

LAW REFORM COMMISSION

Report

The Reform of the Law Reform Commission

July 2004

Port Louis - Mauritius

LAW REFORM COMMISSION

The Law Reform Commission is an independent body established by the Law Reform Commission Act 1992 to undertake the systematic review and reform of the law of Mauritius.

The Chairman and members of the Commission are:

Dr. Daniel Fok kan – Chairman

Mr. Yusuf Aboobaker, S.C.

Mr. Satyajit Boolell

Mr. Bernard d'Hotman

Mr. Sunil Lutchmun

Mr. Hambyrajen Narsinghen

Mr. Shaukatally Oozeer

Mr. Theyvarajen Ponambalum

Ms. Vijaya Sumputh

The Secretary is Ms. Rosemary Anodin

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I - PRELIMINARY

At the Opening of the First Session of the Third National Assembly on Tuesday, 3rd October 2000, the President stated in his address at para.28 that “government will take measures in order to provide better facilities to the Law Reform Commission to enable it to more effectively assist in the development and modernisation of the laws of Mauritius”. With this statement in mind, the Commission embarked on an introspection exercise in order to see how it could be restructured to allow it to better fulfil the role assigned to it by the legislature.

II - INTRODUCTION

The Law Reform Commission was set up by the Law Reform Commission Act 1992¹ which came into force on the 1st December 1992. The Act entrusts to the Commission the ambitious mission of “(formulating) proposals and (setting) out options for reform of any area of law”².

The Commission, as presently constituted, has been in operation for about a year now. To date it has produced one Discussion Paper³. While there is no set parameter⁴ for judging the success of a law reform commission, the Commission is fully conscious that it is far from accomplishing the mission it has been assigned.

At a first level, the success of a law reform commission may perhaps be judged in terms of the number of recommendations made by it. Others would probably insist that success should be gauged in terms of the number of recommendations that has been translated in statute form by the legislature. Others still would wish to consider the impact of such

¹ The Law Reform Commission Act 1992 shall be referred to in this report as the Act

² S.4(1)(c) of the Act

³ Towards the setting up of a Family Court in Mauritius, January 2004

⁴ See “Measuring Success in Law Reform”, a paper prepared and presented to the Meeting of Commonwealth Law Reform Agencies in 1996 by William Charles, Q.C., Co-President, Law Reform Commission of Nova Scotia and reproduced in A Continuing Need for Law Reform: The Case for the Law Reform Commission of Nova Scotia, A Report of the Nova Scotia Law Reform Commission, December 2001.

statutes rather than mere numbers. The Nova Scotia Law Reform Commission, for its part, has adopted a wider approach and “believe something useful has been done if our Report brings about change in the actual operations and the functioning of some aspect of the law and increases public awareness of certain problems with which the law is attempting to grapple even though no legislation is either recommended or enacted. We have decided that there is value in raising public awareness of certain problems and the need for change even though nothing will be done legislatively or perhaps even functionally because of cost problems or other implementation difficulties. We believe we have been successful if we can educate the public and raise public awareness about certain social issues by way of a *Discussion Paper* (which we try to write in an understandable style and provide freely to any person who asks).”

The Commission has to admit - by none of these standards can it be said that it has been a success. A former Chairman even once commented at a Commission’s meeting that the Commission, in its operation, appears to be more of a debating society.

The Commission will this year be 12 years old. The Commission believes that it appropriate at this juncture to take a closer look at the law which establishes it and to revisit its structure in order to enable it to accomplish with efficiency the mission it was entrusted with.

III - DO WE NEED A LAW REFORM COMMISSION?

Before recommending a new structure, the Commission must first consider a more fundamental question; is there a need for a law reform commission in Mauritius?

The primary responsibility for law reform rests, no doubt, with government. However, taken up, as it is, with current political matters, government members may not have the time to devote to a systematic and regular review of the law. This task may, eventually, be entrusted to civil servants. However, they are not in a better situation as their priorities will inevitably coincide with that of their political masters of the day.

