. There is no financial impact.</p> | 1 July 2013 |
| <p>AASB 2009-11 <i>Amendments to Australian Accounting Standards arising from AASB 9 [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 121, 127, 128, 131, 132, 136, 139, 1023 & 1038 and Interpretations 10 & 12].</i> [Modified by AASB 2010-7]</p> | 1 July 2013 |
| <p>AASB 2010-2 <i>Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements 9 [AASB 1, 2, 3, 5, 7, 8, 101, 102, 107, 108, 110, 111, 112, 116, 117, 119, 121, 123, 124, 127, 128, 131, 133, 134, 136, 137, 138, 140, 141, 1050 & 1052 and Interpretations 2, 4, 5, 15, 17, 127, 129 & 1052].</i></p> <p>This Standard makes amendments to Australian Accounting Standards and Interpretations to introduce reduced disclosure requirements for certain types of entities. There is no financial impact.</p> | 1 July 2013 |
| <p>AASB 2010-7 <i>Amendments to Australian Accounting Standards arising from AASB 9 (December 2010)[AASB1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 120, 121, 127, 128, 131, 136, 137, 139, 1023 & 1038 and interpretations 2, 5, 10, 12, 19 & 127]</i></p> <p>This Amending Standard makes consequential adjustments to other Australian Accounting Standards and Interpretations as a result of issuing AASB 9 in December 2010. The Commission has not yet determined the application of the potential impact of the Standard.</p> | 1 January 2013 |
| <p>AASB 2011-2 <i>Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project Reduced Disclosure Requirements [AASB 101 & 1054].</i></p> <p>This Amending Standard removes disclosure requirements from other Standards and incorporates them in a single Standard to achieve convergence between Australian and New Zealand Accounting Standards for reduced disclosure reporting. DTF has not yet determined the application or the potential impact of the amendments to these standards for agencies.</p> | 1 July 2013 |
| <p>AASB 2011-10 <i>Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project (September 2011) [AASB 1, 8, 101, 124, 134, 1049 & 2011-8 and interpretation 14].</i></p> <p>This Amending Standard makes amendments to other Australian Accounting Standards and Interpretations as a result of issuing AASB 119 in September 2011. There is no financial impact.</p> | 1 January 2013 |
| <p>AASB 2011-11 <i>Amendments to AASB 119 (September 2011) arising from Reduced Disclosure Requirements.</i></p> <p>This Standard gives effect to Australian Accounting Standards – Reduced Disclosure Requirements for AASB 119 (September 2011). There is no financial impact.</p> | 1 July 2013 |

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

| | 2012 | 2011 |
|--|------------------|----------------|
| | \$ | \$ |
| 4. Employee benefit expenses | | |
| Wages and Salaries ^(a) | 277,934 | 295,690 |
| Superannuation – defined contribution plans ^(b) | 26,490 | 28,588 |
| Annual leave and long service leave ^(c) | 34,328 | 37,154 |
| | <u>338,752</u> | <u>361,432</u> |
| (a) Includes the value of the fringe benefit to the employee plus the fringe benefits tax component. | | |
| (b) Defined contribution plans include West State, Gold State and GESB Super Scheme (contributions paid) | | |
| (c) Includes superannuation contribution component. | | |
| Employment on-costs liability is included at note 15 'Provisions'. | | |
| 5. Supplies and services | | |
| Communications | 15,516 | 14,270 |
| Goods and supplies | 9,465 | 6,066 |
| Services and contracts | 203,573 | 299,791 |
| Resources received free of charge (note 10) | 85,697 | 62,004 |
| | <u>314,251</u> | <u>382,131</u> |
| 6. Depreciation and amortisation expense | | |
| Office equipment and furnishings | 397 | 1,246 |
| | <u>397</u> | <u>1,246</u> |
| 7. Accommodation expense | | |
| Building rental operating lease | 105,797 | 79,061 |
| | <u>105,757</u> | <u>79,061</u> |
| 8. Other expenses | | |
| Printing | 24,354 | 13,563 |
| Insurance | 3,245 | 8,425 |
| Advertising | 1,005 | 4,150 |
| Office equipment operating lease | 1,999 | – |
| Other expenses ^(a) | 24,274 | 29,971 |
| | <u>54,877</u> | <u>56,109</u> |
| (a) Includes workers compensation insurance; facilities, equipment and plant hire; maintenance expenses; computer licenses; bank fees; freight charges; travel and accommodation; staff training; electricity; and storage and transportation. | | |
| 9. Other revenues | | |
| Vehicle contributions | 3,100 | 2,998 |
| Other revenue received | 643 | 321 |
| | <u>3,743</u> | <u>3,319</u> |
| 10. Income from State Government | | |
| Appropriation revenue received during the year: | | |
| Service appropriations ^(a) | <u>1,007,000</u> | <u>971,000</u> |

| | 2012 | 2011 |
|---|------------------|------------------|
| | \$ | \$ |
| Resources received free of charge ^(b) | | |
| The Department of the Attorney General: Determined on basis of following estimates provided by agencies: | | |
| - The Department of the Attorney General financial, human resources and information technology services | 80,845 | 55,709 |
| - Building Management and Works services related to government accommodation | 4,852 | 6,295 |
| | 85,697 | 62,004 |
| | <u>1,092,697</u> | <u>1,033,004</u> |

(a) Service appropriations fund the net cost of services delivered. Appropriation revenue comprises a cash component and a receivable (asset).

(b) Assets or services received free of charge or for nominal cost, are recognised as revenue at the fair value of the assets and/or that can be reliably measured and which would have been purchased if they were not donated. Contributions of assets or services in the nature of contributions by owners, are recognised direct to equity.

11. Receivables

Current:

| | | |
|----------------------|--------------|---------------|
| GST receivable | 7,852 | 10,076 |
| Receivable | 526 | - |
| Total Current | <u>8,378</u> | <u>10,076</u> |

12. Other asset

Current:

| | | |
|----------------------|----------|------------|
| Prepayments | - | 404 |
| Total Current | <u>-</u> | <u>404</u> |

13. Property, Plant and Equipment

Office equipment

| | | |
|--------------------------|----------|------------|
| At cost | 6,231 | 6,231 |
| Accumulated depreciation | (6,231) | (5,834) |
| | <u>-</u> | <u>397</u> |

Reconciliation

Reconciliation of the carrying amounts of property, plant and equipment at the beginning and end of the reporting period are set out in the table below:

| | | |
|----------------------------------|----------|------------|
| Carrying amount at start of year | 397 | 1,643 |
| Depreciation | (397) | (1,246) |
| Carrying amount | <u>-</u> | <u>397</u> |

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

| | 2012 \$ | 2011 \$ |
|---|---------------|---------------|
| 14. Payables | | |
| Current | | |
| Trade and other creditors | 23,815 | 26,712 |
| Accrued salaries | 6,758 | 8,536 |
| | <u>30,573</u> | <u>35,248</u> |
| 15. Provisions | | |
| Current | | |
| Employee benefit provision | | |
| Annual leave ^(a) | 11,807 | 14,363 |
| Long service leave ^(b) | 62,117 | 59,629 |
| Superannuation on-cost | 6,773 | 6,126 |
| | <u>80,697</u> | <u>80,118</u> |
| Other Provisions – | | |
| Employment on-costs: ^(c) | | |
| Carrying amount at start of period | 745 | 717 |
| Additional provisions recognised | 1,495 | 28 |
| Carrying amount at end of period | <u>2,240</u> | <u>745</u> |
| | <u>82,937</u> | <u>80,863</u> |
| Non-current | | |
| Employee benefits provision: | | |
| Long service leave ^(b) | 11,048 | 5,045 |
| Superannuation on-cost | 1,001 | 401 |
| | <u>12,049</u> | <u>5,446</u> |
| Other Provisions – | | |
| Employment on-costs: ^(c) | | |
| Carrying amount at start of period | 51 | 21 |
| Additional provisions recognised | 284 | 30 |
| Carrying amount at end of period | <u>335</u> | <u>51</u> |
| | <u>12,384</u> | <u>5,497</u> |
| (a) Annual leave liabilities have been classified as current as there is no unconditional right to defer settlement for at least 12 months after the reporting period. Assessments indicate that actual settlement of the liabilities will occur as follows: | | |
| Within 12 months of the end of reporting period | 11,807 | 14,363 |
| | <u>11,807</u> | <u>14,363</u> |
| (b) Long service leave liabilities have been classified as current where there is no unconditional right to defer settlement for at least 12 months after the reporting period. Assessments indicate that actual settlement of the liabilities will occur as follows: | | |
| Within 12 months of the end of reporting period | 62,117 | 59,629 |
| More than 12 months after the reporting period | 11,048 | 5,045 |
| | <u>73,165</u> | <u>64,674</u> |
| (c) The settlement of annual and long service leave liabilities gives rise to the payment of employment on-costs including workers' compensation insurance. The provision is the present value of expected future payments. | | |

16. Equity

Equity represents the residual interest in the net assets of the Commission. The Government holds the equity interest in the Commission on behalf of the community.

