



**LAW REFORM**  
COMMISSION/COIMISIÚN UM  
ATHCHÓIRIÚ AN DLÍ

REPORT

# LEGISLATION DIRECTORY

(LRC 102-2010)





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# LEGISLATION DIRECTORY

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Law Reform Commission

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## LAW REFORM COMMISSION'S ROLE

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The Law Reform Commission is an independent statutory body established by the *Law Reform Commission Act 1975*. The Commission's principal role is to keep the law under review and to make proposals for reform, in particular by recommending the enactment of legislation to clarify and modernise the law. Since it was established, the Commission has published over 160 documents containing proposals for law reform and these are all available at [www.lawreform.ie](http://www.lawreform.ie). Most of these proposals have led to reforming legislation.

The Commission's role is carried out primarily under a Programme of Law Reform. Its *Third Programme of Law Reform 2008-2014* was prepared by the Commission following broad consultation and discussion. In accordance with the 1975 Act, it was approved by the Government in December 2007 and placed before both Houses of the Oireachtas. The Commission also works on specific matters referred to it by the Attorney General under the 1975 Act. Since 2006, the Commission's role includes two other areas of activity, Statute Law Restatement and the Legislation Directory.

Statute Law Restatement involves the administrative consolidation of all amendments to an Act into a single text, making legislation more accessible. Under the *Statute Law (Restatement) Act 2002*, where this text is certified by the Attorney General it can be relied on as evidence of the law in question. The Legislation Directory - previously called the Chronological Tables of the Statutes - is a searchable annotated guide to legislative changes. After the Commission took over responsibility for this important resource, it decided to change the name to Legislation Directory to indicate its function more clearly.

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## MEMBERSHIP

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Law Reform Commission consists of a President, one full-time Commissioner and three part-time Commissioners.

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The Hon Mrs Justice Catherine McGuinness  
Former Judge of the Supreme Court

**Full-time Commissioner:**

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**Aoife Clarke**, researcher, Law Reform Commission

**Eileen Glynn**, intern, Law Reform Commission

Full responsibility for the content of this publication, however, lies with the Commission.



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## INTRODUCTION

1. This Report on the Legislation Directory is the culmination of the Commission's review of that database. The Report arises out of the transfer of responsibility for the Chronological Tables of the Statutes from the Office of the Attorney General to the Law Reform Commission. It follows on from the Commission's *Consultation Paper on the Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008) of July 2008.<sup>1</sup>
2. The Law Reform Commission is an independent statutory body established by the *Law Reform Commission Act 1975*. The 1975 Act gives the Commission the primary role of keeping the law under review and conducting research with a view to the reform of the law. "Reform" is defined under section 1 of the Act to include matters relating to the simplification, modernisation, revision and consolidation of statute law.
3. Until 2006, the Commission carried out its statutory mandate in relation to law reform by producing Reports and Consultation Papers on subjects drawn from its Programmes of Law Reform, as well as acting on requests from the Attorney General to examine specific areas of law. However, in 2006-2007, the scope of the Commission's research work was expanded to include two other areas of activity, Statute Law Restatement and the Legislation Directory (then known as the Chronological Tables of the Statutes).
4. The Office of the Attorney General had functional responsibility for the preparation of restatements under the *Statute Law Restatement Act 2002*. Historically, it had also been responsible for the preparation and maintenance of the Legislation Directory. In 2006, a Government decision was made to transfer responsibility for Statute Law Restatement to the Commission. Subsequently, the Attorney General requested the Commission to take over functional responsibility for the Chronological Tables of the Statutes, and the Commission agreed to this request.
5. The Legislation Directory is a publicly available electronic database. Its main purpose is to document modifications made to primary legislation by subsequent legislation. The resource provides a vital source of information which aids legal professionals, legislators and lay persons to inform themselves as to the current position of the law.
6. Following the Commission's assumption of responsibility, the Commission made the decision in late November 2007 to change the name of the "Chronological Tables of the Statutes" to "Legislation Directory". This decision was taken in order to better indicate to potential users the function of this resource as a guide to legislative effects. It also marked out the new allocation of responsibility for this resource to the Commission.
7. The Commission then undertook an initial review of the Legislation Directory. The results of that review and the Commission's plans for the future of the database were discussed in the Consultation Paper. The Commission also outlined its plans for the installation of a new authoring tool for the compilation of the Legislation Directory. Since publication of the Consultation Paper, the Commission has finalised the design and installation of the authoring tool. It has implemented design changes to aspects of the Legislation Directory. It has corrected errors identified on that database. It has also processed a backlog of legislative material to be uploaded to the Legislation Directory. On 30 April 2010, it supplied the first delivery of material from the new authoring tool to the Office of the Attorney General for upload to the electronic Irish Statute Book (eISB). This material covered the period 1 January 2006-3 April 2010 inclusive. Subject to external factors, the Commission aims to supply regular updates to the database from now on. These and other matters will be discussed in further detail in this Report.

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<sup>1</sup> Hereinafter referred to as the Consultation Paper.

8. The compilation and maintenance of the Legislation Directory forms part of the overall policy of “Better Regulation” discussed in the 2004 Government White Paper entitled *Regulating Better*.<sup>2</sup> In that document, transparency and accountability were recognised as two of six principles to be promoted as part of the “Better Regulation” initiative.<sup>3</sup> The maintenance of the Legislation Directory enhances the transparency of the Irish Statute Book. It makes the law more accessible to citizens. The importance of accessibility to legislation was recognised in the Government’s publication on the “Smart Economy”.<sup>4</sup> Further, in its recent report on Ireland,<sup>5</sup> the OECD also noted the significant role played by the Legislation Directory in enhancing accessibility to legislation.<sup>6</sup> This accessibility serves to enhance the accountability of the law.
9. The OECD also commented on the link between better regulation and a stronger economy and society. It stressed the need to reduce the administrative burden on business in order to aid recovery from the current economic crisis. It emphasised that sufficient resources should be allocated to the better regulation measures.<sup>7</sup> It identified particular concern in the current economic climate that public service cuts may lead to neglect of the application of quality principles associated with better regulation. It said that rationalisation and cuts need to be carried out in a framework that also addresses the effective implementation of a strong regulatory policy for the longer term.<sup>8</sup> It also commented on the particularly complex nature of the Irish statute book which gives rise to the need for better regulation measures.<sup>9</sup>
10. In chapter 1 of this Report, the Commission will briefly discuss issues surrounding accessibility of legislation in Ireland. It will examine measures in other jurisdictions. In chapter 2, it will look at the current operation of the Legislation Directory and the work of the Commission. Chapter 3 will focus on the methodology utilised by the Commission in the maintenance of the Legislation Directory. It will discuss the Commission’s authoring tool and detail how it supports the Commission in its work. Chapter 4 will give an update on the progress being made by the Commission in relation to Statute Law Restatement. This project runs in tandem with the Legislation Directory project in the Commission. It has also been recognised as fundamental in improving the accessibility of legislation in Ireland. The report will also briefly discuss the Commission’s *Consultation Paper on a Classified List of Legislation in Ireland*<sup>10</sup> as this is relevant to many of the areas touched on in the report. Finally, the Commission also hopes that these projects will complement its role as a member of the eLegislation group.
11. The Commission has drawn up a short-medium term action plan for the Legislation Directory. This will be referred to throughout the Report and the overview will be presented at the end of the Report at Appendix B.

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<sup>2</sup> *Regulating Better, A Government White Paper setting out six principles of Better Regulation* (16 January 2004). Available at [www.betterregulation.ie](http://www.betterregulation.ie).

<sup>3</sup> The six principles are Necessity; Effectiveness; Proportionality; Transparency; Accountability and Consistency. *Ibid* at 2.

<sup>4</sup> *Building Ireland’s Smart Economy, A Framework for Sustainable Economic Renewal* (December 2008). See [http://www.taoiseach.gov.ie/eng/Building\\_Ireland's\\_Smart\\_Economy/Building\\_Ireland's\\_Smart\\_Economy\\_.pdf](http://www.taoiseach.gov.ie/eng/Building_Ireland's_Smart_Economy/Building_Ireland's_Smart_Economy_.pdf)

<sup>5</sup> The OECD Review of Better Regulation in Ireland is one of a series of country reports launched by the OECD in partnership with the European Commission. The objective is to assess regulatory management capacities in the 15 original member states of the European Union (EU), including trends in their development, and to identify gaps in relation to good practice as defined by the OECD and the EU in their guidelines and policies for better regulation. See OECD, *Better Regulation in Europe: Ireland*, OECD Paris (2010), at 3

<sup>6</sup> *Ibid.* at 93-94

<sup>7</sup> *Ibid.*, chapter 1. This link is reiterated throughout the report.

<sup>8</sup> *Ibid.* at 66.

<sup>9</sup> *Ibid.* at 116.

<sup>10</sup> (LRC CP 62-2010),

## CHAPTER 1 ACCESSIBILITY OF LEGISLATION

### A Introduction

1.01 In the Consultation Paper, the Commission noted that there was a fundamental obligation on the State to make legislation accessible to the public.<sup>1</sup> One of the basic principles of our legal system is that “ignorance of the law is no excuse”. A person cannot plead a lack of knowledge of the law which regulates his or her behaviour. A state that wishes to rely on that principle must at a minimum make law accessible to the public so that they can acquire such knowledge should they so wish to do so.

1.02 Berry has commented:

“From the perspective of both the state and its citizens, it is vital that up-to-date versions of the legislation relevant to an issue that concerns them are capable of being identified and accessed. If legislation is not readily and immediately accessible, finding it will prove to be a task that is beyond not only lay people but also competent and experienced lawyers.”<sup>2</sup>

1.03 The Commission has previously commented that the manner in which legislation is produced and published can impede accessibility.<sup>3</sup> The Commission will now return to a brief discussion of this topic.

### B Publication of Legislation

1.04 Legislation in Ireland is published in its original form only. Once this version is published there will be no further re-publication to take account of modifications which may be made at a later date. The user must consult the Legislation Directory on the electronic Irish Statute Book (eISB)<sup>4</sup> to ascertain how an Act may have been modified since enactment. This facility does not currently exist for statutory instruments.<sup>5</sup>

1.05 While completing this Report, the Commission was interested to see what arrangements existed in other jurisdictions. If legislation was modified, were amended texts generally available? If so, where were they made available? The Commission was able to establish that for 27 out of 33 European legal systems,<sup>6</sup> at least one official collection of consolidated<sup>7</sup> texts existed. In 25 jurisdictions, this collection was available online. Some collections were limited to primary legislation but many contained both primary and secondary legislation.

1.06 The Commission also investigated whether there were specific deadlines for consolidation of new material. This varied between the jurisdictions. Some provided for immediate consolidation. In other cases, the time taken was longer. In many European jurisdictions, there were no fixed deadlines for

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<sup>1</sup> See Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraph 1.30.

<sup>2</sup> Berry “Keeping the Statute Book up-to-date: A personal view” (2007) *The Loophole* 3 at 33.

<sup>3</sup> See Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraphs 1.31, 1.36, 1.49.

<sup>4</sup> Available at <http://www.irishstatutebook.ie/chronological.html>

<sup>5</sup> This is discussed in more detail at paragraphs 2.135-2.145.

<sup>6</sup> This includes Member States of the European Union, potential candidate states and members of the European Free Trade Area.

<sup>7</sup> This refers to non-legislative consolidation.

consolidation, i.e. the consolidation was done “as soon as possible”, which in some cases meant 2-5 days after the modification and in some cases – a year or more.

1.07 For example, in Belgium the delay is about 6 weeks for federal legislation and 18 months for regional legislation. This is because a very small number of individuals are responsible for all consolidations in the two official languages. However, the day after the publication of the modification, a note is inserted into the existing legislation indicating that a change to the text has been published. A user can access the relevant text by hyperlink.<sup>8</sup> In Denmark, the Danish Ministry of Justice recommends that a consolidated version is drafted each time an amendment has been passed. In reality, most ministries draft a consolidated Act in an area of law approximately once a year. In contrast, in many of the newer accession states the consolidation is published simultaneously with the new legislation or almost immediately afterwards.<sup>9</sup>

1.08 The Commission then looked at the status of these texts. In most cases (19 collections), consolidations were issued for information purposes only and in eight cases the consolidated texts are considered as official or semi-official.<sup>10</sup> The Commission also looked at the body responsible for the production of the consolidated texts. An overview of this research can be seen at Appendix A.

1.09 The advantage of consolidated texts can be seen in the usage figures reported by the states in question. In 2009, Estonia reported ten times more searches in the consolidated part of the Estonian Gazette than in the part containing the original versions. In Switzerland, there are 450,000 visitors per day for the consolidated online version versus 50,000 for the Legal Gazette.<sup>11</sup>

1.10 The Commission believes that the widespread provision of consolidated material would be equally popular in this jurisdiction. In Ireland, this requirement is particularly acute given the tendency towards continued amendment of existing legislation. The Commission will now consider the difficulties concerned with this practice.

## **C Amendment of Legislation**

1.11 Another primary cause of the difficulty encountered by users of the Irish Statute Book in accessing the law on a particular topic is that the relevant provisions are hardly ever contained in one single statute. They may be scattered among a Principal Act, amending Acts and various statutory instruments. The user may often have to piece together the various texts to ascertain the current state of the law.

1.12 Often the amending provisions will be contained in an Act that deals with issues other than those with which the user is primarily concerned and whose short title gives no clue to the casual reader of their relevance. This may be described as the buried amendment phenomenon. It can arise due to expediency in effecting required changes to the law as an add-on to legislation which is already in train or by the use of measures dealing with miscellaneous provisions. This reflects a pragmatic solution to the realities of awaiting a more opportunely titled piece of legislation given the demands of the Government

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<sup>8</sup> See European Forum of Official Gazettes, *Consolidation, Interim Report of the Working Group* (2008), at 5. Available at <http://www.circa.europa.eu/irc/opoce/ojf/info/data/prod/data/pdf/Madrid2008-consolidation-interimReport.pdf>

While this information would appear in the Legislation Directory in this jurisdiction, the user would have to know to consult that database. It is currently not apparent from the face of the Act on the eISB that it has been amended. Also currently, it is not possible to update that database on a daily basis.

<sup>9</sup> *Ibid.*

<sup>10</sup> See *Access to Legislation in Europe*, Publications Office of the European Union (2009), at 16. Available at <http://circa.europa.eu/irc/opoce/ojf/info/data/prod/data/pdf/AccessToLegislationInEuropeGUIDE2009.pdf>

<sup>11</sup> European Forum of Official Gazettes, *Consolidation, Interim Report of the Working Group* (2008), at 9. Available at <http://www.circa.europa.eu/irc/opoce/ojf/info/data/prod/data/pdf/Madrid2008-consolidation-interimReport.pdf>

Legislative Programme and the heavy work schedule of the Office of Parliamentary Counsel to the Government.

1.13 For example, the *Investment Funds, Companies and Miscellaneous Provisions Act 2005* amends legislation which is in the sphere of consumer law rather than financial services or company law. Section 83(b), which is within Part 7 (Miscellaneous Amendments) of the Act, amends section 7(3) of the *Package Holidays and Travel Trade Act 1995* by increasing the timeframe within which a prosecution may be taken under that Act from 12 months to 2 years. This is not an isolated example.

1.14 The Commission has previously commented on these issues. In the Commission’s *Consultation Paper on Statutory Drafting and Interpretation: Plain Language and the Law*,<sup>12</sup> the Commission attributed much of the confusion facing the reader of Irish legislation to —the frequent and piecemeal amendment of legislation.<sup>13</sup> The Commission has particular concerns in relation to secondary legislation.

1.15 As a result of its work on the Legislation Directory project, the Commission has had the opportunity to look at this area in considerable detail. When reviewing secondary legislation as part of the Legislation Directory project, the team in the Commission noted the number of statutory instruments produced each year and identified those which contained amendments to earlier legislation.<sup>14</sup> These figures appear below.

	2006	2007	2008	2009	2010 <sup>15</sup>
Total number of S.I.s produced	708	872	608	594	510
Total number of S.I.s containing amendments	411	556	372	347	330
Percentage containing amendments	58%	64%	61%	58%	65%

Figure 1: Amendments to existing legislation by statutory instruments 2006-2010

1.16 Given the lack of consolidated material or a Legislation Directory for statutory instruments, it is unclear how users are to inform themselves as to the current position of the law.

1.17 In its recent report on Ireland, the OECD also commented that

“Irish regulatory production needs to be monitored, not least in support of the efforts to simplify the regulatory stock. A significant number of new primary and secondary regulations come on to the statute book every year. In the Irish context this matters especially as much of this represent amendments to existing statutes, necessitating a major and ongoing cleaning up of the regulatory stock over time so that it remains legible”.<sup>16</sup>

1.18 Further, the OECD review found that the regulatory framework remains difficult to understand, including for professional lawyers, and is unanimously considered a key issue. A first key difficulty stems

<sup>12</sup> LRC CP14-1999.

<sup>13</sup> *Ibid.* at paragraph 2.26.

<sup>14</sup> These figures are intended to give an impression of the scale of amendment to the Irish statute book. They will also contain some amendments to primary legislation. Also, primary legislation will in some cases amend secondary legislation. These figures are not included here.

<sup>15</sup> January to mid October only

<sup>16</sup> OECD, *Better Regulation in Europe: Ireland*, OECD Paris (2010), at 98

from the pace of regulatory production. As new regulations are produced, amendments continue to pile up, transforming restatement into an endless race against time.<sup>17</sup>

1.19 Currently, the Legislation Directory and the Statute Law Restatement projects are addressing some aspects of this deficit in Ireland. The Commission's recent *Classified List of Legislation in Ireland* will also contribute here.<sup>18</sup> The Commission will now turn to a consideration of these projects.

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<sup>17</sup> *Ibid.* at 125-126

<sup>18</sup> See *Consultation Paper on a Classified List of Legislation in Ireland* (LRC CP 62-2010)

## CHAPTER 2 THE LEGISLATION DIRECTORY

### A Introduction

2.01 This chapter will discuss the current operation of the Legislation Directory. Part B will provide an introduction to the database. Part C will discuss the functionality of the Legislation Directory. Part D will discuss the role that the Legislation Directory could play in relation to statutory instruments. Finally, Part E will discuss tracking the effect of case law on legislation.

