



LAW REFORM
COMMISSION/COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ

ANNUAL REPORT 2008



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2008

THE COMMISSION: COMMISSIONERS AND STAFF 2008¹

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

The Hon Mrs Justice Catherine McGuinness

President

Patricia T Rickard-Clarke BCL, Solicitor

Full-time Commissioner

Professor Finbarr McAuley BCL, LLB, MPhil, LL.D.,

Jean Monnet Professor of Criminal Law, University College Dublin

Part-time Commissioner

Marian Shanley BCL, Solicitor

Member of the Commission to Inquire into Child Abuse

Part-time Commissioner

Donal O'Donnell Senior Counsel

Part-time Commissioner

¹ Not all staff were employed for the full calendar year

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Project Manager for Legislation Directory

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² A maximum of 15 researchers was employed by the Commission at any one time, as per the organisation chart at Appendix E.

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Head of Administration & Development

John Quirke (To Feb 2008)

John Glennon (To October 2008)

Higher Executive Officer

Alan Heade

Executive Officers

Deirdre Bell

Simon Fallon

Emma Kenny

Darina Moran

Peter Trainor

Legal Information Manager

Conor Kennedy, BA, H Dip LIS

Cataloguer

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

Clerical Officer

Ann Browne

Ann Byrne

Liam Dargan

Sabrina Kelly

GALLERY



TOP Launch of Consultation Paper on Alternative Dispute Resolution: Patricia T Rickard Clarke Full Time Commissioner, The Hon. Mr Justice Peter Kelly, Mrs Justice Catherine McGuinness President of the Law Reform Commission, Nicola White Legal Researcher, Donal O'Donnell Part Time Commissioner // **BOTTOM** Consultation Expert Evidence: Ray Byrne Director of Research Law Reform Commission, Patricia T Rickard Clarke Full Time Commissioner, Mrs Justice Catherine McGuinness President of the Law Reform Commission, The Hon. Ms Justice Fidelma Macken



TOP Inchoate Offence Consultation Paper Launch: L-R: Ray Byrne Director of Research of the Law Reform Commission, Patricia T Rickard Clarke Full Time Commissioner, the Hon Mr. Justice Garrett Sheehan, Mrs Justice Catherine McGuinness President of the Law Reform Commission, David Prendergast Legal Researcher // **BOTTOM Launch of Consultation Paper on Legislation Directory: Towards a Best Model Practice:** Alma Clissmann Project Manager Restatement, Paul Gallagher SC Attorney General, Mrs Justice Catherine McGuinness President of the Law Reform Commission, Heather Mahon Project Manager Legislation Directory



TOP LEFT Launch of Report on Inter Country Adoption: Paul Gallagher Attorney General SC and Mrs Justice Catherine McGuinness President of the Law Reform Commission // **TOP RIGHT** Trust Law Report Launch: L-R: Ray Byrne Director of Research Law Reform Commission, Mrs. Justice Catherine McGuinness President of the Law Reform Commission, Aoife McCarthy Legal Researcher, The Hon. Mrs Justice Mary Finlay – Geoghegan Judge of the High Court and Patricia T Rickard Clarke Full Time Commissioner // **BOTTOM** Senator Eugene Regan, Garda Commissioner Fachtna Murphy and The late Mr Justice Kevin Haugh



TOP Speakers at annual conference: L-R: Dr. Mary Keys Lecturer NUI Galway, Dr. David Smith, Irish Council for Bioethics, Ciara Staunton Legal Researcher, Dr. Katherine Froggatt Lecturer University of Lancaster, Máire Hochtóir T.D. Minister of State at the Department of Health and Children, Mrs Justice Catherine McGuinness President of the Law Reform Commission, Marian Shanley Part Time Commissioner of the Law Reform Commission, Patricia T Rickard Clarke Full Time Commissioner, Kate Dineen Legal Researcher // **BOTTOM** Members of the Commission Staff in 2008

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FOREWORD

It gives me great pleasure to introduce the Commission's *Annual Report 2008*, on behalf of the Law Reform Commission. 2008 proved an exceptionally busy and productive year for the Commission, seeing the commencement of our *Third Programme of Law Reform 2008-2014* and the publication of six reports and five consultation papers.

