



LAW REFORM
COMMISSION/COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ

ANNUAL REPORT 2006

(LRC 2007)



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ATHCHÓIRIÚ AN DLÍ

ANNUAL REPORT

2006

THE COMMISSION: COMMISSIONERS AND STAFF

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

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Judge of the Supreme Court (to November 2006)

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Member of the Commission to Inquire into Child Abuse

Part-Time Commissioner

Donal O'Donnell Senior Counsel

Part-Time Commissioner

John Quirke

Secretary/Head of Administration

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LAW REFORM
COMMISSION/COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ

Paul Gallagher SC
Attorney General
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21 September 2007

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 Eight (Annual) Report (2006) of the Law Reform Commission.

It covers the period 1 January 2006 to 31 December 2006.

Yours sincerely,

John Quirke
Secretary/Head of Administration

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FOREWORD

I am very pleased on behalf of my Commission colleagues to introduce the Commission's Annual Report for 2006. During the year the Commission continued to focus on completing our *Second Programme of Law Reform 2000 -2007* while at the same time having an eye to future needs.

The Commission was extremely happy to have published five Reports (three of which were "double" Reports combining material from six Consultation Papers) and four Consultation Papers, one of which was the subject of a reference from the Attorney General. By the end of 2006 the Commission had begun or completed projects on all topics from the Second Programme of Law Reform which remain to be dealt with.

As President of the Commission I would like to draw particular attention to two landmark projects which reached completion during 2006. The first of these is the Commission's Report on *Vulnerable Adults and the Law* which followed on two earlier Consultation Papers. This Report recommends the enactment of new mental capacity legislation and also recommends that the current Wards of Court system should be replaced by a new Guardianship system. The second landmark has been the publication in June 2006 of the Land and Conveyancing Law Reform Bill 2006, which was based on an earlier Commission Report, the Bill itself having been drafted by the Commission in conjunction with the Department of Justice, Equality and Law Reform. The Bill was passed by Seanad Éireann in November 2006 and it is now expected to be before Dáil Éireann in autumn 2007. The Commission's work in the area of land and conveyancing law has continued with the publication of its Report on *eConveyancing: Modelling of the Irish Conveyancing System*.

During the Second Programme the Commission followed a policy of annexing a draft Bill to each Report published. This was done with a view to facilitating the implementation of the Commission's recommendations for the reform of the current law where the Government was disposed to enact these recommendations.

In May 2006, following a Government decision made at the request of the Attorney General, the Commission's activities were expanded to include two challenging new areas – Statute Law Restatement and the preparation and maintenance of the Chronological Table of the Statutes. This will add a new dimension to the work of the Commission.

The Commission has now begun the process of identifying topics for inclusion in the *Third Programme of Law Reform* which will run from 2008 to 2014.

The Commission regards participation by society at large in the law reform process as essential to its work. Accordingly, the Commission is carrying out wide consultation with the general public, government organisations, the legal profession and various interest groups on topics to be included in the programme. This will provide an opportunity for interested parties to suggest areas of law that are in need of reform. The Commission wants to ensure that the topics reflect real law reform needs of society.

During 2006 the Commission finalised a new Strategy Statement which sets out the strategic goals, both legal and non-legal, of the organisation for the period 2006 to 2008. A Business Plan has also been prepared to give effect to the key objectives set out in the Strategy Statement. Details of this will be found in the Report.

As President I want to thank all who have been involved in a most productive year's work by the Commission – my fellow Commissioners, all the legal and administrative staff and all those who

have so generously given us their expertise, advice and time on a voluntary basis in working groups, consultations and meetings.

While the Commission is an independent statutory body it does not operate at a remove from the legislative process. It therefore values the ongoing exchanges it has with Government Departments to further the contribution it can make to that process. The Commission also wishes to thank the Office of the Attorney General for its very valuable support to the Commission in doing its work.

A handwritten signature in black ink that reads "Catherine McGuinness". The signature is written in a cursive style with a horizontal line underneath the name.

Catherine McGuinness
PRESIDENT

CHAPTER 1

OVERVIEW OF THE COMMISSION'S WORK IN 2006

FUNCTIONS OF THE COMMISSION

The Commission is an independent statutory body established by the *Law Reform Commission Act 1975*. The 1975 Act states that the Commission's role is to keep the law under review and to conduct research with a view to the reform of the law, and it defines law reform to include:

- the development of law
- its codification (including its simplification and modernisation) and
- the revision and consolidation of statute law.

Until 2006, the Commission has carried out this statutory mandate primarily through a Programme of Law Reform, together with requests by the Attorney General under the 1975 Act to examine specific areas of law.

Programme of Law Reform

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. Two such Programmes have been approved by Government. The *First Programme of Law Reform* was in place between 1976 and 1999. This was replaced by the *Second Programme of Law Reform*, which was approved by the Government in December 2000 and will run until the end of 2007. The full text of the Second Programme is contained in Appendix A.

Requests from the Attorney General

The 1975 Act also states 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.

Statute Law Restatement and Chronological Tables of the Statutes

In 2006, the scope of the Commission's research work was expanded to include two challenging new areas of activity, Statute Law Restatement and the Chronological Tables of the Statutes. These new roles are fully consistent with the Commission's remit of law reform, which the 1975 Act defines to include the codification of the law, including in particular its simplification, and the revision and consolidation of statute law. The Commission is also conscious that these roles may be of assistance to the wider Better Regulation policy of the Government, including the pre-1922 Statute Law Revision project, most recently indicated by the *Statute Law Revision Act 2007*.

In May 2006, the Government decided (on the basis of a proposal from the Attorney General) that the Commission should prepare a Programme of Statute Law Restatement under the *Statute Law (Restatement) Act 2002*. In May 2006, the Taoiseach announced a Public Consultation exercise

10 ¹ In October 2006, sanction for 3 researchers for the project was obtained from the Department of Finance. In January 2007, sanction for a project manager and a clerical officer was obtained.

on suggestions for inclusion in the Programme. In November 2006, the submissions received were discussed at a meeting of the Steering Group on Statute Law Restatement, comprising representatives of the Commission, the Better Regulation Unit in the Department of An Taoiseach and the Office of the Attorney General. In July 2007, the Commission published a *Consultation Paper on Statute Law Restatement* (LRC CP 45-2007). This sets out the general background of the Statute Law Restatement project, the results of the Public Consultation exercise, the provisional list of Acts selected by the Commission for Restatement, the technological aspects of the project (notably the development of a publicly accessible database of Restatements) and versions of the draft Restatement of the *Freedom of Information Act 1997* completed by the Commission.

