

CAYMAN ISLANDS



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**A BILL FOR A LAW TO ESTABLISH A COMMISSION FOR THE  
REFORM OF THE LAW OF THE CAYMAN ISLANDS; AND FOR  
INCIDENTAL AND CONNECTED PURPOSES**

**THE LAW REFORM COMMISSION BILL, 2004**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill seeks to establish the Cayman Islands Law Reform Commission with responsibility for promoting the reform of the law.

Clause 1 of the Bill provides the short title and commencement of the legislation.

Clause 2 sets out the definitions of various terms used in the legislation.

Clause 3 establishes the Law Reform Commission.

Clause 4 of the Bill makes provision for the Commission to be comprised of a chairman and four other persons, appointed on the recommendation of the Attorney-General, by the Governor.

Clause 5 contains provisions regulating the resignation of a Commissioner and the revocation of his appointment.

Clause 6 provides that the Commissioners shall be paid such allowances as the Governor in Cabinet may determine.

Clause 7 of the Bill prescribes the functions of the Commission, and these are studying and keeping under constant review the statutes and other laws comprising the law of the Cayman Islands with a view to its systematic development and reform, including in particular -

- (a) the modification of any branch of the law as far as that is practicable;
- (b) the elimination of anomalies in the law, the repeal of obsolete and unnecessary enactments and the simplification and modernisation of the law;
- (c) the development of new areas in the law with the aim of making them more responsive to the changing needs of Cayman Islands society;
- (d) the adoption of new or more effective methods for the administration of the law and the dispensation of justice; and
- (e) the codification of the unwritten laws of the Cayman Islands.

Clause 8 empowers the Commission, in the performance of its functions, to -

- (a) review and consider any proposals for the reform of the law which may be referred to it by any person or authority;

- (b) prepare and submit to the Attorney-General from time to time, a programme for the study and examination of any branch of the law with a view to making recommendations for its improvement, modernisation and reform;
- (c) initiate and carry out or direct the initiation and carrying out of, studies and research necessary for the improvement and modernisation of the law;
- (d) undertake, pursuant to any such recommendation approved by the Attorney-General, the formulation and preparation of drafts in the form of Bills or other instruments for consideration by the Governor and the Legislative Assembly;
- (e) provide, at the instance of Government departments and other authorities concerned, advice, information and proposals for reform or amendment of any branch of the law; and
- (f) with the approval of the Attorney-General, appoint or empanel committees, whether from among members of the Commission or from among persons outside the Commission or both, to study and make recommendations to the Commission on any aspect of the law referred to it by the Commission.

Clause 9 makes provision in relation to Law Reform Commission meetings.

Clause 10 of the Bill makes provision for the appointment of the Law Reform Administrator of the Law Reform Commission, and the Commission staff. The Law Reform Administrator shall be the administrative head of the Commission and shall be responsible for its day to day administration.

Clause 11 requires the Law Reform Administrator to cause to be established and maintained various records relating to the work of the Commission.

Clause 12 requires the Commission, upon completion of a study undertaken by it, to submit to the Attorney-General a report on the results of the study together with its recommendations.

Clause 13 of the Bill enables the appointment of consultants and experts to assist the Commission in the performance of its functions.

Clause 14 imposes upon the Commission a duty, within six months from the beginning of each year, to submit to the Attorney-General a report containing a summary of its activities for the preceding year. By virtue of clause 15, the Attorney-General is required, within three months of the receipt of the report, to cause it to be laid before the Legislative Assembly.

Clause 16 provides for the making of rules by the Governor in Cabinet.

**THE LAW REFORM COMMISSION BILL, 2004**

**ARRANGEMENT OF CLAUSES**

1. Short title and commencement.
2. Interpretation.
3. Establishment of the Law Reform Commission.
4. Composition of the Commission.
5. Resignation and revocation of appointment.
6. Remuneration.
7. Functions of the Commission.
8. Powers and duties of the Commission.
9. Meetings of the Commission.
10. Law Reform Administrator and staff of the Commission.
11. Records.
12. Report and recommendations.
13. Appointment of consultants and experts.
14. Annual report.
15. Laying of reports.
16. Rules.

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ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Law Reform Commission Law, 2005. Short title and  
commencement

(2) This Law shall come into force on such date as may be appointed by order made by the Governor in Cabinet.

2. In this Law - Interpretation

“Chairman” means the chairman of the Commission, appointed under section 4(1)(a);

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

“Governor” means the Governor in Cabinet;

“judicial office” means an office of judge of the Grand Court or judge of the Court of Appeal; and

“Law Reform Administrator” means the person appointed as such under section 10.