### B Overview of the Legislation Directory

2.02 The Legislation Directory is hosted on the electronic Irish Statute Book (eISB), a free to access website managed by the Office of the Attorney General.<sup>1</sup> See figure 1 below.

The screenshot shows the homepage of the Irish Statute Book. At the top, there is a dark blue header with the 'Irish Statute Book' logo and the text 'Produced by the Office of the Attorney General'. To the right of the header is a 'Quick Search' box with a search bar and buttons for 'Acts', 'SIs', and 'Search', along with a 'Disclaimer' link. Below the header is a navigation sidebar on the left with links for Home, Search, Acts of the Oireachtas, Statutory Instruments, Legislation Directory, Print an Act, Feedback, Site Map, and Text Size (Default | Large). The main content area is divided into several sections. The top section is a text block stating 'The Irish Statute Book database comprises the Acts of the Oireachtas, Statutory Instruments and Legislation Directory. [Learn more about the Irish Statute Book database](#)'. Below this are three featured sections: 'Acts of the Oireachtas 1922 to 2010', 'Statutory Instruments 1922 to 2010', and 'Legislation Directory 1922 to April 2010'. Each of these sections has a 'Browse' link and a 'Link to latest Acts in PDF format' or 'Statutory Instruments in PDF format' link. Below these are three more sections: 'New Search facility', 'Other Sources of Irish Legislation', and 'Help Desk'. The 'New Search facility' section contains text about the search tool being upgraded. The 'Other Sources of Irish Legislation' section lists links to 'Houses of the Oireachtas - Acts in Portable Document Format (PDF)', 'Bilingual Acts of the Oireachtas', and 'Constitution of Ireland/Bunreacht na hEireann 1937'. The 'Help Desk' section provides information about the helpdesk service. At the bottom of the page is a footer with copyright information and links to 'Accessibility Statement', 'Privacy Statement', and 'Disclaimer'.

Figure 1: The eISB homepage

2.03 In January 2008, that office completed its final maintenance responsibilities in respect of the database. At that time, the resource was updated to reflect all Acts of the Oireachtas and affecting provisions made to 31 December 2005. The Commission took over responsibility for updating the site from that point onwards.

<sup>1</sup> [www.irishstatutebook.ie](http://www.irishstatutebook.ie)

See Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraphs 2.02-2.06 for further discussion on the website content.

2.04 The Legislation Directory is accessed from the eISB homepage. The user clicks on the Legislation Directory navigation box and proceeds to the Legislation Directory homepage. See figure 2 below.

**Irish Statute Book**  
Produced by the Office of the Attorney General

**Quick Search**  
Search for word(s) / phrase in Title of Act or Statutory Instrument

Acts  SIs  [Disclaimer](#)

**Home**  
**Search**  
**Acts of the Oireachtas**  
**Statutory Instruments**  
**Legislation Directory**  
**Print an Act**  
**Feedback**  
**Site Map**

**Text Size**  
Default | Large

## Legislation Directory

The purpose of this database is to enable users of the Irish Statute Book to identify whether a particular provision has been amended or otherwise affected since its enactment.

The database contains -

- [A list of abbreviations](#)
- [A chronological list of the Public General Acts enacted from 6 December, 1922 to 3 April 2010 \(No. 4 of 2010\)](#)
- [An alphabetical list of Acts in force, which were brought into operation either in whole or in part by Orders made on or before 3 April 2010](#)
- [An alphabetical list of collective citations](#)
- [An alphabetical list of Orders made under section 6 \(1\) of the Ministers and Secretaries \(Amendment\) Act 1939, on or before 3 April 2010](#)
- [A chronological list of Regulations made under section 3 of the European Communities Act 1972, on or before 3 April 2010](#)
- [A chronological list of the Private Acts from 6 December, 1922 to 3 April 2010](#)

Tables of the legislation set out in the next paragraph as affected by any primary or secondary legislation enacted from 6 December, 1922 to 3 April 2010, namely -

- [Pre-Union Irish Statutes \(1169 - 1800\)](#)
- [Statutes of England \(1066 - 1706\)](#)
- [Statutes of Great Britain \(1707 - 1800\)](#)
- [Statutes of the United Kingdom of Great Britain and Ireland \(1801 - 1922\)](#)
- [United Kingdom Local and Personal Acts \(1801 - 1922\)](#)
- [Schedule 1 to the Statute Law Revision Act 2009 \(No. 46 of 2009\) \(which lists certain pre 1922 private and local and personal Acts that were not repealed by that Act\)](#)
- [The Local Government \(Application of Enactments\) Order 1898, and](#)
- [The Local Government \(Adaptation of Irish Enactments\) Order 1899](#)
- [A Table of Expressions \(in alphabetical order\) used in British Statutes \(Public Statutes and Local and Private Statutes\) or Saorstát Éireann Statutes that have been adapted by the Orders made before 3 April 2010, under the Adaption of Enactments Act 1922 \(No. 2 of 1922\), or the Constitution \(Consequential Provisions\) Act 1937 \(No. 40 of 1937\)](#)
- [An alphabetical list of all Acts in the Legislation Directory](#)

Users should be aware of the following:

Where an affecting provision (including a repealing provision) is governed by a commencement provision, the commencement provision is referred to. Users are advised to check whether the affecting provision has been commenced.

In general, this database does not refer to amendments effected prior to 1922. However, it is being updated to include pre-1922 amendments to pre-1922 Acts which were not repealed by the [Statute Law Revision Act 2007](#). Currently, pre-1922 amendments to those Acts enacted from 1900-1922 have been indexed.

Attention is drawn to the following provisions of the [Interpretation Act 2005](#): [Section 17](#) in relation to the exercise of statutory powers before the commencement of an Act; [Part 6](#) (sections 26 and 27) in relation to the effects of repeals and revocations in Acts of the Oireachtas and instruments made partly or wholly thereunder.

Attention is also drawn to [section 2](#) of the [European Communities Act 1972](#), which provides that the Treaties and other acts of the Communities are binding on the State and are part of its domestic law.

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Figure 2: Legislation Directory Homepage

2.05 The user is presented with a set of options in the form of links to different lists of information available for consultation. The first of these links are as follows:

- A list of abbreviations;

- A chronological list of the Public General Acts enacted from 6 December 1922 to 3 April 2010 (No. 4 of 2010);<sup>2</sup>
- An alphabetical list of Acts in force, which were brought into operation either in whole or in part by Orders made on or before 3 April 2010;
- An alphabetical list of collective citations;
- An alphabetical list of Orders made under section 6 (1) of the *Ministers and Secretaries (Amendment) Act 1939*, on or before 3 April 2010;
- A chronological list of Regulations made under section 3 of the *European Communities Act 1972*, on or before 3 April 2010;
- A chronological list of the Private Acts from 6 December 1922 to 3 April 2010;

2.06 The user is also provided with tables of pre-Independence legislation as affected by any primary or secondary legislation enacted from 6 December 1922 to 3 April 2010. These tables are divided according to the various Parliaments who were responsible for the enactment of legislation pertaining to Ireland. These are:

- Pre-Union Irish Statutes (1169-1800)
- Statutes of England (1066-1706)
- Statutes of Great Britain (1707-1800)
- Statutes of the United Kingdom of Great Britain and Ireland (1801-1922)
- United Kingdom Local and Personal Acts (1801-1922)
- Schedule 1 to the *Statute Law Revision Act 2009* (No. 46 of 2009) (which lists certain pre 1922 private and local and personal Acts that were not repealed by that Act).

2.07 The Legislation Directory goes on to provide a list of amendments to the *Local Government (Application of Enactments) Order 1898*, and the *Local Government (Adaptation of Irish Enactments) Order 1899*.

2.08 The Legislation Directory then provides a Table of Expressions (in alphabetical order) used in British Statutes (Public Statutes and Local and Private Statutes) or Saorstát Éireann Statutes that have been adapted by the Orders made before 3 April 2010 under the *Adaptation of Enactments Act 1922* or the *Constitution (Consequential Provisions) Act 1937*.

2.09 Finally, the Legislation Directory provides an alphabetical list of all Acts in the Legislation Directory.<sup>3</sup>

2.10 Towards the bottom of the homepage, the user is alerted to the following:

- Where an affecting provision (including a repealing provision) is governed by a commencement provision, the commencement provision is referred to. Users are advised to check whether the affecting provision has been commenced.
- In general, this database does not refer to amendments effected prior to 1922. However, it is being updated to include pre-1922 amendments to pre-1922 Acts retained in force by the *Statute Law Revision Act 2007*. Currently, pre-1922 amendments to retained Acts enacted from 1900-1922 have been indexed.<sup>4</sup>

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<sup>2</sup> The date of 3 April 2010 given throughout this Report reflects the updates uploaded to the Legislation Directory at the time of writing. A further upload was scheduled for January 2011.

<sup>3</sup> Previously an alphabetical list of all Acts by decade appeared next on the homepage. This has been removed. For further details see paragraph 2.112.

<sup>4</sup> The date span 1900-1922 refers to the body of material which had been uploaded to the Legislation Directory at the time of writing. A further upload was scheduled for January 2011. This was to cover the period 1870-1900.

- Attention is drawn to the following provisions of the *Interpretation Act 2005*;  
Section 17 in relation to the exercise of statutory powers before the commencement of an Act;  
Part 6 (sections 26 and 27) in relation to the effects of repeals and revocations in Acts of the Oireachtas and instruments made partly or wholly thereunder.
- Attention is also drawn to section 2 of the *European Communities Act 1972*, which provides that the Treaties and other acts of the Communities are binding on the State and are part of its domestic law.

2.11 The Legislation Directory homepage is the first page a user encounters when accessing the Legislation Directory. The Commission is concerned lest the volume of information provided on the homepage cause confusion for users and go so far as to discourage use of the resource. The Commission believes that the homepage should be an easy to read map or doorway to the information provided in the Legislation Directory.

2.12 The Commission believes that the Legislation Directory homepage should be streamlined. It suggests that the homepage would contain a limited number of links. It proposes that certain core functions of the Legislation Directory be accessed by way of these links on the homepage but that some listings, which are referenced less frequently be relocated to secondary webpages.

2.13 However, the Commission is not the custodian of the eISB website. It will need to work together with stakeholders to achieve this goal. This will be one of the first tasks on the Commission's action plan for the Legislation Directory. With these changes in mind, the Commission will now turn to a detailed consideration of the content of the Legislation Directory database and the utility of the individual listings.

## C Legislation Directory Functionality

### (1) List of Abbreviations

2.14 The first listing which the user encounters on the Legislation Directory is a list of abbreviations. See figure 3 below.

The screenshot shows the 'Irish Statute Book' website header with a search bar and a navigation menu. The main content area is titled 'List of Abbreviations' and contains a table with two columns: 'Abbreviation' and 'Full word'. The table lists various legal abbreviations and their corresponding full words.

Abbreviation	Full word
adapt.	adapted.
addit.	additional
Agric.	Agriculture.
alt.	altered, alteration.
am.	amend, amended, amendment.
appl.	applied.
applic.	applicable, application.
appt.	appoint.
Art, art(s).	Article, article(s).
B.O.H.	Board of Health.
Bd.	Board.
Boro.	Borough.
c., ch(s).	chapter(s).
cert.	certain, certificate.
cesser.	cessation
Cir. Ct.	Circuit Court.
circs.	circumstances.
cl.	clause.
co.	county.
Co. Regr.	County Registrar.
col.	column, council.

Figure 3: An extract from the list of abbreviations

2.15 This lists many of the abbreviations in use on the database. The Commission has also completed some work on inputting pre-1922 hard copy material onto the Legislation Directory. A number

of additional abbreviations are used in this body of material. As part of its action plan, the Commission will examine the current list of abbreviations and the additional abbreviations identified in the pre-1922 material and prepare a composite listing.

2.16 The Commission also believes that access should be maintained to the list of abbreviations (as amended) as these will continue to widely apply in relation to legislation enacted up to 31 December 2005.

2.17 However, the Commission has previously commented on the wide number of abbreviations in use in the Legislation Directory.<sup>5</sup> The Commission believes that there also has been some lack of consistency in the use of abbreviations. This may cause confusion for users. The Commission has thus abandoned the use of many abbreviations in respect of legislation enacted after 31 December 2005. This is facilitated by the additional space provided by the use of new format Act tables.<sup>6</sup> A number of abbreviations still remain, for example, “s.” for “section” or “reg.” for “regulation”. However, this is restricted to instances where there should be minimal confusion for users. Abbreviations will usually be avoided in operative provisions which describe the changes to legislation.

**(2) *A Chronological List of the Public General Acts enacted from 6 December 1922 to 3 April 2010.***

2.18 The core functionality provided by the Legislation Directory is the provision of information concerning how primary legislation has been affected by subsequent legislative developments. The Chronological List of the Public Acts provides this information. Thus, the Commission believes that this listing is the most important to users of the Legislation Directory.

2.19 The Commission will now describe how this listing operates in practice and how the Commission has expanded its content in respect of legislation enacted after 31 December 2005.

**(a) *Locating an Act Table***

2.20 If a user wishes to establish whether an Act has been amended, the first step is to locate the relevant Act table in the Legislation Directory.

2.21 In respect of the Public General Acts, the first option open to the user is to locate the Act table by a chronological search.<sup>7</sup> This requires the user to know the year of enactment. The user then chooses the following listing from the Legislation Directory.

“A chronological list of the Public General Acts enacted from 6 December, 1922 to 3 April 2010”.

2.22 Where this listing is selected, a page with the years 1922 to 2010 appears. Each year is hyperlinked and on clicking on a year, the user is brought to a page showing the tables of the Acts passed in that particular year. See figure 4 below.

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<sup>5</sup> See Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraphs 2.15-2.30 for further discussion.

<sup>6</sup> Each Act enacted after that date has its own dedicated Legislation Directory table. This is discussed in more detail at paragraphs 2.26-2.43.

<sup>7</sup> The second option is by alphabetical search. See paragraphs 2.109-2.111 below.

**Irish Statute Book**  
Produced by the Office of the Attorney General

**Quick Search**  
Search for word(s) / phrase in Title of Act or Statutory Instrument

Acts  SIs

[Disclaimer](#)

**Home**  
**Search**  
**Acts of the Oireachtas**  
**Statutory Instruments**  
**Legislation Directory**  
**Print an Act**  
**Feedback**  
**Site Map**

**Text Size**  
Default | Large

**Chronological Table of the Statutes**

[1922](#) [1923](#) [1924](#) [1925](#) [1926](#) [1927](#) [1928](#) [1929](#)  
[1930](#) [1931](#) [1932](#) [1933](#) [1934](#) [1935](#) [1936](#) [1937](#) [1938](#) [1939](#)  
[1940](#) [1941](#) [1942](#) [1943](#) [1944](#) [1945](#) [1946](#) [1947](#) [1948](#) [1949](#)  
[1950](#) [1951](#) [1952](#) [1953](#) [1954](#) [1955](#) [1956](#) [1957](#) [1958](#) [1959](#)  
[1960](#) [1961](#) [1962](#) [1963](#) [1964](#) [1965](#) [1966](#) [1967](#) [1968](#) [1969](#)  
[1970](#) [1971](#) [1972](#) [1973](#) [1974](#) [1975](#) [1976](#) [1977](#) [1978](#) [1979](#)  
[1980](#) [1981](#) [1982](#) [1983](#) [1984](#) [1985](#) [1986](#) [1987](#) [1988](#) [1989](#)  
[1990](#) [1991](#) [1992](#) [1993](#) [1994](#) [1995](#) [1996](#) [1997](#) [1998](#) [1999](#)  
[2000](#) [2001](#) [2002](#) [2003](#) [2004](#) [2005](#) [2006](#) [2007](#) [2008](#) [2009](#)  
[2010](#)

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Figure 4: Overview of Act tables arranged by year

(i) **Legislation Enacted Before 31 December 2005**

2.23 Figure 5 below shows an extract from the chronological list for 2004.<sup>8</sup>

**Irish Statute Book**  
Produced by the Office of the Attorney General

**Quick Search**  
Search for word(s) / phrase in Title of Act or Statutory Instrument

Acts  SIs

[Disclaimer](#)

**Home**  
**Search**  
**Acts of the Oireachtas**  
**Statutory Instruments**  
**Chronological Tables**  
**Print an Act**  
**Feedback**  
**Site Map**

**Text Size**  
Default | Large

Year and Number	Short Title	How Affected	Affecting Provision
1	<a href="#">Immigration Act 2004</a>	Person deemed to/not to have arrived at a frontier of the State Appl. S. <a href="#">5</a> (1) applied S. <a href="#">6</a> (2) appl. S. <a href="#">9</a> fee waiver S. <a href="#">9</a> (5), form of reg. cert. prescribed under. S. <a href="#">17</a> (1)(a), classes of non-national specified for the purposes of S. <a href="#">17</a> (1)(b), classes of non-national specified for the purposes of S. <a href="#">19</a> (1)(a) fee prescribed S. <a href="#">19</a> (1)(b) amount prescribed under	<a href="#">16/2009</a> , ss. <a href="#">12</a> , <a href="#">21</a> (2)  <a href="#">26/2005</a> , ss. <a href="#">198</a> (4), <a href="#">364</a> (1)  <a href="#">S.I. No. 413 of 2006</a> , regs. 2, 4(6)(a)  <a href="#">S.I. No. 57 of 2004</a> , art. 2, sch.  <a href="#">S.I. No. 253 of 2006</a> , regs. 1(2), 4(a)  <a href="#">S.I. No. 95 of 2004</a> , reg. 2 (1)  <a href="#">S.I. No. 453 of 2009</a> , regs. 1(2), 3 & sch. 1 <a href="#">S.I. No. 239 of 2009</a> , regs. 1(2), 3 & sch. 1  <a href="#">S.I. No. 453 of 2009</a> , regs. 1(2), 4 & sch. 2 <a href="#">S.I. No. 239 of 2009</a> , regs. 1(2), 4 & sch. 2  <a href="#">S.I. No. 287 of 2009</a> , regs. 2(2), 3  <a href="#">S.I. No. 336 of 2008</a> , regs. 1(2), 3 <a href="#">S.I. No. 253 of 2006</a> , regs. 1(2), 3
2	<a href="#">European Parliament Elections (Amendment) Act 2004</a>	Not Affected	

Figure 5: An extract from the cumulative chronological Act tables for 2004

2.24 The table for that year is laid out as one document. The Acts appear in order of enactment. Each Act also appears as a hyperlink so the user has the option to click on the hyperlink to view the text of the Act as enacted.