On the other hand, a permanent law reform commission offers the advantage of providing an institution “willing to devote sufficient time and resources to the examination of certain subject, without any predispositions towards particular conclusions, and regardless of possible political implications of recommendations for reform”⁵.

There are in the world to-day over 60 law reform agencies, mainly in the Commonwealth countries. The work of many of them has a significant impact upon the direction in which the law progresses. In England two

⁵ A Continuing Need for Law Reform: The Case for the Law Reform Commission of Nova Scotia, A Report of the Nova Scotia Law Reform Commission, December 2001.p.16

third of the reports produced by the Law Commission has been implemented. Other law commissions have similar rate of implementation. This seems to suggest that the experience of other countries is that there are important benefits in having a law reform commission⁶.

⁶ The Quinquennial Review of the Law Commission in England carried out by Mr John Halliday CB (March 2003) reported that it “has largely found widespread and strong support for all three of the Law Commission’s existing core functions: law reform, consolidation and statute law revision” (para.2.3).

See also Law Reform Commissions in the United Kingdom, Australia and Canada by William H. Hurlburt, Q.C., Edmonton:Juriliber, 1986 reviewed in Law Reform Commissions Compared: A Review Article, Norman S. Marsh, 1989 ICLQ 185.

IV - THE ACT

Comparing our Act with those instituting law reform commissions in other commonwealth countries, one cannot help being surprised at the brevity of our law – one section establishes the Commission, another provides for its functions, a third deals with its composition and a fourth one with meetings of the Commission. The structure of the Commission provided by the Act is minimal if not inexistent. There is not a single word on how it is to operate and its effectiveness seems to depend solely upon the goodwill of its members. Within such parameters, it is no wonder that the Commission became but a debating society.

V - PROPOSALS FOR REFORM

Having examined the operation of various law reform commissions⁷, the Commission is making a number of proposals with the aim of strengthening its structure so as to enable it to accomplish its mission.

Establishment and Constitution of the Commission

Two issues need to be considered here; the membership and the chairmanship of the Commission and the appointing authority.

THE APPOINTING AUTHORITY

As far as the appointing authority is concerned, there is no set pattern that emerges from an examination of various legislations setting up law commissions. In some cases the appointment is effected by the President⁸ while in others it is done by the Governor in Council upon the recommendation of the Minister of Justice⁹. In England, appointment is effected by the Secretary of State for Constitutional Affairs and Lord Chancellor. When considering the above, one must, of course, bear in mind that the structure of the Executive in the various countries being considered here is not necessarily the same.

⁷ The Commission has considered the operation of the law reform commission in Australia, Canada, England, Hong Kong, Malawi, New Zealand, Scotland and South Africa.

⁸ South Africa

⁹ Canada, New Zealand, Australia.

The modality adopted in Mauritius, namely appointment by the Attorney-General, is not necessarily out of tune with the above. The Commission recommends that the present scheme of appointment by the Attorney-General in addition to ex-officio members be preserved.

THE CHAIRMAN AND THE MEMBERS

With regard to membership, the Australian Law Reform Commission Act 1996 provides that a person must not be appointed unless he/she is a judge, or is a legal practitioner of at least 5 years standing, or is a law lecturer, or is suitable for appointment because of the person's special qualifications, training or experience. Apart from the President, there are three other full-time members and three part-time members. Currently all the full-time members, including the President, are academics while the part-time members are judges.

In Canada the law requires that the commissioners should be broadly representative of the socio-economic and cultural diversity of the country, represent various disciplines and reflect knowledge of the common law and civil law system with a rider that consideration should not be restricted to members of the legal community. In practice, all the commissioners including the presidents have been law academics. While the president is a full-time commissioner, the other members serve on part-time basis.

In England, the Law Commission has five Commissioners, all of whom work full-time at the Commission. The Chairman is a High Court judge. The other four Commissioners are experienced judges, barristers, solicitors or teachers of law.

The membership of the Law Reform Commission of Hong Kong is quite exceptional. The Secretary for Justice, the Chief Justice and the Law Draftsman are *ex officio* members. In addition, the Chief Executive appoints a number of other members, one of whom is usually a Judge of the High Court or the Court of Final Appeal. The remaining members include not only academics and practising lawyers, but also prominent non-lawyer members of the community.

