



The Law Reform Commission

AN COIMISIÚN UM ATHCHÓIRIÚ AN DLÍ

TWENTY SEVENTH ANNUAL REPORT 2005



The Law Reform Commission

AN COIMISIÚN UM ATHCHÓIRIÚ AN DLÍ

Copyright
The Law Reform Commission

First Published
November 2006

ISSN 0332 – 0332-0499
PRN A7/1794

Rory Brady SC
Attorney General
Government Buildings
Upper Merrion Street
Dublin 2

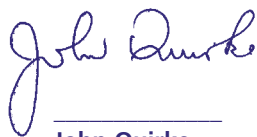
14 November 2006

Dear Attorney General

In accordance with Section 6 of the *Law Reform Commission Act 1975*, I have the honour, on behalf of the Law Reform Commission, to present the **Twenty-Seventh Report (2005)** of the Law Reform Commission.

It covers the period 1 January 2005 to 31 December 2005.

Yours sincerely,



John Quirke
Secretary/Head of Administration

TABLE OF CONTENTS

FOREWORD		6
THE COMMISSION: COMMISSIONERS AND STAFF		8
CHAPTER 1	OVERVIEW OF THE COMMISSION'S WORK IN 2005	10
	30 Years of Law Reform	10
	Functions of the Commission	10
	Strategy Statement and Business Plan	11
	Methods of Work and Consultation Process	11
	The Second Programme for Law Reform	12
	Requests from the Attorney General	13
	Commission Publications in 2005	13
CHAPTER 2	THE COMMISSION'S PUBLICATIONS AND ROLLING WORK PROGRAMME IN 2005	15
	Introduction	15
	The Legal System	15
	The Law of Evidence	16
	Administrative Law	16
	Criminal Law	17
	Land Law and Conveyancing	18
	Vulnerable Groups and the Law	20
	Family Law	21
	Commercial Law and the Law of Obligations	21
CHAPTER 3	ADMINISTRATION	22
	Introduction	22
	The Commission	22
	Administrative Staff	22
	Research and Library	23
	Finance	25
	Appendix A: Second Programme for Law Reform 2000-2007	26
	Appendix B: Working Groups	29
	Appendix C: Conferences and Visits	32
	Appendix D: List of Law Reform Commission Publications	34

FOREWORD

I am very pleased, on behalf of my Commission colleagues, to introduce the Commission's Annual Report for 2005, which was a particularly significant year for the Commission. During 2005, the Commission continued to make very significant progress through the Second Programme of Law Reform 2000 to 2007, with the publication of 6 Reports and 4 Consultation Papers. The year also marked the 30th Anniversary of the establishment of the Commission, and we were delighted that former Chief Justice and Commission President, Mr Justice Ronan Keane, agreed to mark the occasion by delivering a public lecture entitled *Thirty Years of Law Reform: 1975 to 2005*.

The publication of this Annual Report also allows me the welcome opportunity to pay tribute to my predecessor, Mr Justice Declan Budd, who completed his term of office in February 2005. I am deeply conscious of Declan's enormous commitment to the work of the Commission since his appointment as President in 2000. During that time – together with his Commission colleagues - he ensured that the high reputation of the Commission was maintained, while also overseeing a great increase in its published output. I am especially aware that his knowledge of fundamental legal principles, combined with a great attention to detail, greatly contributed to the Commission's work during his tenure. I know that all my colleagues join me in wishing him every happiness and continued success in his return to judicial work.

The year also saw Dr Hilary Delany completing her second term as Commissioner. During her two terms, Hilary's contribution to the Commission naturally included her own well-known areas of expertise, notably in equity, trusts, and practice and procedure including, I should mention, judicial review. But her dedicated commitment also ranged across all of the Commission's work. Indeed, I am especially delighted that she agreed to continue to be involved in the Commission's project on the consolidation and reform of the Courts Acts, to which she had already made a significant published contribution. Hilary's replacement as Commissioner, Donal O'Donnell, SC, has already made a huge impact on the deliberations of the Commission, and my colleagues and I very much looking forward to his continued involvement in the important work in which we are engaged.

A key objective of the Commission is to ensure that it continues to complete to a high standard its examination of the areas of law identified in the Second Programme of Law Reform, and also those matters on which the Commission receives specific requests from the Attorney General under the Law Reform Commission Act 1975. My Commission colleagues and I believe that our 6 Reports and 4 Consultation Papers published in 2005 met this objective. I would like to mention just three of these here.

The publication in July of the Commission's *Report on the Reform and Modernisation of Land Law and Conveyancing Law* was the culmination of many years of work within the Commission on land law and conveyancing law – a major area of importance for virtually all members of society. In line with the Commission's practice, the Report included a draft Land Law and Conveyancing Bill to give effect to its recommendations. After the 2005 Report was published, the Attorney General and the Minister for Justice, Equality and Law Reform requested the Commission to continue to assist in preparing a Bill to give effect to its recommendations, and the Commission was extremely happy to agree to this. The result of this further work culminated in the publication by the Government of the *Land and Conveyancing Law Reform Bill 2006*, which reflects the key elements of the Commission's Report.

The Commission's *Report on Public Inquiries Including Tribunals of Inquiry*, published in May, examined another area of public concern. The Report acknowledged the invaluable work done by the many tribunals of inquiry established in recent years, and recommended reform across a broad range of areas, which the Commission hopes would facilitate the continued efficacy of such inquiries in the future. The Commission included a comprehensive reforming and consolidating

Tribunals of Inquiry Bill with the Report, and the Commission were happy that the Tribunals of Inquiry Bill 2005, currently before the Oireachtas, reflects the main elements of the Commission's draft Bill.

I should also mention the Commission's *Report on the Establishment of a DNA Database*, published in November. This arose from a request by the Attorney General in 2003 that the Commission examine the issue of the establishment of a DNA Database. The Commission acknowledges in its Report that DNA databases in other countries have had important benefits for society in the investigation of crime. The Commission also examined, as requested by the Attorney General, to what extent a DNA database might pose potential risks to constitutional and human rights. The Commission's Report aims to strike a balance between these two conflicting interests. The Report notes that limited DNA databases have proved very effective in other countries and the Report accordingly recommended the establishment of a limited DNA database.

The Commission is very conscious that it operates in a rapidly-changing society. As it approaches the last two years of its current Second Programme of Law Reform, it must prepare in a number of ways for the challenges of a new Third Programme of Law Reform. For that reason, the Commission embarked on a thorough review during the year of its overall strategy and organisation. This resulted in the approval in early 2006 by the Commission of its Strategy Statement 2006-2008, which sets out the Commission's key objectives for the coming three years.

I would like to end by emphasising that the Commission could not achieve its objectives without the support of a wide range of people, both internally and externally. The Commission has a committed staff – research and administrative – who provide the necessary support to ensure the work of the Commission is of a very high standard. This is greatly facilitated by the voluntary contributions – especially advice and assistance - from the many groups with whom the Commission consults, including members of the Working Groups established by the Commission. The Commission is also grateful for the good cooperation it enjoys from Government Departments with which we liaise, and is also extremely appreciative of the continued support of the Attorney General and the Director General of the Office of the Attorney General and their staff.

Catherine McGuinness
PRESIDENT

THE COMMISSION

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

The Hon Mrs Justice Catherine McGuinness

*Judge of the Supreme Court
President from February 2005*

The Hon Mr Justice Declan Budd

*Judge of the High Court
President to February 2005*

Patricia T. Rickard-Clarke

*BCL, Solicitor
Full-time Commissioner*

Professor Finbarr McAuley

*BCL, LLB, MPhil, LLD, Jean Monnet Professor
of Criminal Law, University College Dublin
Part-Time Commissioner*

Marian Shanley

*BCL, Solicitor, Member of the Commission to Inquire into Child Abuse
Part-Time Commissioner*

Donal O'Donnell

*Senior Counsel
Part-Time Commissioner from June 2005*

Dr Hilary A Delany

*BA M Litt, PhD, Barrister-at-Law, Head of School of Law,
Senior Lecturer in Law Trinity College Dublin
Part-Time Commissioner to May 2005*

John Quirke

Secretary/Head of Administration

COMMISSION STAFF IN 2005

Director of Research:

Raymond Byrne
BCL, LLM, Barrister-at-Law,
on secondment from the School of Law and Government, Dublin City University

Legal Researchers:*

Deirdre Ahern LLB, LLM (Cantab), Solicitor
Alan Brady LLB (Dub), LLM (Lond), Attorney-at-Law (NY)
Patricia Brazil LLB, Barrister-at-Law
Claire Bruton LLB, LLM (Lond), Barrister-at-Law
Ronan Flanagan LLB, LLM (Cantab)
Roberta Guiry BCL, LLM (NUI)
Rosemary Healy-Rae, AITI, Barrister-at-Law
Orla Joyce BCL, LLM (Cantab)
Darren Lehane BCL, LLM (NUI)
Claire McAvinchey BCL, LLM (Glasgow)
Aoife McCarthy BCL, LLM (NUI), Barrister-at-Law
Jane Mulcahy BCL (Law and German), LLM (NUI)
Catherine-Ellen O’Keeffe LLB, LLM (NUI)
Sinéad Ring BCL (Law and German), LLM (NUI)
Mary Townsend BCL, LLM (NUI)
Aisling Wall BCL, LLM (Cantab)

Administration Staff:

Project Manager: Pearse Rayel

Executive Officer: Denis McKenna

Legal Information Manager: Conor Kennedy, BA, H Dip LIS

Cataloguer: Eithne Boland, BA (Hons), H Dip Ed, H Dip LIS

Information Technology Officer: Liam Dargan

Clerical Officers:

Alan Bonny
Debbie Murray

* Researchers are employed on short-term contracts. The Commission currently has authority to employ eight full-time legal researchers.