<sup>8</sup> These tables are referred to as the “old format Act tables” throughout the Report.

2.25 A disadvantage of this method of presentation is that in order to locate an Act enacted towards the middle or end of 2004, the user must manually scroll down the page or use the computer's search function in order to locate the relevant Act. If the user scrolls down to find the Act, the titular headings of the fields are removed from immediate visibility. Further, if there are a large number of amendments, it can be unclear which Act is currently on screen.

**(ii) Legislation Enacted After 31 December 2005**

2.26 The Commission has redesigned the presentation of these Act tables for legislation enacted after 31 December 2005.<sup>9</sup> When the user accesses this type of information, an overview or list of the Acts passed in a particular year will now appear. See figure 6 below.

**Irish Statute Book**  
Produced by the Office of the Attorney General

**Quick Search**  
Search for word(s) / phrase in Title of Act or Statutory Instrument

Home  
Search  
Acts of the Oireachtas  
Statutory Instruments  
**Chronological Tables**  
Print an Act  
Feedback  
Site Map  
Text Size  
Default | Large

**Chronological Table of the Statutes (2008)**

- [Control of Exports Act 2008](#)
- [Social Welfare and Pensions Act 2008](#)
- [Finance Act 2008\\*](#)
- [Passports Act 2008](#)
- [Motor Vehicle \(Duties and Licences\) Act 2008](#)
- [Voluntary Health Insurance \(Amendment\) Act 2008](#)
- [Criminal Justice \(Mutual Assistance\) Act 2008](#)
- [Criminal Law \(Human Trafficking\) Act 2008](#)
- [Local Government Services \(Corporate Bodies\)\(Confirmation of Orders\) Act 2008](#)
- [Prison Development \(Confirmation of Resolutions\) Act 2008](#)
- [Electricity Regulation \(Amendment\) \(Eirgrid\) Act 2008](#)
- [Legal Practitioners \(Irish Language\) Act 2008](#)
- [Chemicals Act 2008](#)
- [Civil Law \(Miscellaneous Provisions\) Act 2008](#)
- [Dublin Transport Authority Act 2008](#)
- [Nuclear Test Ban Act 2008](#)
- [Intoxicating Liquor Act 2008](#)
- [Credit Institutions \(Financial Support\) Act 2008](#)
- [Mental Health Act 2008](#)

Figure 6: Overview of acts passed in 2008

2.27 Each Act on the list is hyperlinked. When the user clicks on the hyperlink, he or she is taken to a new separate Act table for each individual Act. See figure 7 below. This illustrates the entry for the *Passports Act 2008* at the time of writing.

**Irish Statute Book**  
Produced by the Office of the Attorney General

**Quick Search**  
Search for word(s) / phrase in Title of Act or Statutory Instrument

Home  
Search  
Acts of the Oireachtas  
Statutory Instruments  
**Chronological Tables**  
Print an Act  
Feedback  
Site Map  
Text Size  
Default | Large

**Passports Act 2008**  
**No. 4 of 2008**

**Commencement**

Section	Commencement Date	Commencement Information
Whole Act (except s. 14(8) &(9))	1 November 2008	Commenced by the Passports Act 2008 (Commencement) Order 2008 (S.I. No. 412 of 2008), art. 2

**Other Associated Secondary Legislation**

Section	Other Associated Secondary Legislation
S. 9(1)	Passports (Periods of Validity) Regulations 2008 (S.I. No. 414 of 2008)
S. 19(15)	Passport (Appeals) Regulations 2008 (S.I. No. 413 of 2008)

**Effects**

How Affected	Affecting Provision
S. 19(9) time limit prescribed for appeal	Passport (Appeals) Regulations 2008 (S.I. No. 413 of 2008) regs. 1(2), 3(1)
S. 19(11) time limits prescribed	Passport (Appeals) Regulations 2008 (S.I. No. 413 of 2008) regs. 3(5) & 3(6)
S. 19(12) time limit prescribed	Passport (Appeals) Regulations 2008 (S.I. No. 413 of 2008) regs. 1(2), 3(8)

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Figure 7: Act table for Passports Act 2008 (No. 4 2008)

<sup>9</sup> These tables are referred to as the “new format Act tables” throughout the Report.

2.28 In addition to the change to the layout of the Act tables, there are a number of changes to the substantive content provided in respect of each Act.

**(b) Commencement Information<sup>10</sup>**

2.29 The provision of commencement information differs between the new format and the old format Act tables.

2.30 The new format Act tables are laid out in 3 separate sub-tables. The first of these deals with commencement. This sub-table contains 3 columns. The left hand column refers to the relevant section of the Act.<sup>11</sup>

2.31 The middle column provides the commencement date for that section. In some cases, a section may have been commenced on different dates for different purposes. In that case, the commencement date is listed as “varied” and further information on commencement dates is relocated to the right hand column.

2.32 The right hand column generally provides further information in relation to a commencement, for example, the commencement order. If a provision was commenced on enactment then this will also be indicated here. Relevant provisions or instruments can be accessed by hyperlink. See figure 7 above.

2.33 Usually, if a section is awaiting commencement by commencement order, then that section number will appear in the left hand column but a commencement date will not appear. The right hand column will contain a reference to the relevant commencement provision in the Act.

2.34 In contrast, the old format Act tables do not contain commencement information. The only commencement information available for legislation enacted before 31 December 2005 is located in “An Alphabetical List of Acts in Force, which were brought into operation either in whole or in part by Orders made on or before 31 December 2005”.<sup>12</sup> This list has been updated by the Commission. While it would be desirable to expand the old format Act tables to include more extensive commencement information, this is not feasible at this time. The existing electronic tables do not lend themselves to this addition and would require redesign. Also, the substantive material would have to be compiled. This work is outside the ambit of the project transferred to the Commission. The Commission does not currently have the resources to address these issues.

**(c) Other Associated Secondary Legislation**

2.35 The provision of details in relation to other associated secondary legislation is also a further addition to the new format Act tables.

2.36 The second sub-table contained in the new format Act tables is entitled “Other Associated Secondary Legislation”. This is a new sub-table which the Commission has introduced in respect of legislation enacted after 31 December 2005. It lists all secondary legislation made pursuant to an enabling power in an Act. It is intended to replicate some of the information originally provided in the *Index to the Statutory Instruments*.<sup>13</sup> This publication was not maintained after the advent of the eISB.

2.37 This sub-table is divided into 2 columns. The left-hand column contains a reference to enabling provision in the Act. The right-hand column contains a reference to the statutory instrument created

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<sup>10</sup> See Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraphs 2.62-2.80 for further discussion on commencement of legislation generally.

<sup>11</sup> The divisions here are generally to individual section level. However, in some cases multiple sections may be commenced on the same date. If this is the case, it may be practical to group some of these together to avoid crowding in the Act table. In other cases, different provisions of a section may have been commenced at different times. If this is the case then the left hand column will be split to below section level to reflect this arrangement.

<sup>12</sup> See paragraphs 2.46-2.51 below.

<sup>13</sup> *Index to the Statutory Instruments 1987-1995* (Stationery Office Dublin 1996)

For further discussion see Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraphs 1.25-1.28

pursuant to that power. Both the enabling section and the statutory instrument can be accessed by hyperlink. See Figure 7 above.

2.38 The old format Act tables do not contain this information. If a user wishes to ascertain if secondary legislation has been made under an Act enacted before 31 December 2005 then it is necessary to carry out a search of the statutory instruments on the eISB database using the title of the Act in question. This will usually appear in the preamble to any relevant piece of secondary legislation. However, this can be a complicated process and the user may not be certain that all relevant documents have been identified. The alternative is to consult resources outside of that database.

2.39 Again, while it would be desirable to expand the old format Act tables to include this information for legislation enacted before 31 December 2005, this is not feasible at this time.

**(d) Effects**

2.40 Both the new and old format Act tables contain details regarding effects on primary legislation. This is the information traditionally associated with the chronological tables of the statutes on the eISB. However, the presentation of the material varies.

2.41 The old format Act tables are divided into four columns, namely: Year and Number; Short Title; How Affected and Affecting Provision.<sup>14</sup> See figure 5 above. It is necessary to include two columns for the year and number and short title of an Act because, as mentioned above, all Acts for a particular year appear together.

2.42 In contrast, the new format Act tables are restricted to two columns: How Affected and Affecting Provision. This is because each Act now has its own dedicated table and the additional information appears at the top of the table. See figure 7 above.

2.43 In both cases similar information is provided. The user can identify the provision affected and the affecting piece of legislation. However, in the new format tables the title and number of the latter is provided. In contrast, in the old format tables, only the number of this piece of legislation is given. Also, as mentioned above, abbreviations are limited in the new format Act tables. The Commission hopes that these small changes will provide more clarity for users. In both forms of Act table, relevant provisions are hyperlinked.

**(e) Visibility on the Legislation Directory Homepage**

2.44 As discussed above, the Commission believes that the Chronological List of the Public General Acts is the most important feature for users of the Legislation Directory. However, on the Legislation Directory homepage the listing is currently undistinguishable from the other listings in terms of font or text size and is not highlighted visually or textually as being one of the key features of the Legislation Directory. The Commission is of the view that this listing should be highlighted for users.

2.45 As part of its action plan, the Commission will consider how best to position and highlight this listing for users of the Legislation Directory. The Commission will need the cooperation of stakeholders to implement any changes here.

**(3) An Alphabetical List of Acts in Force, which were brought into operation either in whole or in part by Orders made on or before 3 April 2010.**

2.46 This listing refers to Acts which have been commenced by way of commencement orders. As mentioned above,<sup>15</sup> this is the only commencement information supplied on the Legislation Directory in relation to legislation enacted before 31 December 2005. See figure 8 below.

2.47 On the left hand side, the Acts are listed alphabetically by short title and number. The number of the relevant statutory instrument (commencement order) appears opposite. The name of the statutory instrument does not appear.

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<sup>14</sup> See Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraph 2.36 for a more detailed discussion on how to interpret these tables.

<sup>15</sup> See paragraph 2.34.

2.48 Further, the Legislation Directory only provides a link to the statutory instrument. It is necessary for the user to read the statutory instrument and the Act itself to ascertain what arrangements for commencement were passed within the Act and then whether or not the Act or any part thereof has been commenced in the manner provided for. This can become a complicated exercise in the case of larger pieces of legislation where there may be multiple commencement orders. Further, Acts which were commenced on enactment or which have not been commenced are not recorded on this list. The user must then investigate further to ascertain into which category an Act falls.<sup>16</sup>

**Alphabetical list of Acts in force which were brought into operation, either in part or in whole, by Order (Commencement Orders).**

Short Title and Number	Date or number of Order bringing Act, or portion thereof, into operation
<b>A B C D E F G H I J K L M N O P Q R S T U V W X Y Z</b>	
<b>A</b>	
ACC Bank Act, 1992 (No. 6).	S. I. No. 97 of 1992.
ACC Bank Act, 2001 (No. 12).	S. I. No. 278 of 2001; S. I. No. 69 of 2002.
Abattoirs Act, 1988 (No. 8).	S. I. No. 150 of 1989; S. I. No. 88 of 1992.
Adoption Act, 1952 (No. 25).	S. I. No. 380 of 1952.
Adoptive Leave Act 2005 (No. 25).	S. I. No. 724 of 2005. S. I. No. 16 of 2006.
Adoptive Leave Act, 1995 (No. 2).	S. I. No. 64 of 1995.
Aer Lingus Act 2004 (No. 10).	S. I. No. 645 of 2005. S. I. No. 348 of 2006. S. I. No. 455 of 2006. S. I. No. 474 of 2006. S. I. No. 475 of 2006. S. I. No. 476 of 2006.
Agricultural Credit Act, 1978 (No. 2).	S. I. No. 49 of 1978.
Agricultural Produce (Cereals) (Amendment) Act, 1956 (No. 5).	S. I. No. 90 of 1956.
Agricultural Produce (Cereals) Act, 1933 (No. 7).	S. R. & O. No. 65 of 1933.
Agricultural Produce (Cereals) Act, 1961 (No. 47).	S. I. No. 2 of 1962.
Agricultural Produce (Eggs) Act, 1961 (No. 15).	S. I. No. 205 of 1961.
Agricultural Produce (Fresh Meat) Act, 1930 (No. 10).	S. R. & O. No. 59 of 1930;

Figure 8: An extract from the alphabetical list of Acts brought into force by commencement orders

2.49 As detailed above, the Commission has taken steps to provide more comprehensive information in relation to commencement for primary legislation enacted after 31 December 2005. However, this listing will continue to have relevance in relation to legislation enacted before that date and has been updated by the Commission. The Commission also believes that this listing should be retained on the Legislation Directory homepage.

2.50 Further, the Commission has also updated this listing to provide information in relation to Acts enacted after 31 December 2005. To some extent, this represents a duplication of aspects of the commencement information contained in the new format Act tables. However, following feedback from users of the website, it was decided to take this step. There was concern from users, that if this listing were not so maintained, those unfamiliar with the new developments elsewhere on the website, might rely totally on this listing and could be misled as to the commencement status of the newer legislation.

2.51 As part of its action plan, the Commission intends to supply updates to this listing on a monthly basis as new material becomes available.

<sup>16</sup> For further discussion see Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraphs 2.71-2.80

#### (4) **An Alphabetical List of Collective Citations**

2.52 The next listing on the Legislation Directory is an alphabetical listing of collective citations. If the user chooses this listing, the following screen appears. See figure 9 below.

<b>Alphabetical list of collective citations.</b>	
Collective Citation	Act Containing Citation
<b>A</b>	
<b>ACC Bank Acts, 1978 to 1999.</b>	No. 29 of 1999, s. 9 (2).
<b>Acquisition of Land (Allotments) Acts, 1926 and 1934.</b>	No. 7 of 1934, s. 14 (3).
<b>Adoption Acts, 1952 to 1998.</b>	No. 10 of 1998, s. 18 (2).
<b>Adoptive Leave Acts, 1995 and 2005.</b>	No. 25 of 2005, s. 22 (2).
<b>Agricultural Credit Acts, 1978 to 1992.</b>	No. 6 of 1992, s. 14 (2) (3).
<b>Agricultural Produce (Cereals) Acts, 1933 to 1961.</b>	No. 47 of 1961, s. 2 (2).
<b>Agricultural Produce (Fresh Meat) Acts, 1930 to 1988.</b>	No. 8 of 1988, s. 1 (4).
<b>Agriculture (An Chomhairle Oilúna Talmhaíochta) Acts, 1979 and 1987.</b>	No. 7 of 1987, s. 2 (2).
<b>Agriculture Acts, 1931 to 1980.</b>	No. 12 of 1980, s. 4 (2).
<b>Agriculture Credit Acts, 1978 to 1988.</b>	No. 6 of 1988, s. 6 (2).
<b>Air Companies Acts, 1966 to 1993.</b>	No. 38 of 1993, s. 19 (2) (a).
<b>Air Navigation (Eurocontrol) Acts, 1963 to 1983.</b>	No. 38 of 1983, s. 16 (2).
<b>Air Navigation and Transport Acts, 1936 to 1998.</b>	No. 24 of 1998, s. 1 (2).
<b>Air-raid Precautions Acts, 1939 and 1946.</b>	No. 28 of 1946, s. 9 (3).
<b>Airports and Aviation Acts 1936 to 2004.</b>	No. 32 of 2004, s. 1 (2).
<b>Alginat Industries (Ireland) Limited (Acquisition of Shares) Acts, 1949 and 2002.</b>	No. 11 of 2002, s. 4 (2).
<b>An Bord Bia Acts 1994 to 2004.</b>	No. 14 of 2004, s. 1 (2).
<b>Animal Remedies Acts 1993 and 2006.</b>	No. 3 of 2006, s. 1 (6).
<b>Aquaculture Acts 1997 to 2006.</b>	No. 8 of 2006, s. 1 (3).
<b>Arbitration Acts, 1954 to 1998.</b>	No. 14 of 1998, s. 1 (2).
<b>Army Pensions Acts, 1923 to 1980.</b>	No. 21 of 1980, s. 9 (2).
<b>Arramara Teoranta (Acquisition of Shares) Acts, 1949 to 2002.</b>	No. 11 of 2002, s. 4 (2).
<b>Arterial Drainage Acts, 1925 and 1929.</b>	No. 18 of 1929, s. 3.

Figure 9: An extract from the alphabetical list of collective citations

2.53 An alphabetical list of collective citations appears on the left hand side of the screen while a hyperlink to the Act containing the relevant citation appears opposite. If the user clicks on the hyperlink, the user proceeds directly to the relevant section.

2.54 Collective citations are not always found in the most obvious location. For example, section 1 of the *Criminal Justice Act 2007* contains the following collective citations:

- Bail Acts 1997 and 2007;
- Misuse of Drugs Acts 1977 to 2007;
- Firearms Acts 1925 to 2007;
- Garda Síochána Acts 2005 to 2007;
- Sea-Fisheries Acts 2003 to 2007.

2.55 Thus, the Commission believes that this separate listing of collective citations is a useful resource and should at a minimum be maintained into the future. As part of its action plan, the Commission intends to provide monthly updates to this listing as new collective citations are created.

2.56 The Commission is also investigating whether this listing can be improved. The Commission believes that users of legislation experience considerable difficulty in ascertaining which pieces or individual provisions of legislation are contained in a collective citation. For example, the collective citation *Firearms Acts 1925 to 2009* which appears in section 1(2) of the *Criminal Justice (Miscellaneous Provisions) Act 2009* is made up of the following:

- *Criminal Justice (Miscellaneous Provisions) Act 2009*, sections 25-44;
- *Criminal Justice Act 2007*, sections 34-40;
- *Criminal Justice Act 2006*, sections 25-67 and schedule 1;
- *Firearms (Firearm Certificates for Non-Residents) Act 2000*, sections 1-3 and 5-8;
- *Firearms (Temporary Provisions) Act 1998*, sections 1, 3 and 4;

- *Firearms and Offensive Weapons Act 1990* sections 3-8;
- *Firearms Act 1971*;
- *Firearms Act 1964*;
- *Firearms Act 1925*.

2.57 It is not an easy task to compile this information. It often involves a long and complex search of the eISB. Further, in some cases, not all provisions of an Act are included in the citation. Users may not appreciate this fact.<sup>17</sup> *European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations 1993*

2.58 The Commission has prepared a draft list of this information. This is based on the list of collective citations which already appears on the eISB. The Commission hopes to publish this list on the eISB as part of its action plan.