*The Law Reform Commission Bill, 2004*

Establishment of the  
Law Reform  
Commission

3. For the purpose of promoting the reform of the law, there shall be established a commission to be known as the Cayman Islands Law Reform Commission.

Composition of the  
Commission

4. (1) The Commission shall consist of -  
(a) a chairman; and  
(b) four other persons,

appointed, on the recommendation of the Attorney-General, by the Governor.

(2) A person appointed to be Commissioner shall be a person appearing to the Governor to be suitably qualified by the holding of, or by having held, judicial office or by experience as an attorney-at-law or as a teacher of law in a university.

(3) A person appointed to be Commissioner shall be appointed for such period, not exceeding five years, and on such terms and conditions as may be determined by the Governor at the time of the appointment.

(4) At the expiration of their term of office, the Chairman and members of the Commission shall be eligible for re-appointment.

(5) For the avoidance of doubt, it is declared that age shall not be a consideration in the appointment of any member of the Commission.

Resignation and  
revocation of  
appointment

5. (1) A member of the Commission may, by writing under his hand addressed to the Governor, resign his office.

(2) The Governor may revoke the appointment of a member of the Commission by reason of misconduct or physical or mental incapacity or for any good cause.

(3) The appointment of a member of the Commission shall be revoked if the member becomes bankrupt or insolvent or compounds with his creditors.

(4) Where a member of the Commission resigns or has his appointment revoked, the Governor shall appoint another person to replace that member.

Remuneration

6. (1) The members of the Commission shall be paid such allowances as the Governor may determine.

(2) The payment of such allowances shall be paid out of the revenue of the Islands.

7. The functions of the Commission are to study and keep under constant review the statutes and other laws comprising the law of the Cayman Islands with a view to its systematic development and reform, including in particular -

Functions of the Commission

- (a) the modification of any branch of the law as far as that is practicable;
- (b) the elimination of anomalies in the law, the repeal of obsolete and unnecessary enactments and the simplification and modernisation of the law;
- (c) the development of new areas in the law with the aim of making them more responsive to the changing needs of Cayman Islands society;
- (d) the adoption of new or more effective methods for the administration of the law and the dispensation of justice; and
- (e) the codification of the unwritten laws of the Cayman Islands.

8. In the performance of its functions, the Commission may -

Powers and duties of the Commission

- (a) review and consider any proposals for the reform of the law which may be referred to it by any person or authority;
- (b) prepare and submit to the Attorney-General from time to time, a programme for the study and examination of any branch of the law with a view to making recommendations for its improvement, modernisation and reform;
- (c) initiate and carry out or direct the initiation and carrying out of, studies and research necessary for the improvement and modernisation of the law;
- (d) undertake, pursuant to any such recommendation approved by the Attorney-General, the formulation and preparation of drafts in the form of Bills or other instruments for consideration by the Governor and the Legislative Assembly;
- (e) provide, at the instance of Government departments and other authorities concerned, advice, information and proposals for reform or amendment of any branch of the law; and
- (f) with the approval of the Attorney-General, appoint or empanel committees, whether from among members of the Commission or from among persons outside the Commission or both, to study and make recommendations to the Commission on any aspect of the law referred to it by the Commission.

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

Meetings of the Commission

(2) At every meeting of the Commission, the Chairman shall preside.

(3) The quorum for meetings of the Commission shall be three.

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

Law Reform  
Administrator and staff  
of the Commission

10. (1) There shall be a Law Reform Administrator of the Commission who shall be its administrative head.

(2) The Governor shall, on the recommendation of the Attorney-General, appoint the Law Reform Administrator on such terms and conditions (including remuneration) as the Governor may decide.

(3) The Law Reform Administrator shall be responsible for the day to day administration of the Commission, and shall be assisted in the discharge of his duties by such persons as the Governor may appoint.

Records

11. The Law Reform Administrator shall cause to be established and maintained -

- (a) a register containing the names and addresses of all members of the Commission and members of any committee of the Commission, including all employees, consultants and experts of the Commission;
- (b) a minute book recording the minutes of all meetings of the Commission;
- (c) records of the work and activities of the Commission; and
- (d) such other records or particulars with respect to the Commission as the Commission may consider necessary.

Report and  
recommendations

12. When the Commission completes a study undertaken or directed by it, it shall prepare and submit to the Attorney-General a report on the results of the study and shall include in the report its recommendations in such form as it considers appropriate.

Appointment of  
consultants and experts

13. (1) The Commission may, with the approval of the Attorney-General, appoint consultants and experts to assist it in the performance of its functions.

(2) The consultants and experts appointed under subsection (1) may be paid such remuneration as the Commission may, after consultation with the Attorney-General, approve.

(3) Any remuneration paid pursuant to subsection (2) shall be paid out of the Treasury.