In September 2006, the Office of the Attorney General requested the Commission to consider taking responsibility for the preparation and maintenance of the Chronological Tables of the Statutes, currently available at www.irishstatutebook.ie. The Chronological Tables is a document which contains a detailed list of all amendments made to existing Acts by new legislation. The Commission agreed to this request.² The Commission has begun the process of recruiting suitable staff for this important project and will then proceed to develop a detailed Implementation Plan.

STRATEGY STATEMENT 2006-2008

In 2006, the Commission finalised its *Strategy Statement 2006-2008* which sets out a framework for the work of the Commission over what will be a crucial three year period. It replaced the Commission's Strategy and Business Plan 2003-2005, which followed on from the previous Strategy and Business Plan that covered the period 1999-2002.

The Commission's most important working document

The Strategy Statement underlines the Commission's need to be forward-looking and to adapt current methods of work in order to achieve the goals set out in the Commission's current Programme of Law Reform - and to take into account the Commission's new role in Statute Law Restatement, discussed above. It also reflects the views of the Commission and senior management on what needs to be done to maximise the central role and contribution of the Commission in relation to law reform and to ensure that the organisation operates to optimum efficiency and effectiveness and makes the best use of available resources. The emphasis in drawing up the Statement was to ensure that it had a real meaning for the organisation and its staff, that it represented the key priorities of the Commission for 2006-2008 and that it set out clear responsibilities and accountabilities for the achievement of these priorities. The Commission took the view that it is to be the most important working document for the Commission, management and staff and one to which they will constantly refer in assessing the performance and development of the organisation.

The Commission's statutory mandate

In formulating the Strategy Statement, the Commission summarised its statutory mandate under the *Law Reform Commission Act 1975* as being:

"To keep the law under independent, impartial and expert review and to make consequent recommendations for law reform."

The Commission is committed to keeping this summary of its mandate to the forefront of its activities under the Strategy Statement.

² In January 2007, sanction for a project manager for the project was obtained from the Department of Finance, to which the Commission will also assign 2 researchers, for which sanction has also been given.

Key Objectives

The Commission's Strategy Statement identified five Key Objectives which it will implement over the lifetime of the Statement. These are:

KEY OBJECTIVE 1

To complete to a high standard (1) the examination of particular areas of the law from the point of view of law reform under requests to the Commission from the Attorney General and (2) the current Second Law Reform Programme of the Commission in accordance with the provisions of that programme and to the maximum possible extent within the period of this Strategy Statement.

KEY OBJECTIVE 2

To develop a Third Programme of Law Reform and to submit this programme to the Taoiseach for Government approval.

KEY OBJECTIVE 3

To implement the responsibilities assigned to the Commission by the Attorney General in 2006 in regard to statute law restatement.

KEY OBJECTIVE 4

To ensure that the research area of the organisation operates, with the full involvement of all legal staff, at optimum efficiency and effectiveness and in accordance with best international practice.

KEY OBJECTIVE 5

To support the work of the Commission in ensuring that services are delivered in the most cost effective and efficient way and with the maximum involvement and participation of staff.

These Key Objectives underlines the significant tasks facing the Commission in the three year period covered by the Strategy Statement. The first Key Objective includes the important "core mandate" of completing the work envisaged by the Commission's current *Second Programme of Law Reform 2000-2007* and in response to specific requests from the Attorney General. The second Key Objective anticipates the need to prepare for the transition to a *Third Programme of Law Reform*, which will commence in 2008. The third Key Objective also indicates the high priority which the Commission gives to the new challenge assigned by Government to prepare a programme of Statute Law Restatement (discussed in Chapter 3, below). The fourth and fifth Key Objectives deal with the necessary legal research and administrative supports required to ensure that the Commission's mandate can be achieved.

Monitoring implementation of the Key Objectives

The Strategy Statement sets out crucially important mechanisms for monitoring the implementation of its Objectives. These include the preparation and review of quarterly rolling Business Plans, indicating the contribution of the legal research and administration teams to the achievement of the key objectives indicated. The Business Plans set out clearly the specific actions being taken in each area; the person or persons responsible for the implementation of each action; the overall deadline for each action; the target for the year and for the next quarter; and the person with overall accountability for results under each action. For each quarter, the Commission's Management Committee assesses progress on each key objective in conjunction with the person or persons having overall accountability for the objective. The Management Committee reports on progress

every 6 months to the Commission and also brings to its notice any major problems, threats or opportunities emerging. The Commission reviews the Strategy Statement annually and decides, in the light of progress, whether any major changes need to be made to it for the following year. The Commission also liaises with the Office of the Attorney General to review progress generally under the Strategy Statement. In December 2006, the Commission agreed that the Strategy Statement should be revised in 2007 to take into account the request from the Attorney General concerning the *Chronological Tables of the Statutes*, discussed above.

METHODS OF WORK AND CONSULTATION PROCESS

The Commission's Consultation Papers and Reports 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 2006.

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 January, the Commission hosted a seminar in connection with its *Consultation Paper on the Rights and Duties of Cohabitees*.

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

Communication with Consultative Committee and Government Departments

It has been the practice of the Commission for many years to communicate with government departments as to the projects upon which it is currently engaged or is likely to be engaged in the foreseeable future. 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 law and civil law matters. These meetings enable the Commission and the Department to discuss issues being currently addressed by them and of progress in the legislative process.

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.

