



## MINISTERIAL STATEMENT

by

**Senator the Hon. Kathy Lynn Simmons, JP  
Attorney-General and Minister of Legal Affairs**

**Law Reform Commission**

*29<sup>th</sup> July, 2019*

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**Madam President,** since 1968, Bermuda has had an ad hoc Law Reform Committee appointed by the Attorney-General which was initially a Cabinet sub-committee. However, in 2009 the Progressive Labour Party Government acknowledged the need to establish a statutory law reform commission to engage in continuing and systematic law reform.

**Madam President,** in advancing the establishment of a law reform commission, Commonwealth best practice suggested that the process of law reform is most effectively led by a permanent body with a clearly defined role whose existence and independence have statutory support. A review of Commonwealth practice carried out during the development of the Law Reform Commission legislation in 2009, indicated that a wide range of

Commonwealth countries, large and small, developed and developing had law reform agencies with the following broad characteristics:

- they were established by statute;
- they had promulgated mission statements asserting their independence of Government and commitment to secure input from the lay public;
- they had websites and/or web-pages to facilitate public outreach; and
- they were members of the Commonwealth Association of Law Reform Agencies.

While the position in all British overseas territories was unclear, the British Virgin Islands, Cayman and Jersey, which were less constitutionally developed than Bermuda, had all established law reform agencies on that basis. It was unarguably clear that Bermuda lagged behind international best practice previously in establishing an independent statutory law reform agency.

Ultimately, **Madam President**, Bermuda adopted legislation in the form of the Law Reform Commission Act 2009 which reflected the best provisions of both the BVI and Cayman Islands legislation and made provision for the establishment of an independent law reform commission. The Law Reform Commission Act 2009, came into operation on February 4<sup>th</sup>, 2011.

**Madam President,** as provided for under the Act, the Commission consists of a Chairman and between four and seven Commissioners who, in the opinion of the Governor, are suitable for appointment by reason of their qualifications, training and experience. The Commissioners are appointed by the Governor having been nominated for appointment by at least two of the following namely, the Attorney-General, the Chief Justice and the President of the Bar Council.

**Madam President,** I am pleased to inform Senators that on nomination of the Chief Justice and myself, the Governor has appointed as Chairman of the Law Reform Commission senior attorney Mr. Delroy Duncan. Five Commissioners have been appointed - former Attorneys-General the Hon. Michael Scott, MP; and Mr. Mark Pettingill; and lawyers Mr. Rod Attride-Stirling; Ms. Kim Wilkerson; and Ms. Jacqueline Maclellan. All appointees bring a wealth of experience and commitment to advancing the much-needed reform of Bermuda's laws.

**Madam President,** the functions of the Commission are to study and keep under review the laws of Bermuda with a view to their systematic development and reform. Particular functions of the Commission as prescribed under section 6 of the Act include -

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

- the adoption of new or more effective methods for the administration of the law and the dispensation of justice;
- ensuring that the law of Bermuda is in conformity with the Bermuda Constitution and with international treaty obligations; and
- making recommendations to the Minister for the elimination of anomalies in the law, the repeal of obsolete and unnecessary Acts or provisions of an Act, and the simplification and modernization of the law.

**Madam President,** in the performance of its functions the Commission may—

- review and consider any proposals for the reform of the law which may be referred to it by any person or authority;
- initiate and carry out, or direct the initiation and carrying out of, studies and research necessary for the improvement and modernization of the law;
- prepare and submit to the Minister from time to time, a programme for the study and examination of any branch or area of the law with a view to making recommendations for its improvement, modernization and reform;
- undertake, pursuant to any such recommendations approved by the Minister, the formulation and preparation of draft legislation;
- provide, at the instance of any Ministry, Department or

agency of the Government of Bermuda, proposals for reform or amendment of any branch or area of the law; and

- appoint or empanel committees, whether from among the members of the Commission including the Chairman, or from among persons outside the Commission or both, to study and make recommendations to the Commission on any aspect of the law referred to it by the Commission.

**Madam President**, the staff of the Commission will consist of a public officer who will be the Director of the Commission and such public officers as are necessary to carry out the work of the Commission. The Director is responsible for the administration of the Commission and performs functions as assigned by the Commission. In addition, a Parliamentary Counsel will be assigned to assist the Commission and Government departments with the studies and research necessary to make recommendations to the Minister for the improvement, modernization and reform of the law. The preparation of draft legislation on behalf of the Commission will also be the responsibility of the Parliamentary Counsel responsible for law reform.

In addition, **Madam President**, the Act makes provision for the Minister to engage consultants and experts, who will be paid such remuneration as the Minister approves, to assist the Commission in the performance of its functions. The expenses of the

Commission will be met out of funds to be appropriated annually by the Legislature. It is intended to use existing resources to support the Commission during this initial stage. During the remainder of this fiscal year, the expenses of the Commission will be monitored and assessed to determine the level of funding to be appropriated during the next budget.

**Madam President**, the Commission is required to submit a report to the Minister on the results of any study it undertakes or directs. The report must include its recommendations and may even include draft legislation. Further to this report, **Madam President**, by April 1 of each year, the Act requires the Commission to prepare and submit to the Minister a report containing a summary of its activities for the preceding year.

In addition to any information the Commission considers to be appropriate, the report must include any proposals for the reform of the law that have either been made by the Commission or referred to it by any person or authority. The report must indicate which proposals are being worked on by the Commission; a timetable for completion, as well details of any proposals that have been rejected as being unsuitable for study and the reasons for rejection. Finally, the Minister must cause the report to be laid before both Houses of the Legislature.

**Madam President**, in closing, this Government acknowledges that the need for comprehensive and systemic reform of Bermuda's laws is as urgent today as it was in 2009 when a formalized law reform body was conceived. Therefore, I am pleased today to inform Senators and members of the public that we are advancing this initiative. Over the next several weeks, the contact information for the Commission and how persons can make submissions will be provided.

I would like to take this opportunity **Madam President** to thank the Chairman and the Commissioners for their willingness to serve in these very important roles. I have no doubt that their excellent qualifications, experience and commitment to law reform will advance our collective best interests.

Thank you **Madam President**.