The Malawi Law Commission is a one member commission who since its inception has been a High Court Judge. He works for the Commission on a full-time basis.

In New Zealand, there is no specific qualification to become member save that the president shall be a judge or retired judge of the Court of Appeal or the High Court, or a barrister or solicitor of the High Court of not less than 7 years' practice. The current president is a High Court Judge and the three members are respectively a former academic, two barristers in private practice. The President is the Chief Executive while the three members are part-time members.

South African law requires that the chairperson be a judge of the High Court while the members would be persons fit for appointment on account of the tenure of a judicial office or on account of experience as an advocate or as an attorney or as a professor of law or on account of any other qualification relating to the objects of the commission. Members, including the chairperson, are generally part-time members. However, since the creation of the commission, three members have served as full-time members. The Chief Justice has in the past been the Chairperson and the current one is a Judge of the Constitutional Court.

The membership of the Commission in Mauritius is at present made up of a Chairman, a barrister-at-law, a solicitor, a notary, the Solicitor-General or representative and two members of the legal profession or persons involved in legal education. Save for the Solicitor-General or representative, the Chairman and members are all appointed by the Attorney-General who may in addition co-opt a maximum of three other persons.

The Commission notes that in all the cases examined the Chairperson is appointed directly by the appointing authority. The Commission considers that it would be appropriate that the present scheme of appointment of the Chairperson by the Attorney-General be preserved and, therefore, recommends accordingly.

The approach taken by the Mauritian legislature with regard to membership is somewhat different from that taken by the various

overseas legislatures examined above. In the latter case, the focus seems to be on personalities whereas in the former case it is more a question of representation of the various stakeholders in the legal field. The Commission understands that the Attorney-General usually consults with the relevant professional bodies before appointing the members. This pattern is, however, not unusual, in Canada or Australia, when it comes to provincial law commissions. We can here mention by way of example the Law Reform Commission of Nova Scotia whose membership is made up of 2 members of the Nova Scotia Barristers' Society, a judge of a court of the Province, a full-time member of the Faculty of Law of Dalhousie University and a person who is not a law graduate.

The Commission is of the view that this pattern of representation is appropriate for a small jurisdiction as is the case for Mauritius. It is indeed essential that the legal professional bodies be officially made partners in the work of the Commission. The Commission recommends that the barrister-at-law, the solicitor and the notary are to be appointed by the Attorney-General after consultations with the relevant professional body.

The Act originally provided for the possible participation of law academics in the works of the Commission. Apart from the Commission as presently constituted, it does not appear that law academics have been appointed as members in the past. Considering that the University of Mauritius has now trained countless generations of lawyers, the Commission is of the view that it is now time that due credit be given to

law academics. The Commission recommends that a full-time member of the Department of Law of the University of Mauritius be appointed by the Attorney-General as member after consultation with the Vice-Chancellor.

Membership of law commissions often tends to be restricted to lawyers. While producing draft laws is a task for lawyers, choosing between different policy options is of concern to all. At the level of the Commission the emphasis is not so much on the drafting part as on the choice to be made between the various options. The Commission recommends that two members of the civil society be appointed as member by the Attorney-General. The Commission notes that this is the approach taken in a number of the jurisdictions it has examined.

The Commission notes that it is a common feature of law reform commissions abroad that at least one of its members is from the judiciary. Often this member is the chairman. There is a feeling that the Commission may be missing on an important dimension with the absence of a judge among its midst. The Commission feels that this anomaly should be corrected. The other members of the Commission would be appointed by the Attorney-General. Given security of tenure with regard to a judicial appointment, the Commission, however, feels that this method of appointment may not be appropriate in this case. The Commission, consequently, recommends that one of its members be a representative of the judiciary appointed by the Chief-Justice.

It is equally important that one of its members be from the State Law Office. The Commission recommends that one of its members be a representative of the Solicitor-General.