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. On 3 October, representatives of the Commission met the Joint Committee to discuss the *Land and Conveyancing Law Reform Bill 2006*, which arose from the Commission's 2005 *Report on the Reform and Modernisation of Land Law and Conveyancing Law*. 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 and Commissioners with lead roles in specific projects act as media spokespersons for the Commission. Details of conferences attended and visits to and from law reform bodies are contained in Appendix C.

THE SECOND PROGRAMME OF LAW REFORM

The full text of the Commission's *Second Programme of Law Reform 2000-2007* is included in Appendix A. The Second Programme identifies 30 specific 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 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. During the course of the Second Programme, the Commission has made submissions to, for example, the Company Law Review Group (on legal structures for charities and property management companies) and the Financial Regulator (on equity release schemes). The Commission has also engaged in more detailed joint projects with other bodies, on land law and conveyancing law reform (with the Department of Justice, Equality and Law Reform) on charity law reform (with the Department of Community, Rural and Gaeltacht Affairs) and on the reform and consolidation of the Courts Acts (with the Courts Service and the Department of Justice, Equality and Law Reform).

REQUESTS FROM THE ATTORNEY GENERAL

In 2006, the Commission published a *Report on Prosecution Appeals and Pre-Trial Hearings* (LRC 81-2006), which incorporated the material in its *Consultation Paper on Prosecution Appeals from Unduly Lenient Sentences in the District Court* (LRC CP 33-2004). These resulted from the request made in 2003 by the Attorney General, pursuant to section 4(2)(a) of the 1975 Act, to consider conferring a power on the Director of Public Prosecutions to appeal lenient sentences from the District Court.

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 made significant progress on this request in 2006 and, in March 2007, published its *Consultation Paper on Aspects of Intercountry Adoption Law* (LRC CP 43-2007).

In January 2006, the Attorney General requested the Commission to consider and recommend reforms in relation to the Civil Liability of Good Samaritans and Volunteers. The Commission made significant progress on this request in 2006 and will publish a *Consultation Paper on the Civil Liability of Good Samaritans and Volunteers in 2007*.

COMMISSION PUBLICATIONS IN 2006

In 2006, the Commission published 5 Reports and 4 Consultation Papers. These were:

- *Report on eConveyancing: Modelling of the Irish Conveyancing System* (LRC 79-2006) (April 2006)
- *Consultation Paper on Duress and Necessity* (LRC CP 39-2006) (April 2006)
- *Report on Charitable Trusts and Legal Structures for Charities* (LRC 80-2006) (October 2006)³
- *Consultation Paper on Privity of Contract: Third Party Rights* (LRC CP 40-2006) (November 2006)
- *Report on Prosecution Appeals and Pre-Trial Hearings* (LRC 81-2006) (November 2006) (*, in part)⁴
- *Consultation Paper on Legitimate Defence* (LRC CP 41-2006) (November 2006)
- *Report on the Rights and Duties of Cohabitants* (LRC 82-2006) (December 2006)
- *Report on Vulnerable Adults and the Law* (LRC 83-2006) (December 2006)⁵
- *Consultation Paper on Multi-Unit Developments* (LRC CP 42-2006) (December 2006)

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 Commission's *Second Programme of Law Reform 2000-2007*, and it also surveys the Commission's rolling work programme in 2006.

³ This was a combined Report which incorporated material from two Consultation Papers, on Charitable Trust Law and on Legal Structures for Charities.

⁴ This was a combined Report which incorporated material from two Consultation Papers, on Prosecution Appeals on Indictment and on Prosecution Appeals from the District Court.

⁵ This was a combined Report which incorporated material from two Consultation Papers, on Law and the Older Person and Vulnerable Adults: Capacity.

CHAPTER 2

THE COMMISSION'S PUBLICATIONS AND ROLLING WORK PROGRAMME IN 2006

INTRODUCTION

In this Chapter, the Commission outlines the content of its publications during 2006 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. Criminal Law
4. Land Law and Conveyancing
5. Vulnerable Groups and the Law
6. Family Law
7. 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 2006.

This Chapter also provides an opportunity to discuss any relevant developments in 2006 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, and this is updated on a regular basis.

1. THE LEGAL SYSTEM

1.1 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, almost 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. In July 2007, the Commission published a *Consultation Paper on the Consolidation and Reform of the Courts Acts* (LRC CP 46-2007), which includes a draft consolidated text of the relevant Courts Acts.

1.2 Statute Law Restatement

In May 2006, the Government approved a request by the Attorney General that the Commission carry out a programme of Statute Law Restatement on behalf of the Department of the Taoiseach and the Office of the Attorney General. *The Statute Law (Restatement) Act 2002* facilitates a process of making legislation more accessible by updating existing Acts to incorporate all changes made by subsequent Acts or Statutory Instruments into one easy to read format. Restatements do not alter the effect of the law in any way. In May 2006, the Taoiseach announced a Public Consultation

exercise on suggestions for inclusion in the Programme. In November 2006, the submissions received were discussed at a meeting of the Steering Group on Statute Law Restatement, comprising representatives of the Commission, the Better Regulation Unit in the Department of An Taoiseach and the Office of the Attorney General. In June 2007, the Commission published a *Consultation Paper on Statute Law Restatement* (LRC CP 45-2007). This sets out the general background of the Statute Law Restatement project, the results of the Public Consultation exercise, the provisional list of Acts selected by the Commission for Restatement, the technological aspects of the project (notably the development of a publicly accessible database of Restatements) and versions of the draft Restatement of the *Freedom of Information Act 1997* completed by the Commission.

1.3 Chronological Tables of the Statutes

In September 2006, the Office of the Attorney General requested the Commission to consider taking responsibility for the preparation and maintenance of the Chronological Tables of the Statutes, currently available at www.irishstatutebook.ie. The Chronological Tables is a document which contains a detailed list of all amendments made to existing Acts by new legislation. The Commission agreed to this request, which will complement its work on Statute Law Restatement, discussed above. The Commission has begun the process of recruiting suitable staff for this important project and will then proceed to develop a detailed Implementation Plan.

