

Vagrancy and Related Matters

In June 1985, the Commission published its Report on [*Vagrancy and Related Matters \(LRC 11-1985\)*](#) as part of its First Programme of Law Reform.

The Report recommended the repeal without replacement of a number of offences contained in section 4 of the *Vagrancy Act of 1824*, which was extended to Ireland by the *Prevention of Crimes Act, 1871*. These offences are:

- (i) Fortune-telling,
- (ii) Wandering abroad and lodging in various places not having any visible means of subsistence and not giving a good account of oneself,
- (iii) The desertion of a wife or child, and
- (iv) Loitering with intent to commit a felony (which has been held to be unconstitutional).

The Report also recommended that the offences in the *Vagrancy Act, 1824*, the *Towns Improvement (Ireland) Act, 1854* and the *Dublin Policy Act, 1842* which relate to gaming should also be repealed without replacement there being adequate provision for them in the *Gaming and Lotteries Act, 1956*.

While proposing the abolition of the offence of “wandering abroad”, the Report recommended that the maximum penalty for an offence of trespass to land under section 8 of the *Summary Jurisdiction (Ireland) Act, 1851* should be increased to a fine of £500 and/or imprisonment for 6 months. The Commission was not prepared to recommend any offence of “sleeping rough”. The Report recommended that there should be a new offence, of negligently or otherwise causing or permitting animals to trespass or to commit any nuisance on the land of another.

The Report also recommended the repeal of the provision in the *Vagrancy Act, 1824* prohibiting the exposure in a public place of any obscene print, picture or other indecent exhibition and the repeal of several cognate provisions in other statutes. It also recommended that the common law offence of indecent exhibition, should be repealed in so far as it applies to exhibitions of indecent matter. It was proposed that a new provision should be enacted making it an offence to display indecent matter in any place to which the public have access, whether as of right or by permission and whether on payment or otherwise. It was not envisaged that the new offence would apply to films, books or television broadcasts or to public museums or art galleries. It recommended that the common law and statutory offences of indecent exposure should be repealed and replaced by an offence which would be committed by a person who intentionally commits any indecent act, (including indecently exposing his or her person):

- (i) In a public place or within view of the public in circumstances such that the act is likely to be seen by another person; or
- (ii) In circumstances such that the act is seen by another person and that person does not consent to seeing it and the accused knows that that person does not so consent or is reckless as to whether he or she so consents.

The Report recommended that the existing offences of begging should be replaced by a new offence of begging (i) in a public place or (ii) from house to house in a manner likely to cause fear or annoyance. The Report further recommended that the offence (under section 14 of the *Children's Act, 1908*) of causing or procuring children to beg should be retained. It was also recommended that it should be made an offence for a collector in a collection within the meaning of the *Street and House Collections Act, 1962* to obstruct passersby or to act in a manner likely to cause fear or annoyance.

The Report recommended that the offence under the *Vagrancy Act 1824* of possession of any implement with intent feloniously to break into any dwelling house or certain other buildings should be replaced by a new provision making it an offence to be in possession of any article for the purposes of burglary, theft or taking a vehicle without authority. It proposed that the offence under that Act of possession of an offensive weapon with intent to commit a felonious act should be replaced by a new offence of possession of an offensive weapon in a public place.

The Report also recommended that the offences (under the *Vagrancy Act, 1824* and the *Prevention of Crimes Act, 1871*) of being found on enclosed premises for any unlawful purpose or without being able to give an account of oneself, should be replaced by a new summary offence of being found in or upon any building or in any yard or garden or in any enclosed area for any criminal purpose.

The Report recommended that the existing provisions relating to loitering or soliciting by common prostitutes in public places and to persistent solicitation by a male person in a public place for an immoral purpose should be replaced by two new summary offences which would be committed by any person who in a public place

- (i) Solicits another person for the purpose of prostitution or loiters for the purpose or with the intention of so soliciting or being so solicited; or
- (ii) Loiters or solicits another person for the purpose of the commission of a sexual offence.

The Report went on to recommend that the existing offences relating to a man living on the earnings of prostitution and to a woman exercising control over a prostitute's movements should be replaced by a new provision making it an offence for a person (male or female)

- (i) Knowingly to live wholly or in part on the earnings of prostitution; or
- (ii) To exercise control or direction over a prostitute or to organize prostitution

The Report recommended that a member of the Garda Síochána should be empowered to arrest without warrant any person whom he finds in a public place and whom he reasonably suspects to be committing or having committed any of the new offences proposed in the Report; however in the case of the proposed new offence of public display of indecent matter and of living on the earnings of prostitution or exercising control over a prostitute, that the power should be confined to situations where a Garda demands the name and address of a person whom he reasonably suspects of committing or having committed an offence and that person fails to give them.

Draft Legislation in Report

Draft legislative provisions are included in the Report.

Information on Implementation

Recommendations of the Commission were implemented by the *Housing Act 1988*; *Criminal Law (Sexual Offences) Act 1993* and the *Criminal Justice (Public Order) Act 1994*.