2.59 In addition to the immediate benefit that is provided to users, this listing will be of valuable assistance to the Statute Law Restatement project currently running in the Commission. It will enable the ready identification of primary legislation for inclusion in a restatement. It could also be of assistance in any other consolidation programme carried out in respect of the Irish primary legislation in the future.

**(5) *An alphabetical list of Orders made under section 6 (1) of the Ministers and Secretaries (Amendment) Act 1939, on or before 3 April 2010***

2.60 The next listing available to the user is an alphabetical list of orders made under section 6 (1) of the *Ministers and Secretaries (Amendment) Act 1939*. See figure 10 below.

<b>Alphabetical list of orders made under section 6 (1) of the Ministers and Secretaries (Amendment) Act, 1939</b>		
		
Title	Number and Year of Order	
<b>A</b>		
Agricultural Education (Transfer of Departmental Administration and Ministerial Functions) Order, 1987.	No. 122 of 1987.	
Agriculture (Alteration of Name of Department and Title of Minister) Order, 1965.	No. 146 of 1965.	
Agriculture (Alteration of Name of Department and Title of Minister) Order, 1987.	No. 97 of 1987.	
Agriculture (Transfer of Departmental Administration and Ministerial Functions) (Wheat and Flour Subsidy) Order, 1949.	No. 78 of 1949.	
Agriculture and Fisheries (Alteration of Name of Department and Title of Minister) Order, 1977.	No. 31 of 1977.	
Agriculture and Food (Alteration of Name of Department and Title of Minister) Order, 1993.	No. 11 of 1993.	
Agriculture and Food (Alteration of Name of Department and Title of Minister) Order, 1999.	No. 307 of 1999.	
Agriculture and Food (Alteration of Name of Department and Title of Minister) Order 2007.	No. 705 of 2007.	
Agriculture and Health (Transfer of Departmental Administration and Ministerial Functions) Order, 1947.	No. 417 of 1947.	
Agriculture, Food and Forestry (Alteration of Name of Department and Title of Minister) Order, 1997.	No. 302 of 1997.	
Agriculture, Food and Rural Development (Alteration of Name of Department and Title of Minister) Order, 2002.	No. 306 of 2002.	
Air-raid Precautions Services (Compensation for Personal Injuries) (Transfer of Departmental Administration and Ministerial Functions) Order, 1973.	No. 78 of 1973.	
Allocation of Administration (Genealogical Office) Order, 1943.	No. 267 of 1943.	
Allocation of Administration (Oifig na gCeantar gCung) Order, 1954.	No. 125 of 1954.	
Allocation of Administration (Oil Pollution Clearance) Order, 1970.	No. 277 of 1970.	
Aran Islands Transport (Transfer of Departmental Administration and Ministerial Functions) Order, 1996.	No. 66 of 1996.	
Aran Islands Transport (Transfer of Departmental Administration and Ministerial Functions) Order, 1997.	No. 331 of 1997.	
Arramara Teoranta (Transfer of Departmental Administration and Ministerial Functions) Order 2003.	No. 361 of 2003.	
Arramara Teoranta (Transfer of Departmental Administration and Ministerial Functions) Order, 1987.	No. 93 of 1987.	

Figure 10: An extract from the alphabetical list of orders made under section 6(1) of the *Ministers and Secretaries (Amendment) Act 1939*

2.61 Under this provision, the Government has the power to alter by order the name of any Department or the title of any Minister; to transfer the administration of any public service between Departments or to transfer functions between Ministers; to prescribe the organisation of any Department or to allocate to any Department the administration of a public service not expressly allocated to a

<sup>17</sup> Users should also note that the use of collective citations is not mandatory so additional relevant provisions may exist which are not included in the collective citation. For example, the *European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations 1993* as amended, also deal with firearms, but is not included in the collective citation detailed above.

Department; and to make adaptations of enactments as shall appear to be consequential on anything done under the subsection.

2.62 This list can be of assistance to a user in a number of ways. If, for example, a piece of legislation contains a reference to particular function of a Government Minister, which is no longer carried out by that Minister, the list can facilitate the user by indicating which Minister is now responsible for that function. The listing also details changes in title of individual Government Departments or Ministers.

2.63 The Commission believes that this listing should be maintained. As part of its updates of the Legislation Directory, the Commission will examine this listing monthly to see if any relevant orders have been made. The list will be updated if necessary.

2.64 The Commission has commented on the crowded nature of the Legislation Directory homepage. The Commission believes that this listing is not a core function of the Legislation Directory. If there is a reorganisation of the homepage, it may be appropriate to relocate this listing to a secondary location away from the Legislation Directory homepage. The Commission will look at this issue as part of its action plan.

**(6) A chronological list of Regulations made under section 3 of the European Communities Act 1972, on or before 3 April 2010**

2.65 The next listing to appear on the Legislation Directory is a chronological list of regulations made under section 3 of the *European Communities Act 1972*. This provision relates to the power of a Minister to make regulations to allow the implementation of Community measures into domestic law. There is particular need for this type of resource as these regulations are regarded as having statutory effect on a par with an Act of the Oireachtas.<sup>18</sup> When the user chooses this listing, the following screen appears (entry screen).

The screenshot shows the Irish Statute Book website interface. At the top left is the logo and text: "Irish Statute Book Produced by the Office of the Attorney General". At the top right is a "Quick Search" box with the text "Search for word(s) / phrase in Title of Act or Statutory Instrument" and a search button. Below the search bar are checkboxes for "Acts" and "SIs", and a "Disclaimer" link. The main content area is titled "Chronological list of regulations made under section 3 of the European Communities Act, 1972." and contains a list of years from 1972 to 2010, each as a hyperlink. On the left side, there is a navigation menu with links for Home, Search, Acts of the Oireachtas, Statutory Instruments, Legislation Directory (highlighted), Print an Act, Feedback, and Site Map. Below the menu is a "Text Size" section with "Default | Large" options. At the bottom of the page, there is a copyright notice: "© Government of Ireland. Oireachtas Copyright Material is reproduced with the permission of the House of the Oireachtas" and links for "Accessibility Statement", "Privacy Statement", and "Disclaimer".

Figure 11: Regulations made under section 3 of the European Communities Act 1972 collected by year

2.66 The user can click on a hyperlink to each individual year. If, for example, the user chooses 1972, the following screen appears.

<sup>18</sup> See further *Quinn v Ireland (No. 2)* [2007] 2ILRM 101.

Number and Year in S.I Series	Title
<a href="#">No. 311 of 1972.</a>	<b>European Communities (Motor Vehicles) Regulations, 1972.</b>
<a href="#">No. 312 of 1972.</a>	<b>European Communities (Crystal Glass) Regulations, 1972.</b>
<a href="#">No. 314 of 1972.</a>	<b>European Communities (Shipbuilding) Regulations, 1972.</b>
<a href="#">No. 320 of 1972.</a>	<b>European Communities (Rules of Court) Regulations, 1972.</b>
<a href="#">No. 325 of 1972.</a>	<b>European Communities (Textiles) Regulations, 1972.</b>
<a href="#">No. 329 of 1972.</a>	<b>European Communities (State Financial Transactions) Regulations, 1972.</b>
<a href="#">No. 331 of 1972.</a>	<b>European Communities (Enforcement of Community Judgements) Regulations, 1972.</b>
<a href="#">No. 333 of 1972.</a>	<b>European Communities (Aliens) Regulations, 1972.</b>
<a href="#">No. 334 of 1972.</a>	<b>European Communities (Customs) Regulations, 1972.</b>
<a href="#">No. 339 of 1972.</a>	<b>European Communities (National Catalogue of Agricultural Plant Varieties) Regulations, 1972.</b>
<a href="#">No. 341 of 1972.</a>	<b>European Communities (Judicial Notice and Documentary Evidence) Regulations, 1972.</b>

Figure 12: Regulations made under section 3 of the European Communities Act 1972 in the year 1972

2.67 This listing is a valuable source of information and should be retained on the Legislation Directory homepage. The Commission intends to update this listing monthly as new regulations become available.

2.68 However, the Commission is concerned that the user is not alerted to the enactment of the *European Communities Act 2007*. Section 4 of the 2007 Act contains a power to give effect to European acts under statutes other than the Act of 1972.

2.69 Section 4 (1) reads as follows:

“4.—(1) A power to make a Statutory Instrument conferred on a Minister of the Government by a provision of a statute may be exercised for the purpose of giving effect to a European act if the obligations imposed on the State under the European act concerned relate, in whole, to matters to which that provision relates.”

Section 4(2) further cements the wide ambit of this supplementary power. It reads:

“(2) A statutory instrument made for a purpose referred to in subsection (1) may contain such incidental, supplementary and consequential provisions as appear to the Minister of the Government making the statutory instrument to be necessary for the purposes of the statutory instrument (including provisions repealing, amending or applying, with or without modification, other law, exclusive of this Act, the Act of 1972 and the provision of the statute under which the statutory instrument is made).”

The Commission notes section 4(3) of the 2007 Act, which provides as follows:

“(3) Where a statutory instrument is made for a purpose referred to in subsection (1), the statutory instrument, or the preamble or recital to the statutory instrument, shall specify the European act to which the statutory instrument gives effect.”

2.70 With S.I assistance of this list, the Commission has identified a number of instruments where this new power has been exercised. One example is the *Arsenic, Cadmium, Mercury, Nickel and Polycyclic Aromatic Hydrocarbons in Ambient Air Regulations 2009*. The preamble to this instrument indicates that ministerial powers are being exercised under the *Air Pollution Act 1987* and the *Environmental Protection Agency Act 1992* for the purpose of giving effect to *Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic hydrocarbons in ambient air*. The Commission believes that these instruments should be included in the current listing with its title changed to reflect the expanded content. The Commission will examine this as part of its action plan.

2.71 The Commission also notes that section 5 of the 2007 Act goes on to retrospectively validate certain instruments. It provides as follows:

“5.—(1) Every Statutory Instrument made before the passing of this Act—

- (a) under a provision of a statute that did not provide for the exercise of the power conferred by that provision for the purpose of giving effect to a European act, and
- (b) that purported to give effect to a European act, shall, in so far as it purported to give such effect, have statutory effect as if it were an Act of the Oireachtas.”

2.72 It will be very difficult for the Commission to identify instruments to which this provision applies. However, as part of its actions plan, the Commission intends to obtain the views of stakeholders as to volume and type of instruments which could be included in the ambit of this provision. If necessary, it will then contact relevant Departments to ascertain whether they can identify relevant instruments within their areas of responsibility. This will be done when carrying out other work in relation to statutory instruments.<sup>19</sup>

2.73 The Commission also believes that the presentation of the listing does not give users an optimal overview of the implementation status of European measures. Users have commented that this information is hard to ascertain. As part of its action plan, the Commission will consult with other stakeholders to establish if this can be improved.

**(7) A chronological list of the Private Acts from 6 December, 1922 to 3 April 2010.**

2.74 The next listing available to the user is a chronological table of the Private Acts from 6 December 1922 to 3 April 2010. When the user chooses this option, the following screen appears.

The screenshot shows the 'Irish Statute Book' website interface. At the top, there is a search bar and navigation links. The main content area is titled 'Chronological Table of the Private Acts.' and displays a grid of hyperlinks for each year from 1924 to 2003. A sidebar on the left contains navigation options like 'Home', 'Search', 'Acts of the Oireachtas', etc. The footer contains copyright information for the Government of Ireland.

Figure 13: Chronological Table of Private Acts from 6 December 1922 to 3 April 2010

2.75 The user can click on a hyperlink to each individual year. If, for example, the user chooses 1924, the following screen appears.

Year and Number	Short Title	Remarks
<b>1924</b>		
1 P.	<a href="#">Sligo Lighting and Electric Power Act, 1924.</a>	Relief from obligation to supply gas: <a href="#">S.I. No. 168 of 1968.</a>
2 P.	<a href="#">Pilotage Orders Confirmation Act, 1924.</a>	New Ross and Sligo Pilotage Orders, 1924. Trans. of cert. functns. under : <a href="#">S. I. No. 91 of 1987</a> , art. 4, sch.

Figure 14: Private Acts passed in 1924 which have been affected

2.76 The year and number of the Act is given along with the short title and remarks. The short title is provided by way of a hyperlink. If the user clicks on this, the user is brought to the text of the Act.

2.77 It is immediately clear that the style and layout of this list varies from that used in respect of the chronological list of Public General Acts. In that list, the year, number and short title are given but it also

<sup>19</sup> See paragraphs 2.135-2.145 below.

includes the categories “How Affected” and “Affecting Provision”. These latter two would appear to be encompassed in “Remarks” on the list of Private Acts. “Remarks” includes information on the affecting legislation and in some cases a hyperlink to the instrument in question. There is also inconsistency in the amount of information provided in relation to affecting provisions. In some circumstances, the affecting provision is given while other entries are less specific and name the affecting instrument only.

2.78 The Commission believes that it would be preferable if, into the future, the style used in the compilation of the chronological list of Public General Acts was also used here. As part of its action plan, the Commission is investigating whether this is possible. The Commission’s authoring tool can support this change. The Commission will also update this list as new material becomes available.

2.79 The Commission notes that some information is also available for pre-1922 Private and Local and Personal Acts. This is discussed below.

2.80 The Commission believes that, given their limited application, the majority of users of the Legislation Directory will not seek to access information on the Private Acts. The Commission is of the view that the inclusion of multiple hyperlinks to information concerning the Private Acts creates unnecessary crowding on the Legislation Directory homepage.<sup>20</sup> As part of its action plan, the Commission will investigate whether one hyperlink entitled “Private Acts” (or similar) should appear on the homepage. All information for the Private and Local and Personal Acts would be relocated to a secondary webpage and would be accessed via this one hyperlink from the homepage.

## **(8) Pre-1922 Material**

### **(a) Presentation of Pre-1922 Material on the Legislation Directory**

2.81 The next listings that a user encounters on the Legislation Directory homepage relate to pre-1922 material. Following independence in 1922, article 73 of the Constitution of the Irish Free State (Saorstát Éireann) transposed certain legislation of the United Kingdom of Great Britain and Ireland into the law of that state. This was legislation which was applicable to Ireland and which was not inconsistent with the law of the Irish Free State. In turn, Bunreacht na hÉireann (Constitution of Ireland) was adopted in 1937. Article 50 contains a similar provision to article 73 of the 1922 Constitution. As a consequence, the corpus of statute law applicable in this jurisdiction reflects the historical legacy of pre-Independence statute law of the United Kingdom.<sup>21</sup>

2.82 The pre-1922 material is further subdivided into the following categories:<sup>22</sup>

- Pre-Union Irish Statutes (1169-1800);
- Statutes of England (1066-1706);
- Statutes of Great Britain (1707-1800);
- Statutes of the United Kingdom of Great Britain and Ireland (1801-1922).

This division reflects the various Parliaments that legislated for Ireland pre-1922. The Commission is of the view that while this division makes logical sense that only one hyperlink to pre-1922 legislation should appear on the Legislation Directory homepage. This hyperlink could lead to the individual listings detailed above. This would ease crowding on the homepage. This Commission will examine this alteration as part of its action plan.

These categories are followed by the following which relate to private and local and personal legislation:

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<sup>20</sup> See paragraphs 2.83-2.86 below.

<sup>21</sup> For a more detailed discussion see Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraphs 1.02-1.08.

<sup>22</sup> These categories were previously entitled Pre-Union Irish Statutes (1236-1800), English Statutes (1226-1707), Pre-Union British Statutes (1707-1800) and British Public Statutes (1801-1922). These have been amended to reflect the terminology used in the Statute Law Revision Act 2007. The indexing of earlier pre-1922 content on the Legislation Directory, following the enactment of that piece of legislation, has also meant that the calendar span has changed for some categories.

- United Kingdom Local and Personal Acts (1801 - 1922);
- Schedule 1 to the Statute Law Revision Act 2009 (No. 46 of 2009) (which lists certain pre 1922 private and local and personal Acts that were not repealed by that Act).

2.83 The former lists amendments to certain pre-1922 Private and Local and Personal Acts since 6 December 1922.

2.84 The latter is a recent addition to the Legislation Directory. This schedule from the *Statute Law Revision Act 2009* lists certain pre-1922 Private and Local and Personal Acts that were not repealed by that Act. The Act was produced in the Office of the Attorney General. In recent years, a statute law revision project has been running in that office. Its aim is to repeal all the legislation which remains on the statute book which was enacted prior to Irish independence in 1922. This may lead ultimately to the codification of the Irish statute book.

2.85 The first phase of this project involved a review of Public General Acts. This process led to the enactment of the *Statute Law Revision Act 2007*. The second phase of review examined certain Private and Local and Personal Acts. The *Statute Law Revision Act 2009* repealed all Private Acts up to and including 1750 and Local and Personal Acts up to and including 1850 that were deemed spent or obsolete.

2.86 The Commission welcomes these developments in relation to Private and Local and Personal Acts. However, as mentioned above, the majority of users of the Legislation Directory seek to access information on the Public General Acts. The inclusion of these hyperlinks on the homepage may be contributing to overcrowding there. It may be appropriate to relocate them either together with the post-1922 Private Acts or with other pre-1922 material. The Commission will look at solutions here as part of its action plan.

**(b) Integration of pre-1922 and post-1922 Legislative Provisions**

2.87 As noted above, the Irish Statute Book reflects Ireland’s colonial past and consists of both pre-1922 and post-1922 material. However, this has not been comprehensively reflected in the compilation of the Legislation Directory to date. For example, if a pre-1922 Act has been affected by both pre and post-1922 legislation, the Legislation Directory only lists its post-1922 legislative history. The fact that it may have been amended pre-1922 is not evident to the user. This gives the user a misleading impression of the law.

2.88 A relevant example is the *Finance Act 1900*. If the user were to consult the traditional Legislation Directory it would appear that the first amendment to that Act was in 1941. However, the Act was amended before 1922. An illustration of some of the information now available for the *Finance Act 1900* can be seen below. The entries highlighted in yellow are new to the database having been added by the Commission.