Coming now to a Mauritian particularity, the Commission notes that Rodrigues has now been given law making powers within the parameters of the Rodrigues Regional Assembly Act 2001. In that respect, the Commission is of the view that it would be appropriate that one of its members be a representative of the Assembly and recommends accordingly. The suggestion of the Commission is that the representative be appointed by the Chief Commissioner of Rodrigues.

The Commission, being a ‘generalist’ commission, will inevitably have to look into a variety of subject matters. The members will not necessarily have the expertise for all these themes. In order to “utilise the expertise of persons outside the Commission and to ensure direct community involvement in the activities of the Commission”¹⁰ the South African Law Commission Act allows the Commission to set up committees consisting of members of the Commission and persons who are not members of the Commission. To meet that objective, the Commission is of the view that it should be granted a similar power. The Commission consequently recommends that it be given the power to establish advisory panels consisting of persons having specialised knowledge or are particularly affected by the subject matter under study

¹⁰ South African Law Commission, Twenty-Eighth Annual Report 2000, p.11

by the Commission.

Functions of the Commission

The functions of all law reform commissions are more or less similar – review the law of the country and make recommendations for the reform and development of the law. To that general function, the Commission recommends that it also be given mandate to make the law as understandable and accessible as is practicable to the public. This is in line with the maxim “ignorance of the fact excuses; ignorance of the law does not excuse”¹¹. Further, though at the present stage of the development of the law in Mauritius it may not be that pertinent, the Commission is also of the view that it should be given the mandate to make recommendations for the elimination of obsolete or unnecessary law and anomalies in the law.

The Commission notes that some law commissions, for example the Malawi Law Commission, are also given the mandate of preparing revised editions of the law of the country. This power is granted under the Revision of Laws Act to the Law Revision Unit which operates within the framework of the State Law Office.

Powers and Responsibilities of the Commission

The Act does not contain a single section on the powers of the

¹¹ Ignorantia juris quod quisque scire tenetur non excusat.

Commission. Providing functions to a person without providing for his/her powers is like granting to him/her a mission without giving him/her the necessary tools to accomplish it. The Commission recommends that its powers be explicated. The powers will eventually provide the framework for the operational aspect of the Commission.

The counter-part of the powers of the Commission is its responsibilities. In the Act, some responsibilities appear under the section dealing with the functions of the Commissions. Semantically functions are different from responsibilities. Further in line with the newly granted powers of the Commission, the Commission recommends that its responsibilities be similarly expanded

Staff of the Commission

The Commission at present does not have any staff. The Act envisaged that the Attorney-General's office would provide "officers to assist the Commission in the discharge of its functions"¹². This has never materialised. The Commission understands that the Attorney-General's office is under heavy pressure as far as staffing is concerned and understands that it may not be in a position to delegate any officer to the Commission to assist it.

Yet not a single law reform commission abroad operates without a full team of professional staff of its own. The English Law Reform

¹² S.6(4) of the Act

Commission has five commissioners who all work full-time at the Commission. They are supported by a secretary, about twenty members from the Government Legal Service, five Parliamentary Counsel and about fifteen research assistants who are usually recently qualified law graduates. The South African Law Reform Commission has seventeen State Law Advisers. The one in Hong Kong has a secretary, a deputy secretary and six lawyers. The Malawi Law Commission has a personnel consisting of five lawyers and some thirty supporting staff.

The lack of staff seems to have been the major stumbling block to the proper operation of the Commission. Researching a theme, debating on it and writing up a report are all time consuming. It was not very realistic to have expected part-time members and a part-time Chairman to undertake the work in the absence of officers delegated by the Attorney-General's Office. The Commission consequently recommends that it be formally granted the power to recruit staff, both technical and support staff, in order to ensure efficient performance of its functions.

In certain cases, however, it may be more appropriate to have recourse to consultants. Such would be the case, for example, where the Commission would wish to have a study undertaken on say, the social aspect of a particular legislation. It would not be feasible for the Commission to employ staff for such studies all the more so as it is unlikely that the Commission or its members would have the required expertise in such matters. The Commission thus recommends that it be granted the power to engage consultants.