Contributed equity:

| | 2012 \$ | 2011 \$ |
|--------------------------------|------------------|----------------|
| Balance at start of period | 17,000 | 17,000 |
| Balance at end of period | <u>17,000</u> | <u>17,000</u> |
| Accumulated surplus/(deficit): | | |
| Balance at start of period | 970,451 | 814,107 |
| Result for the period | 282,406 | 156,344 |
| Balance at end of period | <u>1,252,857</u> | <u>970,451</u> |
| Total equity at end of period | <u>1,269,857</u> | <u>987,451</u> |

17. Notes to the Cash Flow Statement

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 and cash equivalents | 1,387,373 | 1,098,182 |
| | <u>1,387,373</u> | <u>1,098,182</u> |

Reconciliation of net cost of services to net cash flows provided by/ (used in) operating activities

| | | |
|---|------------------|------------------|
| Net cost of services | (810,291) | (876,660) |
| Non-cash items: | | |
| Depreciation and amortisation expense | 397 | 1,246 |
| Resources received free of charge | 85,697 | 62,004 |
| (Increase) / decrease in assets: | | |
| Current receivables | (526) | – |
| Other current assets | 404 | 2,983 |
| Increase / (decrease) in liabilities: | | |
| Current payables | (2,897) | 11,325 |
| Current provisions | 2,074 | 1,236 |
| Accrued salaries | (1,778) | 3,752 |
| Non-current provisions | 6,887 | 3,194 |
| Change in GST receivables/payables | 2,224 | 179 |
| Net cash provided by/(used in) operating activities | <u>(717,809)</u> | <u>(790,741)</u> |

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

| | 2012 | 2011 |
|--|---------------|----------------|
| | \$ | \$ |
| 18. Commitments | | |
| The commitments below are inclusive of GST where relevant. | | |
| Non cancellable operating lease commitments | | |
| Commitments for minimum lease payments are payable as follows: | | |
| Within 1 year | 80,805 | 73,919 |
| Later than 1 year and not later than 5 years | – | 58,431 |
| Later than 5 years | <u>80,805</u> | <u>132,350</u> |

19. Explanatory Statement

Significant variations between estimates and actual results for income and expense are shown below:
Significant variations are considered to be those greater than 5% or \$7,000.

Significant variances between estimate and actual result for the financial year –

| | Estimate 2012 | Actual 2012 | Variation |
|----------------------------|---------------|-------------|-----------|
| | \$ | \$ | \$ |
| Expenses | | | |
| Employee benefits expenses | 394,000 | 338,752 | (55,248) |
| Supplies and Services | 422,000 | 314,251 | (107,749) |
| Accommodation | 95,000 | 105,757 | 10,757 |
| Other expenses | 96,000 | 54,877 | (41,123) |

Employee benefits expenses

The reduction in employee benefits is largely due to the delay in finalising the new references (projects undertaken as requested by the Attorney General) resulting in associated costs relating to research, editing and proof reading not being incurred in the 2011–2012 financial year.

Supplies and services

The supplies and service costs in 2011–2012 are less than the estimate following the delay in the progress of the new projects undertaken as requested by the Attorney General.

Accommodation

The increase in accommodation expenses is mainly due to the increase in variable costs and general rental market associated with the accommodation lease which could not be accurately estimated at the time of the new lease negotiation.

Other expenses

The decrease is mainly due to delays in the progress of references and associated costs relating to travel, printing, postage etc had not been incurred in this financial year 2011-2012.

Significant variances between actual and prior year actual:

| | Actual 2012 | Actual 2011 | Variation |
|----------------------------|-------------|-------------|-----------|
| | \$ | \$ | \$ |
| Expenses | | | |
| Employee benefits expenses | 338,752 | 361,432 | (22,680) |
| Supplies and services | 314,251 | 382,131 | (67,880) |
| Accommodation expense | 105,757 | 79,061 | 26,696 |

Employee benefits expenses

The decrease can be attributed to delayed projects resulting in a decrease in staff and secondment of staff in 2011–2012.

Supplies and services

The decrease is due to fewer new projects being undertaken in 2011–2012 compared to 2010–2011 resulting in lesser expenses relating to services and supplies.

Accommodation expenses

The increase in accommodation expenses is mainly due to the increase in variable costs and general rental market associated with the accommodation lease.

20. Financial instruments

(a) Financial Risk Management Objectives and Policies

Financial instruments held by the Commission are cash and cash equivalents, receivables, and payables. The Commission has limited exposure to financial risks. The Commission's overall risk management program focuses on managing the risks identified below.

Credit risk

Credit risk arises when there is the possibility of the Commission's receivables defaulting on their contractual obligations resulting in financial loss to the Commission.

The maximum exposure to credit risk at end of the reporting period in relation to each class of recognised financial assets is the gross carrying amount of those assets inclusive of any provisions for impairment, as shown in the table at Note 21(c) 'Financial Instruments Disclosures' and Note 11 'Receivables'.

The credit risk associated with the Commission's financial assets is minimal because the main receivable is the amounts receivable for services. The Commission trades only with recognised, creditworthy third parties. It has policies in place to ensure that sales of products and services are made to customers with an appropriate credit history. In addition, receivable balances are monitored on an ongoing basis with the result that the Commission's exposure to bad debts is minimal. At the end of the reporting period, there were no significant concentrations of credit risk.

Liquidity risk

Liquidity risk arises when the Commission is unable to meet its financial obligations as they fall due. The Commission is exposed to liquidity risk through its trading in the normal course of business.

The Commission has appropriate procedures to manage cash flows by monitoring forecast cash flows to ensure that sufficient funds are available to meet its commitments.

Market risk

The Commission is not exposed to interest rate risk because cash and cash equivalents are non-interest bearing and it has no borrowings.

(b) Categories of Financial Instruments

In addition to cash, the carrying amounts of each of the following categories of financial assets and financial liabilities at the end of the reporting period are as follows:

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

| | 2012 \$ | 2011 \$ |
|--|------------------|------------------|
| Financial Assets | | |
| Cash and cash equivalents | 1,387,373 | 1,098,182 |
| Receivables ^(a) | 526 | – |
| | <u>1,387,899</u> | <u>1,098,182</u> |
| Financial Liabilities | | |
| Financial liabilities measured at amortised cost | 30,573 | 35,248 |
| | <u>30,573</u> | <u>35,248</u> |

(a) The amount of loans and receivables excludes GST recoverable from the Australian Taxation Office (statutory receivable).

(c) Financial Instrument disclosures

The following table details the Commission's exposure to credit risk, interest rate exposures and the ageing analysis of financial assets. The Commission's maximum exposure to credit risk at the balance sheet date is the carrying amount of the financial assets as shown below. The table discloses the ageing of financial assets that are past due but not impaired and impaired financial assets. The table is based on information provided to senior management of the Commission.

The Commission does not hold any collateral as security or other credit enhancements relating to the financial assets it holds.

| | Ageing analysis of financial assets | | | | | | |
|----------------------------|--|-------------------------------|---------------|------------|----------------|-------------------|---------------------------|
| | Carrying amount | Interest rate exposure | | | Maturity dates | | |
| | | Non past due and not impaired | Up to 1 month | 1–3 months | 3 mths–1 year | More than 5 years | Impaired financial assets |
| | \$ | \$ | \$ | \$ | \$ | \$ | |
| Financial assets | | | | | | | |
| 2012 | | | | | | | |
| Cash and cash equivalent | 1,387,373 | 1,387,373 | – | – | – | – | |
| Receivables ^(a) | 526 | 526 | 526 | – | – | – | |
| | <u>1,383,899</u> | <u>1,387,899</u> | <u>526</u> | <u>–</u> | <u>–</u> | <u>–</u> | |
| 2011 | | | | | | | |
| Cash and cash equivalent | 1,098,182 | 1,098,182 | – | – | – | – | |
| | <u>1,098,182</u> | <u>1,098,182</u> | <u>526</u> | <u>–</u> | <u>–</u> | <u>–</u> | |

(a) The amount of receivables excludes the GST recoverable from the Australian Taxation Office (statutory receivable).