CHAPTER 1

OVERVIEW OF THE COMMISSION'S WORK IN 2005

30 YEARS OF LAW REFORM

In 2005, the Commission celebrated its 30th Anniversary. To mark this milestone, the Commission invited Mr. Justice Ronan Keane, former President of the Commission (1987 to 1992) and former Chief Justice (2000 to 2004), to deliver a public lecture on the theme of law reform, which he kindly agreed to do. On 23 June, the Commission hosted the lecture, 'Thirty Years of Law Reform 1975-2005,' at Farmleigh House, Dublin. The lecture was delivered to an invited audience of people who had been involved with the Commission during its 30 years of work and which also included representatives of other law reform bodies. The Commission was also especially grateful that the Taoiseach formally opened the proceedings (his speech is available at www.taoiseach.ie). In his lecture, Mr Justice Keane traced the history of law reform generally and placed the Commission's role as a law reform body against the background of the law making - and, thus, law reforming - role of the Oireachtas. He also identified some essential elements of successful law reform bodies, including independence and the need to ensure that proposals for reform are relevant to society's needs. He also noted the particular challenge facing any law reform body in a rapidly changing society: to ensure that it engages in wide-ranging consultation that reaches beyond the legal profession to a range of groups and individuals with a special interest or expertise in a relevant topic. He concluded by noting that the Commission was under a continuing obligation to 'ensure that its work contributes to a body of law which is fair, accessible and relevant to the needs of Irish society today.' The full text of Mr. Justice Keane's lecture is available on the Commission's website, www.lawreform.ie.

FUNCTIONS OF THE COMMISSION

As Mr. Justice Keane's lecture noted, the Commission is an independent statutory body whose main aim is to keep the law under review and to make proposals for its reform. Section 4 (1) of the Law Reform Commission Act 1975 states:

"The Commission shall keep the law under review and, in accordance with the provisions of this Act, shall undertake examinations and conduct research with a view to reforming the law, and formulate proposals for law reform."

The content of the Commission's research is determined and directed in two primary ways.

Under a Programme for Law Reform

Section 4(2)(a) of the 1975 Act requires the Commission, in consultation with the Attorney General, to prepare from time to time programmes for the examination of different branches of the law, with a view to their reform. When such a programme is approved by the Government, the Commission will examine and research the subjects set out in it and, if appropriate, formulate and submit to the Taoiseach proposals for the reform of the law in those areas under section 4(2)(b). Two such Programmes have been approved by Government. The First Programme for Law Reform was in place between 1975 and 2000. This was replaced by the Second Programme for Law Reform, which was approved by the Government in December 2000 and is a 7 year programme which is intended to run until 2007. The full text of the Second Programme is contained in Appendix A.

By references from the Attorney General

Section 4(2)(c) of the 1975 Act provides that the Attorney General may request the Commission

to examine and research a particular area of the law, and further, may request that proposals for reform in that area be submitted to him. The Commission must comply with such a request whether or not such area of the law is included in the programme submitted by the Commission and approved of by the Government.

STRATEGY STATEMENT AND BUSINESS PLAN

In 2005, the Commission began the process of developing a Strategy Statement and a Business Plan to cover the period 2006 to 2008, and these were finalised in early 2006. The Commission will outline the essential elements of the Strategy Statement and Business Plan in its Annual Report for 2006. These documents replaced the Commission's Strategy and Business Plan 2003-2005, which followed on from the previous Strategy and Business Plan, drawn up in 1998 and covering the period 1999-2002. The Strategy and Business Plan 2003-2005 notes the importance of a comprehensive and forward-looking programme of law reform and the need to adapt current methods of work in order to achieve the goals set out in the Second Programme for Law Reform.

METHODS OF WORK AND CONSULTATION PROCESS

The Commission's Reports and Consultation Papers are based on careful and thorough research. In the course of research on any topic, consideration is given to case law, legislation, jurisprudence and academic writings, both domestic and international. The Commission gives particular attention to the laws of comparable jurisdictions, as well as to proposals put forward by law reform bodies in these jurisdictions. The Commission is also conscious of the importance of ensuring that any proposals for reform are grounded in practice. In the course of preparing proposals, the Commission conducts informal consultations with legal practitioners and also with other relevant professional persons and representative bodies. The practical insights which these contacts provide the Commission are acknowledged in the Commission's publications.

Methodology

To achieve the goals set out in the Second Programme for Law Reform, the Commission ensures that each project is assigned a Researcher who works under the general direction of the Director of Research. The Commission also makes use of Working Groups, whose members provide their expertise on a voluntary basis, in areas where significant expert input is necessary. A list of Working Groups and their membership is included in Appendix B.

Given the complexity of some of the issues that arise, the Commission regularly consults with experts in particular areas of legal and other professional knowledge on a particular subject. The Commission carries out its work on the basis of a Rolling Work Programme, which contains target dates for the achievement of the various stages of work. In order to assist the Commission in monitoring their achievement of these targets, regular reviews of the Work Programme are conducted. Chapter 3 outlines the Commission's work in progress in 2005.

The consultation process

The consultation process is of central importance to the Commission's work. Consultation may take several forms. In the initial stages of its research, the Commission may meet with experts or practitioners working in a particular area, or representatives of interest groups. The Commission will then, in most cases, prepare a Consultation Paper (known up to 1985 as a Working Paper), which in recent years will always be published (in previous years, the Commission occasionally distributed a Working Paper to relevant experts or practitioners only). The Commission will seek written submissions from interested parties on the provisional recommendations made in the Consultation Paper. These submissions will be taken into account in the drafting of the final Report on the subject, and any issues or concerns they raise will be dealt with in the Report. Before the drafting of the Report, a seminar is held to which the Commission may invite interested parties, or those who have made submissions.

In July, the Commission hosted a seminar in connection with its Consultation Paper on Prosecution Appeals.

Since 2000, the Commission invariably include a draft Bill in each Report where it makes recommendations requiring legislative change.

Communication with Consultative Committee and Government Departments

Government departments have their own responsibilities concerning the areas of law within their jurisdictions, and these sometimes overlap with matters which are covered by the Commission's Programmes or by references from the Attorney General. It has been the practice of the Commission for many years to communicate with government departments as to the projects in which it is currently engaged or likely to be engaged in the foreseeable future. In 1998, the Government established a Consultative Committee under the auspices of the Office of the Attorney General, comprising representatives of certain government Departments, the Council of the Bar of Ireland, the Law Society of Ireland, as well as the Commission.

The Commission also has an arrangement with the Department of Justice, Equality and Law Reform, providing for bi-annual meetings to review matters of mutual interest, both in criminal and civil law matters. These meetings enable the Commission and the Department to have a knowledge of issues being currently addressed by them and of progress in the legislative process.

Meetings with Oireachtas Committee

Since 1998, the Commission has held periodic meetings with the Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights to discuss the work programme of the Commission. The Commission greatly values the meetings with the Committee.

Conferences, Visits and Media Contacts

Commissioners regularly attend and participate in public seminars and conferences concerning areas of research connected with the Second Programme and the Commission's Rolling Programme of Work. Contacts with law reform bodies are also maintained through attendance at relevant seminars and through hosting visits from other law reform bodies. In addition, news and press releases are distributed to the media to coincide with publication of a Consultation Paper or Report. In general, the Director of Research acts as media spokesperson for the Commission. Details of conferences attended and visits to and from law reform bodies are contained in Appendix C.

THE SECOND PROGRAMME FOR LAW REFORM

Following the procedure prescribed in section 4(2)(a) of the Law Reform Commission Act 1975, the Second Programme for Law Reform was approved by the Government in December 2000. The full text is included in Appendix A. The Second Programme identifies over 30 topics grouped under different branches of the law for examination, with a view to their reform. These may be grouped under the following headings:

- 1** The Legal System
- 2** The Law of Evidence
- 3** Administrative Law
- 4** Criminal Law
- 5** Land Law and Conveyancing
- 6** Vulnerable Groups and the Law
- 7** Family Law
- 8** Commercial Law and the Law of Obligations

In addition to setting out over 30 specific topics for examination, the Second Programme noted that, if events require law reform in any area within any of the general branches of the law set out above, the Commission will, where appropriate, and subject to the limits of its available resources, bring forward the necessary proposals. In particular, the Second Programme noted that the Commission retains a continuing interest in codification of the law and proposes to address the issue of codification with regard to matters falling within branches of the law set out in this Programme as appropriate. In all these areas, the Second Programme notes that the Commission will, where appropriate, have regard to the activities of other official bodies interested in law reform, among them the Courts Service, and be ready to co-operate with them.

The Second Programme notes that the Commission has been involved in the negotiation and preparation of various international agreements, particularly in the area of private international law (the conflict of laws), including their implementation in Irish law. The Commission has published a large number of Reports on the implementation of Conventions prepared by UNIDROIT, UNCITRAL and the Hague Conference on Private International Law. The Commission remains conscious of the need to ensure that any proposals for reform are consistent with the State's international obligations in this area.

REQUESTS FROM THE ATTORNEY GENERAL

In 2005, the Commission published a Report on the Establishment of a DNA Database (LRC 78-2005), which followed from its Consultation Paper on the Establishment of a DNA Database (LRC CP 29-2004). These resulted from the request made in 2003 by the Attorney General, pursuant to section 4(2)(a) of the 1975 Act, to consider the establishment of a DNA Database.

In November 2005, the Attorney General requested the Commission to consider and recommend reforms in relation to: (1) the status and rights (including citizenship rights) of a child resident outside the State who is the subject of a foreign adoption order made in favour of an Irish citizen or citizens; (2) the most effective manner of securing the performance of the constitutional and legal duties of the adoptive parents in respect of such a child; (3) the most effective manner of ensuring the fulfilment of the duties of the State in respect of such a child arising from Articles 40.3 and 42.5 of the Constitution. The Commission has begun work on this request.