1900 (63 & 64 Vict.) c. 7	<b>Finance Act 1900</b>	Retained	<a href="#">28/2007</a> , s. 2 and Schedule 1, Part 4
		Saver	<a href="#">46/2009</a> , s. 2(2)(b)
		Preamble rep.	1908 (8 Edw. 7) c. 49
		S. 1 (1) supers.	1918 (8 & 9 Geo. 5) c. 15, ss. 5, 9, sch. 3
		S. 1 rep.	1908 (8 Edw. 7) c. 49
		S. 2 rep.	1910 (10 Edw. 7 & 1 Geo. 5) c. 8, s. 96 (1), sch. 6
		S. 5 rep. in part.	1910 (10 Edw. 7 & 1 Geo. 5) c. 8, s. 96 (1), sch. 6
		Ss. 3 - 7 rep.	1918 (8 & 9 Geo. 5) c. 15, s. 45, sch. 4
		S. 8 rep.	1901 (1 Edw. 7) c. 7, s. 10 (4)
		S. 9 (in pt.) rep.	<a href="#">7/2001</a> , ss. <a href="#">149-152</a> , sch. 3
		S. 9 rstrct.	<a href="#">14/1952</a> , s. <a href="#">16</a> (5)
		S. 9 am.	1911 (1 & 2 Geo. 5) c. 48, s. 3
		S. 10 rep.	<a href="#">31/1999</a> , ss. <a href="#">160</a> , <a href="#">163</a> , sch. 3
		S. 11 rep., exc. as to persons dying before 8 May, 1941.	<a href="#">14/1941</a> , s. <a href="#">52</a> , sch. 4
	S. 11 rstrct.	1914 (4 & 5 Geo. 5) c. 10, s. 14 (c)	
	S. 11 am.	1910 (10 Edw. 7 & 1 Geo. 5) c. 8, s. 59 (1)	

Figure 15: Legislation Directory entry for Finance Act 1900

2.89 A review of all pre-1922 legislation is outside the ambit of the project transferred to the Commission. The Commission does not have the resources to conduct a comprehensive assessment of this huge body of material. Further, a lot of the material is of little relevance to modern users.

2.90 However, the Commission recognises that some action is needed to address the current deficit in the Legislation Directory. The Commission has thus begun a review of pre-1922 legislation retained in force by the *Statute Law Revision Act 2007*. This Act identified a “white list” of 1,364 pre-1922 Public Acts which remain on the Statute Book. As part of its action plan, the Commission will identify pre-1922 amendments to these Acts and will upload them to the Legislation Directory. This will be completed in reverse order starting with amendments from 1922, 1921, 1920...etc. These will be uploaded in batches to the Legislation Directory as they become available.

2.91 This task has already presented some challenges. The Commission has limited resources to apply to this task so had intended to use the *Chronological Table and Index of the Statutes*<sup>23</sup> as the primary source document. However, in the case of ambiguity or lack of clarity, it would consult the original statutes. When this work was commenced, it was envisaged that a transcription exercise of the hard copy tables would be the predominant task. However, the task is considerably more complicated than originally envisaged.

2.92 First, entries in the *Chronological Table and Index of the Statutes* may not be arranged in the same manner as on the modern eISB. In the paper document, the amended provisions of an Act are usually listed chronologically in one column. The amending provisions are also listed chronologically in another column beside the first. This is done irrespective of whether the latter chronological listing corresponds to the order in which the amendments appear in the amending Act. This means that the columns in the tables cannot simply be read together and transcribed into electronic format. The amending Act must be consulted in a lot of cases.

2.93 This leads on to the second difficulty. The text of the pre-1922 legislation is not available on the eISB and must be sourced elsewhere. Pre-Independence legislation is not currently available online in a comprehensive, centralised resource and hard copies may be difficult to obtain.<sup>24</sup>

2.94 The lack of pre-1922 legislation in an appropriate electronic format also means that entries on the Legislation Directory will not hyperlink in the usual manner. For example, if a section of a pre-1922 Act is amended by a section of another pre-1922 Act one would usually expect to see four hyperlinks here. There would be one to both of the Acts and to both of the sections. These will not appear. This will undoubtedly cause frustration for users who will be obliged to look beyond the eISB for the relevant texts.

2.95 A third difficulty surrounds the abbreviations used in the compilation of the pre-1922 material. These differ from those used post-1922. These are now being introduced into the amalgamated database in circumstances where the Commission had hoped to see a decrease in the use of abbreviations in use.<sup>25</sup>

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<sup>23</sup> *Chronological Table and Index of the Statutes Vol I Chronological Table of All the Statutes* (37th ed) (HMSO London 1921)

<sup>24</sup> Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008) at paragraphs 2.120-2.124

This situation may improve as during the Oireachtas debate on the *Statute Law Revision Bill 2007*, the Government stated that it intended that all pre-1922 Acts which remain on the Irish Statute Book five years after the passing of the 2007 Act will be made available on-line. See Dáil Éireann Committee Stage debate on the Statute Law Revision Bill 2007, Select Committee on Finance and the Public Service, 13 March 2007, available at [www.oireachtas.ie](http://www.oireachtas.ie)

The Commission has also taken some steps to address this deficit. The Commission has recently completed a data capture and XML mark-up of certain Acts of the Oireachtas. A portion of the extant pre-1922 legislation, which was relevant to the Statute Law Restatement project in the Commission, was included in this exercise. This captured pre-1922 legislation in the standard XML-mark-up is available for publication.

<sup>25</sup> See paragraphs 2.14-2.17 above.

2.96 A fourth difficulty relates to the inclusion of information relevant to England, Scotland etc. in the earlier tables. The Commission has had to consider whether to include this material. It pertains to the law in force and the political situation at the time the tables were compiled. Some of these entries could also be of relevance to a small number of users. For example, they might wish to know if a repeal of a provision had general effect or pertained to England only. Also, the Commission wanted to limit editorial decisions when transcribing this material so was reluctant to remove them. These considerations must be balanced against the degree of confusion that could be caused to users by the inclusion of the material. Currently, the Commission is not including the material. Rather, it is providing a reference in the electronic tables to the material in the hard copy tables.

2.97 The final difficulty relates to the amount of errors identified by the Commission in the hard copy material. There would appear to be a significantly larger number of errors in this material than in the post-1922 electronic tables. These errors cannot be ignored and this has necessitated further remedial action by the Commission.

### **(c) *Inconsistencies in Citations***

2.98 The Commission notes that the *Statute Law Revision Act 2007* standardised the method of citation for pre-1922 legislation in Ireland. This move has had an unforeseen effect on the Legislation Directory as it has previously used a different method of citation. Its method of citation was based on that traditionally used in the hard copy tables. The following example will illustrate the differences in presentation. Previously on the Legislation Directory, the *Army (Annual) Act 1909* would have had the citation 9 Edw. 7 c. 3. Now this is to be cited as 1909 (9 Edw. 7) c. 3.

2.99 This change has led to an inconsistency in presentation on the Legislation Directory. Acts from the same year appearing side by side will be cited differently. This is not satisfactory. The Commission has investigated whether this matter can be remedied easily. Unfortunately, it will be necessary to amend each citation in the database individually. This is a considerable undertaking. The Commission has decided to approach it incrementally. As part of the Commission's action plan, citations will be updated gradually in tandem with the work on the insertion of the pre-1922 amendments.

### **(9) *Local Government (Application of Enactments) Order 1898 and Local Government (Adaptation of Irish Enactments) Order 1899***

2.100 The *Local Government (Application of Enactments) Order 1898* applies certain provisions of English and Scottish Acts (set out in Fourth Schedule to the *Local Government (Ireland) Act 1898*) to Ireland. It does this by way of setting out the texts as applied. The *Local Government (Adaptation of Irish Enactments) Order 1899* adapts certain Irish Acts specified in the Fifth Schedule to *Local Government Act 1898*. Some of these amendments are made by means of free standing text (i.e. not all are textual amendments). These are rather unusual orders in that they amended Acts or applied Acts with amendments to other Acts. They have been included to date in the Legislation Directory because of their hybrid nature. If both orders had textually amended the Acts concerned, it would be possible to insert the application or adaptation into the relevant Act table. However, many of the provisions are not done by way of textual amendment but are set out in full with only a marginal note as to origin (see figures 16 and 17 below).<sup>26</sup>

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<sup>26</sup> See further Vanston *The Law Relating to Local Government in Ireland* (2nd edition Vol 1 Ponsonby 1909-1915) at 159 and 323

### Local Government (Application of Enactments) Order, 1898

Title	How Affected	Affecting Provision
<b>Local Government (Application of Enactments) Order, 1898</b>	Art. 25, saving for.	<a href="#">7/1985</a> , ss. <a href="#">1</a> (6), <a href="#">21</a> (4).
	Schedule:-	
	Arts. 3, 4 r.	<a href="#">26/1950</a> , s. <a href="#">1</a> , sch.
	Arts. 5-7 r.	<a href="#">19/1963</a> , s. <a href="#">3</a> , sch. 1.
	Art. 8 (in pt.) r.	<a href="#">26/1950</a> , s. <a href="#">1</a> , sch.
	Arts. 9, 10, 11 (1)-(5) r.	<a href="#">19/1963</a> , s. <a href="#">3</a> , sch. 1.
	Art. 12 (except sub-art. (9)) appl. to Cttees. of Agric. and Voc. Educ. Cttees.	<a href="#">9/1944</a> , s. <a href="#">2</a> , <a href="#">3/1944</a> , s. <a href="#">3</a> ;
	Art. 12 appl. to Lough Corrib Trustees.	<a href="#">37/1945</a> , s. <a href="#">6</a> .
	Art. 12 rstrct.	<a href="#">35/1934</a> , s. <a href="#">11</a> (3); <a href="#">25/1939</a> , s. <a href="#">10</a> (2).
	Art. 12 appl.	<a href="#">21/1936</a> , s. <a href="#">15</a> (5).
	Art. 12 (2) (in pt.), (3) (4) (in pt.) r.	<a href="#">26/1950</a> , s. <a href="#">1</a> , sch.
	Art. 12 (4) (a) am.	<a href="#">8/1974</a> , s. <a href="#">24</a> , <a href="#">3/1973</a> , s. <a href="#">4</a> ;
	Art. 12 (4) (b) adapt.	<a href="#">27/1939</a> , s. <a href="#">89</a> (2) (f).

Figure 16: An extract from the listing in relation to the Local Government (Application of Enactments) Order 1898

### The Local Government (Adaptation of Irish Enactments) Order 1899

Title	How Affected	Affecting Provision
<b>Local Government (Adaptation of Irish Enactments) Order, 1899</b>	Schedule:-	
	Art. 37 (d) am.	<a href="#">S. I. No. 265 of 1984</a> , art. 3. <a href="#">S. I. No. 215 of 1974</a> , art. 4, sch. 2, pt. 2.
	Art. 37 (f) (n) am.	<a href="#">S. I. No. 265 of 1984</a> , art. 4.
	Arts. 3 (5)-(7), (12) (14), 8-12, 14, 18 r.	<a href="#">26/1950</a> , s. <a href="#">1</a> , sch.
	Art. 37 (f) am.	<a href="#">S. I. No. 241 of 1979</a> , art. 2.
	Art. 37 (h)-(i) substit.	<a href="#">S.R. &amp; O. No. 47 of 1925</a> , arts. 2, 4, sch. 2, pt. 5.
	Art. 37 (m) (in pt.) r.	<a href="#">26/1950</a> , s. <a href="#">1</a> ,sch.
	Art. 37 (n) am.	<a href="#">S. I. No. 241 of 1979</a> , art. 2.
Art. 38-41 r.	<a href="#">26/1950</a> , s. <a href="#">1</a> ,sch.	

Figure 17: Listing in relation to the Local Government (Adaptation of Irish Enactments) Order 1899

2.101 The Commission notes that the *Local Government (Application of Enactments) Order 1898* was revoked by the *Local Government Act 2001*.<sup>27</sup> The same Act revoked Articles 4 to 7, 13, 15 to 17, 19 to 36 and 42 to 45 of the *Local Government (Adaptation of Irish Enactments) Order 1899*.<sup>28</sup> However, it would appear that aspects of this order are still in force.

<sup>27</sup> See section 5(2) and part 2 of schedule 3

<sup>28</sup> See section 5(2) and part 2 of schedule 3

2.102 The Commission believes that in the interim it may be useful to retain these listings, in particular the second listing. The Commission also believes that, if maintained, both listings should be located on a secondary webpage away from the main Legislation Directory homepage. It may be appropriate to locate them with other material relating to pre-1922 legislation.

2.103 Further, the Commission believes that these listings are currently provided without context. There is no access to the texts of the two orders on the Legislation Directory. If the listings are maintained then this should be remedied. Further, the *Local Government (Ireland) Act 1898* (or relevant provisions thereof) should be included on the Legislation Directory. The Commission also believes that additional signposting is necessary to enable the user appreciate the content and purpose of the listings. The Commission will examine all of these issues as part of its action plan.

**(10) Expressions Adapted from Pre-1922 Legislation and Legislation of Saorstát Éireann**

2.104 The next listing is a table of expressions (in alphabetical order) used in British statutes (public statutes and local and private statutes) or Saorstát Éireann statutes that have been adapted by the orders made before 3 April 2010 under the *Adaption of Enactments Act 1922* or the *Constitution (Consequential Provisions) Act 1937*.

2.105 The user is presented with 3 hyperlinks. If the user clicks on the first hyperlink then the following screen appears.

Expressions Adapted			
A B C D E F G H I J K L M N O P Q R S T U V W X Y Z			
Expression	Statutes and context in which expression occurs	Adaption made	Adopting order
<b>A</b> <b>Assistant Registrar of friendly societies for Ireland.</b>	All British Statutes.	Registrar of Friendly Societies in Saorstát Éireann.	Registrar of Friendly Societies (Adaptation) Order, 1926, par. 6. <a href="#">S.R. &amp; O. No. 43 of 1926.</a>
<b>Attorney-General for Ireland.</b>	All British Statutes relating to the assessment, collection or management of the Inland Revenue, the Customs and Excise.	Attorney-General of Saorstát Éireann.	Revenue Commissioners Order, 1923, par. 17. Dated 21/2/23.
<b>Attorney-General.</b>	All British Statutes relating to the assessment, collection or management of the Inland Revenue, the Customs and Excise.	Attorney-General of Saorstát Éireann.	Revenue Commissioners Order, 1923, par. 17. Dated 21/2/23.
<b>B</b> <b>Bank of England.</b>	All British Statutes relating to the assessment, collection or management of duties of Customs or Excise.	Bank of Ireland.	Customs and Excise (Adaptation of Enactments) Order, 1924, par. 8 (1) (d). E.C.O. No. 1 of 1924.
<b>British Isles.</b>	All British Statutes relating to the assessment, collection or management of duties of Customs or Excise.	Saorstát Éireann.	Customs and Excise (Adaptation of Enactments) Order, 1924, par. 8 (1) (a). E.C.O. No. 1 of 1924.

Figure 18: Expressions in British or Saorstát Éireann statutes adapted by orders made before 3 April 2010 under the *Adaption of Enactments Act 1922* or the *Constitution (Consequential Provisions) Act 1937*

2.106 Figure 18 above contains an extract from the list of the expressions which have been adapted. The particular expression, which has been adapted, appears on the left hand side of the screen. This is followed by a column showing the context in which the expression occurs. The adapted expression then follows along with details of the order which adopted this expression. In a few cases, a hyperlink is provided to the relevant order.

2.107 The user will see that the first entry detailed above refers to the adapted expression “Assistant Registrar of Friendly Societies for Ireland”, which was an expression which appeared in all British Statutes. This was replaced with “Registrar of Friendly Societies in Saorstát Éireann” by virtue of paragraph 6 of the *Register of Friendly Societies (Adaptation) Order 1926*.

2.108 The Commission considers that this listing is of benefit to users of the Legislation Directory and should be maintained on the Legislation Directory.

**(11) An Alphabetical List of all Acts in the Legislation Directory**

2.109 The next listing for the user is an alphabetical list of all Acts in the Legislation Directory. When the user clicks on the hyperlink the following screen appears.

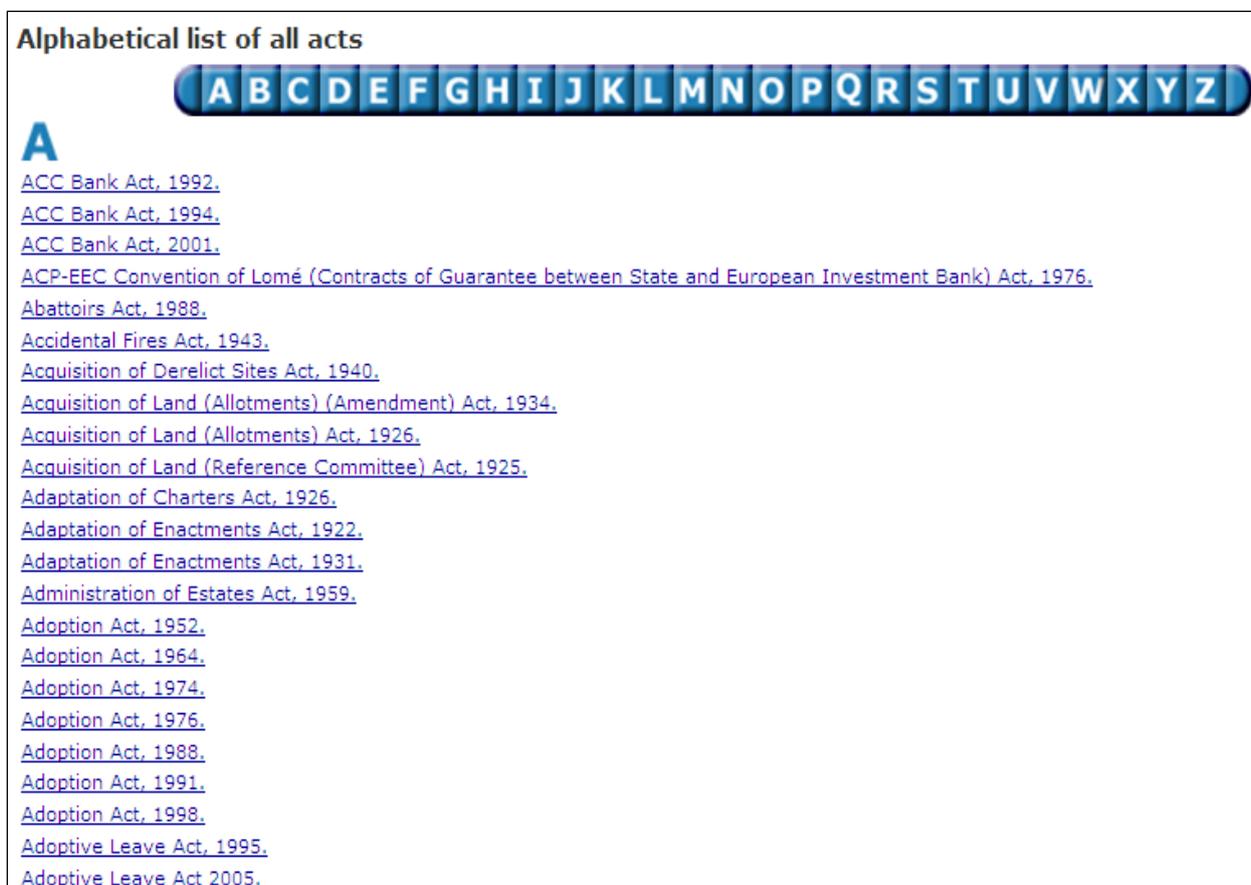


Figure 19: An extract from the alphabetical list of Acts contained in the Legislation Directory

2.110 Each Act is presented as a hyperlink that takes the user to the entry for that Act in the Legislation Directory. This list is thus an alternative route to sourcing an entry on these tables if the user does not know the year of enactment of a piece of legislation.