| | Interest rate exposures and maturity analysis of financial assets^(a) | | | | | | |
|------------------------------|--|------------------------|------------------------|----------------------|------------------|---------------|--------------|
| | Weighted average interest rate | Interest rate exposure | | | Maturity dates | | |
| | | Carrying amount | Variable interest rate | Non bearing interest | Nominal amount | Within 1 year | Over 5 years |
| | % | \$ | \$ | \$ | \$ | \$ | |
| 2012 | | | | | | | |
| Financial assets | | | | | | | |
| Cash and cash equivalents | – | 1,387,373 | – | 1,387,373 | 1,387,373 | – | |
| Receivables ^(a) | – | 526 | – | 526 | 526 | – | |
| | <u>–</u> | <u>1,387,899</u> | <u>–</u> | <u>1,387,899</u> | <u>1,387,899</u> | <u>–</u> | |
| Financial liabilities | | | | | | | |
| Payables | – | 30,573 | – | 30,573 | 30,573 | – | |
| | <u>–</u> | <u>30,573</u> | <u>–</u> | <u>30,573</u> | <u>30,573</u> | <u>–</u> | |

Interest rate exposures and maturity analysis of financial assets ^(a)

| | Interest rate exposure | | | Maturity dates | | | |
|------------------------------|--------------------------------|-----------------|------------------------|----------------------|----------------|---------------|--------------|
| | Weighted average interest rate | Carrying amount | Variable interest rate | Non bearing interest | Nominal amount | Within 1 year | Over 5 years |
| | % | \$ | \$ | \$ | \$ | \$ | \$ |
| 2011 | | | | | | | |
| Financial assets | | | | | | | |
| Cash and cash equivalents | – | 1,098,182 | – | 1,098,182 | 1,098,182 | – | – |
| | – | 1,098,182 | – | 1,098,182 | 1,098,182 | – | – |
| Financial liabilities | | | | | | | |
| Payables | – | 35,248 | – | 35,248 | 35,248 | – | – |
| | – | 35,248 | – | 35,248 | 35,248 | – | – |

(a) The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities.

Interest rate sensitivity analysis:

The Commission is not exposed to interest rate risk because cash and cash equivalents and restricted cash are non-interest bearing.

Fair Values:

All financial assets and liabilities recognised in the Statement of Financial Position, whether they are carried at cost or fair value, are recognised at amounts that represent a reasonable approximation of fair value unless otherwise stated in the applicable notes.

21. Remuneration of members of the accountable authority and senior officers

Remuneration of members of the accountable authority

The number of members of the Commission, whose total of fees, salaries, superannuation, non-monetary benefits and other benefits for the financial year fall within the following bands, are:

| | 2012 | 2011 |
|--|-----------------|-----------------|
| \$ 10,001 - \$ 30,000 | 1 | 1 |
| \$ 30,001 - \$ 50,000 | 1 | 1 |
| Total remuneration of members of the Commission ^(a) | <u>\$54,316</u> | <u>\$61,181</u> |

(a) The total remuneration includes the superannuation expense incurred by the Commission in respect of members of the Commission.

Remuneration of senior officers

The number of senior officers other than senior officers reported as members of the Commission, whose total of fees, salaries, superannuation, non-monetary benefits and other benefits for the financial year fall within the following bands, are:

| | | |
|--|------------------|------------------|
| \$130,001 – \$140,000 | – | 1 |
| \$160,001 – \$170,000 | 1 | – |
| Total remuneration of senior officers ^(a) | <u>\$163,465</u> | <u>\$132,254</u> |

(a) The total remuneration includes the superannuation expense, accrued salaries, leave liabilities, fringe benefits tax payable and taxable value incurred by the Commission in respect of members and senior officers other than senior officers reported as members of the Commission.

No senior officer is a member of the Pension Scheme.

22. Remuneration of Auditor

Remuneration payable to the Auditor General in respect of the audit for the current financial year is as follows:

| | | |
|--|-----------------|-----------------|
| Auditing the accounts, financial statements and performance indicators | <u>\$11,200</u> | <u>\$10,800</u> |
|--|-----------------|-----------------|

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

23. Supplementary Financial Information

- There were no losses of public moneys or other public property through theft or default during the financial year (2011: nil).
- There were no write offs of public money or other public property during the financial year (2011: nil).
- There were no gifts of public property during the financial year (2011: nil).
- There were no contingent liabilities as at 30 June 2012 (2011: nil).
- There were no events occurring after the end of the reporting period.
- The Commission had no related bodies during the financial year (2011: nil).
- The Commission had no affiliated bodies during the financial year (2011: nil).

KEY PERFORMANCE INDICATORS

LAW REFORM COMMISSION OF WESTERN AUSTRALIA

KEY PERFORMANCE INDICATORS
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2012

CERTIFICATION OF PERFORMANCE INDICATORS

I hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Law Reform Commission of Western Australia's performance, and fairly represent the performance of the Law Reform Commission of Western Australia for the year ended 30 June 2012.



Mr. Richard Douglas
Chairman of Law Reform Commission

6th September 2012

KEY PERFORMANCE INDICATORS

SERVICE: PUBLICATIONS ON LAW REFORM

EFFICIENCY INDICATOR: Publications on Law Reform

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

Service: Publications on Law Reform

The delivery of the Commission's service 'Publications on Law Reform' is achieved through the production of various papers and reports (printed reports, web notes, journal articles, leaflets, etc) compiled in relation to references and the extent to which the Commission was able to reach stakeholders and inform them on matters of law reform.

| | Target 2011–2012 | Actual 2011–2012 | 2010–2011 | 2009–2010 |
|------------------------------|---------------------|---------------------|--------------------------|-----------|
| SERVICE: | | | | |
| Total publications | 4 | 5 | 3 | 4 |
| Average cost per publication | \$238,668 | \$154,666 | \$278,660 ^(a) | \$205,656 |
| Total community contacts | 3,000 | 6,642 | 6,449 | 8,298 |
| Average cost per contact | \$16.75 | \$6.13 | \$6.82 ^(b) | \$5.22 |

(a) In the 2010–11 Annual Report this figure was incorrectly transposed and appeared as \$278,600. The correct "average cost per publication" for 2010–11 should have been recorded as \$278,660. The Commission apologises for any inconvenience caused.

(b) In the 2010–11 Annual Report this figure was incorrectly transposed and appeared as \$6.28. The correct "average cost per contact" for 2010–11 should have been recorded as \$6.82. The Commission apologises for any inconvenience caused.

**GOVERNMENT STRATEGIC
GOAL: OUTCOME BASED
SERVICE DELIVERY**

Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.

**THE COMMISSION'S
STRATEGIC OBJECTIVE**

MISSION:

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

DESIRED OUTCOME:

The law is reviewed as requested by the Attorney General and stakeholders are kept informed.

The Commission receives its terms of reference from the Attorney General and performs reviews of selected legislation at the request of the Attorney General. The extent to which the Commission meets the timeframes set 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.

EFFECTIVENESS INDICATOR: Progress against target timelines

The extent to which the Commission is meeting the Attorney General's law reform requests in a timely manner.

The Law Reform Commission carried out work on four references in the year 2011–12. The effectiveness of each of the reference is measured separately as shown below.

KEY PERFORMANCE INDICATORS

REVIEW OF CORONIAL PRACTICE IN WESTERN AUSTRALIA

Table A Key:

- (a) Original planned completion date for the Discussion Paper: The publication of the Discussion Paper was delayed due to the wide-ranging consultations undertaken by the project writer.
- (b) Revised completion date for the Discussion Paper. Following a detailed research and analysis phase, work commenced on the drafting of the Discussion Paper.
- (c) Due to several unexpected delays a draft paper was not received until April 2010. The Commission reviewed the draft and engaged in extensive discussions with the project writer. In June 2010 it became necessary for the Commission to engage a new project writer.
- (d) In September 2010 a Background Paper was released with a view to gaining an insight into the Western Australian community's experience of the coronial jurisdiction.
- (e) The Discussion Paper was completed and released online in June 2011. The hardcopy report was published and distributed in early July 2011.
- (f) A draft Final Report was completed in December 2011.
- (g) The Final Report was published in January 2012 and tabled in Parliament on 23 February 2012. The report was distributed online and in hardcopy following the tabling process.

Table A shows the progress to date, the phases completed and target completion dates for the *Review of Coronial Practice in Western Australia* ("Coroners") reference in 2011–2012.

Table A – Progress Towards Coroners project outcomes

| | |
|-------------------------------|--|
| November 2007 | Review of Coronial Practice in Western Australia Terms of Reference received |
| April 2008 | Appointment of the project writer and pre-contract negotiations |
| July 2009 ^(a) | Intensive consultation and research phase completed |
| December 2009 ^(b) | Discussion Paper expected to be completed |
| April 2010 ^(c) | Draft Discussion Paper received |
| September 2010 ^(d) | Background Paper released |
| June 2011 ^(e) | Discussion Paper completed |
| December 2011 ^(f) | Draft Final Report completed |
| January 2012 ^(g) | Final Report published |

Table B 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 Coroners project completed (elapsed time)

| | | |
|-----------------|----------|------|
| At 30 June 2012 | Target | 100% |
| | Actual | 100% |
| | Variance | NIL |

REVIEW OF COMMUNITY PROTECTION (OFFENDER REPORTING) ACT 2004

Table C Key:

- (a) The original planned completion date for the Discussion Paper was September 2010. This completion date had to be revised to December 2010 to enable the project writer time to conduct further consultations with interested stakeholders and to undertake travel to various regional locations where relevant cases had occurred. The Discussion Paper was finally completed two months later in February 2011.
- (b) Due to the delay in the completion of the Discussion Paper, the Commission anticipated the Final Report to be completed by December 2011.
- (c) The draft Final Report was completed in December; however, the report was finalised and published in January 2012.