COMMISSION PUBLICATIONS IN 2005

In 2005, the Commission published 6 Reports, 4 Consultation Papers and a Lecture to mark the 30th Anniversary of the Commission. These were:

- *Consultation Paper on Trust Law – General Proposals* (LRC CP 35-2005) (February 2005)
- *Consultation Paper on Charitable Trust Law – General Proposals* (LRC CP 36-2005) (February 2005)
- *Consultation Paper on Vulnerable Adults and the Law: Capacity* (LRC CP 37-2005) (May 2005)
- *Report on Public Inquiries Including Tribunals of Inquiry* (LRC 73-2005) (May 2005)
- *Thirty Years of Law Reform 1975-2005* (Lecture by Mr Justice Ronan Keane to mark the 30th Anniversary of the Commission) (June 2005)
- *Report on Reform and Modernisation of Land Law and Conveyancing Law* (LRC 74-2005) (July 2005)
- *Report on The Court Poor Box: Probation of Offenders* (LRC 75-2005) (September 2005)
- *Report on Multi-Party Litigation* (LRC 76-2005) (September 2005)

- *Report on Corporate Killing* (LRC 77-2005) (October 2005)
- *Report on the Establishment of a DNA Database* (LRC 78-2005) (November 2005)(*)
- *Consultation Paper on Legal Structures for Charities* (LRC CP 38-2005) (December 2005)

Publications which arose from references from the Attorney General are marked by an asterisk (*).

Chapter 2 of this Report provides an outline of these publications against the background of the Second Programme of Law Reform.

At a visit to Ballymun Community Law Centre, Dublin, to discuss the Commission's proposals on vulnerable adults and the law [The President, Full-Time Commissioner, Legal Researcher Deirdre Ahern and Director of Research]



CHAPTER 2

THE COMMISSION'S PUBLICATIONS AND ROLLING WORK PROGRAMME IN 2005

INTRODUCTION

In this Chapter, the Commission outlines the content of its publications during 2005 and the other elements of the Commission's Rolling Work Programme. As mentioned in Chapter 1, the Second Programme for Law Reform 2000-2007 identified a number of branches of the law for examination with a view to reform:

- 1 The Legal System
- 2 The Law of Evidence
- 3 Administrative Law
- 4 Criminal Law
- 5 Land Law and Conveyancing
- 6 Vulnerable Groups and the Law
- 7 Family Law
- 8 Commercial Law and the Law of Obligations

These branches, together with any additional areas to take account of matters referred to the Commission at the request of the Attorney General, provide a convenient basis for outlining the Commission's work in 2005.

This Chapter also provides an opportunity to discuss any relevant developments in 2005 concerning implementation of proposals for reform made by the Commission. The Commission's website, www.lawreform.ie, includes a dedicated section containing a general overview of the implementation of all Commission Reports, which is updated on a regular basis.

THE LEGAL SYSTEM

Multi-Party Litigation

In September, the Commission published its *Report on Multi-Party Litigation* (LRC 76-2005), which followed from its *Consultation Paper on Multi-Party Litigation* (LRC CP 25-2003). Multi-party litigation refers to situations where a number of parties are involved in a single piece of litigation. Well known examples in Ireland are the army deafness claims, social welfare equality cases, and asbestos exposure claims, to which the Report refers. The Commission has recommended that any reform in this area should be based on principles of procedural fairness, efficiency and access to justice. In particular, there should be active case management of such cases by the courts, in keeping with the general trend of the reform of civil procedure. The Report has recommended the introduction of a procedure to be called a Multi-Party Action (MPA). The MPA would operate as a flexible tool to deal collectively with cases that are sufficiently similar.

Reform and Consolidation of the Courts Acts

In October 2005, the Commission began a project to reform and consolidate the Courts Acts, which comprise up to 100 Acts, including a large number that predate the foundation of the State. Since 1922, over 60 Courts Acts have been enacted by the Oireachtas, making it difficult to access the relevant law. The Commission has embarked on this project jointly with the Department of Justice, Equality and Law Reform and the Courts Service. In that respect, it is similar to the Joint Project on Reform and Modernisation of Land Law and Conveyancing Law, referred to below. The Commission intends to publish a Consultation Paper on this topic by the end of 2006 or early 2007, which will include a draft consolidated text of the relevant Courts Acts.

Statutory Drafting and Interpretation

In December 2000, the Commission published its *Report on Statutory Drafting and Interpretation: Plain Language and the Law* (LRC 61-2000). The Commission was particularly conscious that the publication of this Report coincided with the publication of the *Interpretation Bill 2000*. The 2000 Bill was ultimately enacted - with significant further amendments - as the *Interpretation Act 2005*, and came into effect on 1 January 2006. The Commission notes that the essential principles contained in the *Report on Statutory Drafting and Interpretation: Plain Language and the Law* were incorporated into the 2005 Act (and that the 2000 Bill as passed by both House of the Oireachtas in 2005 was accompanied by an updated Explanatory Memorandum reflecting the many changes made to the 2000 Bill during its legislative passage, available at www.oireachtas.ie).

THE LAW OF EVIDENCE

DNA Database

In November, the Commission published its Report on the Establishment of a DNA Database (LRC 78-2005), which followed from its Consultation Paper on the Establishment of a DNA Database (LRC CP 29-2004). A DNA database is a collection of DNA profiles generated from biological samples, which can be electronically stored for comparison with DNA profiles generated from samples found at a crime scene or from other sources. In 2003, the Commission was requested by the Attorney General to examine the issue of the establishment of a DNA Database. The Commission acknowledges in its Report that DNA databases in other countries have had important benefits for society in the investigation of crime. The Commission also examined, as requested by the Attorney General, to what extent a DNA database might pose potential risks to constitutional and human rights. The Commission's Report aims to strike a balance between these two conflicting interests. The Report notes that limited DNA databases have proved very effective in other countries. The Report recommends the establishment of a limited DNA database and examines what form such a DNA database should take. The Commission attached a draft Criminal Justice (DNA Database) Bill to its Report.

On 25 January 2006, the Government approved the drafting of a DNA Database Bill. In announcing the government's decision, the Minister for Justice stated the government 'will be paying close attention to [the Commission's] recommendations in the preparation of this Bill.'

ADMINISTRATIVE LAW

Tribunals of Inquiry

In May, the Commission published its *Report on Public Inquiries Including Tribunals of Inquiry* (LRC 73-2005), which followed from its *Consultation Paper on Public Inquiries Including Tribunals of Inquiry* (LRC CP 22-2003). The Report examined the current law on public inquiries, in particular tribunals of inquiry, and made recommendations for reform across a broad range of areas, including: how they are established, how terms of reference are set, procedural fairness and costs. As with all other Commission Reports, this Report also includes a draft Bill incorporating its proposals for legislative reform. The Commission went a stage further in this Report by including a comprehensive reforming and consolidating Tribunals of Inquiry Bill with a view to replacing the existing Tribunals of Inquiry (Evidence) Acts 1921 to 2004 which the Commission notes currently comprise of 8 separate Acts.

In November 2005, the government published the *Tribunals of Inquiry Bill 2005*, the main elements of which reflect the draft codified Tribunals of Inquiry Bill published with the Commission's Report.

CRIMINAL LAW

The Law of Homicide

The Commission's work on the law of homicide forms part of its review of the general principles of criminal liability. The aim of the Commission's work in this area is to lay the groundwork for eventual codification of criminal law, which will be greatly assisted by the establishment - under Part 14 of the *Criminal Justice Act 2006* - of the Criminal Law Codification Advisory Committee. In 2001, the Commission published a *Consultation Paper on Homicide: The Mental Element in Murder* (LRC CP 17-2001). During 2005, the Commission made considerable progress in preparing a second Consultation Paper on Homicide: Manslaughter, which will deal in particular with the arguments for and against a new system of internal classification between murder and manslaughter. The Commission intends to publish this Consultation Paper by the end of 2006 or early 2007.

Corporate Killing

In October, the Commission published its *Report on Corporate Killing* (LRC 77-2005), which followed from its *Consultation Paper on Corporate Killing* (LRC CP 26-2003). The Commission acknowledged that there has been disquiet expressed that existing law does not deal adequately with organisations which act in a grossly negligent manner and cause death. This seems to be because the current law requires proof that one senior manager or director was the so-called 'controlling mind,' and was therefore responsible for the relevant policy of the organisation. The Report contains two main recommendations. The first is that a new statutory criminal offence of corporate manslaughter should be enacted which would make an undertaking (such as a company, a public body or a partnership firm) responsible for a death arising from its gross negligence. The second key recommendation is that there should be an offence for senior managers of grossly negligent management causing death. The Commission attached a draft Corporate Manslaughter Bill to its Report.

The Commission notes that significantly increased penalties for offences related to workplace incidents are contained in the *Safety, Health and Welfare at Work Act 2005* (which concern a subset of the scope of any proposed corporate killing offence). It was acknowledged in Dáil Éireann (Vol.585 Dáil Debates col.892 (13 May 2004)) that these were influenced by the Commission's *Consultation Paper on Corporate Killing* (LRC CP 26-2003), which preceded the 2005 Report.

Court Poor Box and Probation of Offenders

In September, the Commission published its *Report on the Court Poor Box: Probation of Offenders* (LRC 75-2005), which followed from its *Consultation Paper on The Court Poor Box* (LRC CP 31-2004). The Court Poor Box is used where a person charged with a minor offence may be given an opportunity to avoid a criminal record by making a contribution to charity through the Court Poor Box. The Report recommended that the Court Poor Box should be reformed and replaced with a statutory system based on the positive elements of the current regime, and that this should be incorporated into a fully reformed Probation of Offenders Act 1907.

Defences in Criminal Law

During 2005, the Commission made considerable progress in preparing a Consultation Paper on Duress and Necessity, which it published in 2006 (LRC CP 39-2006). A further Consultation Paper on Legitimate Defence was also at an advanced stage of preparation, and the Commission intends to publish this in 2006.