2.111 The Commission considers this listing of central importance to the Legislation Directory. Currently, this listing is located towards the end of the Legislation Directory homepage whereas the chronological list of the Public General Acts is located towards the top of that screen. The alphabetical list may thus be overlooked by users. The Commission believes that it should be located towards the top of the homepage. Further, given the interplay between this listing and the chronological list of the Public General Acts, it would be preferable if they were located adjacent to each other. The Commission will consider the relocation of this listing as part of its action plan. It will provide monthly updates to the list as material becomes available.

**(12) Alphabetical List of all Acts by decade**

2.112 Previously, the next listing to appear was an alphabetical list of all Acts by decade.<sup>29</sup> This mirrored the information provided in the last listing except that the information was also broken down by decade. There was an unnecessary duplication of information between the two lists. The inclusion of the second listing also added to the crowding on the Legislation Directory homepage. It has therefore been removed from the website.

<sup>29</sup> For further discussion see Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008) at paragraphs 2.145-2.148.

**(13) User Awareness**

**(a) Commencement**

2.113 Beneath the individual listings on the Legislation Directory homepage, the user's attention is drawn to the following items (see figure 20 below).

Users should be aware of the following:

Where an affecting provision (including a repealing provision) is governed by a commencement provision, the commencement provision is referred to. Users are advised to check whether the affecting provision has been commenced.

In general, this database does not refer to amendments effected prior to 1922. However, it is being updated to include pre-1922 amendments to pre-1922 Acts which were not repealed by the [Statute Law Revision Act 2007](#). Currently, pre-1922 amendments to those Acts enacted from 1900-1922 have been indexed.

Attention is drawn to the following provisions of the [Interpretation Act 2005](#): [Section 17](#) in relation to the exercise of statutory powers before the commencement of an Act; [Part 6](#) (sections 26 and 27) in relation to the effects of repeals and revocations in Acts of the Oireachtas and instruments made partly or wholly thereunder.

Attention is also drawn to [section 2](#) of the [European Communities Act 1972](#), which provides that the Treaties and other acts of the Communities are binding on the State and are part of its domestic law.

*Figure 20: The information highlighted for user awareness*

2.114 The first item states that “[w]here an affecting provision (including a repealing provision) is governed by a commencement provision, the commencement provision is referred to. Users are advised to check whether the affecting provision has been commenced.” The Commission believes from anecdotal evidence that some users are unaware of the significance of the commencement date of a piece of legislation. The Commission believes therefore that this statement should be retained on the homepage. As part of its action plan, the Commission will consider whether it may be useful to provide additional information on commencement for users. This could be located on a secondary page. A hyperlink could be inserted into the existing text. This would lead to the additional information and would also avoid crowding on the homepage.

**(b) Pre-1922 Material**

2.115 The second item states that “[i]n general, this database does not refer to amendments effected prior to 1922. However, it is being updated to include pre-1922 amendments to pre-1922 Acts retained in force by the *Statute Law Revision Act 2007*. Currently, pre-1922 amendments to retained Acts enacted from 1900-1922 have been indexed”.

2.116 This is an important statement that the Commission feels should be elaborated on. Many users will not be aware of the *Statute Law Revision Act 2007* or its significance in relation to pre-1922 legislation.<sup>30</sup> As part of its action plan, the Commission will prepare a note giving details of the pre-1922 material on the Legislation Directory and the Commission's work in this regard. The Commission will also include information on pre-1922 chronological tables. This note could be accessed by a hyperlink from the text on the homepage.

**(c) Interpretation Act 2005**

2.117 The third item of user awareness focuses on a number of provisions of the *Interpretation Act 2005*. It states that “[a]ttention is drawn to the following provisions of the Interpretation Act 2005: Section 17 in relation to the exercise of statutory powers before the commencement of an Act; Part 6 (sections 26 and 27) in relation to the effects of repeals and revocations in Acts of the Oireachtas and instruments made partly or wholly thereunder”.

2.118 The first item relates to section 17 of the 2005 Act. This aspect of awareness information is new. It has been added as there appears to be confusion amongst users in relation to the exercise of statutory powers when an Act or aspects thereof have not yet been commenced. Section 17 governs this eventuality and reads as follows:

<sup>30</sup> The principal purpose of the Act was to repeal all public general statutes enacted before 6 December 1922, with the exception of a “white list” of Acts that were specifically preserved.

17.—Where an Act or a provision of an Act is expressed to come into operation on a day subsequent to the date of the passing of the Act, the following provisions apply:

(a) if the day on which the Act or the provision comes into operation is to be fixed or ascertained in a particular manner, the statutory instrument, act or thing whereby the day is fixed or ascertained may, subject to any restriction imposed by the Act, be made or done at any time after the passing of the Act;

(b) if, for the purposes of the Act or the provision, the Act confers a power to make a statutory instrument or do any act or thing, the making or doing of which is necessary or expedient to enable the Act or provision to have full force and effect immediately on its coming into operation, the power may, subject to any restriction imposed by the Act, be exercised at any time after the passing of the Act.

2.119 As mentioned above, sections 26 and 27 of the *Interpretation Act 2005* are also highlighted for the user. These deal with the effects of repeals and revocations on Acts of the Oireachtas and instruments made partly or wholly thereunder.<sup>31</sup> The reference to the provisions is hyperlinked to allow users easily inform themselves in more details as to their content.

**(d) European Communities Act 1972**

2.120 The final item states that “[a]ttention is also drawn to section 2 of the *European Communities Act 1972*, which provides that the Treaties and other acts of the Communities are binding on the State and are part of its domestic law.” The Commission believes that this alert should be maintained on the Legislation Directory.

**(e) Location of User Awareness Information**

2.121 The Commission also notes that the user awareness information is located towards the bottom of the homepage and is not highlighted in any way. When the homepage of the Legislation Directory is opened it is necessary to scroll down the page to actually see the user awareness information. There is a risk that it may be overlooked by users. It may be more appropriate to include a highlighted listing in a more prominent location on the homepage. The Commission will consider this as part of its action plan.

**(14) Effect of Case Law on Legislation<sup>32</sup>**

**(a) Rulings of Unconstitutionality**

2.122 In the current version of the Legislation Directory, cases are shown in which the Irish courts have held that legislative provisions are unconstitutional. These cases are listed in the individual Act tables on the chronological list of the Public General Acts. The Commission believes that it is desirable that this practice continue. However, the Commission has also previously commented that these decisions have been recorded on the Legislation Directory in an inconsistent manner.<sup>33</sup> The Commission will review this issue as part of its action plan. It will require the assistance of other stakeholders here.

**(b) Rulings in Relation to the European Convention on Human Rights**

2.123 Currently, rulings of the European Court of Human Rights (ECtHR) are not recorded on the Legislation Directory. The Commission does not currently intend to change this practice. This is because rulings of that court do not have the same effect on Irish legislation as rulings of unconstitutionality in cases before the Irish courts. A judgment of the ECtHR is “essentially declaratory” and “cannot of itself annul or repeal” inconsistent national law or judgments.<sup>34</sup> While contracting parties undertake to abide by the judgments of the court in any case to which they are parties, a state is free to implement a judgment

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<sup>31</sup> For further discussion see Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008) at paragraphs 2.152-2.153

<sup>32</sup> *Ibid.* at paragraphs 2.158-2.171

<sup>33</sup> *Ibid.* at paragraphs 2.160-2.161

<sup>34</sup> *Marckx v Belgium* (1979) 2 EHRR 330. See Harris O’Boyle and Warbrick *Law of the European Convention on Human Rights* (Butterworths London 1995) at 26

in accordance with rules of its national legal system.<sup>35</sup> The matter was dealt with by McGuinness J. in *Gilligan v Criminal Assets Bureau*<sup>36</sup> where she stated that while there could be no question “but that this court is entitled to have regard to decisions of the European Court of Human Rights in construing provisions of the Constitution”, this did not mean a decision of the ECtHR in and of itself furnished “a basis for declaring legislation unconstitutional”.<sup>37</sup>

2.124 It is accepted that a ruling of the ECtHR may often be a catalyst for change.<sup>38</sup> As Harris, O’Boyle and Warbrick point out, Strasbourg judgments have proven to be very effective “lever[s] to help overcome local opposition to law reform”.<sup>39</sup> However, any change to legislation as result of a ECtHR ruling can be entered on the Legislation Directory in the normal manner.

2.125 On a domestic level, the *European Convention on Human Rights Act 2003* entitles the High Court or the Supreme Court to declare that a piece of legislation is incompatible with the obligations of the Convention.<sup>40</sup> However, such a declaration does not render the legislation invalid. Section 5(2)(a) of the 2003 Act states that a declaration of incompatibility shall not “affect the validity, continuing operation or enforcement of the statutory provision or rule of law in respect of which it is made”. Thus, the Commission does not propose to record such decisions on the Legislation Directory. However, if the Oireachtas subsequently decides to amend legislation as a result of a finding of incompatibility, this will be reflected in the Legislation Directory in the normal way.

### **(c) Rulings at European Level**

2.126 The European Court of Justice (ECJ) has held that in accordance with the doctrine of supremacy, national courts are obliged to ignore or set aside any national law, which could impede the application of EC law.<sup>41</sup> The requirement to “set aside” conflicting national law does not entail an obligation to nullify national law, which may continue to apply in any situation which is not covered by a conflicting provision of Community law.

2.127 This potential effect on domestic law is not currently reflected in the Legislation Directory. It would be of assistance to users to know that while a law remains on the statute book, it has been disapplied in certain circumstances. The Commission notes, however, that this would also be an area where the assistance of other stakeholders would be required in relation to the tracking of this body of case law. The Commission will examine this area in further detail as part of its action plan.

### **(15) Delegation of Functions Orders**

2.128 The purpose of these orders is to delegate functions of a Minister of the Government upon the request of that Minister to a named Minister of State.

2.129 Delegation of functions orders are made under section 2 (1) of the *Ministers and Secretaries (Amendment)(No. 2) Act 1977*. This section provides as follows:

2.—(1) It shall be lawful for the Government, by order made on the request of a Minister of the Government, to delegate to a Minister of State assigned to the Department of State of which the Minister of the Government has charge all the powers and duties of such Minister of the Government under any particular Act or any particular statutory power or duty of such Minister of the Government.

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<sup>35</sup> *Vermeire v Belgium* (1991) 15 EHRR 488

<sup>36</sup> [1998] 3 IR 185

<sup>37</sup> [1998] 3 IR 185 at 202

<sup>38</sup> An example of this is the change in the laws on homosexuality that came about in Northern Ireland and in this jurisdiction after the rulings in *Dudgeon v United Kingdom* (1982) 4 EHRR 149 and *Norris v Ireland* (1991) 13 EHRR 186

<sup>39</sup> Harris, O’Boyle and Warbrick *Law of the European Convention on Human Rights* (Butterworths London 1995) at 30

<sup>40</sup> Section 5(1)

<sup>41</sup> *Flaminio Costa v ENEL* [1964] ECR 585

2.130 Recent examples include the *Statistics (Delegation of Ministerial Functions) Order 2009* and the *Environment, Heritage and Local Government (Delegation of Ministerial Functions) Order 2009*.

2.131 There is no power under the Act to amend these orders. If further functions are being delegated to a particular Minister of State a new order needs to be made.

2.132 Also, a delegation of functions order ceases to have effect in the following circumstances:

- It is revoked by the Government;
- The Minister of the Government who requested the delegation order, ceases to be that Government Minister;
- The Minister of State ceases to be a Minister of State at the Department of State in respect of which the order was made.

2.133 Currently, where a delegation order ceases to have effect, it is not revoked but remains on the statute book.

2.134 This combination of factors may give a misleading impression for users of the eISB as to the status of a particular order. This must be combined with a lack of consistency in relation to the tracking of these orders on the Legislation Directory. Some were tracked but many were not. Therefore, as part of its action plan, the Commission has decided to remove these orders from the database and to compile a separate and complete listing of them. This will be supplied for upload to the Legislation Directory in the coming months.

## **D Legislation Directory of Statutory Instruments**

### **(1) Background**

2.135 Currently, there is a Legislation Directory for primary legislation. However, there is no equivalent electronic database for secondary legislation. This leads to confusion for users of the Irish Statute Book as to the current state of this body of the law. Many are obliged to conduct their own research. This leads to duplication of effort and ultimately to a waste of resources. There are also anecdotal reports of errors in the application of the law because of the current deficit. In its recent report on Ireland, the OECD commented that secondary legislation is important as these instruments are often the vehicle for amendment of existing laws, adding to the complexity of the regulatory stock and lack of readability of the law.<sup>42</sup>

2.136 This lack of clarity has a negative effect on the transparency of the law, contributes to making Ireland unattractive to foreign investors and is an administrative burden on existing businesses. These issues are at odds with the objectives expressed in the Better Regulation and Smart Economy initiatives.<sup>43</sup> This is especially significant in the current economic climate. The link between economic recovery and accessibility to legislation has also been recently reiterated by the OECD in their report on Ireland.<sup>44</sup>

### **(2) Work on Statutory Instruments in Commission**

2.137 A Legislation Directory of statutory instruments was outside of the project originally transferred to the Commission and the Commission has not been resourced to address it. However, the Commission has looked at this area since taking over the project. The following are now in place or are in progress within the Commission.

- Technology Solution
- Legislation Directory of statutory instruments from 2006 onwards
- Classified list of the statutory instruments in force from 1922-2005

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<sup>42</sup> OECD, *Better Regulation in Europe: Ireland*, OECD Paris (2010), at 100.

<sup>43</sup> See page 1, paragraph 8 above.

<sup>44</sup> See page 1, paragraph 9 above.

2.138 When the Commission took over the Legislation Directory project, it recognised that the current Lotus Notes system was no longer suitable for the task at hand. The Commission went to tender for the installation of an XML authoring system to compile the Legislation Directory database for primary legislation. However, the Commission was careful to ensure that it could also produce similar output for statutory instruments if required. This technology is now in place in the Commission and staff have begun production of a pilot Legislation Directory of statutory instruments from 2006-2010 using the authoring tool. The Commission will require the cooperation of stakeholders to facilitate publication of this data on the eLSB.

2.139 The Commission believes that it will also be possible to maintain this database from 2011 onwards. However, this is dependent on retention of current resource levels. The Commission will continue to monitor and work on the development of this resource as part of its action plan.

2.140 The Commission does not have the resources to compile a Legislation Directory of statutory instruments from 1922-2005. Further, in the current financial climate, this might not be a sensible use of limited resources. Many instruments are long defunct and of limited relevance. In light of the above factors, the Commission has looked for alternative solutions to bridge the deficit in relation to these statutory instruments.

2.141 As part of its action plan, the Commission has begun the compilation of a list of statutory instruments that remain in force in the jurisdiction. The first task here is to identify statutory instruments that have been expressly revoked. The enabling Act for each instrument is also noted. The next step will be to relate this listing to the *Classified List of Legislation* which the Commission has already prepared.<sup>45</sup>

2.142 The Commission has developed a draft classified list of extant post-1922 legislation in order to identify accurately all Acts enacted by the Oireachtas that remain extant. This list identifies related groups of Acts of the Oireachtas (for example, all those dealing with business regulation, employment law or taxation). Its purpose is to assist accessibility for all those affected by the law, whether individuals, businesses or State bodies.

2.143 With the assistance of Government Departments, the Commission has sought to identify the Department responsible for each piece of extant primary legislation. In the context of secondary legislation, the Commission now knows which Department is responsible for which piece of enabling primary legislation. The Commission will now contact the relevant Departments again to confirm the list of extant secondary material and to identify instruments that may be suitable for revocation. The Commission believes that in most cases Departments will already have their own list of extant secondary legislation. It will be a case of comparing these lists with the Commission's research and compiling an accurate composite list from all relevant sources.

2.144 Once a finalised list of extant secondary legislation had been identified, a Legislation Directory could be compiled in respect of this listing. However, additional resources would be required to complete this task. The Commission will keep this matter under review as part of its action plan.

2.145 The Commission considers that it may also be worthwhile to compile a full Legislation Directory of statutory instruments for the years 2000-2005 (or earlier). There may instances where, although recent secondary legislation is already revoked, it would be useful to have detailed information about it. For example, the Commission is mindful that it often takes a considerable amount of time for matters to progress through the courts and the parties or the judiciary may wish to know how the law stood on a particular date. The Commission does not have the resources to complete this work at the current time but will keep the matter under review as part of its action plan.

## **E Conclusion**

2.146 In this chapter, the Commission has considered the content and functionality of the Legislation Directory and the changes being implemented by the Commission. This Report will now discuss the methodology of the Commission in building a Legislation Directory which is in line with the objectives set out above.

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<sup>45</sup> See *Consultation Paper on a Classified List of Legislation in Ireland* (LRC CP 62-2010). The list is also available on the Commission's website [www.lawreform.ie](http://www.lawreform.ie)



## CHAPTER 3 MAINTENANCE OF THE LEGISLATION DIRECTORY

### A Introduction

3.01 This chapter focuses on the methodology of the Commission in building the Legislation Directory and discusses issues surrounding the practical upkeep of the database. Part B provides an introduction to the authoring tool used in the Commission for the maintenance of the Legislation Directory. It illustrates how the authoring tool supports the Commission's work in maintaining the Legislation Directory. Part C considers a number of related matters which have arisen during the project and which the Commission has had to address.