Table C shows the progress to date, the phases completed and target completion dates for the *Review of Community Protection (Offender Reporting) Act 2004* reference in 2011–2012.

Table C – Progress towards Community Protection project outcomes

| | |
|------------------------------|---|
| April 2009 | Review of Community Protection (Offender Reporting) Terms of Reference received |
| May 2009 | Foundation research commenced |
| December 2010 ^(a) | Discussion Paper to be completed |
| February 2011 | Discussion Paper was completed |
| December 2011 ^(b) | Final Report is to be completed |
| January 2012 ^(c) | Final Report was completed and published |
| May 2012 | Final Report was tabled in Parliament |

Table D shows the percentage of the project completed in terms of elapsed time, and should be read in conjunction with Table C above.

Table D – Percentage of Community Protection project completed (elapsed time)

| | | |
|-----------------|----------|------|
| At 30 June 2012 | Target | 100% |
| | Actual | 100% |
| | Variance | NIL |

KEY PERFORMANCE INDICATORS

COMPLAINTS AGAINST JUDICIARY

Table C Key:

- (a) The delay in engaging a project writer resulted in a delay in completing the draft Discussion Paper by the expected December 2011 deadline.
- (b) The Discussion Paper is now expected in July 2012.

Table E shows the progress to date, the phases completed and target completion dates for the *Complaints Against Judiciary* reference in 2011–2012.

Table E – Progress towards Complaints Against Judiciary project outcomes

| | |
|------------------------------|--|
| May 2011 | Complaints Against Judiciary Terms of Reference signed on 30 May 2011. |
| June 2011 | Foundation research commenced |
| September 2011 | Project Writer engaged |
| December 2011 ^(a) | Discussion Paper due to be completed |
| July 2012 ^(b) | Discussion Paper is to be completed |
| August 2013 | Final Report due to be completed |

Table F shows the percentage of the project completed in terms of elapsed time, and should be read in conjunction with Table E above.

Table F – Percentage of Complaints Against Judiciary project completed (elapsed time)

| | | |
|-----------------|----------|--------|
| At 30 June 2012 | Target | 100% |
| | Actual | 92.86% |
| | Variance | -7.14% |

REPRESENTATIVE PROCEEDINGS

Table G shows the progress to date, the phases completed and target completion dates for the *Representative Proceedings* reference in 2011–2012.

Table G – Progress towards Representative Proceedings project outcomes

| | |
|---------------|--|
| July 2011 | Representative Proceedings Terms of Reference signed on 6 July 2011. |
| August 2011 | Foundation research commenced |
| October 2011 | Project Writer engaged |
| June 2012 | Discussion Paper due to be completed |
| February 2013 | Final Report due to be completed |

Table H shows the percentage of the project completed in terms of elapsed time, and should be read in conjunction with Table G above.

Table H – Percentage of Representative Proceedings project completed (elapsed time)

| | | |
|-----------------|----------|-----|
| At 30 June 2012 | Target | 60% |
| | Actual | 60% |
| | Variance | NIL |

OTHER FINANCIAL DISCLOSURES

CAPITAL WORKS

The Commission has no capital works projects.

EMPLOYMENT AND INDUSTRIAL RELATIONS

Staff Profile

| | 2011–12 | 2010–11 |
|------------------------------------|---------|---------|
| Full-time permanent | 2 | 2 |
| Full-time contract | Nil | Nil |
| Part-time measured on an FTE basis | Nil | 0.6 |
| On secondment | 0.6 | Nil |

Staff Development

The Commission has a commitment to the development and training of its employees to ensure a highly skilled, professional and fair workforce with the ability to adapt to changing business technology and the environment.

Workers Compensation

No workers compensation claims were recorded during the financial year.

GOVERNMENT DISCLOSURES

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

OTHER LEGAL REQUIREMENTS

ADVERTISING AND SPONSORSHIP

In accordance with section 175ZE of the *Electoral Act 1907* (WA), the Law Reform Commission incurred the following expenditure in relation to advertising and sponsorship during the 2011–12 Financial Year.

| | |
|---------------------------------|-----|
| Advertising agencies | Nil |
| Market research organisations | Nil |
| Polling organisations | Nil |
| Direct mail organisations | Nil |
| Media advertising organisations | Nil |
| Total | Nil |

DISABILITY ACCESS AND INCLUSION PLAN OUTCOMES

The Commission is committed to ensuring professional and appropriate services are provided to meet the needs of community members with physical, intellectual, sensory or cognitive disabilities, their carers and families. Our staff deliver the same level and quality of service and advice, with a full awareness and understanding of the needs of people with disabilities.

The Commission's office located on Level 3 of the BGC Centre, at 28 The Esplanade, Perth has wheelchair access, with lift access to the upper floors and convenient public parking nearby.

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, has created greater flexibility in the Commission's working arrangements.

In accordance with the Commission's community outreach program, all public meeting venues are selected 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.

COMPLIANCE WITH PUBLIC SECTOR STANDARDS AND ETHICAL CODES

The Commission has complied with Section 31(1) of the *Public Sector Management Act 1994* in the administration of the Commission's human resource management practices relating to Public Sector Standards, the Western Australian Public Sector Code of Ethics and the Commission's Code of Conduct. The Commission utilises the Department of the Attorney General's (DotAG) human resource services and is confident that DotAG's human resource management principles have adequate checks in place to ensure compliance requirements are met.

The Commission has adopted the Public Sector Standards template Code of Conduct for government boards. Various measures are in place to ensure Commission staff are familiar with the WA Code of Ethics and the Commission's Code of Conduct. The Commission's Code of Conduct is available upon induction to all employees and responsibilities are included in job descriptions. Compliance is monitored by the Executive Officer.

In 2011–12 no breach claims were lodged in relation to either the Public Sector Standards or the WA Code of Ethics.

GOVERNMENT POLICY REQUIREMENTS

RECORDKEEPING PLAN

In accordance with the *State Records Act 2000*, section 29, the Law Reform Commission reviewed its Recordkeeping Plan (RKP) and provided a report to the State Records Commission as evidence of the evaluation of its recordkeeping practices. The report was tabled at the State Records Commission meeting on 22 June 2009. In accordance with Part 3, Division 4 of the Act, the Commission must review its RKP every five years or when there is any significant change to the organisation's functions. A report of the next review must therefore be submitted by the Commission to the State Records Office by 22 April 2014.

The Commission's RKP provides an accurate reflection of its recordkeeping program and is complied with by all staff. 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. The Commission's induction manual is reviewed periodically or when there are any significant changes to the Commission's functions.

SUBSTANTIVE EQUALITY

Although the Law Reform Commission is not required to negotiate annually the scope of implementation for The Policy Framework for Substantive Equality with the Commissioner for Equal Opportunity, the Commission is aware of the intent and substance of the Policy Framework.

The Commission supports the objective of the Policy Framework to achieve substantive equality in the Western Australian public sector by:

- eliminating systematic racial discrimination in the provision of public sector services; and
- promoting sensitivity to the different needs of client groups.

OCCUPATIONAL HEALTH AND SAFETY

The Commission is committed to meeting its obligations and responsibilities under the *Workers' Compensation and Injury Management Act 1981*, the *Occupational Safety and Health Act 1984* and the *Occupational Safety and Health Regulations 1996* in such a manner that it ensures the provision and maintenance of a safe and healthy work environment for its employees and the general public.

As the Commission's core staff are small in number (2.6 FTE in total), training opportunities have been limited. Although an external audit of the Commission's occupational safety and health management systems has also not occurred, the Commission continues to provide a safe and secure working environment for employees. Staff are expected to comply with the Code of Practice – Occupational Safety and Health in the WA Public Sector and to conduct themselves in a safe manner, not placing themselves and others at risk. During the 2011–12 reporting period, no worker's compensation claims were lodged nor was any time lost from work as a result of illness or injury.

In the event of a work-related injury, the Commission would provide effective claims management and rehabilitation assistance aimed at supporting the injured employee through the illness or injury to ensure a safe return to work, where possible.

The Commission is committed to consulting with staff in a meaningful and effective manner on occupational safety and health (OSH) issues, enabling each member of staff to contribute to decisions that may affect their health, safety and welfare at work.