Procedure in Criminal Cases: Prosecution Appeals

In 2002, the Commission published a *Consultation Paper on Prosecution Appeals in Cases Brought on Indictment* (LRC CP 19-2002). In 2004, the Commission published a *Consultation Paper on Prosecution Appeals from Unduly Lenient Sentences in the District Court* (LRC CP 33-2004). This follows a request in 2003 from the Attorney General to consider conferring a power on the Director of Public Prosecutions to appeal lenient sentences from the District Court. In 2005, the Commission hosted a seminar on these papers with a view to preparing a Report based on them, which it intends to publish in 2006.

Restorative Justice

Restorative justice seeks to involve the offender, victim, and community in the resolution of criminal behaviour. It is effectively a problem-solving approach to crime, involving both the parties themselves and the community generally. The Commission has examined developments in Restorative Justice in the State and in other jurisdictions and these have influenced the Commission's recent work. The Commission's *Consultation Paper on the Court Poor Box* (LRC CP 31-2004) (which led to its *Report on the Court Poor Box: Probation of Offenders* (LRC 75-2005), discussed above) pointed out that the Court Poor Box is often used to avoid entering a conviction, which under current law involves a permanent criminal record. The Commission noted that many other States operate 'spent conviction' laws, under which minor and old convictions could be removed from the record for some purposes, although they could be disclosed for other purposes, especially where sensitive jobs are involved. In 2005, the Commission made considerable progress on preparing a separate Report on this topic, which it intends to publish in 2006 or early 2007.

LAND LAW AND CONVEYANCING

Reform and Modernisation of Land Law and Conveyancing Law

In July, the Commission published its *Report on the Reform and Modernisation of Land Law and Conveyancing Law* (LRC 74-2005), which followed from its *Consultation Paper on the Reform and Modernisation of Land Law and Conveyancing Law* (LRC CP 34-2004). This Report represents the culmination of many years of work within the Commission on land law and conveyancing law and is part of the Commission's largest and most ambitious comprehensive law reform project – the eConveyancing Project, discussed below. The Report contains a detailed draft Land Law and Conveyancing Law Bill to give effect to the Commission's proposals for reform. In line with good practice on reform and modernisation of law, the Commission's draft Bill runs to only 134 sections and proposes to repeal almost 800 years of archaic statute law, and where appropriate, replace it with modern and simplified equivalents.

The draft Land and Conveyancing Bill contains over 90 recommendations for the reform and replacement of more than 150 pre-1922 statutes on land law and conveyancing, some of which date back to 1285. Although they remain on the statute book, many of these pre-1922 statutes have become either obsolete or superseded by more recent legal developments.

After the 2005 Report was published, the Attorney General and the Minister for Justice, Equality and Law Reform requested the Commission to continue to assist in preparing a Bill to give effect to its recommendations, and the Commission was extremely happy to agree to this. The result of this further work culminated in the publication by the Government of the *Land and Conveyancing Law Reform Bill 2006*, which reflects the key elements of the Commission's draft Land Law and Conveyancing Bill published with the 2005 Report. The 2006 Bill completed Second Stage in Seanad Éireann on 20 June 2006.

eConveyancing Project

The Commission's *Report on the Reform and Modernisation of Land Law and Conveyancing Law* (LRC 74-2005) forms a key part of the Commission's eConveyancing Project, launched in 2003. This project encompasses a comprehensive review of the substantive law (culminating in the 2005 Report and the government's 2006 Bill) but it also embraces the relevant procedural and administrative elements of conveyancing with a view to the eventual introduction of eConveyancing. As to the administrative and procedural elements of the Commission's eConveyancing Project, the Commission decided that a thorough analysis was required to prepare a detailed process model of the current conveyancing process and to examine the state of readiness of public and private bodies for the application of eCommerce to conveyancing. In 2005, the Commission received financial support for this study from the Information Society Fund and after a public procurement tendering process, appointed BearingPoint Management and Technology Consultants to carry out the study. The key elements of this study were completed



At the launch of the Report on Multi-Party Litigation (from left) Ronan Flanagan Legal Researcher, Noel Rubotham Director of Reform and Development Courts Service, Mrs Justice Susan Denham (launched the report) and Raymond Byrne Director of Research.

in 2005, and in 2006 the Commission published its *Report on eConveyancing: Modelling of the Irish Conveyancing System* (LRC 79-2006). The Report sets out the views and recommendations of the Law Reform Commission on Modelling of the Irish Conveyancing System, a report prepared for the Commission by BearingPoint. The Commission will return to this in its Annual Report for 2006.

Landlord and Tenant Law

In parallel with its project on land law and conveyancing law, the Commission has initiated a major research project on Landlord and Tenant Law with a view to making recommendations for reform. In 2003, the Commission published two papers in this area; a *Consultation Paper on Business Tenancies* (LRC CP 21-2003) and a *Consultation Paper on the General Law of Landlord and Tenant* (LC CP 28-2003). Considerable progress continued in 2005 on the preparation of a Report on this area, which will include proposals for consolidation of the existing landlord and tenant legislation, including a draft Bill.

Apartment Complexes and Multi-Unit Developments

The Commission also made considerable progress in 2005 in preparing a Consultation Paper on Apartment Complexes and Multi-Unit Developments. The Paper will examine whether there is a need for statutory regulation of such developments or whether 'default' or 'rescue' provisions would be sufficient the problem areas of management structures and consumer protection. The Commission intends to publish this paper in 2006.

Law of Trusts and the Law of Charities

In February, the Commission published 2 Consultation Papers; a *Consultation Paper on Trust Law – General Proposals* (LRC CP 35-2005) and a *Consultation Paper on Charitable Trust Law – General Proposals* (LRC CP 36-2005). The 2 Consultation Papers came against the more general background that in 2003, the Department of Community, Rural and Gaeltacht Affairs published a consultation paper Establishing a Modern Statutory Framework for Charities, which envisages a new regulatory framework for the charities sector. As the Law Reform Commission was already examining trust and charitable trust law under its Second Programme, it agreed to assist and advise the Department on issues raised in the 2003 paper that related to the role, duties and functions of trustees of charitable trusts. The general law of trusts is currently governed by a combination of case law developed by the courts over the years and statutory regulation under the *Trustee Act 1893*. The *Trustee (Authorised Investments) Act 1958* also provides a legislative

framework for approved investments for trustees. However, it can still be said that general trustee law has not kept up to date with the changing economic and social nature of trusts. The purpose of the Commission's papers is to review the law, and where necessary, bring it up to date to accommodate contemporary needs and practice. The Commission intends to publish its Report on this area in 2006, which will also incorporate the subject matter of the Commission's *Consultation Paper on Legal Structures for Charities* (LRC CP 38-2005), discussed below.

In 2006, the Department of Community, Rural and Gaeltacht Affairs published a draft Scheme for a Charities Regulation Bill 2006, and this incorporated the thrust of the recommendations in the Commission's *Consultation Paper on Charitable Trust Law – General Proposals*.

Legal Structures for Charities

In December, the Commission published a *Consultation Paper on Legal Structures for Charities* (LRC CP 38-2005). This complemented the Commission's *Consultation Paper on Charitable Trust Law – General Proposals* (LRC CP 36-2005), discussed above. The Commission agrees with the view - expressed nationally and internationally by many bodies that have reviewed this area - that none of the existing legal structures is ideally suited to the nature of charitable entities. In particular, the company is a legal structure established with a view to distributing profits to its members; this is not consistent with the public benefit purposes of charities. The Commission has therefore provisionally recommended the introduction of a new form of legal structure for charities, to be called the Charitable Incorporated Organisation (CIO). The proposed CIO would be specifically tailored to reflect the public benefit nature of charities. The Commission intends to publish its Report on this area in 2006, which will also incorporate the subject matter of the Commission's *Consultation Paper on Charitable Trust Law – General Proposals*, discussed above.

VULNERABLE GROUPS AND THE LAW

Vulnerable Adults

In May, the Commission published a *Consultation Paper on Vulnerable Adults and the Law: Capacity* (LRC CP 37-2005). This was the second in a series of two consultation papers published by the Commission which address the subject of vulnerable groups and the law. The Commission's *Consultation Paper on Law and the Elderly* (LRC CP 23-2003) made provisional recommendations concerning legal mechanisms for the protection of older people including the establishment of a new substitute decision-making scheme to replace the Wards of Court system. The Paper also recommended that legislation provide for the appointment of personal guardians to make decisions on behalf of adults who lack legal capacity in a particular area. On the basis of submissions received by the Commission following the publication of the Consultation Paper on Law and the Elderly, the Commission decided to publish a second consultation paper which would focus on legal capacity issues relevant to all adults with limited decision-making, not just older adults.

The central concern of the 2005 Consultation Paper is that the law should be clear on what is required in order to have the capacity to make decisions with legal consequences, for example, to buy groceries at a shop or to make healthcare decisions. In attempting to clarify the law, the Commission's recommendations are designed to achieve a positive understanding of capacity which will promote the capacity of adults whose decision-making ability is limited. This reflects the general shift in thinking to a model which focuses on ability rather than disability. The Commission's key recommendation is the enactment of capacity legislation in order to create clear, transparent and accessible rules on legal capacity which would apply in a wide range of situations. Similar legislation has been enacted in the UK, Canada, Australia and New Zealand. Therefore the Commission recommends that the proposed capacity legislation should reflect an enabling emphasis on recognising capacity.

The Commission's 2nd Annual Conference in 2005 considered international developments in this area. The Commission intends to publish a Report in 2006 incorporating the recommendations in both papers.