### B Authoring Tool

#### (1) Overview

3.02 Lotus Notes (an IBM application) was the platform used for compilation of the Legislation Directory under the auspices of the Office of the Attorney General for the period prior to 2006. As discussed in the Consultation Paper, the Commission was satisfied of the desirability of moving away from a Lotus Notes platform to a more flexible solution which would better serve the preparation, editing and publications needs of the Legislation Directory including the roll-out of new presentational formatting and additional content. After consideration of a number of different options, the Commission concluded that an XML-based-system would be suited to the Legislation Directory and would feed into the single-source, multi-purpose objective in relation to the provision of technology which will service the distinct but inter-related Statute Law Restatement and the Legislation Directory functions of the Commission.<sup>1</sup>

3.03 The Commission published an invitation to tender for an XML authoring tool in October 2007. The winning bidder for this tender was The Stationary Office (TSO). The authoring tool is now in operation within the Commission and is used by the Legislation Directory and Statute Law Restatement teams.

3.04 The authoring tool works around TSO ActiveText. This is a content management system designed specifically for the storage and management of complex information that changes over time. At the heart of the TSO ActiveText system is an information repository that can be configured for all types of published and non-published material. Documents are held in the TSO ActiveText database in Extensible Mark-Up Language (XML).

3.05 For the purposes of maintaining the Legislation Directory, the TSO ActiveText database allows users to:

- Import new content;
- Generate new Legislation Directory Act tables;
- Order existing content;
- Delete documents ;
- Publish existing content (in XML, XHTML (eISB format) or PDF formats).

3.06 On a day-to-day basis, most work on these documents will be completed using the XML editor, XMetaL. The XMetaL editor has been integrated with TSO ActiveText so that all key tasks can be completed using the XMetaL interface. These tasks include:

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<sup>1</sup> For further discussion see Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraphs 3.61-3.67

- Searching and browsing for documents / content;
- Checking documents out/checking documents in;
- Editing documents;
- Maintenance of the Legislation Directory and the restatement of Acts.<sup>2</sup>

The Commission will now provide a practical illustration of how the authoring tool supports the Legislation Directory project.

**(2) The Workflow for Incoming Acts of the Oireachtas**

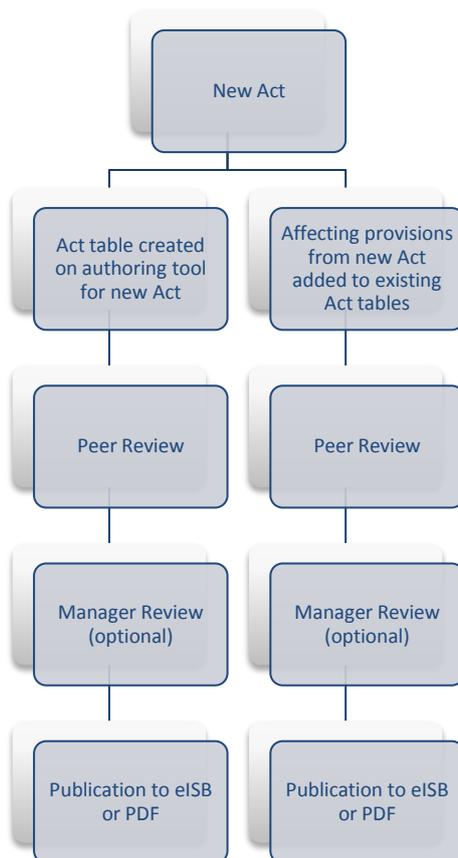


Figure 1: Workflow for incoming Acts

3.07 First, the Commission will examine the workflow to be followed on receipt of a new Act of the Oireachtas. Figure 1 above details the workflow for incoming Acts.<sup>3</sup>

3.08 On receipt of a newly-published Act of the Oireachtas, there are two main activities that must be carried out in respect of the Legislation Directory. First, a new Act table must be created for the new Act. Second, any provisions in the new Act which have an effect on earlier legislation must be recorded.

**(a) The Creation of an Act Table**

3.09 When a new Act arrives in the Commission a new Act table for that Act is created using the authoring tool. Below is an example of how such an Act table appears on the authoring tool. This is the

<sup>2</sup> The latter is carried out as part of the Commission’s Statute Law Restatement Project. For more information on this project see Law Reform Commission *Report Statute Law Restatement (LRC 91-2008)*(July 2008)

<sup>3</sup> This discussion will focus on the workflow for Acts. A similar workflow with some variance will apply to any Legislation Directory of statutory instruments produced by the Commission.

table for the *Road Safety Act 2006*. Each Act table contains three sub-tables. These contain information on

- commencement;
- other associated secondary legislation;
- effects.

3.10 Not all of these sub-tables will be populated immediately. This depends on the commencement arrangements for the Act, whether any secondary legislation is made under enabling powers in the Act or whether the Act is affected in some way by later measures.

<b><u>Road Safety Authority Act 2006</u></b> <b>No. 14 of 2006</b>		
<b>Commencement</b>		
Section	Commencement Date	Commencement Information
Whole Act	31 May 2006	Commenced on enactment
<b>Other Associated Secondary Legislation</b>		
Section	Other Associated Secondary Legislation	
S. <a href="#">2</a>	Road Safety Authority Act 2006 (Establishment Day) Order 2006 ( <a href="#">S.I. No. 462 of 2006</a> ) Section 4 – Road Safety Authority Act 2006 (Conferral of Functions) Order 2006 ( <a href="#">S.I. No. 477 of 2006</a> )	
S. <a href="#">4</a>	Road Safety Authority Act 2006 (Conferral of Functions) Order 2006 ( <a href="#">S.I. No. 477 of 2006</a> )	
S. <a href="#">18</a> (2)	Road Safety Authority Act 2006 (S. 18)(Appointed Day) Order 2006 ( <a href="#">S.I. No. 463 of 2006</a> )	
<b>Effects</b>		
How Affected	Affecting Provision	
Establishment day appointed	Road Safety Authority Act 2006 (Establishment Day) Order 2006 ( <a href="#">S.I. No. 462 of 2006</a> ), art. 2	
S. <a href="#">4</a> (5) repealed	<a href="#">Dublin Transport Authority Act 2008</a> (No. 15 of 2008), s. <a href="#">117</a> (2)	
S. <a href="#">18</a> (1), day appointed as appointed day for the purposes of	Road Safety Authority Act 2006 (S. 18)(Appointed Day) Order 2006 ( <a href="#">S.I. No. 463 of 2006</a> ), art. 2	

Figure 2: Act table for Road Safety Authority Act 2006

**(b) Tracking of Effects on Earlier Legislation**

3.11 Once the Act table has been completed, it will then be considered whether the new Act affects an earlier piece of legislation in any way. If so, then this information will be added to the appropriate existing Act table. This may be a repeal, an amendment or some other effect.<sup>4</sup>

<sup>4</sup> However, as discussed in the Consultation Paper, the Commission is not tracking referential amendments. See Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraphs 3.52-3.56

**(c) Review**

3.12 The next step in the workflow is a peer review stage. All information inputted to the authoring tool is peer reviewed. This process reduces the data error margin significantly. It also provides the opportunity to learn from how the error occurred and to make changes to the working protocols followed by the Legislation Directory team where necessary. Thus, it is an important element of the Commission's overall commitment to quality assurance. A further step in the quality assurance process is the optional review by the project manager. This consists of spot-checks based on recognised sampling methods or may arise based on an escalation to project manager level arising from the peer review process.

**(d) Publication**

3.13 Once the input is finalised, the data will then be exported and supplied to the Office of the Attorney General for publication on the eISB. The Office of the Attorney General remains the custodian of this website.

3.14 The Commission aims to supply updates monthly at this stage. This will be dependent on the availability of electronic data to the Commission and other factors in the publication process. In the future, it is hoped that updates will occur more frequently.

3.15 The authoring tool also supports the publication of a PDF version of the Legislation Directory. This could facilitate hard copy production if such were deemed desirable at any stage. It will also allow the Commission to supply a PDF version of the Legislation Directory online. This could be downloaded by users who wished to have a hard copy version of the database (or part of it) for their own use. As part of its action plan, the Commission will consider whether the PDF version should be made available online.

**C Related Matters**

**(1) Data Format**

3.16 When commissioning the XML authoring tool the Commission was anxious to ensure that data flowing into and from the tool conformed to certain technological standards to enable it to be used by other stakeholders in a wider eLegislation context.

3.17 One way to ensure the uniformity of the data is to "mark-up" the data using a uniform mark-up language. There are several different types of mark-up languages e.g., XML, SGML, HTML, and XHTML. Each of these languages conforms to its own particular rules and in many instances there is considerable overlap between them.<sup>5</sup> XML (Extensible Mark-Up Language) is a mark-up language that has become an international standard for legislation.

3.18 Uniformity in the structure and format of a repository of data can be supported and enhanced by a schema. In broad terms, a schema is a particular set of instructions which sets out how the data is tagged. There are different types of schema. One particular type used in XML is known as a DTD.

3.19 A DTD (Document Type Definition) functions as a type of blueprint for a repository of data in XML. It sets down the type of tags that are permitted in the repository and, critically, the arrangement of those tags. From the perspective of legislation it is vital that all tags are managed by a DTD, as failure to do this can result in a lack of uniformity in the data.

3.20 When the Commission began the Legislation Directory and Statute Law Restatement projects it acquired from the Office of the Attorney General, a copy of the electronic repository of legislation used for the creation of the eISB website. This included the Acts of the Oireachtas from 1922 to 2006 and secondary legislation from 1922-mid 2005 in XML format.<sup>6</sup> This data was intended to serve as the primary electronic repository of legislation for the purposes of the Legislation Directory and Restatement projects.

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<sup>5</sup> For further discussion see Law Reform Commission *Report Statute Law Restatement* (LRC 91-2008) at paragraphs 3.03-3.16

<sup>6</sup> The Commission also received the Legislation Directory from 1922 to 2005 in XHTML, a related format to XML.

3.21 However, the Commission then learned that the Acts on eISB repository were marked up in accordance with two very different XML DTDs. The Acts from 1922 to 1997 were marked up in accordance with the “docbook” DTD (docbook.dtd), and the Acts from 1998 onwards in accordance with the specially designed “legislation” DTD (legislation.dtd). The pre-1998 material was originally marked up on a visual basis which was largely satisfactory for display purposes, but did not allow the full advantage of the XML mark-up for editing in the Commission. The Commission was thus required to organise a data recapture and new XML mark-up of all Acts enacted between 1922 and 1998. This was done using original hard copies of the Acts as the source material.

3.22 The Commission also discovered that the mark-up used in the secondary legislation was not uniform. It decided to carry out a conversion rather than a re-capture process here. The existing electronic data was manipulated to remove variations in the mark-up. This process, which was less costly than the Act re-capture, was used as the volume of legislation involved was significantly greater. Also, many of the instruments involved were obsolete or spent. The intrinsic lesser importance of secondary legislation, when compared to primary legislation, also played a role.

3.23 This recaptured material is now used in the production of restatements and updates to the Legislation Directory produced by the Commission. It has also been made available for use by other stakeholders in the eLegislation process and has already replaced some legislation on the eISB.

3.24 Further, when commissioning the development of an authoring tool for the Statute Law Restatement and Legislation Directory projects, the Commission had regard to the existing XML standard (legislation.dtd) already in use in this jurisdiction. Already, in the context of the Statute Law Restatement project, this XML compatibility should ensure that restatements can be added to the existing repository of legislation on the eISB without difficulty.

## **(2) The Use of Hyperlinks**

3.25 The authoring tool allows aspects of the information in the Act tables to be hyperlinked. In the example given in figure 2, hyperlinks have been inserted in respect of the title of the Act, the individual Act sections and the title of any statutory instruments that appear. While the tool can insert hyperlinks to individual provisions of statutory instruments, these are not currently widely supported by the eISB.

3.26 The authoring tool now also allows the schedule of an Act to be hyperlinked. This feature was also previously unsupported by the eISB.<sup>7</sup> This was a significant navigational barrier for users. However, this has now been changed. Thus, the Commission is inserting these hyperlinks for material after 31 December 2005. This means, however, that users will see an inconsistency in presentation of material on the Legislation Directory. As part of its action plan, the Commission is investigating whether hyperlinks to schedules can be automatically inserted into the older material on the Legislation Directory as it is not feasible to conduct this manually at this time.

3.27 There is also a difficulty in relation to pre-1922 material. As mentioned above, the texts of pre-1922 material are not on the eISB. While, the authoring tool is capable of creating hyperlinks to link to this material there is nothing to link to at this time. These hyperlinks can be inserted at a later date if this material becomes available.

3.28 The Commission has undertaken some measures towards addressing this deficit of pre-1922 material. In the context of the Statute Law Restatement project, the Commission organised the preparation of electronic versions of a large number of extant pre-1922 texts. These are suitable for upload to the eISB and have been made available for this purpose. While, this does not remedy the current deficit it is a step towards doing so. As part of its action plan, the Commission will monitor the availability of pre-1922 texts.

3.29 The Commission has also recently identified a difficulty in relation to hyperlinking to inserted provisions in an Act e.g. section 1A, 1B, 1C etc. Currently, these hyperlinks will all lead to section 1 of the particular Act and not to 1A, 1B or 1C as might be expected. They are hyperlinking to an incorrect section. This problem is exacerbated when these inserted sections are themselves amended. A user may

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<sup>7</sup> See Law Reform Commission *Consultation Paper Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008), at paragraphs 2.49-2.50

click on section 1A and attempt to read it together with a later amendment. However, they are in fact attempting to read section 1 together with the later amendment. This may mislead users as to the current position of the law. At best this is confusing and annoying. At time of writing, this problem could be clearly identified in the Legislation Directory tables for the *Central Bank Act 1942* and the *Taxes Consolidation Act 1997* which have both been heavily amended. As part of its action plan, the Commission will investigate how this problem can be resolved and whether the authoring tool can play a role here. If not, the solution may simply be to deactivate these hyperlinks.

**(3) Existing Errors on the Legislation Directory**

3.30 The Commission's primary role is the addition of new entries to the Legislation Directory as these arise. However, the Commission has inherited the data already existing on the Legislation Directory and as with any database, there is always a risk that errors and omissions may affect it. Errors identified on the database can be individually corrected by the Commission using the authoring tool.

3.31 Unfortunately, given the size of the Legislation Directory database and staffing constraints, it is not feasible for the Commission to conduct a complete verification exercise in respect of all existing data in the Legislation Directory as inherited. However, the Commission has corrected all errors notified to it. It will continue to do so as part of its action plan.

3.32 It has also proactively undertaken some additional corrective measures where it became aware of systemic problems on the database. For example, the current practice on the Legislation Directory is to italicise the title of an Act once a provision provides for its repeal.<sup>8</sup> This practise was not applied consistently on the database and this led to a large amount of confusion for users. The Commission conducted a review of the database and corrected this particular error wherever it was identified.

**D Conclusion**

In this chapter, the Commission has considered the practical issues surrounding the maintenance of the Legislation Directory. The Commission will now turn to a consideration of the developments made in the Statute Law Restatement project. This project is running in tandem with the Legislation Directory project and also aims to improve the accessibility of legislation in this jurisdiction.

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<sup>8</sup> This is irrespective of whether the repeal is commenced or not. As with all affects detailed on the database, the user must verify the commencement status of the repeal.

## CHAPTER 4 STATUTE LAW RESTATEMENT UPDATE

### A Benefits of Statute Law Restatement

4.01 The Legislation Directory improves the accessibility of the law in Ireland by providing information on the amendment of legislation. The benefits to be achieved here have already been discussed.

4.02 The Commission considers that the Statute Law Restatement project, which is also running in the Commission, can also contribute greatly to the accessibility of the law in Ireland. This has also been recognised by the OECD in their recent report on Ireland. They commented that

“Ireland has a longstanding issue of needing to simplify a complex stock of legislation. Ireland is not the only country to face challenges in this regard. In the Irish case, however, the problems are somewhat specific. They stem from the historical development of the Irish Statute book (which includes pre independence legislation), as well as from the process for making regulations, under which acts and statutory instruments are usually amended by the enactment of new regulation which makes piecemeal changes. This means that simple, effective and transparent access to regulations does not exist in Ireland. There is a consensus (both within and outside the administration) over the fact that it is difficult to understand what regulations apply, and what is in the law (lawyers systematically need to be consulted, and even they have trouble). The National Competitiveness Council notes that legal fees are one of the important non pay costs for businesses.”<sup>1</sup>

4.03 They recognised that statute law restatement along with statute law revision and consolidation formed part of a three-pronged approach to tackling these issues. However, they also recognised that progress is slow, creating palpable frustration and incomprehension among many stakeholders. The OECD peer review team found a broad consensus (both within and outside the administration) over the need to move much faster. The regulatory framework remains difficult to understand. Many consolidation projects are moving slowly. Resources allocated do not seem to match the requirements for the work and do not reflect the importance given to the issue in the Better Regulation agenda. It is therefore not clear to what extent a real priority is being attached to this work and what political commitment it commands.<sup>2</sup> In the context of statute law restatement, the report noted that resources allocated to this project had diminished rather than increased over time.<sup>3</sup>

### B What is Statute Law Restatement?

Statute law restatement is the administrative consolidation of an Act with its subsequent amendments, as provided for in the *Statute Law (Restatement) Act 2002*. A restatement is certified by the Attorney General as an up to date statement of the Act in question as amended, and is made available in print or electronic form as a single text. A restatement does not have the force of law or alter the substance of the law. It does not require parliamentary time or enactment, but it can be cited in court as evidence of the law in question.

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<sup>1</sup> OECD, *Better Regulation in Europe: Ireland*, OECD Paris (2010), at 24.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid* at 126

## **C Work of Commission on Statute Law Restatement**

4.04 In May 2006, the Government transferred responsibility for statute law restatement to the Commission. The First Programme of Restatement is set out in chapter 4 of the Commission's *Report on Statute Law Restatement*.<sup>4</sup> It was based on submissions received prior and subsequent to the publication in July 2007 of the Consultation Paper on the same subject.<sup>5</sup> Most of the Commission's work on the first programme has been completed and the publication of these restatements is awaiting the steps to be taken by the Attorney General in accordance with sections 2(1) and 8 of the *Statute Law Restatement Act 2002*.