ANNUAL PERFORMANCE FOR 2011–12

| INDICATOR | ACTUAL | TARGET 2010–11 |
|--|--------|------------------------------|
| Number of fatalities | 0 | 0 |
| Lost time injury/diseases (LT/D) incidence rate | 0 | 0 |
| Lost time injury severity rate | 0 | 0 |
| Percentage of injured workers returned to work within 28 weeks | 100% | 100% |
| Percentage of managers trained in occupational safety, health and injury management responsibilities | 100% | Greater than or equal to 80% |

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 received, the Commission engages specialists with experience and expertise to increase the overall efficiency of the reviews. The Commission utilises a project-based model which allows for the management of multiple references.

REVIEW OF CORONIAL PRACTICE IN WESTERN AUSTRALIA – PROJECT 100

Presently the Commission employs a full-time Executive Officer, a full-time Executive Assistant and a part-time Finance Officer and engages additional temporary staff as needed to assist with particular projects. The Commission 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 Commission endeavours to use the public tender procedure to select writers, editors and researchers for each project.

I, Jim McGinty, Attorney General for the State of Western Australia, having regard to s 57 of the *Coroners Act 1996* (WA), hereby refer the following matter to the Law Reform Commission of Western Australia.

The Law Reform Commission of Western Australia is to review and report on the jurisdiction and practices of the coronial system in Western Australia, including the operation of the *Coroners Act 1996* (WA) ('the Act').

In carrying out its review, the Commission should consider:

- (a) any areas where the Act can be improved;
- (b) any desirable changes to jurisdiction, practices and procedures of the

Coroner and the office that would better serve the needs of the community;

- (c) any improvements to be made in the provision of support for the families, friends and others associated with a deceased person who is the subject of a coronial inquiry, including but not limited to, issues regarding autopsies, cultural and spiritual beliefs and practices; and counselling services, etc;
- (d) the provision of investigative, forensic and other services in support of the coronial function; and
- (e) any other related matter.

JIM MCGINTY MLA,
4 November 2007

The Commission completed its *Review of Coronial Practice in Western Australia* with the publication of its Final Report in January 2012. The Report was tabled in Parliament on 23 February 2012 and made 113 recommendations for reform of coronial practice in Western Australia. The Final Report provided a comprehensive and thorough review of the coronial process, with a view to improving transparency and accountability of the Coroners Court, public confidence in the coronial system and ultimately innovation in coronial law and practice for all Western Australians.

**COMMUNITY PROTECTION
(OFFENDER REPORTING)
ACT 2004 –
PROJECT 101**

I, Christian Porter, Attorney General for the State of Western Australia, hereby refer the following matter to the Law Reform Commission of Western Australia.

The Law Reform Commission of Western Australia is to examine and report upon the application of the *Community Protection (Offender Reporting) Act 2004*:

- (a) reportable offenders who are children when they commit the relevant reportable offence; and
- (b) reportable offenders who are over the age of 18 years of age when they commit the reportable offence in circumstances which are

exceptional (for example persons who commit a reportable offence involving consensual sexual activity with a person, not being under the care, supervision or authority of the offender who the offender honestly and reasonably, but mistakenly, believed to be of or over the age of 16 years at the time the relevant reportable offence was committed).

And to report on the adequacy of, and on any desirable changes to, the existing law, practices and procedures in relation thereto having due regard to the necessity to preserve the central aims and efficacy of the legislation.

Christian Porter MLA
April 2009

The Commission completed its reference on the *Community Protection (Offender Reporting) Act 2004* by publishing its Final Report in January 2012. The Report was later tabled in Parliament on 3 May 2012 and made 20 recommendations for reform of the *Community Protection (Offender Reporting) Act 2004* that were designed to introduce a degree of discretion and assessment of risk to ensure that it is only applied to those offenders from whom the community must be protected.

COMPLAINTS AGAINST JUDICIARY – PROJECT 102

I, Christian Porter, Attorney General for the State of Western Australia, refer the following matter to the Law Reform Commission of Western Australia.

The Law Reform Commission of Western Australia is to examine and report upon whether, and if so in what manner, the principles, practices and procedures pertaining to complaints or allegations of misbehaviour or incapacity against State judicial officers in Western Australia require reform and the responses to any such conduct, and in particular giving close consideration to:

- (i) the need to protect and preserve the independence and impartiality of State courts from the executive and legislative branches of government;
- (ii) the benefits of establishing a system for dealing with such complaints and allegations that is efficient, accessible, transparent and accountable;
- (iii) the need to ensure that any system for dealing with such

complaints and allegations is suited to the conditions in Western Australia, having regards to the number of serving State judicial officers and the number of complaints or allegations warranting investigation that may be expected to arise;

- (iv) the need to develop standardised and consistent procedures when dealing with such complaints, thus reducing the potential for allegations of bias to be made in relation to procedures which are developed after the complaint or allegation is made;
- (v) the recent establishment of judicial complaints systems in other jurisdictions both nationally and internationally;

And to report on the adequacy of, and on any desirable changes to, the existing principles, practices and procedures in relation thereto.

Christian Porter MLA
30 May 2011

Work has continued on the Commission's reference on *Complaints Against Judiciary*. After thorough research of the area was completed, the Commission engaged project writer the Hon Neville Owen, former Supreme Court Judge to complete a Discussion Paper on the reference. His Honour's distinguished legal and judicial career made him an obvious choice as a writer on this particular reference. To date, the Commission has carried out extensive consultations and is in the process of finalising a draft Discussion Paper.

REPRESENTATIVE PROCEEDINGS – PROJECT 103

I, Christian Porter, Attorney General for the State of Western Australia, having regard to the fact that O 18 r 12 of the Supreme Court Rules (WA) makes some provision in respect of representative proceedings hereby refer the following matter to the Law Reform Commission of Western Australia.

The Law Reform Commission of Western Australia is to examine and report upon whether, and if so in what manner, the principles, practices and procedures pertaining to representative proceedings require reform, and in particular giving close consideration to:

- (i) the need for a detailed guiding framework for the manner in which representative proceedings are to be conducted or concluded;
- (ii) the need to reduce the uncertainty and lack of clarity in the area;
- (iii) the adoption of an appropriate and effective model, either

through amendment to the Supreme Court Rules or statutory reform, taking into account recent developments regarding representative proceedings in other jurisdictions both nationally and internationally;

- (iv) the need to ensure that representative proceedings are conducted in a fair manner which gives those who will be bound by orders made in the proceedings a reasonable opportunity to decide whether or not to participate in the proceedings and to be heard in relation to issues affecting their rights;
- (v) any related matter;

And to report on the adequacy thereof and on any desirable changes to the existing law, practices and administration in relation thereto.

Christian Porter MLA
6 July 2011

The Commission has engaged barrister Tim Hammond as project writer for the *Representative Proceedings* reference. To date the Commission has completed extensive foundation research and a consultation process and is now finalising a draft Discussion Paper.

APPENDIX II: PUBLICATIONS

FOLLOWING IS A LIST OF REPORTS AND DISCUSSION PAPERS PRODUCED BY THE LAW REFORM COMMISSION.

| Year | Topic | Ref No | Publication type |
|------|---|---------|-----------------------------|
| 2012 | Review of Community Protection (Offender Reporting) Act 2004 | 101 | CD-ROM |
| | Review of Coronial Practice in Western Australia | 100 | CD-ROM |
| | Review of Community Protection (Offender Reporting) Act 2004 | 101 | Final Report |
| | Review of Coronial Practice in Western Australia | 100 | Final Report |
| 2011 | Review of Community Protection (Offender Reporting) Act 2004 | 101 | Discussion Paper |
| | Review of Coronial Practice in Western Australia Annual Report 2010–11 | 100 | Discussion Paper |
| 2010 | Review of Coronial Practice in Western Australia | 100 | Background Paper |
| | Selection, Eligibility and Exemption of Jurors | 99 | Final Report |
| | Selection, Eligibility and Exemption of Jurors: Discussion Paper, Final Report Annual Report 2009–10 | 99 | CD-ROM |
| 2009 | Selection, Eligibility and Exemption of Jurors | 99 | Discussion Paper |
| | Problem-Oriented Courts: Court Intervention Programs | 96 | Final Report |
| | Court Intervention Programs - Consultation Paper | 96 | CD-ROM |
| | Court Intervention Programs - Consultation Paper and Final Report Annual Report 2008–2009 | 96 | CD-ROM |
| 2008 | Compensation for Injurious Affection | 98 | Final Report |
| | Problem-Oriented Courts (H Blagg) | 96 | Research Paper |
| | Problem-Oriented Courts: Court Intervention Programs Annual Report 2007–2008 | 96 | Consultation Paper |
| 2007 | Law Reform Process (in 10 languages) | | Brochures |
| | Review of the Law of Homicide | 97 | Report |
| | Compensation for Injurious Affection Annual Report 2006–2007 | 98 | Discussion Paper |
| 2006 | Aboriginal Customary Laws: Final Report | 94 | Report |
| | Aboriginal Customary Laws: Promotional Flyers | 94 | |
| | Review of the Law of Homicide | 97 | Issues Paper |
| | Aboriginal Customary Laws: Discussion Paper Overview | 94 | Report |
| | Aboriginal Customary Laws: Background Papers (complete volume) Annual Report 2005–2006 | 94 | Background Papers |
| 2005 | Aboriginal Customary Laws | 94 | Discussion Paper |
| | Aboriginal Customary Laws: Background Papers Nos. 4–15 Annual Report 2004–2005 | 94 | Background Papers |
| 2004 | Aboriginal Customary Laws: Thematic Summaries – Metropolitan Consultations | 94 | Consultation Report |
| | Aboriginal Customary Laws: Thematic Summaries – Community Consultations | 94 | Consultation Reports |
| | Aboriginal Customary Laws: Background Paper No. 3 Annual Report 2003–2004 | 94 | Background Paper |
| 2003 | Aboriginal Customary Laws: Background Papers Nos. 1 & 2 Annual Report 2002–2003 | 94 | Background Papers 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 Annual Report 2002–2003 | 93 | Report |