1.4 Alternative Dispute Resolution

In October 2006, the Commission began a project on Alternative Dispute Resolution (ADR). This involves examination of fundamental principles of access to civil justice. In this respect, ADR can be seen as integrating all methods of dispute resolution, from mediation, through conciliation, arbitration, Ombudsmen, regulatory bodies and the courts (including the small claims court). The Commission will explore recent developments in this area, both national and international.

2. THE LAW OF EVIDENCE

2.1 Forensic evidence: DNA Database

In 2005, the Commission published a *Report on the Establishment of a DNA Database* (LRC 78-2005), which followed its *Consultation Paper on the Establishment of a DNA Database* (LRC CP 29-2004). This arose from a request in 2003 by the Attorney General to consider the issue. The Report recommended the establishment of a limited DNA Database, in which profiles of those reasonably suspected of, and convicted of, serious crimes (including homicides, most offences against the person and burglary) would be retained on the DNA database. The Report also recommended that the purposes of the DNA database should be stated in the primary legislation establishing it. The Report also addresses the issue of who should regulate and maintain the DNA Database, recommending that an independent Forensic Science Agency be established for this purpose. A draft DNA Database Bill was attached to the Report. In January 2006, the Government announced that it had agreed to the drafting of a Forensic Sampling and Evidence Bill. In February 2007, the General Scheme of a *Criminal Justice (Forensic Sampling and Evidence) Bill 2007* was published by the Department of Justice, Equality and Law Reform, available at www.justice.ie.

2.2 Other aspects of the Law of Evidence

In October 2006, the Commission began a project on the law of evidence in civil and criminal matters. This project will explore options for reform of aspects of the law of evidence, including pre-1922 common law and legislation in this area.

3. CRIMINAL LAW

3.1 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, in conjunction with the work of the Criminal Law Codification Advisory Committee, established under Part 14 of the *Criminal Justice Act 2006*. The Commission has published two Consultation Papers in this area, which will form the basis for a final Report on Murder and Manslaughter. In 2001, the Commission published a *Consultation Paper on Homicide: The Mental Element in Murder* (LRC CP 17-2001). This deals with the question of whether the existing definition of the mental element in murder is under-inclusive, that is, whether some non-intentional killings deserve to be punished as murder on moral grounds; and considers whether this difficulty should be addressed by expanding the current mens rea for the offence to include reckless indifference to the value of human life. During 2006, considerable progress was made by the Commission on its second Paper in this area, on involuntary manslaughter, and in 2007, the Commission published a *Consultation Paper on Involuntary Manslaughter* (LRC CP 44-2007). We will return to this in the Annual Report for 2007.

3.2 Defences in criminal law

The Commission's Second Programme refers to the defences of provocation, legitimate defence and duress and necessity. The Commission has published Consultation Papers on each of these, and intends to publish a Report incorporating the three defences in 2007 or 2008. In 2003, the Commission published a *Consultation Paper on Homicide: The Plea of Provocation* (LRC CP 27-2003).

In 2006, the Commission published a *Consultation Paper on Duress and Necessity* (LRC CP 39-2006). The defences of duress and necessity apply where an individual is constrained or coerced into committing a crime by reason of serious threats (duress) or dire circumstances (necessity). On the defence of duress, the Commission provisionally recommends that its current limitations should remain. These include that: the threat must be of death or serious harm; and that the accused's resistance must have been overcome, and this resistance must be that of the ordinary person, with the characteristics of the accused person. Although the defence does not apply to murder, the Commission provisionally recommends that it should be allowed as a partial defence, which would reduce it from murder to manslaughter. On the defence of necessity, the Commission provisionally recommends that it should be retained in its current form so that it would apply in certain exceptional circumstances where a person is faced with a constrained choice regarding his or her actions, the constraint arising from extraneous circumstances, and where the person, in choosing the course of action taken, breaks the law. As with duress, the Commission accepted that a coherent case can also be made for treating necessity as a complete defence where the accused's actions can be justified on the grounds of lesser evils, and invited submissions on this matter.

In 2006, the Commission also published a *Consultation Paper on Legitimate Defence* (LRC CP 41-2006). This Paper discusses the use of lethal force by law enforcement officials and also self-defence by private citizens, including self-defence in the context of home defence. The Paper emphasises the importance of setting out the scope of the defence, particularly because it primarily operates as a justificatory defence, that is a full defence to a charge, including a charge of murder. The Paper examines the traditional rules for the defence, including the threat requirements (namely, that life is endangered, and the threat is imminent and unlawful) and the response requirements (namely, that the defender's response is necessary and proportionate). The Paper also considers which standard is most appropriate to the defence, namely an objective, a subjective, or a mixed or dual standard.

3.3 Inchoate offences: incitement, conspiracy and attempts.

In October 2006, the Commission began a project on inchoate offences. This will examine options for reform in the law concerning incitement, conspiracy and attempts.

3.4 Procedure in criminal cases: prosecution appeals

In 2006, the Commission published a *Report on Prosecution Appeals and Pre-Trial Hearings* (LRC 81-2006), which incorporated material in its *Consultation Paper on Prosecution Appeals in Cases Brought on Indictment* (LRC CP 19-2002) and *Consultation Paper on Prosecution Appeals from Unduly Lenient Sentences in the District Court* (LRC CP 33-2004) (the second Paper followed 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). As to prosecution appeals in cases brought on indictment, the Report approved the extended 'without prejudice' appeal in the *Criminal Justice Act 2006* (where an acquittal cannot be overturned but incorrect trial rulings can be corrected for the future), and concluded that further reform was not currently required. The Report recommended that the issue of incorrect trial rulings could also be addressed by introducing pre-trial questionnaires which could be used to deal with legal issues currently dealt with during trials. As to prosecution appeals against unduly lenient sentences in the District Court, the Commission accepted that, in principle, these should be amenable to review, but recommended that it would be preferable to deal with the issue by way of other reforms, including the proposed Irish Sentencing Information System (ISIS).