Once it is accepted that the Commission is to have staff of its own, the issue of managing, supervising and giving a sense of direction to them arises. Most of the law reform commissions abroad have a full-time Chairman. At times even some, if not all, of the members also work full-time for the Commission. In some cases it is specifically provided that the Chairman shall be the chief executive officer. Should it be the case that the Chairman of the Commission is to be a part-timer, it is essential that there should be a full time Chief Executive Officer. The Commission recommends that it be granted power to appoint a Chief Executive Officer. In the view of the Commission, the Chief Executive Officer is a very high ranking officer on whose shoulder the proper functioning of the Commission will rest. In order to ensure that he has the required status to deal with officials, members of the legal profession and the public in general, it is recommended that the Chief Executive Officer be equivalent in status to, at least, the Parliamentary Counsel.

It is traditional in legislations creating statutory bodies to provide that the chief executive officer is to be appointed with the approval of the relevant minister. The Commission has considered the advisability of including such a clause in relation to the Chief Executive Officer and recommends that it should not be included. In arriving at this recommendation, the Commission has taken into account the following factors. In order to enable the Commission to evolve into a strong institution, it is essential that it should have high level core personnel which can develop expertise in law reform and keep the impetus over

time. Members, who in any case will be part-timers and will all, most likely, be “de passage’ at the Commission, are unlikely to be able to provide that sort of momentum. The Commission expects that it will be provided by a secured Chief Executive Officer.

VI - CONCLUSION

The above recommendations go in line with the wish of the government as expounded in the address of the President on 3rd October 2000 “to enable the Commission to more effectively assist in the development and modernisation of the laws of Mauritius” For the implementation of the above recommendations, the Commission has prepared a draft bill which is herewith attached. The draft bill also contains a number of recommendations which is not commented upon by the Commission in this report. These are essentially matters relating to the operation of the Commission.

ANNEX

THE LAW REFORM COMMISSION OF MAURITIUS BILL 2004

A Bill

**To establish a Law Reform Commission as a central advisory body
for the review, reform, and development of the law of Mauritius.**

Part 1 - Preliminary

1. Short title

This Act may be cited as the Law Reform Commission of Mauritius Act 2004.

2. Interpretation

In this Act-

“chairperson” means the Chairperson of the Commission appointed under S.4(1)(a)

“member” means a member of the Commission and includes the Chairperson;

“Commission” means the Law Reform Commission of Mauritius established under section 3.

Part 2 – Establishment and Constitution of the Commission

3. Establishment of the Commission

(1) For the purpose of this Act, there is hereby established a commission to be called the Law Reform Commission of Mauritius.

(2) The Commission shall be a body corporate with perpetual succession and a common seal, and shall be capable of acquiring, holding, and disposing of real and personal property, of entering into

contracts, of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may do and suffer.

4. Constitution of the Commission and Appointment of members

- (1) The Commission shall consist of –
 - (a) a Chairperson, appointed by the Attorney-General;
 - (b) a representative of the judiciary appointed by the Chief-Justice;
 - (c) a representative of the Solicitor-General;
 - (d) a representative of the Rodrigues Regional Assembly appointed by the Chief Commissioner of Rodrigues;
 - (e) a barrister-at-law, appointed by the Attorney-General after consultation with the Bar Council;
 - (f) a solicitor, appointed by the Attorney-General after consultation with the Law Society;
 - (g) a notary, appointed by the Attorney-General after consultation with the Chambre des Notaires;
 - (h) a full-time member of the Department of Law of the University of Mauritius, appointed by the Attorney-General after consultation with the Vice-Chancellor of the University of Mauritius; and
 - (i) two members of the civil society, appointed by the Attorney-General.

- (2) The performance of the Commission's functions and the exercise of its powers are not affected merely because of one or more vacancies in its membership.

5. Duration, terms and conditions of appointments

- (1) Every member, except the representative of the Judiciary; the representative of the Rodrigues Regional Assembly and the representative of the Solicitor-General, shall hold office for a term not exceeding 5 years, specified in his or her appointment.

- (2) A member's appointment is subject to the terms and conditions (if any) set out in it.