| Year | Topic | Ref No | Publication type |
|------|---|--|---|
| 2002 | 30th Anniversary Reform Implementation Report Reports and Working Papers 1972–2002 Boxed set containing all LRCWA publications – Project Nos 1–92 Judicial Review of the Administrative Decisions Contempt in the Face of the Court Contempt by Publication Annual Report 2001–2002 | 95 93(I) 93(II) | Report CD-ROM CD-ROM Discussion Paper Discussion Paper Discussion Paper Report |
| 2001 | Writs and Warrants of Execution Annual Report 2000–2001 | 67 | Report Report |
| 2000 | 19th Australian Law Reform Agencies Conference Annual Report 1999–2000 | | CD-ROM Report |
| 1999 | Review of the Criminal and Civil Justice System: • Final Report • Consultation Drafts (2 volumes) • Project Summary • Executive Summary • Submissions Summary • 2 CDs, containing reports in electronic format Annual Report 1998–1999 | 92 | Report Report Report Report CD-ROM Report |
| 1998 | Financial Protection in the Building and Construction Industry Sale of Goods Act 1895 Reforming the Justice System Annual Report 1997–1998 | 82 89 92 | Report Report Issues Paper Report |
| 1997 | Limitation and notice of actions Restrictive covenants Annual Report 1996–1997 | 36 Pt II 91 | Report Report Report |
| 1996 | Annual Report 1995–1996 | | Report |
| 1995 | Enforcement of judgments of Local Courts Enforcement of judgments of Local Courts Restrictive covenants Implied terms in the Sale of Goods Act 1895 Equitable rules in contracts for the sale of goods Financial protection in the building and construction industry Annual Report 1994–1995 | 16 Pt II 16 Pt II 91 89 89 82 | Working Paper Report Discussion Paper Discussion Paper Discussion Paper Discussion Paper |
| 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 |

PUBLICATIONS

| Year | Topic | Ref No | Publication type |
|------|--|--|--|
| 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 Interest on judgments Absconding Debtors Act Annual Report 1980–1981 | 11 26 Pt II 34 Pt V 62 65 70 73 | Report Working Paper Working Paper Report Working Paper Report Report Report |

| Year | Topic | Ref No | Publication type |
|------|--|-----------|--------------------------------|
| 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 Annual Report 1979–1980 | 73 | Working Paper 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 Retention of court records | 64 72 | Report 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 Annual Report 1977–1978 | 71 | Working Paper 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 Annual Report 1976–1977 | 64 | Working Paper 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 Annual Report 1975–1976 | - | Report 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 Local body election practices | 49 52 | Working Paper Working Paper |

PUBLICATIONS

| Year | Topic | Ref No | Publication type |
|---------------------------|--|---------------|---------------------|
| 1975 | 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 |
| | 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 |

| Year | Topic | Ref No | Publication type |
|------|--|--------|------------------|
| | 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

FOLLOWING IS THE HISTORY OF REFERENCES RECEIVED BY THE LAW REFORM COMMISSION OF WESTERN AUSTRALIA AND THE LEGISLATIVE ACTION ON THE REPORTS FROM 1968–2009.

| No. | 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; | <i>Sale of Land Act 1970</i> |
| 1 (Pt II) | Retention of Trust Money by Land Agents WP: June 1972 [see Ref No 37] | (2) (Supplementary report) A person be prohibited from selling subdivisinal land containing five or more lots unless that person is the registered proprietor of that land. 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 <i>Sale of Land Act 1970</i> be amended so as to apply to the sale of strata title lots. ¹ | <i>Acts Amendment (Strata Titles) Act 1985</i> |
| 2 | Testator's Family Maintenance Act Referred: 1968 WP: December 1968 Report: August 1970 | The classes of possible claimants under the <i>Testator's Family Maintenance Act</i> be widened as specified. | <i>Inheritance (Family and Dependants Provision) Act 1972</i> |
| 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. | <i>Administration Act Amendment Act 1971; Property Law Act Amendment Act 1971; Wills Act Amendment Act 1971</i> |
| 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. | <i>Justices Act Amendment Act 1976</i> |
| 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. ² | |
| 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. | <i>Criminal Code Amendment Act 1972; Justices Act Amendment Act 1972; Child Welfare Act Amendment Act (No 2) 1972</i> |
| 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. | <i>Disposal of Uncollected Goods Act 1970</i> |

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).
2. The *Motor Vehicle (Third Party Insurance) Act Amendment Act (No 2) 1969* enacts legislation covering one of the recommendations in this report.

| No. | Project | Recommendations | Legislative Action |
|-----|---|---|--|
| 8 | <p>Defamation Referred: 1968</p> <p>Privileged Reports WP: July 1969 Report: August 1972</p> <p>Defamation Report: October 1979</p> | <p>The class of privileged reports of legislative and judicial proceedings, conferences and meetings be extended in specified ways.</p> <p>A uniform defamation code be enacted which reforms the law both in respect of matters of substance and of procedure.³</p> | <p><i>Criminal Code Amendment Act 1977 s 2</i></p> <p><i>Defamation Act 2005</i></p> |
| 9 | <p>Statute Law Revision Referred: 1968</p> | Withdrawn | |
| 10 | <p>Motor Vehicle Insurance Referred: 1968 WP: May 1972 Report: December 1972</p> | That the law of motor vehicle insurance be amended in specified ways in the interests of the insured. ⁴ | |
| 11 | <p>Liability for Stock Straying on to the Highway 1st Referred: 1969 1st WP: June 1970 1st Report: Dec 1970 2nd Referred: 1978 2nd WP: August 1980 2nd Report: June 1981</p> | 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. | <i>Highways (Liability for Straying Animals) Act 1983; Dog Amendment Act 1983</i> |
| 12 | <p>Payment of Costs in Criminal Cases Referred: 1969 WP: March 1972 Report: August 1972</p> | This report recommended introducing legislation making the Crown liable to pay costs when a complaint is dismissed or withdrawn in summary proceedings. ⁵ | <i>Official Prosecutions (Defendants' Costs) Act 1973</i> |
| 13 | <p>Affiliation Proceedings Referred: 1969 Report: March 1970</p> | That statutory provision be made for blood tests in affiliation proceedings. | <i>Family Court Act 1975 s 82E</i> |
| 14 | <p>Offices of Profit Under The Crown Referred: 1969 Report: March 1971</p> | 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. | <i>Acts Amendment and Repeal (Disqualification for Parliament) Act 1984</i> |

3. 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 Generals. In 2005 and 2006, each state and territory enacted their respective Defamation Acts with identical provisions, unifying defamation legislation nationally as of 1 January 2006.
4. The major recommendations in this report were implemented administratively by the State Government Insurance Commission.
5. 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.