3.5 Spent convictions

The Commission's *Consultation Paper on the Court Poor Box* (LRC CP 31-2004) pointed out that the Court Poor Box (on which the Commission published a Report in 2005: see the Annual Report for 2005) is often used to avoid entering a conviction, which under current law involves a permanent criminal record. The Commission noted that many other States operated 'spent conviction' laws, under which minor and old convictions could be removed from the record for some purposes, though they could be disclosed for other purposes, especially involving vetting for sensitive jobs. During 2006, the Commission made considerable progress on the preparation of a separate Report on this topic and the *Report on Spent Convictions* (LRC 84-2007) was published in July 2007.

4. LAND LAW AND CONVEYANCING

4.1 Reform and Modernisation of Land Law and Conveyancing Law

In 2001, the Commission began a review of its work to that point on the reform and modernisation of land law and conveyancing law in Ireland, which had begun in the late 1980s. In 2003, the Commission launched its eConveyancing Project, which would involve a comprehensive review of the substantive law and also embrace the relevant procedural and administrative elements with a view to the eventual introduction of eConveyancing. The Commission concluded that this major project could only be undertaken jointly with other major stakeholders. In December 2003, the Department of Justice, Equality and Law Reform agreed to engage in a Joint Project with the Commission on the reform of the substantive law.

Substantive land and conveyancing law reform After an extensive consultation exercise, which included the Commission's inaugural Annual Conference in 2004, the Commission published its *Report on the Reform and Modernisation of Land Law and Conveyancing Law* (LRC 74-2005) in 2005. This included a draft Land and Conveyancing Bill which implemented over 90 recommendations for reform and modernisation of land law and conveyancing and proposed the repeal, in whole or in part, of over 130 pre-1922 statutes, commencing with *De Donis Conditionalibus* of 1285. After the 2005 Report was published, the Minister for Justice, Equality and Law Reform (with the agreement

of the Attorney General) 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. This resulted in the publication in June 2006 of the *Land and Conveyancing Law Reform Bill 2006*, which was passed by Seanad Éireann in November 2006 and was restored to the Order Paper of Dáil Éireann in June 2007 (in the wake of the 2007 General Election).

Administrative and procedural land and conveyancing reform: 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 to carry out the study. 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 Commission on *Modelling of the Irish Conveyancing System*, a report prepared for the Commission by BearingPoint Management and Technology Consultants. The Modelling Report includes the first detailed 'end-to-end' process model of the entire conveyancing transaction, taking account of the roles played by the vendor and purchaser, estate agents, solicitors, financial institutions, local and planning authorities, the Land Registry and Registry of Deeds and other stakeholders.

The key recommendation in the Modelling Report is the establishment of a Project Board drawn from key public sector and private sector stakeholders with specific terms of reference to coordinate the next phase in the development of an eConveyancing system for Ireland. The primary task of the proposed Project Board would be to make a detailed assessment of the most appropriate model for eConveyancing in Ireland, including the preparation of proposals to Government as to the design, establishment, operation, governance and implementation of the proposed model. The Commission generally supports the content and analysis of the Modelling Report prepared by BearingPoint. The Commission remains of the view that it is appropriate to introduce an eConveyancing system for Ireland but it equally endorses the view expressed in the Modelling Report that this is an important matter of policy for government. Ultimately, an eConveyancing system may embrace all activities from the initial placement of an advertisement offering a property for sale to the payment of stamp duty to the Revenue Commissioners and subsequent registration of the transaction in the Land Registry. In October 2006, the Commission began work on the next stages of this project, and in early 2007 an eConveyancing Steering Group was established. The Commission's work in this area is intended to lead to final recommendations to Government in 2008.

4.2 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 on this area, a *Consultation Paper on Business Tenancies* (LRC CP 21-2003) and a *Consultation Paper on the General Law of Landlord and Tenant* (LRC CP 28-2003). During 2006, the Commission made considerable progress on a Report on this area, which will include proposals for consolidation of the existing landlord and tenant legislation, including a draft Bill. The Commission intends to publish a Report on this area in 2007.

4.3 Multi-Unit Developments

In 2006, the Commission published a *Consultation Paper on Multi-Unit Developments* (LRC CP 42-2006). The Paper notes that apartment complexes and other multi-unit developments have been a recent – and significant – phenomenon in the housing market, resulting in about 500,000

people living in apartments in 2006. The Paper makes provisional recommendations across a broad range of areas in order to provide a legal framework for such housing units. The Paper recommends that a Regulatory Body be established to deal specifically with residential multi-unit developments. The Paper also deals with the need to provide specific legislative provisions concerning apartment owner management companies in such developments. The Paper also makes provisional recommendations concerning conveyancing and related land ownership issues, as well as the need 'rescue' provisions for existing multi-unit developments where insufficient arrangements are in place for their proper management. The Commission organised a public conference on the Consultation Paper in January 2007, in conjunction with the Department of Justice, Equality and Law Reform, and the Commission intends to publish its Report on this area by the end of 2007.

4.4 Trust Law and Charity Law

Charitable trustees and Charitable Incorporated Organisation (CIO) In 2006, the Commission published a *Report on Charitable Trusts and Legal Structures for Charities* (LRC 80-2006), which incorporated the issues discussed in its *Consultation Paper on Charitable Trust Law - General Proposals* (LRC CP 36-2005) and *Consultation Paper on Legal Structures for Charities* (LRC CP 38-2005). The Report came against a wider background of the general reform of the regulation of charities. In 2003 the Department of Community, Rural and Gaeltacht Affairs published a *Consultation Paper Establishing a Modern Statutory Framework for Charities*. The Department's proposals envisaged the establishment of a charities regulator and a formal register of charities. The Commission agreed to assist the Department on aspects of the proposed new framework, in particular the role and function of charities trustees. In April 2006, the Department published the *General Scheme for the Charities Regulation Bill 2006*, which proposed the first statutory definition of charity, envisages a register of charities in a regulatory framework under the auspices of a Charities Regulator, and incorporates the key recommendations in the *Consultation Paper on Charitable Trust Law*. It did not include any provision covering a particular legal structure for charities. Because the *General Scheme for the Charities Regulation Bill 2006* had incorporated the Commission's key recommendations in the *Consultation Paper on Charitable Trust Law*, the Report primarily focused on the issue of the Charitable Incorporated Organisation (CIO). The Report largely confirmed the view taken in the Consultation Paper on the need for a charity-specific corporate legal structure, the Charitable Incorporated Organisation (CIO), together with additional points of clarification and detail contained in submissions received by the Commission.