- (3) The members shall be paid such allowances as the Attorney-

General may determine.

6. Resignation

Except for the representative of the Judiciary, the representative of the Rodrigues Regional Assembly and the representative of the Solicitor-General, a member who wishes to resign shall notify the Attorney-General in writing to that effect, and the resignation becomes effective at the time the Attorney-General receives the notice or at the time specified in the notice, whichever is the later.

7. Termination of Appointment

Except with regard to the representative of the Judiciary, the representative of the Rodrigues Regional Assembly and the representative of the Solicitor-General, the Attorney-General may at any time terminate a member's appointment for bankruptcy, neglect of duty, misbehaviour, or physical or mental disability.

8. Advisory Panels

(1) For the purposes of advising and assisting the Commission in any particular project, the Commission may establish an advisory panel presided over by a member and consisting of persons having specialised knowledge in, or particularly affected by, the matter to be studied.

(2) Other members, where appropriate, may also serve on the advisory panels.

(3) A person serving on an advisory panel serves without remuneration, but is entitled to be paid reasonable expenses incurred in the course of performing duties under this Act.

Part 3 – Functions, Powers and Responsibilities of the Commission

9. Functions of the Commission

(1) The principal functions of the Commission shall be -

(a) To take and keep under review in a systematic way the law of Mauritius;

- (b) To make recommendations for the reform and development of the law of Mauritius;
- (c) To advise the Attorney-General on ways in which the law of Mauritius can be made as understandable and accessible as is practicable.
- (d) To make recommendations for the elimination of obsolete or unnecessary laws and anomalies in the law.

(2) When making its recommendations, the Commission shall, where applicable and as far as practicable, attach a draft bill to the recommendations.

10. Powers of the Commission

- (1) The Commission shall have all such powers as are reasonably necessary or expedient to enable it to carry out its functions.
- (2) Without limiting the generality of subsection (1) of this section, the Commission shall have the power -
 - (a) To initiate proposals for the review, reform, or development of any aspect of the law of Mauritius and to receive and consider any such proposals made or referred to it by any person:
 - (b) To initiate, sponsor, and carry out such studies and research as it thinks expedient for the proper discharge of its functions:
 - (c) To publicise such parts of its work in such manner as it thinks expedient, to conduct public hearings, to seek comments from the public on its proposals, and to consult with any persons or classes of persons:
 - (d) To request information from any Government department or any organisation or any person in relation to the review, reform, or development of any aspect of the law of Mauritius.

11. Responsibilities of the Commission

- (1) The Commission shall prepare and submit to the Attorney-General, at least once a year, programmes for the review of appropriate aspects of the law of Mauritius with a view to their reform or development.

(2) The Attorney-General may, at any time, request the Commission to examine any aspect of the law of Mauritius, and the Commission, taking into consideration its workload and resources, shall review that aspect accordingly, and report to the Attorney-General thereon with its recommendations.

(3) The Commission shall report to the Attorney-General on the results of any review it carries out and shall include in the report any recommendations it wants to make.

(4) The Commission shall make an annual report to the Attorney-General on the activities of the Commission.

12. Reports to be tabled

When the Commission submits a report to the Attorney-General, the latter shall as soon as practicable cause a copy of the report to be tabled in the Assembly.

Part 4 – Meetings and Staff of the Commission

13. Meeting of the Commission

(1) The Chairperson shall convene such meetings of the Commission as he or she thinks necessary for the efficient performance of its functions.

(2) The Commission shall meet at such time and place as may be determined by the Chairperson.

(3) The Chairperson must convene a meeting on receiving a written request to do so signed by at least 3 other members

(4) The Chairperson must preside at all meetings at which he or she is present.

(5) If the Chairperson is not present at a meeting, the members who are present must elect one of their number to preside.

(6) 4 members shall constitute a quorum for the purposes of a meeting.

(7) Questions arising at a meeting must be determined by a majority of the votes of the members present and voting.

(8) The person presiding at a meeting has a deliberative vote and, if there is an equality of votes, also has a casting vote.

(9) The Commission must keep minutes of all its proceedings.