HISTORY OF REFERENCES

| No. | Project | Recommendations | Legislative Action |
|------------|--|---|---|
| 15 | Imposition of Driving Disqualifications Referred: 1969 WP: 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 | Local Courts Act and Rules Referred: 1969 | | |
| 16 (Pt I) | Local Courts WP: April 1983 Report: June 1988 | That Local Courts and Courts of Petty Sessions be merged, ⁶ and that the jurisdiction, procedure and administration of Local Courts be reformed along specified lines. | <i>Magistrates Court Act 2004; Courts Legislation Amendment and Repeal Act 2004; Magistrates Court (Civil Proceedings) Act 2004</i> |
| 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. ⁷ | |
| 17 | Motor Car Manslaughter Referred: 1969 WP: June 1970 Report: August 1970 | That except for minor drafting amendments, the relevant provisions of the Criminal Code be left unaltered. | <i>Criminal Code Amendment Act 1972 ss 277, 291A, 595; Road Traffic Act 1974 s 59</i> |
| 18 | Commercial Arbitration and Commercial Causes Referred: 1969 WP: October 1971 Report: January 1974 | That the <i>Arbitration Act</i> be revised as specified. | <i>Commercial Arbitration Act 1985</i> |
| 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. ⁸ | |
| 21 | Associations Incorporation Act Referred: 1971 WP: June 1971 Report: March 1972 | That the <i>Associations Incorporation Act</i> be revised as specified. | <i>Associations Incorporation Act 1987</i> |
| 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. ⁹ | |

6. 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).
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: Attorney General, *Media Statement*, 26 September 1985.

| No. | Project | Recommendations | Legislative Action |
|-------------|---|--|---|
| 23 | Legal Representation of Children Referred: 1971 WP: March 1972 Report: June 1972 | That courts be empowered to order the separate representation of children. | <i>Legal Representation of Infants Act 1977; Suitors' Fund Act Amendment Act 1977</i> |
| 24 | Succession Rights of Adopted Children Referred: 1971 WP: April 1971 Report: July 1971 | That the <i>Adoption Act 1994</i> 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. | <i>Adoption of Children Act Amendment Act 1971</i> ss 13, 14, 15; <i>Adoption Act 1994</i> <i>Property Law Act 1969</i> |
| 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. | <i>Age of Majority Act 1972</i> |
| 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. ¹⁰ | |
| 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. ¹¹ | |
| 26 (Pt III) | New Rights of Appeal | Withdrawn 1986 | |
| 27 (Pt I) | Admissibility in Evidence of Computer Records Referred: 1971 WP: 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. | <i>Evidence Amendment Act 1987</i> |
| 27 (Pt II) | Admissibility in Evidence of Reproductions | Withdrawn 1983 | |
| 28 | Formalities of Oaths, Declarations and Attestation of Documents Referred: 1972 | | |

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: Attorney General, *News Statement*, 5 September 1984.

10. The State Administrative Tribunal was established under the *State Administrative Tribunal Act 2004* (WA), the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* and various enabling Acts which give the SAT the jurisdiction to review decisions, consider disciplinary matters or make original decisions.

11. See Project No. 95

HISTORY OF REFERENCES

| No. | Project | Recommendations | Legislative Action |
|-------------|---|--|--|
| 28 (Pt I) | Official Attestation of Forms and Documents WP: 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. | <i>Oaths, Affidavits and Statutory Declarations Act 2005</i> s15 |
| 28 (Pt II) | Formalities of Oaths, Declarations and Attestation of Documents | Withdrawn 1983 | |
| 29 | Special Constables Referred: 1972 WP: June 1974 Report: March 1975 | That the law and practice as to appointment and control of special constables be revised as specified. | |
| 30 | Imposition of Fines Referred: 1972 | Withdrawn 1982 | |
| 31 | Competence and Compellability of Spouses as Witnesses Referred: 1972 WP: February 1974 Report: January 1977 | That the law in this area be amended in certain respects. | |
| 32 | Immunity of Suit Between Spouses Referred: 1972 WP: June 1973 Report: September 1973 | That immunity of action in tort between spouses be abolished. ¹² | |
| 33 | Dividing Fences Referred: 1972 WP: December 1973 Report: November 1975 | That the <i>Dividing Fences Act 1961</i> be amended in certain respects. | |
| 34 | Trusts and Administration of Estates Referred: 1972 | | |
| 34 (Pt I) | Distribution on Intestacy WP: December 1972 Report: May 1973 | That the law relating to the distribution of intestate estates be amended in certain respects and enacted in local legislation. | <i>Administration Act Amendment Act 1976</i> ; <i>Administration Amendment Act 1984</i> |
| 34 (Pt II) | Administration Bonds And Sureties WP: June 1975 Report: March 1976 | 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. | <i>Administration Act Amendment Act 1976</i> |
| 34 (Pt III) | Administration of Deceased Insolvent Estates WP: April 1977 Report December 1978 | That the <i>Administration Act</i> be amended to provide for the administration of deceased insolvent estates as specified. | <i>Acts Amendment (Insolvent Estates) Act 1984</i> |

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'.

| No. | Project | Recommendations | Legislative Action |
|-------------|---|--|--|
| 34 (Pt IV) | Recognition of Interstate and Foreign Grants of Probate and Administration WP: December 1980 Report: November 1984 | 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. ¹³ | |
| 34 (Pt V) | Trustees' Powers of Investment WP: December 1981 Report: January 1984 | That the investment powers of trustees contained in s 16 of the <i>Trustees Act</i> be amended in specified ways. | <i>Trustees Amendment Act 1987</i> ¹⁴ |
| 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> . ¹⁵ | |
| 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. | <i>Acts Amendment (Asbestos Related Diseases) Act 1983</i> ¹⁶ |
| 36 (Pt II) | Limitation and Notice of Actions DP: February 1992 Report: January 1997 | A new <i>Limitation Act</i> 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. | <i>Limitation Act 2005; Limitation Legislation Amendment and Repeal Act 2005</i> ¹⁷ |
| 37 | Land Agents Act Referred: 1972 WP: 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. | <i>Real Estate and Business Agents Act 1978</i> |

13. Implementation of the Commission's recommendations is being discussed by the Queensland Law Reform Commission in its reference on Uniform Succession Law. This matter is currently being considered by the Attorney General's Working Group on Succession.
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 matter is currently being considered by the Attorney General's Working Group on Succession.

HISTORY OF REFERENCES

| No. | Project | Recommendations | Legislative Action |
|-----|---|--|--|
| 38 | Sale of Undivided Shares in Land Referred: 1972 WP: March 1973 Report: May 1973 | That the <i>Sale of Land Act</i> be amended to regulate the sale of undivided shares in land. | <i>Sale of Land Act Amendment Act 1974</i> |
| 39 | Compensation for New Street Alignments Referred: 1973 Report: March 1977 | The Commission was asked to comment in this report on proposed amendments to s 364 of the <i>Local Government Act</i> . No legislative action was called for in the report. | |
| 40 | Production of Medical and Technical Reports in Court Proceedings Referred: 1973 WP: June 1974 Report: July 1975 | That provision be made for medical and expert reports to be produced to the other party before trial. | <i>Acts Amendment (Expert Evidence) Act 1976</i> |
| 41 | Tenancy Bonds Referred: 1973 WP: June 1974 Report: January 1975 | That changes be made to the <i>Small Claims Tribunals Act 1974</i> to facilitate the hearings of claims in respect of tenancy bonds. | <i>Small Claims Tribunals Amendment Act 1975 s 2</i> |
| 42 | Unrepresented Defendants Referred: 1973 | Withdrawn 1982 | |
| 43 | Compensation for Persons Detained in Custody Referred: 1973 | Withdrawn 1983 | |
| 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. ¹⁶ | |
| 45 | Mortgage Brokers Referred: 1973 WP: February 1974 Report: September 1974 | That mortgage brokers should be subject to statutory control in specified ways. | <i>Finance Brokers Control Act 1975</i> |
| 46 | Criminal Injuries Compensation Referred: 1974 WP June 1975 Report: October 1975 | That the <i>Criminal Injuries (Compensation) Act 1970</i> be revised in specified ways. | <i>Criminal Injuries (Compensation Act) Amendment Act 1976</i> ; <i>Criminal Injuries Compensation Act 1982</i> |
| 47 | Jailing of First Offenders Referred: 1973 | Withdrawn 1982 | |
| 48 | Appeals from Courts of Petty Sessions Referred: 1973 | Became No 55 (Pt I) | |

16. 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.
17. Whilst there is now one general limitation period of 6 years for an action on any cause of action with the possibility of extension by the courts, the statute also retains exceptional limitation periods for particular causes of action. In addition, the point at which the cause of action accrues still differs for different causes of action. As such, many of the complexities associated with the lack of uniformity between causes of actions outlined by the Commission's report remains to be addressed.
18. 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.

| No. | Project | Recommendations | Legislative Action |
|-------------|--|--|--|
| 49 | Suitors' Fund Act Referred: 1973 WP: March 1975 Report: • Pt A (civil proceedings) Mar 76 • Pt B (criminal proceedings) May 77 | That the <i>Suitors' Fund Act 1964</i> 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 <i>Official Prosecutions (Defendants' Costs) Act 1973</i> . | <i>Suitors' Fund Act Amendment Act 1978; Suitors' Fund Act Amendment Act (No 2) 1978</i> |
| 50 | Appeals to the Privy Council Referred: 1973 | Withdrawn 1976 | |
| 51 | Unclaimed Money Referred: 1973 WP: October 1976 Report: December 1980 | That the <i>Unclaimed Moneys Act</i> be revised and consolidated to enable unclaimed money to be used for public purposes. | <i>Unclaimed Money Act 1990</i> |
| 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. | <i>Local Government Act 1995 s 4.87</i> |
| 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. ¹⁹ | |
| 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 | Justices Act Referred: 1974 | That the <i>Justices Act</i> be amended to provide for a single mode of appeal. | <i>Justices Amendment Act 1989</i> |
| 55 (Pt I) | Appeals from Courts of Petty Sessions Referred: 1974 WP: February 1978 Report: April 1979 | 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. | <i>Miscellaneous Repeals Act 1991</i> ²⁰ |
| 55 (Pt II) | Courts of Petty Sessions Referred: 1974 WP: June 1984 Report: November 1986 | | <i>Magistrates Court Act 2004; Courts Legislation Amendment and Repeal Act 2004; Criminal Procedure Act 2004.</i> |
| 55 (Pt III) | Enforcement of Orders of Courts of Petty Sessions Referred: 1974 Report: April 1994 | 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. | <i>Fines, Penalties and Infringement Notices Enforcement Act 1994; Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994</i> |

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

20. 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).