Trustee law In 2005, the Commission published a *Consultation Paper on Trust Law - General Proposals* (LRC CP 35-2005), which reviews the current law in this area, including the *Trustee Act 1893* (the Paper was published at the same time as the *Consultation Paper on Charitable Trust Law - General Proposals* (LRC CP 36-2005), above). The Paper provisionally recommends that trustees should be subject to a general statutory duty of care, involving a requirement to act with objective 'reasonable care and skill', but also taking into account a subjective element which has regard to any special knowledge or experience the trustee may have. The Paper also recommends that the law should be reformed to clarify the criteria for appointment and qualifications of trustees. The Paper does not recommend that there should be a statutory provision on payment of trustees in general, since most trust instruments include a charging provision where appropriate and warranted. During 2006, the Commission made considerable progress on a Report on this area and it intends to publish a Report on this topic in 2007.

5. VULNERABLE GROUPS AND THE LAW

5.1 Vulnerable Adults, Capacity and Guardianship

In 2006, the Commission published a *Report on Vulnerable Adults and the Law* (LRC 83 – 2006), following from its *Consultation Paper on Law and the Elderly* (LRC CP 23 – 2003) and *Consultation Paper on Vulnerable Adults and the Law: Capacity* (LRC CP 37 – 2005). The Report thus deals with the two related topics in the Second Programme under the general heading of Vulnerable Adults: the law and older people; and the law concerning adults whose ability to make decisions may be limited, for example, through intellectual disability, dementia or an acquired brain injury. The Report is divided into two parts. The first part recommends the enactment of a new mental capacity law to create clear rules on when a person has the legal competence (capacity) to make a wide range of decisions, including commercial and healthcare decisions. The second part recommends that the current Wards of Court system (governed mainly by the *Lunacy Regulation (Ireland) Act 1871*) should be replaced by a new Guardianship system. Arising from the publication of the Commission's Report, which included a draft Mental Capacity and Guardianship Bill to implement the Commission's final recommendations, a Private Member's Bill based on this draft Bill, the *Mental Capacity and Guardianship Bill 2007*, was introduced in Seanad Éireann. In response, the Government stated that it accepted the principles in the Bill and it was deemed to have passed Second Stage in the Seanad.

Empowerment and protection In the Report, the Commission aims to promote the empowerment of vulnerable adults, while also recognising that some protections are still needed. In terms of empowerment, the Commission recommends that the proposed law should include a clear presumption that all people over 18 should be presumed to have mental capacity. The Commission also recommends that a modern "functional" approach to legal capacity should be put in place. The functional approach means assessing a person's decision-making ability in relation to a particular decision at the time the decision is made. The Commission also recognises that vulnerable adults may still need protection against abuse. For example, the Commission has recommended that all types of equity release schemes – many of which are aimed at older people – should come under IFSRA, the Financial Regulator. Some equity release schemes have been designed so that they are not financial products, so that IFSRA cannot currently regulate these types of schemes.

Guiding principles The Report recommends that the proposed capacity legislation should contain specific guiding principles, which must always be taken into account. These are: no intervention can take place unless it is necessary for the person, including whether the person might regain their capacity; any intervention should be the least restrictive of the person's freedom; account must be taken of their wishes, past and present; account should be taken of the views of their relatives, carers and those who they live with; and due regard should be given to their right to dignity, bodily integrity, privacy and autonomy.

Enduring powers of attorney The *Enduring Powers of Attorney Act 1996* allows a person who currently has mental capacity to appoint someone (such as a spouse or partner) to make decisions on their behalf: the power of attorney only comes into force when the person loses capacity, for example, through dementia. The 1996 Act is currently limited to financial matters only. The Commission recommends that the 1996 Act should be extended to include minor health care and treatment decisions.

Guardianship system to replace Wards of Court The Report also recommends that the Wards of Court system should be replaced by a new decision-making structure, called Guardianship. This would involve the creation of a Guardianship Board, which would make decisions about whether a person does or does not have continuing capacity to make key decisions about themselves. The Guardianship Board would be a three person full-time multi-disciplinary Board, chaired by a

High Court judge. The Board could make Guardianship Orders and Intervention Orders. Where a Guardianship Order is made, a Personal Guardian could be appointed over the property, financial affairs and welfare of a person who lacks capacity, whether in a limited way or more generally. An Intervention Order would be made for a specific purpose (such as ordering a once-off service), where a Guardianship Order would not be required. The Commission also recommends the establishment of the Office of Public Guardian, which would have a supervisory role over personal guardians and those acting under enduring powers of attorney. The Public Guardian would also have the power to develop and publish suitable codes of practice and have an educational role in this area, acting in cooperation with other bodies, including the National Disability Authority and the Health Service Executive.

6. FAMILY LAW

6.1 Adoption Law

In November 2005, the Attorney General, in accordance with the *Law Reform Commission Act 1975*, requested the Commission to consider and recommend reforms concerning the status and 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; and the most effective manner of securing the performance of the constitutional and legal duties of the adoptive parents – and of the State – in respect of such a child. During 2006, Commission made considerable progress on a Consultation Paper on this request and, in March 2007, the Commission published a *Consultation Paper on Aspects of Intercountry Adoption* (LRC CP 43-2007). We return to this in the Annual Report for 2007.

6.2 Rights and Duties of Cohabitants

In 2006, the Commission published a *Report on the Rights and Duties of Cohabitants* (LRC 82 – 2006), following from its *Consultation Paper on the Rights and Duties of Cohabitees* (LRC CP 32-2004). The Report – which was launched at the Commission’s Annual Conference 2006 – makes substantial recommendations for reform of the law concerning cohabitants, defined as opposite sex or same sex couples who live together in an intimate relationship and who are not related to each other. It covers cohabitants who do not marry or who have not registered their relationship through, for example, civil partnership. In light of the publicly-stated views of most elected public representatives and of the approach outlined in *Options Paper on Domestic Partnership* published by the Working Group on Domestic Partnership in 2006, the Report assumes that a form of civil partnership for same sex couples is likely to be introduced in the near future. The Report emphasises that its recommendations are not an alternative to public registration systems – whether marriage or civil partnership – but deal with a different situation, which is the position of cohabitants who do not publicly register their relationship (for whatever reason). The Commission concluded that this group of cohabitants – whether same-sex or opposite-sex – should be considered separately in any reform of the law.

