

Tasmania Law Reform Institute

Founding Agreement

THIS AGREEMENT is made this 23rd day of July 2001
BETWEEN the parties.

THE GOVERNMENT OF THE STATE OF TASMANIA
AND
THE UNIVERSITY OF TASMANIA
AND
THE LAW SOCIETY OF TASMANIA

RECITALS:

1. Until 1974 in the State of Tasmania, a Law Reform Committee operated within the Crown Law Department and provided advice on law reform without formal reports.
2. The Government of Tasmania introduced and the Parliament enacted the Law Reform Commission Act, 1974. From the passage of this Act 1974 until 1987 a multi-member Law Reform Commission operated, comprising a Chairman and members from the Law Society, Law School and community. The work of the Law Reform Commission was supported by a Director and a small administrative staff.
3. The Law Reform Commission was replaced, in 1988 by a single office, that of the Law Reform Commissioner. The legislation for this office expired in 1997.
4. From 1998, law reform advice was provided as an additional function to the Director of the Legal Aid Commission.
5. In 2000 the Government of Tasmania and the University of Tasmania entered into a Partnership Agreement specifying areas of cooperation to benefit the Tasmanian community.
6. Discussions were conducted between the Attorney-General of Tasmania, the University of Tasmania and the Law School to develop a joint proposal for the establishment of a body to conduct law reform projects in this State.

THE PARTIES AGREE AS FOLLOWS:

1. In this Agreement, unless the context otherwise requires:
 - (a) "Attorney-General" means the Attorney-General of the State of Tasmania;
 - (b) "Board" means the Board established under clause 3(1);

- (c) “Commencement Date” means the date of signature of this Agreement;
- (c) “Director” means the Director appointed under clause 5;
- (d) “Institute” means the Tasmanian Law Reform Institute established by this Agreement;
- (e) “Law Society” means the Law Society of Tasmania;.
- (f) “University” means the University of Tasmania;

ESTABLISHMENT OF THE INSTITUTE

2.1 The Institute is established as a Research Centre within the University of Tasmania.

2.2 The functions and objectives of the Institute are:

- (a) To conduct reviews and research on areas specified by the Board; and
- (b) To conduct these reviews and research, where appropriate on a consultancy basis; and
- (c) To consider proposals from the Attorney-General for the reform of the law;
- (d) To conduct reviews and research on proposals for reform of the law referred by the Attorney-General; and
- (e) To review an area of law with a view to –
 - (i) the modernisation of the law; and
 - (ii) the elimination of defects in the law; and
 - (iii) the simplification of the law; and
 - (iv) the consolidation of any laws; and
 - (v) the repeal of laws that are obsolete or unnecessary; and
 - (vi) uniformity between laws of other States and the Commonwealth; and
- (f) To make reports to the Attorney-General or other authorities arising out of any review and, in those reports, to make recommendations ; and
- (g) To work with the law reform agencies in other states and territories on proposals for reform of the laws in any other jurisdiction or within the Commonwealth; in accordance with the University’s standard procedures for the operation of Research Centre’s

2.3 The performance of the Institute’s functions and objectives is subject to funding being made available for the purposes of the Institute.

2.4 The University is entitled to charge for undertaking the Institute’s functions and objectives if the funding is not otherwise available to enable the Institute to undertake those functions and objectives.

BOARD OF THE INSTITUTE

3.1 The Board of the Institute entitled the “Board” is established as an advisory body.

3.2 The membership of the Board shall consist of:

- (a) The Director appointed under clause 5.

- (b) The Dean of the Faculty of Law at the University.
- (c) 1 person appointed by the Honourable the Chief Justice of Tasmania.
- (d) 1 person appointed by the Attorney-General.
- (e) 1 person appointed by the Law Society.
- (f) 1 person appointed by the Council of the University.
- (g) No more than two co-opted members.

3.3 The role of the Board is to advise the Director with respect to the conduct of business at the Institute, including making recommendations as to whether a particular reform project should be undertaken.