4.05 In response to invitation, the following agreed to form a user group to advise the Commission on a second programme:

- Sean Barton, McCann Fitzgerald Solicitors
- Brian Hunt, Zurich Insurance
- Kilda Mooney, Law Library
- David Gwynn Morgan, UCC
- Colin Scott, UCD
- Christopher O'Toole, Office of the Attorney General
- Barry Sheehan, Barry Sheehan Solicitors

4.06 Ray Byrne (Director of Research), Heather Mahon (Project Manager, Legislation Directory) and Alma Clissmann (Project Manager, Statute Law Restatement) of the Commission also formed part of the group. It met in June and July 2010 and considered criteria for selection of legislation for a second programme, and drew up a list of suggested candidate legislation. Submissions were also received in response to an article published in the Law Society Gazette<sup>6</sup> and from certain Government Departments.

4.07 The Commission considered the suggestions of the user group and the submissions received, and adopted the second programme of restatement in November 2010, to run for two years from January 2011 to December 2012.

4.08 The second programme involves 12 groups of Acts and an additional 3 groups, to be undertaken if time permits. The groups of Acts are as follows:

1. Employment
2. Irish Nationality and Citizenship
3. Children
4. Family
5. Mental Health
6. Criminal Law (Bail Act and Offences Against the State)
7. European Communities
8. Planning and Development
9. Aquaculture
10. Environmental Protection Agency
11. Foreshore
12. Dumping at Sea
13. Waste Management<sup>7</sup>
14. Water<sup>8</sup>
15. Electoral<sup>9</sup>

The Acts included in these groups are set out in Appendix C.

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<sup>4</sup> Law Reform Commission *Report Statute Law Restatement* (LRC 91-2008)(July 2008).

<sup>5</sup> Law Reform Commission *Consultation Paper Statute Law Restatement* (LRC CP45-2007).

<sup>6</sup> Mahon, "The Profession's best kept secrets", Law Society Gazette, Vol. 104, No. 7 at 12.

<sup>7</sup> Subject to time constraints.

<sup>8</sup> Subject to time constraints.

<sup>9</sup> Subject to time constraints.

4.09 The Commission considers that a properly-resourced Statute Law Restatement project can contribute to greatly improving the accessibility of legislation in Ireland. The Commission looks forward to publication of the restatements completed under the First Programme. The Commission will publish updates on the progress of the Second Programme on its website at regular intervals.

4.10 Prior to publication by the Attorney General under section 8 of the *Statute Law (Restatement) Act 2002*, the Commission has decided to make its pre-certified restatements available on its website, inviting comment, corrections and user feedback from the legal community and the public. The first pre-certified restatements will be made available from January 2011. The Commission will also investigate the possibility of making the texts of certain pre-1922 Acts, which have been converted for the purposes of the project, available on its website.



APPENDIX A      **OVERVIEW OF OTHER JURISDICTIONS**



	EUROPEAN UNION													EFTA			POTENTIAL CANDIDATE COUNTRIES																			
	BELGIUM	BULGARIA	CZECH REP	DENMARK	GERMANY	ESTONIA	IRELAND	GREECE	SPAIN	FRANCE	ITALY	CYPRUS	LATVIA	LITHUANIA	LUX	HUNGARY	MALTA	NETHER	AUSTRIA	POLAND	PORTUGAL	ROMANIA	SLOVENIA	SLOVAKIA	FINLAND	SWEDEN	UK	ICELAND	LIECHTEN	NORWAY	SWITZ	MACED	ALBANIA	SERBIA		
<b>Online Access to Legislation</b>																																				
Database with Consolidated Texts			1																																	
Database with Original Texts																																				
Legal Gazette							5																													
<b>Legally Binding Version</b>																																				
Online																																				
Paper																																				
<b>Consolidated Legislation</b>																																				
<b>1. Body</b>																																				
State Agency			1	5																																
Independent Body																																				
<b>2. Status</b>																																				
Official/Semi- Official																																				
Information Purposes Only																																				
<b>3. Availability</b>																																				
Paper																																				
Online																																				
<b>Deadlines for Consolidation</b>																																				
Immediately																																				
Within 1 Week																																				
Within 1 Month																																				
Within 1 Year																																				

- 1 Under Preparation.
- 2 Primary Legislation Only.
- 3 Only parts of the legislation.
- 4 Secondary legislation only.
- 5 Strictly speaking no legal gazette: Collection of Acts.
- 6 There is no systematic consolidation of legislation. However, the legal gazette publishes primary legislation in its original form (i.e. amending acts separately) as well as in an official 'restatement' (published in the form of a Lovbekendtgørelse) under the responsibility of the competent ministries. Each ministry is therefore responsible for the consolidation of its own acts.
- 7 Independent Body: Monitorul Oficial Company, State Company (autonomous public corporation), under the coordination of the Chamber of Deputies.
- 8 Ministero della Giustizia completes consolidations within 15 days and they are published at <http://www.italgiure.giustizia.it>
- 9 Ministero della Giustizia, through the Istituto poligrafico e Zecca dello Stato completes consolidations within 30 days and they are published at <http://www.guritel.it>

APPENDIX B      **ACTION PLAN**

<b>Aspect of Legislation Directory</b>	<b>Specific Action</b>	<b>Status<sup>1</sup></b>	<b>Report Para.</b>
Homepage	Consider whether homepage can be streamlined.	Pending	2.13
	Consider positioning and highlighting of important listings.	Pending	2.45
Abbreviations	Prepare composite listing of abbreviations.	Draft list of entries identified.	2.15
Alphabetical List of Acts in Force, which were brought into operation either in whole or in part by Orders made on or before [date]	Provide monthly updates.	Ongoing	2.51
Alphabetical List of Collective Citations	Provide monthly updates.	Ongoing	2.55
	Finalise expanded list and publish on eISB.	Draft list prepared.	2.58
Orders made under Section 6 (1) of the Ministers and Secretaries (Amendment) Act 1939	Provide monthly updates.	Ongoing	2.63
	Examine position of listing on homepage.	Pending	2.64
Regulations made under Section 3 of the European Communities Act 1972	Provide monthly updates.	Ongoing	2.67
	Change title of listing to reflect changed content.	Pending	2.70
	Make efforts to identify instruments coming within section 5 of the European Communities Act 2007.	Pending	2.72
	Ascertain if overview of implemented European measures can be improved.	Pending	2.73
Private Acts	Confirm whether compilation style can be aligned with that used for Public Acts.	Underway	2.78
	Update as necessary.	Ongoing	2.78

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<sup>1</sup> At time of writing

<b>Aspect of Legislation Directory</b>	<b>Specific Action</b>	<b>Status<sup>2</sup></b>	<b>Report Para.</b>
	Examine possibility of relocating all listings for the Private Acts to a secondary webpage to be accessed via one hyperlink from the homepage.	Pending	2.80, 2.86
Pre-1922 material	Relocation of individual listings to a secondary webpage to be accessed from a "Pre-1922" hyperlink from the homepage.	Pending	2.82
	Identify pre-1922 amendments to extant pre-1922 primary legislation and upload to Legislation Directory.	Uploads completed for years 1900 -1922. Substantive information collected for years 1870-1899.	2.90
	Standardising of pre-1922 method of citation.	Ongoing	2.99
Local Government (Application of Enactments) Order 1898 and Local Government (Adaptation of Irish Enactments) Order 1899	Consider whether listings should be retained on Legislation Directory. If so, should they be relocated? Should other supporting information be provided to assist users?	Pending	2.102-2.103
Alphabetical List of all Acts in the Legislation Directory	Consider relocation of listing to more prominent position on homepage.	Pending	2.111
	Provide monthly updates	Ongoing	2.111
User Awareness	Consider the provision of additional information on commencement.	Pending	2.114
	Prepare note on pre-1922 legislation.	Pending	2.116
	Consider relocation and highlighting of user awareness information.	Pending	2.121
Rulings of Unconstitutionality	Work with stakeholders to review tracking of these decisions.	Pending	2.122

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<sup>2</sup> At time of writing

<b>Aspect of Legislation Directory</b>	<b>Specific Action</b>	<b>Status<sup>3</sup></b>	<b>Report Para.</b>
Rulings of the European Court of Justice	In cooperation with stakeholders, consider whether rulings which disapply legislation should be tracked on the stakeholders.	Pending	2.127
Delegation of functions orders	Remove from the main database. Prepare separate listing of these orders.	Orders removed from database. Draft list prepared.	2.134
Legislation Directory of Statutory Instruments	Publish Legislation Directory of statutory instruments from 2006 onwards. Liaise with stakeholders to facilitate publication on eISB. Maintain database in 2011 as new material arrives to the Commission. Keep under review.	Substantive material from 2006-2010 compiled to allow publication.	2.138-2.139
	Complete list of extant statutory instruments in force from 1922-2005.	Material has been compiled in Commission for circulation to Departments in early 2011.	2.141-2.144
	Prepare Legislation Directory of extant statutory instruments from 1922-2005.	No action at present. Monitor resources.	2.144
	Prepare Legislation Directory of statutory instruments from 2000-2005.	No action at present. Monitor resources.	2.145
Publication	Consider whether PDF version of Legislation Directory should be made available to users.	Pending	3.15
Hyperlinking	Investigate whether hyperlinks to schedules can be easily inserted into older material on Legislation Directory.	Pending	3.26
	Monitor availability of texts of pre-1922 legislation to see if relevant hyperlinks can be inserted.	Underway	3.27-3.28
	Investigate whether misleading hyperlinking can be remedied.	Pending	3.29
Existing Errors on Legislation Directory	Correct errors notified to Commission.	Ongoing	3.31

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<sup>3</sup> At time of writing



**Employment legislation**

- Transnational Information And Consultation Of Employees Act 1996
- Employees (Provision Of Information And Consultation) Act 2006
- Employers' Employment Contribution Scheme Act 1981
- Employment Agency Act 1971
- Employment Permits Act 2003
- Employment Permits Act 2006
- Labour Services Act 1987
- Labour Services (Amendment) Act 2009
- National Training Fund Act 2000
- Industrial Training Act 1967
- Industrial Relations Act 1946
- Industrial Relations Act 1969
- Industrial Relations Act 1976
- Industrial Relations Act 1990
- Industrial Relations (Amendment) Act 2001
- Industrial Relations (Miscellaneous Provisions) Act 2004
- Minimum Notice And Terms Of Employment Act 1973
- Terms Of Employment (Information) Act 1994
- National Minimum Wage Act 2000
- Protection Of Employees (Part-Time Work) Act 2001
- Protection Of Employees (Fixed-Term Work) Act 2003
- Payment Of Wages Act 1991
- Redundancy Payments Act 1967
- Redundancy Payments Act 1971
- Redundancy Payments Act 1973
- Redundancy Payments Act 1979
- Protection Of Employment Act 1977
- Protection Of Employees (Employers' Insolvency) Act 1984
- Safety Health And Welfare At Work Act 2005
- Unfair Dismissals Act 1977
- Unfair Dismissals (Amendment) Act 1993
- Organisation Of Working Time Act 1997
- Protection Of Young Persons (Employment) Act 1996
- Youth Employment Agency Act 1981
- Youth Work Act 2001

**Irish Nationality and Citizenship**

- Irish Nationality And Citizenship Act 1956
- Irish Nationality And Citizenship Act 1986
- Irish Nationality And Citizenship Act 1994
- Irish Nationality And Citizenship Act 2001
- Irish Nationality And Citizenship Act 2004

**Children Acts**

- Guardianship Of Infants Act 1964
- Status Of Children Act 1987
- Children Act 1997
- Legitimacy Act 1931
- Child Care Act 1991
- Child Care (Amendment) Act 2007

- Protections For Persons Reporting Child Abuse Act 1998
- Child Abduction And Enforcement Of Custody Orders Act 1991
- Protection Of Children (Hague Convention) Act 2000
- Children Act 1997
- Children Act 2001
- Children Act 1989
- Ombudsman For Children Act 2002

### **Family Law**

- Family Law Act 1995
- Married Women's Status Act 1957
- Family Law Act 1981
- Family Law Act 1988
- Civil Partnership And Certain Rights And Obligations Of Cohabitants Act 2010
- Family Support Agency Act 2001
- Family Law (Divorce) Act 1996
- Family Law Act 1995
- Family Law (Miscellaneous Provisions) Act 1997
- Civil Law (Miscellaneous Provisions) Act 2008
- Judicial Separation And Family Law Reform Act 1989
- Domicile And Recognition Of Foreign Divorces Act 1986
- Maintenance Orders Act 1974
- Family Law (Maintenance Of Spouses And Children) Act 1976
- Maintenance Act 1994
- Domestic Violence Act 1996
- Domestic Violence (Amendment) Act 2002

### **Mental Health Acts**

- Mental Health Act 2001
- Mental Health Act 2008
- Mental Treatment Act 1945
- *Mental Health (Amendment) Bill 2010*

### **Criminal Law**

- Bail Act 1997
- Treason Act 1939
- Offences Against The State Act 1939
- Offences Against The State (Amendment) Act 1940
- Offences Against The State (Amendment) Act 1972
- Emergency Powers Act 1976
- Offences Against The State (Amendment) Act 1985
- Offences Against The State (Amendment) Act 1998
- Criminal Justice (Terrorist Offences) Act 2005

### **European Communities Acts**

- European Communities Act 1972
- European Communities (Confirmation Of Regulations) Act 1973
- European Communities (Amendment) Act 1973
- Acp-Eec Convention Of Lome (Contracts Of Guarantee Between State And European Investment Bank) Act 1976
- European Communities (Amendment) Act 1977
- European Communities (Amendment) Act 1979
- European Communities (Supplementary Funding) Act 1984
- European Communities (Amendment) Act 1985
- European Communities (Amendment) (No. 2) Act 1985
- European Communities (Amendment) Act 1986
- European Communities (Funding) Act 1988
- European Communities (Amendment) Act 1992
- European Communities (Amendment) Act 1993
- European Communities (Amendment) Act 1994
- European Communities (Amendment) Act 1995

- European Communities (Amendment) Act 1998
- European Communities And Swiss Confederation Act 2001
- European Union (Scrutiny) Act 2002
- European Communities (Amendment) Act 2002
- European Communities (Amendment) Act 2003
- European Parliament Elections (Amendment) Act 2004
- European Communities (Amendment) Act 2006
- European Communities Act 2007
- European Parliament (Irish Constituency Members) Act 2009
- European Union Act 2009

### **Planning**

- Planning And Development Act 2000
- Planning And Development (Amendment) Act 2002
- Planning And Development (Strategic Infrastructure) Act 2006
- Compulsory Purchase Orders (Extension Of Time Limits) Act 2010
- Planning And Development (Amendment) Act 2010
- Western Development Commission Act 1998
- Commissioners Of Public Works (Functions And Powers) Act 1996
- Commissioners Of Public Works In Ireland (Acceptance Of Trusteeship) Act 1978
- Derelict Sites Act 1990
- Building Control Act 1990
- Building Control Act 2007

### **Aquaculture**

- Fisheries (Amendment) Act 1997
- Fisheries and Foreshore (Amendment) Act 1998
- Fisheries (Amendment) Act 2001
- Sea Fisheries and Maritime Jurisdiction Act 2006
- European Communities (Control of Dangerous Substances in Aquaculture) Regulations 2008 (466/2008)

### **Environmental Protection Agency**

- Environmental Protection Agency Act 1992
- Protection Of The Environment Act 2003

### **Foreshore**

- Foreshore Act 1933
- Foreshore (Amendment) Act 1992
- Fisheries And Foreshore (Amendment) Act 1998
- Foreshore And Dumping At Sea (Amendment) Act 2009

### **Dumping at Sea**

- Dumping At Sea Act 1996
- Sea Pollution (Amendment) Act 1999
- Oil Pollution Of The Sea (Civil Liability And Compensation) (Amendment) Act 2003
- Dumping At Sea (Amendment) Act 2004
- Sea Pollution (Hazardous Substances) (Compensation) Act 2005
- Sea-Fisheries And Maritime Jurisdiction Act 2006
- Sea Pollution (Miscellaneous Provisions) Act 2006

### **Waste Management** (if there is time)

- Waste Management Act 1996
- Waste Management (Amendment) Act 2001

### **Water** (if there is time)

- Local Government (Water Pollution) Act 1977
- Local Government (Water Pollution) (Amendment) Act 1990
- Water Services Act 2007

**Electoral Acts** (If there is time)

- Referendum Act 1994
- Referendum Act 1998
- Referendum Act 2001
- Electoral Act 1992
- Electoral (Amendment) Act 1996
- Electoral Act 1997
- Electoral (Amendment) Act 1998
- Electoral (Amendment) Act 1933
- Electoral (Amendment) Act 2001
- Electoral (Amendment) Act 2002
- Electoral (Amendment) (No. 2) Act 2002
- Electoral (Amendment) Act 2004
- Electoral (Amendment) Act 2005
- Electoral (Amendment) Act 2006
- Electoral (Amendment) Act 2007
- Electoral (Amendment) Act 2009
- Electoral (Amendment) (No. 2) Act 2009
- Local Elections Act 1965
- Local Elections (Petitions And Disqualifications) Act 1974
- Local Elections (Disclosure Of Donations And Expenditure) Act 1999
- Presidential Elections Act 1993
- European Parliament Elections Act 1997
- *Local Government (Mayor and Regional Authority of Dublin) Bill 2010*





The Law Reform Commission is an independent statutory body established by the *Law Reform Commission Act 1975*. The Commission's principal role is to keep the law under review and to make proposals for reform, in particular by recommending the enactment of legislation to clarify and modernise the law.

This role is carried out primarily under a Programme of Law Reform. The Commission's *Third Programme of Law Reform 2008-2014* was prepared and approved under the 1975 Act following broad consultation and discussion. The Commission also works on specific matters referred to it by the Attorney General under the 1975 Act. Since 2006, the Commission's role also includes two other areas of activity, Statute Law Restatement and the Legislation Directory. Statute Law Restatement involves incorporating all amendments to an Act into a single text, making legislation more accessible. The Legislation Directory (previously called the Chronological Tables of the Statutes) is a searchable guide to legislative changes.

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The Law Reform Commission is a statutory body established by the Law Reform Commission Act 1975