The Report deals with the rights and duties of cohabitants under a wide range of topics. The Report makes recommendations aimed at encouraging cohabitants to make agreements on financial matters (cohabitant agreements), how transactions between “qualified cohabitants” (discussed below) should be dealt with under tax laws, and what succession entitlements qualified cohabitants should be entitled to apply for. The Report also recommends that there should be general recognition of same sex and opposite sex cohabitants under, for example, social welfare law, private tenancy law, in the health care and hospital setting, and under domestic violence law. The Report also recommends the enactment of a “safety net” redress system for “qualified cohabitants,” who could apply to court for financial relief at the end of a relationship but only if they can show that they had become “economically dependent”. The Commission recommends that, in

such an application, a Court could make any of the following orders: a property adjustment order, a compensatory maintenance order, or (as a last resort) a pension splitting or pension adjustment order.

The Report also states that, where cohabitants wish to claim some public benefit (such as tax benefits) or redress through the courts (such as succession rights or a property adjustment order) this will only be available to “qualified cohabitants,” which is defined as cohabitants who have been living together for at least 3 years (or, if they have had a child, 2 years). The Report emphasises that, in many cases, a much longer period would be required before a cohabitant would obtain any entitlements, because the Court would also have to take into account a wide range of factors, including contributions and sacrifices made to the relationship. The Report recommends that, for couples who do not register their relationship (whether through marriage or civil partnership), most entitlements will *not* be automatic and will only apply where various “qualifying criteria” have been met, including the requirement that a cohabitant shows he or she is “economically dependent.”

7. COMMERCIAL LAW AND THE LAW OF OBLIGATIONS

7.1 Contract law: privity and third party rights

In 2006, the Commission published a *Consultation Paper on Privity of Contract: Third Party Rights* (LRC CP 40-2006). Privity of contract is a long-established aspect of the law of contract. The essence of the privity rule is that only the people who actually negotiated a contract (who are ‘privity’ to it) are entitled to enforce its terms. Even if a person is mentioned in the contract - and the contract was intentionally for their benefit - this ‘third party’ cannot sue. In this Consultation Paper, the Commission has provisionally recommended that, subject to certain limitations, the privity of contract rule should be changed so that a third party who the contracting parties clearly intended to benefit from their agreement would be able to sue if the agreement is not carried out properly. The Commission intends to publish its final Report on this topic by the end of 2007.

7.2 The legal duty of care of volunteers and ‘good samaritans’

In January 2006, the Attorney General requested the Commission, in accordance with the *Law Reform Commission Act 1975*, to consider: whether the duty of care and/or standard of care in law of those providing voluntary services, for the benefit of society, should be altered by statute and whether a duty of care was owed by such persons to third parties; whether the duty of care and/or standard of care in law of voluntary rescuers should be altered by statute and whether a duty of care was owed by such persons to third parties; whether the law concerning those who intervene to assist and help an injured person (Good Samaritans) should be altered; and whether the law should be reformed to impose a duty on citizens, members of the caring professions, members of the Garda Síochána or the Defence Forces (when not engaged in their duties in the course of their employment) to intervene to assist an injured person or a person at risk of such an injury. During 2006, Commission made considerable progress on a Consultation Paper on this request and intends to publish a Consultation Paper on it in 2007.

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.

COMMISSION (5 MEMBERS)

President

1 Full-time Commissioner

3 Part-time Commissioners

ADMINISTRATION

Secretary/Head of Administration

Project Manager

Executive Officer

Private Secretary to President

2 Clerical Officers

RESEARCH AND LIBRARY

Director of Research

11 full-time Legal Researchers

Legal Information

Manager/Librarian

Cataloguer/Library Assistant

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, Mrs Justice Catherine McGuinness, judge of the Supreme Court until November 2006, 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. 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 an executive officer, two clerical officers and a private secretary to the President. The Commission is also assisted by a part-time project manager. 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 duties of the Clerical Officers include general administrative support to the Commission and also liaison with the Library staff. 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 liaison with the Consultative Committee and the Oireachtas Joint Committee on Justice, Defence and Women's Rights.

The Commission's Management Committee continues to supervise ongoing review of administrative arrangements. The Management Committee meets on a regular basis to monitor and review the general administration of the Commission, particularly in the context of the Business Plans prepared under the Commission's *Strategy Statement 2006-2008*, discussed in Chapter 1, above.

Employment and Disability

The Commission was in compliance with the 3% target for the employment of people with disabilities in the Public Sector during 2006.

Developments in 2006

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 agreement of job profiles, which were agreed with the relevant employees and approved by the Management Committee. Training of staff, in particular in relation to IT matters, was provided during the year on a regular basis. In accordance with the Commission's Safety Statement, training in relevant and safety and health matters was also carried out and appropriate fire and evacuation drills were conducted in conjunction with other undertakings sharing the building housing the Commission's offices.

RESEARCH AND LIBRARY

The primary role of the Commission's research staff is to develop draft texts for consideration by the Commission to enable it carry through its rolling Work Programme. This includes preparing an initial Scoping Paper for a project, which sets out the parameters of the areas under discussion. In the later stages of a project this involves the development of a draft Consultation Paper or Report and, where the Commission deems it appropriate, a Seminar Paper.