FAMILY LAW

Adoption Law

In November 2005, the Attorney General requested the Commission, in accordance with the *Law Reform Commission Act 1975*, to consider and recommend reforms concerning the following matters: the status and rights including citizenship rights of a child resident outside the State who is the subject of a foreign adoption order made in favour of an Irish citizen or citizen, the most effective manner of securing the performance of the constitutional and legal duties of the adoptive parents in respect of such a child, and the most effective manner of ensuring the fulfilment of the duties of the State in respect of such a child arising from Article 40.3 and Article 42.5 of the Constitution of Ireland. In early 2006, the Commission began work on the preparation of a Consultation Paper arising from this request.

Rights and Duties of Cohabitants

In 2004, the Commission published a *Consultation Paper on the Rights and Duties of Cohabitees* (LRC CP 32-2004). In 2005, the Commission hosted a seminar on this paper and made considerable progress on the preparation of a Report on this topic, which it intends to publish by the end of 2006.

COMMERCIAL LAW AND THE LAW OF OBLIGATIONS

Contract Law: Privity and Third Party Rights

In 2005, the Commission began work on the preparation of a Consultation Paper on the law of privity of contract and the rights of third parties. Under the current law of contract, it is generally the case that only those who have negotiated a contract (those who are privity to it) can enforce that contract. In general, even where another person is mentioned in the contract (a third party), that other person is not entitled to enforce the terms of the contract. While there are some exceptions to the privity rule, especially under consumer protection laws, the Commission is examining whether the law requires a more general reform to confer rights on third parties in this area. The Commission intends to publish a Consultation Paper on this topic by the end of 2006.



At the launch of the Commission's Report on The Establishment of a DNA Database (from left)
Donal O'Donnell SC
Commissioner, Marian
Shanley Commissioner,
Rory Brady SC Attorney
General (Launched the
Report) Mrs Justice Catherine
McGuinness President of
the Commission, Orla Joyce
Legal Researcher, Patricia
Rickard-Clarke full-time
Commissioner.

CHAPTER 3

ADMINISTRATION

INTRODUCTION

In this Chapter, the Commission outlines the administrative aspects of its work. It focuses on the essential administrative arrangements and supports which ensure that the Commission's Rolling Work Programme can be carried out in practice. The following Table outlines the current structure of the Commission.



THE COMMISSION

The Commission consists of a President and 4 Commissioners. The Commissioners are appointed by the Government for a term of up to 5 years, and their appointment may be renewed. The current Commission consists of 2 full-time Commissioners and 3 part-time Commissioners. The President of the Commission (until February 2005, Mr Justice Declan Budd, judge of the High Court, who was succeeded by Mrs Justice Catherine McGuinness, judge of the Supreme Court), is one of the fulltime Commissioners. The other full-time Commissioner, Patricia Rickard-Clarke, is a solicitor who, until her appointment, had been a partner with McCann FitzGerald, Solicitors. The three part-time Commissioners are: Professor Finbarr McAuley, Jean Monnet Professor of Criminal Law, University College Dublin; Marian Shanley, Solicitor, member of the Commission to Inquire into Child Sexual Abuse; and Donal O'Donnell, Senior Counsel (who in June 2005 succeeded Dr Hilary Delany, Head of the School of Law, Trinity College Dublin). The Commission as a body takes all major decisions affecting the Commission. These include putting forward programmes for law reform, the research output of the Commission contained in Consultation Papers and Reports, as well as important administrative, financial and other matters. The Commission meets formally as a body at least once a month. In addition, its members meet frequently, and are in ongoing communication and consultation with each other and with Commission staff.

ADMINISTRATIVE STAFF

The Commission's day-to-day administration involves three main functions: general administration (including information technology), personnel and finance. These functions are carried into effect by the Secretary/Head of Administration and other members of the administrative staff, acting under the direction of the Commission. On general administration, the Secretary/Head

of Administration has primary responsibility for office management, including dissemination of relevant civil service circulars and guidelines, as well as liaising with the administrative staff on specific issues such as information technology. In personnel matters, the Secretary/Head of Administration is responsible for monitoring pay and pay rates for the members and employees of the Commission (acting within Department of Finance guidelines), as well as for related issues such as safety and health. As to finance, the Secretary/Head of Administration controls and monitors all income and expenditure of the Commission and prepares an annual estimate of expenditure for submission and approval by the Department of Finance. The Secretary/Head of Administration also prepares complete accounts annually for submission by the Commission to the Comptroller and Auditor General. The Director General at the Office of the Attorney General is the Accounting Officer for the Commission. The finance function is discussed in more detail below.

In carrying out these functions, the Secretary/Head of Administration is supported by a small administrative team. This currently consists of a project manager, an executive officer, a private secretary to the President and two clerical officers. The duties of the project manager include the development of the profile of the Commission with specific responsibility for public relations and managing relationships with other agencies and government departments. He is also responsible for liaising with the Consultative Committee and the Joint Oireachtas Committee on Justice, Defence and Women's Rights. The Executive Officer's responsibilities are in the finance and personnel areas, including PMDS (Performance Management and Development System), staff training and the management of the Commission's website, www.lawreform.ie. The Commission website contains a comprehensive description of the Commission and its work, giving details of current work, and inviting comments and submissions on topics and Consultation Papers. The website also contains the full text of all Consultation Papers and Reports published by the Commission. The Commission continues to monitor and update the website to ensure its continued effectiveness and to encourage detailed submissions in electronic format. The private secretary to the President is also involved in implementation of the Commission's IT policy. The duties of the Clerical Officers include general administrative support to the Commission and also liaising with the Library staff.

The Commission's executive committee continues to supervise ongoing review of administrative arrangements. This executive team meets on a regular basis to monitor and review the general administration of the Commission.

Employment and Disability

The Commission was in compliance with the 3% target for the employment of people with disabilities in the Public Sector during 2005.

Developments in 2005

During the year, a number of ongoing initiatives were in train. These included, in particular, the development of PMDS (Performance Management and Development System) initiatives for all staff and the associated development of job profiles. Training of staff, in particular in relation to IT matters, was provided during the year on a regular basis. By the end of the year, the Commission had also prepared a revised Safety Statement to comply with the requirements of the *Safety, Health and Welfare at Work Act 2005*. This was completed with the assistance and the advice of a safety consultancy, Nifast, who had been engaged by the Commission in line with relevant public procurement guidelines.

RESEARCH AND LIBRARY

The primary role of the Commission's research staff is to act as the 'engine house' for the ongoing implementation of the Commission's rolling work programme.

Research Team

The research team is headed by the Director of Research, to whom the research staff report directly. The present Director of Research, Raymond Byrne, is on secondment from the School of Law and Government, Dublin City University. During 2005, the Commission has authority to

employ 8 full-time Legal Researchers, who are usually engaged on one year contracts, which may be renewed. From time to time, the Commission also consults with external experts for particular projects and also establishes Working Groups on specific topics.

The function of the Director of Research is to lead and manage the research teams, and generally advise and assist the researchers with a view to assuring an appropriate output and quality of work. This includes carrying out general background research, preparing issues papers, preparing draft documents and draft Consultation Papers and Reports for consideration by the Commission. The Director conducts a number of seminars during the year for the researchers on areas of particular interest and the researchers regularly meet as a group to exchange views on the areas on which

At the launch of the Report on Corporate Killing (from left) Micheál Martin TD Minister for Enterprise, Trade and Employment (Launched the Report) The Hon Mrs Justice Catherine McGuinness President of the Commission Mr Justice Declan Budd Former President of the Commission (to February 2005)



they are conducting research. Researchers also attend conferences of relevance to their areas of interest, including seminars organised by the Office of the Attorney General. Legal Researchers are also encouraged to publish in relevant law journals during their time with the Commission. This includes articles dealing with areas on which the researcher is actively involved.

The Director of Research also generally acts as the media spokesperson for the Commission and in conjunction with the President, the Secretary/Head of Administration and Project Manager, deals with parliamentary questions and other inquiries from the public.

Library

The primary role of the Commission's library, which is an indispensable tool of the Commission, is to anticipate and respond to the needs of the Commissioners and the Commission's research team for library and information services in partnership with other libraries and information providers. The library is staffed by a Legal Information Manager/Librarian and a Cataloguer/Library Assistant. Assistance is also provided, when required, by members of the administrative staff.

The Legal Information Manager/Librarian works in close consultation with the research teams to provide timely access to new hard-copy and electronic resources. An internal bulletin of current legal developments, focusing on new library acquisitions, is circulated to all staff on a weekly basis.

Developments in Unicorn System

The Unicorn Collection Management System enables sharing of resources between the libraries of the Attorney General's Office, the Chief State Solicitor's Office and the Law Reform Commission. This produces a multi-library system allowing each library to operate independently whilst benefiting from shared OPAC (online public access catalogue) and cataloguing modules.

FINANCE

Receipts and Payments

The grant-in-aid approved by the Minister for Finance on the recommendation of the Attorney General represents the greater entirety of the Commission's income. In 2005, the grant-in-aid was €1.9 million. In 2005, the Commission received other income through a Research Grant of €8,000 from the Department of Community Rural and Gaeltacht Affairs for work on its Charities Project, €15,000 from the Department of Justice, Equality and Law Reform for work on its Courts Acts Project and €249,837 from the Information Society Commission which defrayed the cost of the Modelling Project in the Commission's eConveyancing Project (see Chapter 2, above).

Under the present accounting procedure, monies are drawn down on a monthly basis from the Grant-in-Aid with the consent of the Accounting Officer who is the Director General of the Attorney General's Office. The only other income derives from the sale of publications. It should be noted, however, that many publications are not sold but are distributed free to members of the judiciary, members of the Oireachtas and legal scholars, as well as to libraries in various countries and law reform agencies worldwide who in turn provide the Commission with copies of their work. The expenses of the Law Reform Commission include salaries of Commissioners and staff, fees of external researchers retained for specific tasks, rent and premises overheads, the maintenance of the Commission's library and the holding, from time to time, of public seminars as well as the Commission's Annual Conference.

