Statutes of Limitations: Claims in Tort and Contract in respect of Latent Damage

This Report [LRC 64-2001 Report on Statutes of Limitation: Claims in contract and Tort in Respect of Latent Damage (Other than Personal Injury)](#) examines the law relating to the Statutes of Limitations in non-personal injury cases where the loss is latent. Latent damage is loss or damage which is not immediately obvious to the ordinary person.

The Commission is of the view that the present law can lead to much injustice and hardship. To remedy this, where the damage has not become apparent until a time which would be too late under the present law, it is proposed that there should be an alternative period of three years starting at the time when a reasonable person ought to have known that the damage had occurred.

The Commission, however, also felt that it is unreasonable to expect builders or professionals to keep records indefinitely and to take out insurance against such claims for an indefinite period of time. Therefore the Commission recommends that irrespective of when the person could have known of the damage there should be a cut off period or "long-stop" after which no claim can be brought. This period would run for 10 years from the date that the damage occurred

Under the present law, a limitation period is suspended if the person is under a legal incapacity before the damage occurs. A person is defined as being under a legal incapacity if they fall into such categories as: "an infant" or a person of "unsound mind". The Commission has recommended replacing "unsound mind" with the following more modem and comprehensive definition: *"where a person is incapable of the management of his affairs because of disease or impairment of physical or mental condition"*.

Annexed to this Report is a draft Bill, which implements the recommendations set out in the Report. The practice of drafting legislation is an innovation on the part of the Law Reform Commission and is designed to facilitate speedier implementation of its Reports.