(10) Subject to this section, the Commission shall regulate its proceedings in such manner as it thinks fit.

14. Members must disclose certain interest

(1) A member who has a material personal interest in a matter that is being considered, or is about to be considered, by the Commission must disclose the nature of the interest at a meeting of the Commission.

(2) The disclosure must be made as soon as possible after the relevant facts have come to the member's knowledge, and must be recorded in the minutes of the meeting.

(3) Unless the Commission otherwise determines, the member:

(a) must not be present during any deliberation by the Commission on the matter; and

(b) must not take part in any decision of the Commission on the matter.

(4) For the purposes of any determination being made under subsection (3), a member who has a material personal interest in the matter to which the disclosure relates:

(a) must not be present during any deliberation by the Commission on whether to make the determination; and

(b) must not take part in making the determination.

15. Appointment of a Chief Executive Officer

(1) The Commission shall appoint a Chief Executive Officer.

(2) The Chief Executive Officer shall be a legally qualified person with wide experience in legal research.

(3) The terms and conditions of employment of the Chief Executive Officer shall be determined by the Commission.

(4) Under the direction of the Chairperson, the Chief Executive Officer shall be responsible -

(a) for all research to be done by the Commission in the discharge of its functions;

(b) for the drafting of all reports to be done by the Commission;

(c) generally, for the day-to-day supervision over the staff and work of the Commission, and

(d) for such other duties as may be assigned to him by the Commission.

(5) The Chief Executive Officer, unless otherwise directed by the Commission, shall attend every meeting of the Commission and may take part in its deliberation.

16. Appointment of a Secretary

(1) The Commission shall appoint a Secretary.

(2) The Secretary, under the supervision of the Chief Executive Officer, shall be responsible for the administration of the Commission.

(3) The Secretary shall be responsible for the minutes of all the proceedings of the Commission.

17. Appointment of staff

(1) The Commission may appoint as staff of the Commission such persons as the Commission thinks necessary for the efficient carrying out of the Commission's functions, powers and duties under this Act.

(2) The terms and conditions of employment of the Commission's staff shall be determined by the Commission.

18. Commission may engage consultants

(1)The Commission may engage persons with suitable qualifications and experience as consultants to the Commission.

(2)The terms and conditions of the engagement of a person as a consultant shall be determined by the Commission.

Part 5 - Miscellaneous

19. General Fund

(1) The Commission shall establish a General Fund into which shall be paid-

(a) such funds as the National Assembly appropriates for the purposes of the Commission; and

(b) any other sum which may lawfully accrue to it.

(2) All payments required to be made by the Commission shall be effected out of the General Fund.

20. Application of Commission's money

(1) The Commission's money must only be applied:

(a) in the discharge of its obligations and liabilities arising under this Act; and

(b) in the payment of any salary or allowances payable under this Act.

(2) Subsection (1) does not prevent the investment of surplus money of the Commission.

21 Bank accounts

(1) The Commission shall open at any bank or banks such accounts as are necessary for the exercise of its functions and powers.

(2) All money received by the Commission shall, as soon as practicable after it has been received, be paid into such bank accounts of the Commission as the Commission from time to time determines.

(3) The withdrawal or payment of money from any such account shall be authorised in such manner as the Commission thinks fit.

(4) The withdrawal or payment of money from any such accounts shall be by cheque signed by such person or persons as the Commission may from time to time authorise.

22. Protection from civil actions

(1) An action or other proceeding for damages does not lie against the Commission in relation to anything done, or not done, in good faith:

(a) in the performance, or purported performance, of any of the Commission's functions; or

(b) in the performance, or purported performance, of any of its powers.

(2) An action or other proceeding for damages does not lie against a person who is a member, or member of the staff, of the Commission in relation to anything done, or not done, by the person in good faith in the performance, or purported performance, of his or her duties as such a member, or member of the staff.

23. Donations and legacies

Articles 910 of the Code Napoléon shall not apply to the Commission.

24. Repeal

The Law Reform Commission Act is hereby repealed.

25 Commencement

This Act shall come into operation on a date to be fixed by Proclamation.