

Land Law and Conveyancing Law: (6) Further general proposals including the execution of deeds

In May 1998, the Commission published its report on [Land Law and Conveyancing Law: \(6\) Further General Proposals including the execution of deeds \(LRC 56-1998\)](#), following from a March 1987 request by the then Attorney General.

Chapter One of this report contains general proposals aimed at removing anomalies arising from modern legislation, amendments to landlord and tenant law and the simplification of conveyancing. In particular it recommends that:

1. The word “assent” be deleted from the definition section of the *Family Home Protection Act, 1976*
2. The provisions of the *Succession Act, 1965* continue to apply in relation to the requirement to execute assents as the decision in *Mohan v Roche* would only apply to a limited number of cases.
3. The doctrine of advancement should be extended by statute to apply to gifts made by a wife to her husband or a mother to her children or other persons to whom she is in loco parentis. This is merely to widen the application of a presumption; as with all legal presumptions it is rebuttable, in this particular situation by evidence as to the intention of the parties.
4. In endorsing its earlier recommendation in respect of unregistered freehold land, it would now extend that recommendation to include the creation or transfer of easements or other appurtenances to unregistered freehold land.
5. A lessee who holds under a lease which is not a qualifying lease may not create a qualifying sub-lease, unless the only reason why the head-lease is not a qualifying lease is that the appropriate buildings have not yet been erected.
6. Persons holding under leases which have expired and who are entitled to new tenancies under Part II of the 1980 Act or to reversionary leases under Part III of that Act should be entitled, where the persons competent to grant such new tenancies or reversionary leases cannot be traced, to apply to the Circuit Court. Furthermore that where the lease has expired, the fact that section 31 makes notice by the lessor a prerequisite to the exercise of the right to apply for a new lease led the Commission to conclude that its recommendation should also apply to tenants entitled to reversionary leases whose landlords are known but who do not serve such notice.
7. In any amending legislation the provision relating to the relaxation of covenants should only apply where a person holding under a qualifying lease enlarges that interest into a fee simply under the provisions of the legislation.

Chapter Two contains an examination of the law and recommendations relating to the requirement for sealing in the particular context of execution of valid deeds. In general, the Commission recommends that where a company, subsequently dissolved, has defectively executed an assurance of land or an interest in land, the law should provide that after the expiry of 12 years from the date of the defective deed any outstanding interest should be deemed to be vested in the transferee by the operation of a Statute of Limitation. The Commission recommends that its proposals in respect of execution by individuals should constitute an

alternative to, rather than a replacement of, existing requirements. In the case of companies, it recommends no change to the requirement for countersigning of the impression of the company's seal under table A of the *Companies Acts of 1908 and 1963* or under the company's Articles of Association. The Commission was not in favour of changing the current law which requires that deeds must be written on paper of parchment. It recommended that any rule of law which requires authority to deliver a deed to be conferred by deed should be abolished and that any rule of law which provides that a deed is deemed to be delivered on being sealed by a corporate body should be repealed. It also recommended that the same rules should apply to the delivery of deeds by corporate bodies as to individuals. It recommended that the status of deeds be retained by providing that a document shall be the deed of a person if:

1. It is executed by that person and is described at the head of it by such words as Deed Indenture, Lease, Conveyance, Assignment, Surrender, Transfer, Mortgage or Charge or
2. It is executed by that person as a deed by the use of words such as "signed as a deed" or "executed as a deed"

It also recommended the introduction of a provision to the effect that a body incorporated in another jurisdiction may execute a deed recognized as such in Ireland where it is executed in accordance both with the laws of that jurisdiction governing the execution of such documents by such bodies and the internal rules of those bodies governing the execution of documents.

Finally, Chapter Three contains a comment on a proposal for statutory conditions of sale, reluctantly concluding that the preparation of a statutory set of conditions even with the advantage of an apparently suitable model presented insuperable difficulties and that the drafting of a statutory set of conditions was not feasible.

Draft Legislation in Report

Commission recommendations were incorporated into draft Bill in its Report on [*Reform and Modernisation of Land Law and Conveyancing Law \(LRC 74-2005\)*](#).

Information on Implementation

Recommendations of the Commission were implemented by the *Land and Conveyancing Law Reform Act 2009*.