HISTORY OF REFERENCES

| No. | Project | Recommendations | Legislative Action |
|-----------------|--|--|--|
| 56 | Strata Titles Act Referred: 1974 WP: February 1977 Report: December 1982 | That the <i>Strata Titles Act 1966</i> be revised as specified | <i>Strata Titles Act 1985; Acts Amendment (Strata Titles) Act 1985</i> |
| 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 s 2 of the <i>Gaming Act 1835</i> be repealed and s 1 of that Act and s 84I of the <i>Police Act 1892</i> be amended. | <i>Gaming & Betting (Contracts & Securities) Act 1985; Acts Amendment (Gaming & Related Provisions) Act 1985</i> |
| 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. | <i>Criminal Code Amendment Act 1979</i> |
| 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. ²¹ | |
| 63 | Small Debts Court Referred: 1976 WP: July 1978 Report: April 1979 | That the <i>Local Courts Act</i> and Rules be amended to create a special Small Debts Division in Local Courts. | <i>Local Courts Amendment Act 1982</i> |
| X ²² | 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 <i>Bail Act 1982</i> be enacted to deal comprehensively with bail. | <i>Bail Act 1982; Bail Amendment Act 1984; Bail Amendment Act 1988</i> |

21. The High Court decision of *Brodie v Singleton Shire Council* abolished the nonfeasance immunity. However it was subsequently restored by the *Civil Liability Act 2002* s 5Z.

22. This reference was not given a project number.

| No. | Project | Recommendations | Legislative Action |
|------------|---|---|--|
| 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. | |
| 66 | Fatal Accidents Referred: 1976 WP: February 1978 Report: December 1978 | That the <i>Fatal Accidents Act</i> be amended to extend the class of claimants, to provide for an award for loss of assistance and guidance and various other matters. | <i>Fatal Accidents Amendment Act 1985</i> |
| 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. | <i>Criminal Law (Mentally Impaired Defendants) Act 1996; Mental Health (Consequential Provisions) Act 1996</i> |
| 70 | Interest on Judgments Referred: 1977 | | |
| 70 (Pt I) | Pre-judgment Interest Report: August 1981 | That ss 32 and 33 of the <i>Supreme Court Act</i> be replaced by a new provision giving courts a broader power to award pre-judgment interest. | <i>Supreme Court Amendment (No 2) Act 1982</i> |
| 70 (Pt II) | Interest on Judgments | Withdrawn 1987 | |
| 71 | Exemption from Jury Service Referred: 1977 WP: 29 August 1978 Report: June 1980 | That the <i>Juries Act</i> 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. | <i>Juries Amendment Act 1984</i> |
| 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. | <i>Local Courts Amendment Act 1981; Justices Amendment Act 1982; District Court of WA</i> |
| 73 | Absconding Debtors Act Referred: 1978 WP: December 1980 Report: November 1981 | The <i>Absconding Debtors Act</i> 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. | <i>Restraint of Debtors Act 1984</i> |

HISTORY OF REFERENCES

| No. | Project | Recommendations | Legislative Action |
|------------|---|--|---|
| 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. ²³ | |
| 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 <i>Wills Act</i> formalities if satisfied that there is no doubt that testator intended the document to constitute his/her will. | <i>Wills Amendment Act 1987; Wills Amendment Act 1989</i> |
| 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. ²⁴ | |
| 77 (Pt I) | Medical Treatment for Minors Referred: 1981 DP: 1988 Report: December 1992 | Withdrawn 1998 | |
| 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'. | <i>Spent Convictions Act 1988; Spent Convictions Amendment Act 1988</i> |
| 81 | Pawnbrokers Act Referred: 1984 DP: January 1985 Report: June 1985 | The <i>Pawnbrokers Act</i> should be redrafted in modern terms, with amendments as specified. | <i>Pawnbrokers and Secondhand Dealers Act 1994</i> |

23. It is the commissions understanding that work is proceeding on a Draft Bill.

24. The Wills Amendment Bill 2006 which implements the Commission's recommendations is currently under consideration.

| No. | Project | Recommendations | Legislative Action |
|-----|--|---|--|
| 82 | Financial Protection in the Building & 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. ²⁵ | |
| 85 | Police Act Offences Referred: 1986 DP: June 1989 Report: August 1992 | Specified offences in the <i>Police Act</i> be abolished, and that the surviving offences be incorporated in a <i>Summary Offences Act</i> . | <i>Criminal Law Amendment (Simple Offences) Act 2004</i> |
| 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. | <i>Criminal Code Amendment (Racist Harassment and Incitement to Racial Hatred) Act 1990</i> |
| 87 | Evidence of Children and Other Vulnerable Witnesses Referred: 1989 DP: April 1990 Report: April 1991 | The <i>Evidence Act</i> 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. | <i>Acts Amendment (Sexual Offences) Act 1992</i> ; <i>Acts Amendment (Evidence of Children and Others) Act 1992</i> |
| 88 | Administration Act Referred: 1989 Report: August 1990 | The <i>Administration Act 1903</i> repealed and replaced. ²⁶ | |
| 89 | Sale of Goods Act 1895 Referred: 1989 DPs: Aug & Oct 1995 Report: June 1998 | The <i>Sale of Goods Act 1895</i> 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. ²⁷ | |

25. 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 recently been introduced into Parliament as the Acts Amendment (Consent to Medical Treatment) Bill 2006.

26. This report is currently being considered by the Attorney General's Working Group on Succession.

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

HISTORY OF REFERENCES

| No. | Project | Recommendations | Legislative Action |
|-------------|--|---|--|
| 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. | <i>Criminal Procedure Act 2004; Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004; Magistrates Court (Civil Proceedings) Act 2004; Magistrates Court (Civil Proceedings) Rules 2005</i> |
| 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 <i>Family Court Act</i> , 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 Laws Referred: 2000 Background papers: 2003-2005 DP: Dec 2005 DP Overview: Feb 2006 FR: Sept 2006 | 131 recommendations made for reform. | |
| 95 | Judicial Review of 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. | |
| 96 | Problem Oriented Courts and Judicial Case Management (Court Intervention Programs) Referred: 2005 Research Paper: Mar 2008 Report: June 2009 | The law relating to problem oriented courts and judicial case management should be reformed in specified ways - 37 recommendations were made. | |
| 97 | Review of the Law of Homicide Referred: 2005 Issues P: Mar 2006 Report: Sept 2007 | The law relating to homicide in Western Australia should be reformed in specified ways: 45 recommendations made. | Criminal Law Amendment (Homicide) Bill 2008 |

| No. | Project | Recommendations | Legislative Action |
|-----|---|--|--|
| 98 | Compensation for Injurious Affection Referred: 2005 Discussion Paper: Oct 2007 Report: July 2008 | The law relating to compensation for injurious affection should be reformed in specified ways – 31 recommendations were made | |
| 99 | Selection, Eligibility and Exemption of Jurors Referred: Sept 2007 Discussion Paper: Sept 2009 Final Report: April 2010 | 68 recommendations for substantial amendments to the Western Australian jury system | <i>Juries Legislation Amendment Act 2011</i> |
| 100 | Review of Coronial Practice in Western Australia Referred: Nov 2007 Background Paper: Sept 2010 Discussion Paper: June 2010 Final Report: Feb 2012 | 113 recommendations for reform of coronial practice in Western Australia | |
| 101 | Review of Community Protection (Offender Reporting) Act 2004 Referred: April 2009 Discussion Paper: Feb 2011 Final Report: Jan 2012 | 20 recommendations for the reform of the <i>Community Protection (Offender Reporting) Act 2004</i> | |
| 102 | Complaints against Judiciary Referred: 30 May 2011 | Project is ongoing | |
| 103 | Representative Proceedings Referred: 6 July 2011 | Project is ongoing | |