Prompt Payment of Accounts

There were no late payments by the Law Reform Commission during 2005. The Secretary keeps all current liabilities of the Commission under review with a view to their prompt discharge. The appropriate payments are made by the Commission in accordance with its internal procedures. Standard payment periods are not specified in written contracts.

Statement by Secretary/Head of Administration to the Commission

Throughout 2005, the Law Reform Commission was in compliance with the Prompt Payment of Accounts Act 1997. The payment procedures outlined above were operational throughout this period. While these practices can only provide reasonable and not absolute assurance against material non-compliance with the Act, they would appear to have worked very well, in particular, in view of the fact that there were no late payments during the period under review.

APPENDIX A

SECOND PROGRAMME FOR EXAMINATION OF CERTAIN BRANCHES OF THE LAW WITH A VIEW TO THEIR REFORM: 2000-2007 APPROVED BY GOVERNMENT ON 19 DECEMBER 2000

The Legal System

- 1 Access to the law for the citizen and, in particular, the effectiveness of the promulgation and dissemination of statutes and statutory instruments.
- 2 Limitation of actions.
- 3 Class actions and representative actions taken in the public interest.
- 4 Alternative dispute resolution.
- 5 Statute Law: completion of the Commission's remit under its First Programme in the sphere of statutory drafting and interpretation.

Evidence

- 6 Forensic evidence.
- 7 Other aspects of the law of evidence in civil and criminal cases.

Administrative Law

- 8 Tribunals of inquiry.
- 9 Appeals from administrative decisions including judicial review.

Civil Rights Law

- 10 The law of privacy
 - (i) Privacy and the law of confidentiality;
 - (ii) Privacy in the context of the criminal justice system: longevity of criminal records and the expunging of certain offences from the record;
 - (iii) Privacy in specific institutional contexts: the workplace; the healthcare system; prisons.

Criminal Law

- 11 The law of homicide.
- 12 Defences including provocation, legitimate defence, duress and necessity.
- 13 Inchoate offences.
- 14 Procedure in criminal cases.
- 15 Restorative Justice.
- 16 Corporate criminal liability.
- 17 Penalties for minor offences.

Law of Obligations

- 18 The law of tort. Aspects of the law of compensation for personal injuries.
- 19 The law of contract. Privity of contract and the rights of third parties.

Real and Personal Property

- 20 The law of trusts including the law of charities.
- 21 Succession law.
- 22 The law relating to condominiums.
- 23 The Commission will continue its general review of land and conveyancing law with the assistance of its standing specialist Working Group.

Commercial Law

- 24 Mindful of the Government's proposal to establish a statutory Company Law Review Group, current issues arising in the area of commercial law will, as appropriate, be reviewed and examined.
- 25 Exceptions to the *nemo dat quod non habet* principle on transfer of title to goods.

Law and The Information Society

- 26 Electronic commerce and the Internet, where appropriate having regard to activities undertaken or to be undertaken by Government Departments and in particular:
 - (i) privacy on the internet and encryption.
 - (ii) liability of service providers.

Vulnerable Groups and The Law

- 27 Law and the elderly, including the legal protection of older persons transferring assets and 'advance care directives'
- 28 The law affecting persons with physical, mental or learning disabilities, including issues of capacity, guardianship and the right to marry.

Family Law

- 29 The law of adoption - a general review.
- 30 Rights and duties of cohabitants.

International Law

- 31 Negotiation and preparation of various international agreements, including their implementation in Irish law. We pay particular regard to Ireland's participation in conventions prepared by UNIDROIT, UNCITRAL and the Hague Conference on Private International Law.

Miscellaneous Provisions Bill

- 32 The Commission will continue to prepare an annual Law Reform (Miscellaneous Provisions Bill), as a vehicle for making minor reforms, ranging over the branches of the law which are covered by this Programme.

General

It is naturally difficult to anticipate change which may call for law reform in the future. Accordingly, the Commission considers it best to supplement the list of discrete topics given above by stating that if events require law reform in any area within any of the branches of the law set out above, the Commission will, where appropriate, and subject to the limits of its available resources, bring forward the necessary proposals. The Commission retains a continuing interest in codification of

the law and proposes to address the issue of codification with regard to matters falling within branches of the law set out in this Programme as appropriate. In all these areas, the Commission will, where appropriate, have regard to the activities of other official bodies interested in law reform, among them the Courts Service, and be ready to co-operate with them.

**At the Commission's
2005 Annual Conference
on Guardianship: A New
Structure for Vulnerable Adults**

*(from left) Professor Des O'Neill
Trinity College Dublin and Tallaght
Hospital, RT Hon Baroness Hale
of Richmond, Jay Chalke Public
Guardian and Trustee of British
Colombia, Denzil Lush Master
of the Court of Protection
England and Wales, The Hon Mrs
Justice Catherine McGuinness,
President of the Commission,
Patricia Rickard-Clarke Full-
time Commissioner and Noel
Rubotham Director of Reform and
Development Courts Service (IRL)*



APPENDIX B

WORKING GROUPS

As noted in Chapter 1, under the *Law Reform Commission Act 1975*, the Commission may set up Working Groups to examine particular areas of the law. In addition to Working Groups, which meet on a regular basis during the lifetime of a particular project, the Commission has also set up ad hoc groups (which meet occasionally) to consult with on particular topics.

Working Group on Land Law and Conveyancing Law/eConveyancing

A Working Group on Land Law and Conveyancing Law was set up in 1987, in response to a request by the Attorney General for an examination by the Commission of certain aspects of conveyancing law and practice. As a result of the work of the Working Group a number of reports were published. In 2001, the Commission reviewed the mandate of this Working Group. In the light of the Government's commitment to e-Government, technological developments generally and the introduction of e-Conveyancing in other jurisdictions, the Commission set up a Working Group to undertake a project on eConveyancing. Professor John Wylie agreed to lead discussions of the Group. While a core Working Group has been identified there will also be a number of panels of smaller expert groups dealing with specific items such as information technology, administrative and procedural matters (to include public law elements) as well as covering areas of substantive law.

Members of Working Group on e-Conveyancing:

- Mrs Justice Catherine McGuinness (from February 2005)
- Mr Justice Declan Budd (to February 2005)
- Commissioner Patricia T Rickard-Clarke
- Commissioner Marian Shanley
- Professor John C W Wylie (Leader of the Project)
- Vivienne Bradley, Solicitor
- Raymond Byrne, Director of Research
- Seamus Carroll, Department of Justice, Equality and Law Reform
- John Coyle, IT Manager, Courts Service
- Patrick Fagan, Solicitor
- Deirdre Fox, Solicitor
- Brian Gallagher, Solicitor
- Frank Lanigan, Solicitor
- Professor David Gwynn Morgan
- Chris Hogan, Senior Registrar, Land Registry
- Caroline Kelly, BL
- Deirdre Morris, Solicitor
- Marjorie Murphy, Solicitor
- Tracey O'Keeffe, Department of Justice, Equality and Law Reform
- John O'Sullivan, Information Systems Manager, Land Registry
- Doreen Shiven, BL

Mary Townsend and Aoife McCarthy acted as Secretary/Researcher to the Group in 2005.

Working Group on Landlord and Tenant Law

In 2001, the Commission initiated a major research project on Landlord and Tenant Law with a view to making recommendations for reform that would include proposals for the consolidation of the existing landlord and tenant legislation, including a draft Bill. Professor John Wylie is leading in the projects undertaken by this Working Group. The members of the Working Group consist of experienced practitioners and representatives of the Department of Justice, Equality and Law Reform and the Department of the Environment and Local Government.

Members of Working Group on Landlord and Tenant Law

- Mrs Justice Catherine McGuinness (from February 2005)
- Mr Justice Declan Budd (to February 2005)
- Commissioner Patricia T Rickard-Clarke
- Professor David Gwynn Morgan
- Professor John C W Wylie (Leader of the Project)
- John F Buckley, Former Circuit Court Judge
- Ruth Cannon, BL
- Ernest Farrell, Solicitor
- Patrick Fagan, Solicitor
- Colin Keane, Solicitor
- Michael McGrath, SC
- Sheila McMahon, Department of Environment and Local Government
- Gavin Ralston, SC
- Regina Terry, BL, Department of Justice Equality and Law Reform
- John Walsh, Solicitor

Mary Townsend and Aoife McCarthy acted as Secretary/Researcher to the Group in 2005.

Working Group on Apartment Complexes and Multi Unit Developments:

In 2003 the Commission set up a Working Group to assist its deliberations on the subject of Apartment Complexes and Multi Unit Developments. This followed discussions with the Department of the Environment, Heritage and Local Government.

Members of Working Group on Multi Unit Developments

- Mrs Justice Catherine McGuinness
- Commissioner Patricia T Rickard-Clarke
- Professor John C W Wylie (Leader of the Project)
- Sheena M Beale, Solicitor
- Brian M Gallagher, Solicitor
- Siobhan Kirwan, Chief Executive, O'Dwyer Property Management Limited
- Nuala McLoughlin, Department of the Environment, Heritage and Local Government
- Rory O'Donnell, Solicitor
- Jerry Sheehan, Solicitor
- Patrick Sweetman, Solicitor

Mary Townsend and Aoife McCarthy acted as Secretary/Researcher to the Group in 2005.

Consultative Group on the Rights and Duties of Cohabitants

During 2002, an ad hoc consultative group was established to determine the scope of this project, and members of the group also participated in a seminar and discussion in December organised by the Commission. In 2004, the Commission published a Consultation Paper on Cohabitees. In 2005, the Commission established a new ad hoc group in the context of the preparation of its Report on this area.