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 2006, the Commission had authority to employ 11 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 they are conducting research. Researchers also attend conferences on relevance 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

Income and Expenditure

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 2006, the grant-in-aid was €2.044 million. In 2006, the Commission also received €37,500 from the Government's Change Management Fund for the preparation of the Commission's *Strategy Statement 2006-2008* (see Chapter 1, above). The Commission also received funding of €15,000 from the Department of Justice, Equality and Law Reform towards the project on the consolidation and reform of the Courts Acts (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, the Director General of the Attorney General's Office. In addition to the additional occasional funding referred to above, the Commission derives some income from the sale of printed publications. It should be noted, however, that many publications are not sold and 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 free availability of all the Commission's publications through its website is also relevant in this context. The expenses of the 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 2006. 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 2006, 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.

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 e-Conveyancing. 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)
 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
 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

Aoife McCarthy acted as Secretary/Researcher to the Group in 2006.

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 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)
Commissioner Patricia T Rickard-Clarke
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

Aoife McCarthy acted as Secretary/Researcher to the Group in 2006.

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
Sheila McMahon, Department of the Environment, Heritage and Local Government
(replacing Nuala McLoughlin)
Rory O'Donnell, Solicitor
Jerry Sheehan, Solicitor
Patrick Sweetman, Solicitor

Aoife McCarthy acted as Secretary/Researcher to the Group in 2006.

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 Cohabitants

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
 Muriel Walls, Solicitor
 Una Woods, University of Limerick

Catherine-Ellen O’Keeffe acted as Secretary to the Group in 2006.

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 Vulnerable Adults: Capacity

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

Orla Joyce acted as Secretary to the Group in 2006.

WORKING GROUP ON CONSOLIDATION AND REFORM OF THE COURTS ACTS

In November 2005, the Commission established a Working Group on the Consolidation and Reform of the Courts Acts. This is a joint project involving the Commission, the Department of Justice, Equality and Law Reform and the Courts Service.

Members of Working Group on Consolidation and Reform of the Courts Acts

Mrs Justice Catherine McGuinness

Commissioner Patricia T Rickard-Clarke

Raymond Byrne, Director of Research

Mr Justice Hugh Geoghegan, judge of the Supreme Court

Mr Noel Rubotham, Director of Reform and Development, Courts Service

Mr Robert Browne, Assistant Secretary General, Department of Justice, Equality and Law Reform

Dr Hilary Delany, School of Law, Trinity College Dublin

Mr Ben Ó Floinn, Barrister-at-Law

Claire Bruton acted as Secretary/Researcher to the Group in 2006

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. The following is a selection of conferences attended - and other external discussions conducted - by Commissioners and researchers during 2006. In many instances, these involved delivering papers concerning the Commission's work.

- 17 February** (NUI Galway) *Guardianship: A New Structure for Vulnerable Adults: the Law Reform Commission's Recommendations*
- 20 February** (London) *Scarman Law Reform Lecture* (attendance)
- 29 March** (London) *The Global Family Wealth Conference 2006 Ireland – A Natural Home for Charities: An update on regulatory trends in Ireland today*
- 30 March** (Dublin) *Irish College of Psychiatrists Vulnerable Adults and the Law*
- 10-13 April** (Sydney) *Australasian Law Reform Agencies (ALREC) Annual Law Reform Conference* (attended by President and full-time Commissioner)
- 13 April** (Sydney) *Office of Public Guardian, Office of Public Trustee and Guardianship Board* (discussion of guardianship model)
- 29 May** (Limerick) *IAVI Conference eConveyancing*
- 5 June** (London) *C5 Conference on Class Actions in Europe The Irish Law Reform Commission's Report on Multi-Party Actions*
- 5-7 June** (London) *Public Guardianship Conference* (attended by President and full-time Commissioner)
- 14 June** (Dublin) *Irish Gerontological Society Conference*
- 15 June** (Dublin) *National Disability Authority Capacity and Vulnerable Adults: a National Perspective*
- 16 June** (Cavan) *HSE Elder Abuse Awareness Day*
- 29 June** (Dublin) *Commission meeting with Working Group on Domestic Partnerships* (chair: Anne Colley)
- 26 July** (Dublin) *Publication of Director of Public Prosecutions's Guidelines for Prosecutors* (formal launch by President)

- 4 September 2006** *(Keele) Society of Legal Scholars Conference Social Impact of \ Law Reform*
- 8 September 2006** *(Dublin) German-Anglophone Conference Cohabitation*
- 14 September 2006** *(Dublin) Better Regulation Unit, Department of the Taoiseach Consultation Seminar on Regulatory Appeals (attended by President, full-time Commissioner and Director of Research)*
- 17 October 2006** *Presentation by Commission to Joint Oireachtas Committee on Justice, Equality and Defence on the Land and Conveyancing Law Reform Bill 2006*
- 25 October 2006** *(Portlaoise) National Federation of Voluntary Bodies Capacity in the context of the Mental Health Act 2001*
- 3 November 2006** *(Dublin) Society of Chartered Surveyors Conference eConveyancing*
- 23 November 2006** Commission meeting with members of the Macedonian judiciary
- 1 December 2006** *(Dublin) Law Reform Commission Annual Conference 2006 Cohabitation*
- 5 December 2006** *(Dublin) Dublin Solicitors Bar Association Update on Land Law and eConveyancing*

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) (PrI 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) (PrI 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) (PrI 8855)**

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

Third (Annual) Report **(1980) (PrI 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 Restitutionary 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 a 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)
Report on eConveyancing: Modelling of the Irish Conveyancing System (LRC 79-2006) (April 2006)
Consultation Paper on Duress and Necessity (LRC CP 39-2006) (April 2006)
Report on Charitable Trusts and Legal Structures for Charities (LRC 80-2006) (October 2006)
Consultation Paper on Privity of Contract: Third Party Rights (LRC CP 40-2006) (November 2006)
Twenty Seventh (Annual) Report (2005) (November 2006)
Report on Prosecution Appeals and Pre-Trial Hearings (LRC 81-2006) (November 2006)
Consultation Paper on Legitimate Defence (LRC CP 41-2006) (November 2006)
Report on the Rights and Duties of Cohabitants (LRC 82-2006) (December 2006)
Report on Vulnerable Adults and the Law (LRC 83-2006) (December 2006)
Consultation Paper on Multi-Unit Developments (LRC CP 42-2006) (December 2006)