3.4 The Board should meet at least four times each year.

3.5 The Director shall act as Chair for meetings of the Board.

3.6 The right to appoint persons under Clause 3.2 includes the right to revoke an appointment or to substitute another for a person appointed.

OPERATION OF THE INSTITUTE

4.1 The Institute may receive proposals for law reform or research projects from:

- (a) the judiciary
- (b) the Attorney-General, The Legal Aid Commission and other government departments; and
- (c) the Parliament;
- (d) the legal profession;
- (e) members of the community or community groups

4.2 The State Government will transfer to the Institute relevant copies of the reports and working papers of the former Law Reform Commission and Law Reform Commissioner. The Institute will be responsible for those reports and working papers once they have been transferred to it.

4.3 The Board will make recommendations and proposals for law reform projects for consideration by the Institute.

4.4 At the time of recommending the selection of a project to the Institute, the Board will identify the extent of the project, the time for completion, the expected output and the cost of the project.

4.5 The Board shall record in its minutes of proceedings all proposals received for law reform projects.

4.6 The Institute may publish any of the following:

(a) Research Papers: These papers contain the results of a research projects.

(b) Issues Papers: These papers outline the key issues in relation to a problem, the existing law, the questions to be investigated, the different views and opinions on the topic, outlines of the working papers or reports of other law reform agencies and

possible tentative proposals. Issues Papers are intended to be distributed for assessing expert and public opinion on the issues to be addressed.

(c) Final Reports: These documents formulate the position taken by the Institute after consultation and deliberation by the Board. Each report contains an executive summary and may include draft legislation. Where a report is to be presented the report will be conveyed to the Hon. the Attorney-General of Tasmania.

(d) Annual Reports: Under Clause 7.

4.7 The University owns the copyright in all publications produced by the Institute.

DIRECTOR

5.1 There shall be a Director of the Institute who shall be appointed by the Vice-Chancellor of the University.

5.2 The Director shall be a member of the academic staff of the University.

5.3 The Director shall be responsible for the day to day administration of the Institute.

5.4 The Director shall report on activities at each meeting of the Board.

FUNDING FACILITIES AND STAFF

6.1 Funding for the Institute shall be provided on an annual basis from:

(a) The Department of Justice and Industrial Relations of the Government of Tasmania agrees to provide funding of \$50,000 per annum.

(b) The University of Tasmania agrees to provide funding of up to \$80,000 (including in kind contributions) per annum.

6.2 The Law Society will support the operation of the Institute by the provision of advice on proposals for research projects under clause 4.1(d) and the provision of funding on a case by case basis.

6.3 The Law Foundation of Tasmania may provide annual grants, subject to available funds for the operations of the Institute.

6.4 The Institute shall investigate other funding avenues, particularly from external research grants and donations.

6.5 The Institute shall review its funding on an annual basis and report to the Attorney-General and the University at the end of its third year of operation on the adequacy of the Institute's funding.

6.6 The Institute may employ administrative staff to support the operation of the Institute within its available annual funding.

6.7 The University shall provide office premises suitable for the operation of the Institute, as part of the University's in kind contribution.

6.8 All funding will be accounted for in accordance with the University's standard procedures for the operation of Research Centre's.

ANNUAL REPORTS

7.1 The Institute shall at the end of each calendar year prepare a report on its operations for the Council of the University, the Hon. The Chief Justice of Tasmania, the Hon. the Attorney-General, the Law Society of Tasmania and the Law Foundation of Tasmania.

7.2 The Institute shall prepare an Annual Financial Statement of the source and application of funds for the year of report.

PERIOD OF AGREEMENT

8.1 The term of this Agreement is from the Commencement Date until December 31, 2005.

8.2 The initial term of this Agreement will be three years from the Commencement Date.

8.3 The Agreement may be extended by the written agreement of the parties.

SIGNED, SEALED and DELIVERED THE GOVERNMENT OF TASMANIA as
represented by the
Witnessed by: the Attorney-General

..... Per:
.....
Premier of Tasmania

THE UNIVERSITY OF TASMANIA

..... Per:
Acting Vice-Chancellor

THE LAW SOCIETY OF TASMANIA

Per:
(President)