Members of Ad Hoc Group on the Rights and Duties of Cohabitees

- Mrs Justice Catherine McGuinness
- Commissioner Patricia T Rickard-Clarke
- Commissioner Marian Shanley
- Raymond Byrne, Director of Research
- Hugh Cunniam, Solicitor, Legal Aid Board
- Margaret Dromey, Treoir
- Rosemary Horgan, Solicitor
- Mary Lloyd, Co-ordinator, Family Mediation Service
- Paul McCarthy, BL
- Geoffrey Shannon Law Society of Ireland
- Muriel Walls, Solicitor
- Una Woods, University of Limerick

Catherine-Ellen O’Keeffe acted as Secretary to the Group in 2005.

Consultative Group on Vulnerable Adults: Capacity

In 2005, the Commission established a Consultative Group in the context of the preparation of its Report on Vulnerable Adults: Capacity.

Members of Ad Hoc Group on the Rights and Duties of Cohabitants

- Mrs Justice Catherine McGuinness
- Commissioner Patricia T Rickard-Clarke
- Commissioner Marian Shanley
- Raymond Byrne, Director of Research
- Iris Elliott, Senior Policy and Public Affairs Adviser, National Disability Authority
- Dr Shaun O’Keeffe Clinical Lecturer National University of Ireland Galway (NUIG)

Orla Joyce acted as Secretary to the Group in 2005.

APPENDIX C

CONFERENCES AND VISITS

As discussed in Chapter 1, Commissioners regularly attend and participate in public seminars and conferences concerning areas of research connected with the Second Programme and the Commission's Rolling Programme of Work. Contacts with law reform bodies are also maintained through attendance at relevant seminars and through hosting visits from other law reform bodies. Among the conferences attended and other visits in 2005 were the following.

In January, Commissioner Rickard-Clarke presented a paper on Law and the Elderly at a seminar on that topic organised by the Irish Women Lawyers Association.

In February, Commissioner Rickard-Clarke, the Director of Research and Deirdre Ahern attended a meeting organised by the Brothers of Charity, St John of Gods, Dublin, of a group of professionals working with persons with limited capacity, in connection with the Commission's project on Vulnerable Adults: Capacity.

In February, Dr Dick McDonald, Trinity College Dublin, gave a presentation at the Commission's offices on organizational psychology and safety culture in the context of the Commission's Project on Corporate Killing.

In March, the President, Commissioner Rickard-Clarke, the Director of Research and Deirdre Ahern attended a meeting on Medical Risk Management at Tallaght Hospital, Dublin.

During March to June, the Commission met on different occasions with the Competition Authority, the Irish Insurance Federation and with members of the Litigation Committee of the Law Society of Ireland in the context of the Commission's project on multi-party litigation.

In March, Commissioner Rickard-Clarke attended the Annual Law Reform (ALREASA) Conference, held in Cape Town, South Africa.

In April, Commissioner Rickard-Clarke attended a Conference of Public Guardianship in Belfast.

In April, the President, Commissioner Rickard-Clarke and the Director of Research met with Mary O'Dea, Consumer Director of IFSRA, to discuss the IFSRA Draft Codes which arose from the Commission's 2003 Consultation Paper on Law and the Elderly.

In April, members of the National Steering Committee on Violence Against Women met with the Commission at its offices.

In April, Commissioner Rickard-Clarke met with the Northern Ireland Law Reform Committee in Belfast to discuss the law of capacity.

In June, the Commission hosted a lecture given by Mr Justice Ronan Keane at Farmleigh House, Dublin, to mark the 30th Anniversary of the Commission: see Chapter 1, above. The lecture is available on the Commission's website, www.lawreform.ie.

In July, the President, Commissioner Rickard-Clarke, the Director of Research and Deirdre Ahern gave a presentation on the Commission's proposals on vulnerable adults and the law to Ballymun Community Law Centre, Dublin.

In July, the Commission held a meeting with representatives of the Irish Section of Amnesty International at the Commission's offices.

In September, the President chaired a number of sessions at a conference on Public Interest Law and Litigation, organised by FLAC, Royal Hospital Kilmainham, Dublin

In October, Commissioner Rickard-Clarke and Catherine-Ellen O’Keeffe met with the Law Commission for England and Wales and attended a seminar on Cohabitants.

In October, Professor Robert Gordon, Professor of Criminal Law at Simon Frazer University, British Columbia presented a paper at the offices of the Commission on Restorative Justice and on ADR.

In October, the Director of Research attended a roundtable discussion hosted by the Irish Human Rights Commission on the Council of Europe’s Social Charter, Dublin.

In November, the President, Commissioner Rickard-Clarke, the Director of Research and Catherine-Ellen O’Keeffe met Mr Tony Fahey, ESRI, Dublin to discuss the Commission’s project on Cohabitants.

In November, Commissioner Rickard-Clarke delivered a paper on eConveyancing to the Dublin Solicitors Bar Association.

In November, the Director of Research delivered a paper on the Commission’s proposals concerning a DNA Database to a seminar organised by the Irish Council for Bioethics, Dublin.

In December, the Commission hosted its 2nd Annual Conference on Guardianship: A New Structure for Vulnerable Adults, in O’Reilly Hall UCD, at which Commissioner Rickard-Clarke presented a paper on the Commission’s proposals in this area.

APPENDIX D

LIST OF LAW REFORM COMMISSION PUBLICATIONS

First Programme for Examination of Certain Branches of the Law with a View to their Reform (December 1976) (Prl 5984)

Working Paper No 1-1977, The Law Relating to the Liability of Builders, Vendors and Lessors for the Quality and Fitness of Premises (June 1977)

Working Paper No 2-1977, The Law Relating to the Age of Majority, the Age for Marriage and Some Connected Subjects (November 1977)

Working Paper No 3-1977, Civil Liability for Animals (November 1977)

First (Annual) Report (1977) (Prl 6961)

Working Paper No 4-1978, The Law Relating to Breach of Promise of Marriage (November 1978)

Working Paper No 5-1978, The Law Relating to Criminal Conversation and the Enticement and Harboursing of a Spouse (December 1978)

Working Paper No 6-1979, The Law Relating to Seduction and the Enticement and Harboursing of a Child (February 1979)

Working Paper No 7-1979, The Law Relating to Loss of Consortium and Loss of Services of a Child (March 1979)

Working Paper No 8-1979, Judicial Review of Administrative Action: the Problem of Remedies (December 1979)

Second (Annual) Report (1978/79) (Prl 8855)

Working Paper No 9-1980, The Rule Against Hearsay (April 1980)

Third (Annual) Report (1980) (Prl 9733)

First Report on Family Law – Criminal Conversation, Enticement and Harboursing of a Spouse or Child, Loss of Consortium, Personal Injury to a Child, Seduction of a Child, Matrimonial Property and Breach of Promise of Marriage (LRC 1-1981) (March 1981)

Working Paper No 10-1981, Domicile and Habitual Residence as Connecting Factors in the Conflict of Laws (September 1981)

Fourth (Annual) Report (1981) (Pl 742)

Report on Civil Liability for Animals (LRC 2-1982) (May 1982)

Report on Defective Premises (LRC 3-1982) (May 1982)

Report on Illegitimacy (LRC 4-1982) (September 1982)

Fifth (Annual) Report (1982) (Pl 1795)

Report on the Age of Majority, the Age for Marriage and Some Connected Subjects (LRC 5-1983) (April 1983)

Report on Restitution of Conjugal Rights, Jactitation of Marriage and Related Matters (LRC 6-1983) (November 1983)

Report on Domicile and Habitual Residence as Connecting Factors in the Conflict of Laws (LRC 7-1983) (December 1983)

Report on Divorce a Mensa et Thoro and Related Matters (LRC 8-1983) (December 1983)

Sixth (Annual) Report (1983) (Pl 2622)

Report on Nullity of Marriage (LRC 9-1984) (October 1984)

Working Paper No 11-1984, Recognition of Foreign Divorces and Legal Separations (October 1984)

Seventh (Annual) Report (1984) (Pl 3313)

Report on Recognition of Foreign Divorces and Legal Separations (LRC 10-1985) (April 1985)
 Report on Vagrancy and Related Offences (LRC 11-1985) (June 1985)
 Report on the Hague Convention on the Civil Aspects of International Child Abduction and Some Related Matters (LRC 12-1985) (June 1985)
 Report on Competence and Compellability of Spouses as Witnesses (LRC 13-1985) (July 1985)
 Report on Offences Under the Dublin Police Acts and Related Offences (LRC 14-1985) (July 1985)
 Report on Minors' Contracts (LRC 15-1985) (August 1985)
 Report on the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (LRC 16-1985) (August 1985)
 Report on the Liability in Tort of Minors and the Liability of Parents for Damage Caused by Minors (LRC 17-1985) (September 1985)
 Report on the Liability in Tort of Mentally Disabled Persons (LRC 18-1985) (September 1985)
 Report on Private International Law Aspects of Capacity to Marry and Choice of Law in Proceedings for Nullity of Marriage (LRC 19-1985) (October 1985)
 Report on Jurisdiction in Proceedings for Nullity of Marriage, Recognition of Foreign Nullity Decrees, and the Hague Convention on the Celebration and Recognition of the Validity of Marriages (LRC 20-1985) (October 1985)
 Eighth (Annual) Report (1985) (PI 4281)

Report on the Statute of Limitations: Claims in Respect of Latent Personal Injuries (LRC 21-1987) (September 1987)
 Consultation Paper on Rape (December 1987)
 Report on the Service of Documents Abroad re Civil Proceedings -the Hague Convention (LRC 22-1987) (December 1987)
 Report on Receiving Stolen Property (LRC 23-1987) (December 1987)
 Ninth (Annual) Report (1986-1987) (PI 5625)

Report on Rape and Allied Offences (LRC 24-1988) (May 1988) 4.01
 Report on the Rule Against Hearsay in Civil Cases (LRC 25-1988) (September 1988)
 Report on Malicious Damage (LRC 26-1988) (September 1988)
 Report on Debt Collection: (1) The Law Relating to Sheriffs (LRC 27-1988) (October 1988)
 Tenth (Annual) Report (1988) (PI 6542)

Report on Debt Collection: (2) Retention of Title (LRC 28-1988) (April 1989)
 Report on the Recognition of Foreign Adoption Decrees (LRC 29-1989) (June 1989)
 Report on Land Law and Conveyancing Law: (1) General Proposals (LRC 30-1989) (June 1989)
 Consultation Paper on Child Sexual Abuse (August 1989)
 Report on Land Law and Conveyancing Law: (2) Enduring Powers of Attorney (LRC 31-1989) (October 1989)
 Eleventh (Annual) Report (1989) (PI 7448)

Report on Child Sexual Abuse (LRC 32-1990) (September 1990)
 Report on Sexual Offences against the Mentally Handicapped (LRC 33-1990) (September 1990)
 Report on Oaths and Affirmations (LRC 34-1990) (December 1990)

Report on Confiscation of the Proceeds of Crime (LRC 35-1991) (January 1991)
 Consultation Paper on the Civil Law of Defamation (March 1991)
 Report on the Hague Convention on Succession to the Estates of Deceased Persons (LRC 36-1991) (May 1991)
 Twelfth (Annual) Report (1990) (PI 8292)
 Consultation Paper on Contempt of Court (July 1991)
 Consultation Paper on the Crime of Libel (August 1991)
 Report on the Indexation of Fines (LRC 37-1991) (October 1991)
 Report on the Civil Law of Defamation (LRC 38-1991) (December 1991)

Report on Land Law and Conveyancing Law: (3) The Passing of Risk from Vendor to Purchaser (LRC 39-1991) (December 1991); (4) Service of Completion Notices (LRC 40-1991) (December 1991)
Thirteenth (Annual) Report (1991) (PI 9214)
Report on the Crime of Libel (LRC 41-1991) (December 1991)

Report on United Nations (Vienna) Convention on Contracts for the International Sale of Goods 1980 (LRC 42-1992) (May 1992)
Report on the Law Relating to Dishonesty (LRC 43-1992) (September 1992)

Land Law and Conveyancing Law: (5) Further General Proposals (LRC 44-1992) (October 1992)

Consultation Paper on Sentencing (March 1993)
Consultation Paper on Occupiers' Liability (June 1993)
Fourteenth (Annual) Report (1992) (PN 0051)

Report on Non-Fatal Offences Against The Person (LRC 45-1994) (February 1994)
Consultation Paper on Family Courts (March 1994)
Report on Occupiers' Liability (LRC 46-1994) (April 1994)
Report on Contempt of Court (LRC 47-1994) (September 1994)
Fifteenth (Annual) Report (1993) (PN 1122)

Report on the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (LRC 48-1995) (February 1995)
Consultation Paper on Intoxication as a Defence to a Criminal Offence (February 1995)
Report on Interests of Vendor and Purchaser in Land during the period between Contract and Completion (LRC 49-1995) (April 1995)
An Examination of the Law of Bail (LRC 50-1995) (August 1995)
Sixteenth (Annual) Report (1994) (PN 1919)
Report on Intoxication (LRC 51-1995) (November 1995)

Report on Family Courts (LRC 52-1996) (March 1996)
Seventeenth (Annual) Report (1995) (PN 2960)
Report on Sentencing (LRC 53-1996) (August 1996)
Consultation Paper on Privacy: Surveillance and the Interception of Communications (September 1996)
Report on Personal Injuries: Periodic Payments and Structured Settlements (LRC 54-1996) (December 1996)
Eighteenth (Annual) Report (1996) (PN 3760)

Consultation Paper on the Implementation of The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993 (September 1997)
Report on The Unidroit Convention on Stolen or Illegally Exported Cultural Objects (LRC 55-1997) (October 1997)

Report on Land Law and Conveyancing Law; (6) Further General Proposals including the execution of deeds (LRC 56-1998) (May 1998)
Consultation Paper on Aggravated, Exemplary and Restitutionary Damages (May 1998)
Nineteenth (Annual) Report (1997) (PN 6218)
Report on Privacy: Surveillance and the Interception of Communications (LRC 57-1998) (June 1998)
Report on the Implementation of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993 (LRC 58-1998) (June 1998)
Consultation Paper on the Statutes of Limitation: Claims in Contract and Tort in Respect of Latent Damage (Other Than Personal Injury) (November 1998)
Twentieth (Annual) Report (1998) (PN 7471)

Consultation Paper on Statutory Drafting and Interpretation: Plain Language and the Law (LRC CP14-1999) (July 1999)

Consultation Paper on Section 2 of the Civil Liability (Amendment) Act, 1964: The Deductibility of Collateral Benefits from Awards of Damages (LRC CP15-1999) (August 1999)

Report on Gazumping (LRC 59-1999) (October 1999)

Twenty First (Annual) Report (1999) (PN 8643)

Report on Aggravated, Exemplary and Restitutory Damages (LRC 60-2000) (August 2000)

Second Programme for examination of certain branches of the law with a view to their reform: 2000-2007 (PN 9459) (December 2000)

Consultation Paper on the Law of Limitation of Actions arising from Non-Sexual Abuse Of Children (LRC CP16-2000) (September 2000)

Report on Statutory Drafting and Interpretation: Plain Language and the Law (LRC 61-2000) (December 2000)

Report on the Rule against Perpetuities and Cognate Rules (LRC 62-2000) (December 2000)

Report on the Variation of Trusts (LRC 63-2000) (December 2000)

Report on The Statutes of Limitations: Claims in Contract and Tort in Respect of Latent Damage (Other than Personal Injury) (LRC 64-2001) (March 2001)

Consultation Paper on Homicide: The Mental Element in Murder (LRC CP17-2001) (March 2001)

Seminar on Consultation Paper: Homicide: The Mental Element in Murder (LRC SP 1-2001)

Twenty Second (Annual) Report (2000) (PN 10629)

Consultation Paper on Penalties for Minor Offences (LRC CP18-2002) (March 2002)

Consultation Paper on Prosecution Appeals in Cases brought on Indictment (LRC CP19-2002) (May 2002)

Report on the Indexation of Fines: A Review of Developments (LRC 65-2002) (July 2002)

Twenty Third (Annual) Report (2001) (PN 11964)

Report on the Acquisition of Easements and Profits à Prendre by Prescription (LRC 66-2002) (December 2002)

Report on Title by Adverse Possession of Land (LRC 67-2002) (December 2002)

Report on Section 2 of the Civil Liability (Amendment) Act 1964: The Deductibility of Collateral Benefits from Awards of Damages (LRC 68-2002) (December 2002)

Consultation Paper on Judicial Review Procedure (LRC CP20-2003) (January 2003)

Report on Penalties for Minor Offences (LRC 69-2003) (February 2003)

Consultation Paper on Business Tenancies (LRC CP 21-2003) (March 2003)

Report on Land Law and Conveyancing Law: (7) Positive Covenants over Freehold Land and other Proposals (LRC 70-2003) (March 2003)

Consultation Paper on Public Inquiries Including Tribunals of Inquiry (LRC CP 22 – 2003) (March 2003)

Consultation Paper on The Law and the Elderly (LRC CP 23 – 2003) (June 2003)

Consultation Paper on A Fiscal Prosecutor and A Revenue Court (LRC CP 24 – 2003) (July 2003)

Consultation Paper on Multi-Party Litigation (Class Actions) (LRC CP 25 – 2003) (July 2003)

Consultation Paper on Corporate Killing (LRC CP 26 – 2003) (October 2003)

Consultation Paper on Homicide: The Plea of Provocation (LRC CP 27 – 2003) (October 2003)

Seminar on Consultation Paper: Law and the Elderly (LRC SP 2-2003) (November 2003)

Twenty Fourth (Annual) Report (2002)

Consultation Paper on General Law of Landlord and Tenant (LRC CP 28 – 2003) (December 2003)

Report on Judicial Review Procedure (LRC 71-2004) (February 2004)

Consultation Paper on the Establishment of a DNA Database (LRC CP 29-2004) (March 2004)

Consultation Paper on Judgment Mortgages (LRC CP 30-2004) (March 2004)

Consultation Paper on the Court Poor Box (LRC CP 31-2004) (March 2004)

Consultation Paper on the Rights and Duties of Cohabitees (LRC CP 32-2004) (April 2004)

Consultation Paper on Prosecution Appeals from Unduly Lenient Sentences in the District Court (LRC CP 33-2004) (June 2004)

Twenty Fifth (Annual) Report (2003) (July 2004)
Consultation Paper on the Reform and Modernisation of Land Law and Conveyancing Law (LRC CP 34-2004) (October 2004)
Report on A Fiscal Prosecutor and A Revenue Court (LRC 72 – 2004) (December 2004)

Consultation Paper on Trust Law – General Proposals (LRC CP 35-2005) (February 2005)
Consultation Paper on Charitable Trust Law – General Proposals (LRC CP 36-2005) (February 2005)
Twenty Sixth (Annual) Report (2004) (March 2005)
Consultation Paper on Vulnerable Adults and the Law: Capacity (LRC CP 37-2005) (May 2005)
Report on Public Inquiries Including Tribunals of Inquiry (LRC 73-2005) (May 2005)
Thirty Years of Law Reform 1975-2005 (Lecture by Mr Justice Ronan Keane to commemorate the 30th Anniversary of the Commission) (June 2005)
Report on Reform and Modernisation of Land Law and Conveyancing Law (LRC 74-2005) (July 2005)
Report on The Court Poor Box: Probation of Offenders (LRC 75-2005) (September 2005)
Report on Multi-Party Litigation (LRC 76-2005) (September 2005)
Report on Corporate Killing (LRC 77-2005) (October 2005)
Report on the Establishment of a DNA Database (LRC 78-2005) (November 2005)
Consultation Paper on Legal Structures for Charities (LRC CP 38-2005) (December 2005)