Work also began in 2008 on 20 of the 37 projects contained in the Third Programme. This reflects the Commission's commitment to complete the work assigned to us within the seven year timeframe of the programme. The Commission maintained its focus on producing quality output which would feed into the legislative process. In terms of implementation of Commission proposals in 2008, two Acts passed by the Oireachtas involved the implementation of recommendations made by the Commission, while a further seven Bills were based, in whole or in part, on Commission recommendations.

Over the past number of years the Commission has reported on its work on *Vulnerable Adults and the Law*. It therefore particularly welcomes the publication in September 2008 of the *Scheme of the Mental Capacity Bill 2008*, which will provide a much-needed update to legislation dating from 1871.

The Commission is also pleased to see the recent publication of a *Multi-Unit Development Bill 2009* which follows the recommendations published by the Commission in its Report on Multi-Unit Developments in June 2008. Because of diverse legal issues relevant to this project, the Commission in 2008 continued its engagement with not only persons directly involved in a multi-unit development but also representative associations, practitioners, financial institutions and public bodies to include the Property Registration Authority, National Consumer Agency, National Property Services Regulatory Authority, Revenue Commissioners and the Office of the Director of Corporate Enforcement.

Law reform on the island of Ireland was further consolidated last year with the establishment of the Northern Ireland Law Commission, under the leadership of Mr Justice Morgan. The Commission was honoured by an invitation from President McAleese to Áras an Uachtaráin to mark this event. We will travel to Belfast in 2009 for this year's meeting of Law Reform bodies.

The Commission's 2008 Annual Stakeholder Conference focused on Advance Care Directives and allowed detailed debate on the Commission's Consultation Paper on this topic, which was published in October. The paper provisionally recommends that there is a need for legislation to cater for people who make advance care directives, whether verbally or in writing, and we will be following up with a report on the subject in 2009.

As President, I would again like to express my appreciation to all those who have contributed to what has been an exceptionally busy year's work. The Commission has a committed staff, both research and administrative, who ensure that the work of the Commission remains relevant to Irish society and is of a very high standard (something which is evident from the ongoing implementation by Government and the Oireachtas of our recommendations). In addition, those who give so freely of their time and experience to assist the Commission in carrying out its function are all worthy of thanks and praise for their efforts in 2008. I should also mention that

we are very grateful for the high level of cooperation received from Government Departments with which we liaise, and are extremely appreciative of the continued support of the Attorney General and all the staff in his Office.

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.

Mrs Justice Catherine McGuinness
President

CHAPTER 1

THE LAW REFORM COMMISSION

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.

Programmes of Law Reform and Attorney General Requests

The Commission's research work has, until recently, arisen from two main sources: first, under a Programme of Law Reform prepared by the Commission and agreed by Government and laid before the Houses of the Oireachtas under the 1975 Act; and second, in accordance with a request from the Attorney General under the 1975 Act.

A Programme of Law Reform is prepared by the Commission, approved by Government and placed before both Houses of the Oireachtas in accordance with the 1975 Act. The Commission's *First Programme of Law Reform* was in place between 1977 and 1999, followed by the *Second Programme of Law Reform 2000-2007*, which was approved by the Government in 2000. 2008 saw the first year of the *Third Programme of Law Reform 2008-2014*.

Statute Law Restatement and Legislation Directory

Since 2006, the scope of the Commission's research work has expanded to include two new areas of activity, Statute Law Restatement and the Legislation Directory (previously called the Chronological Tables of the Statutes). Statute Law Restatement involves incorporating all amendments to an Act into a single text, making legislation more accessible. The Legislation Directory is an electronically searchable guide to legislative changes.

These new roles are fully consistent with the Commission's remit of law reform, which (as indicated) 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 need to replace pre-1922 legislation, a process made easier through having, in the Statute Law Revision Act 2007, a definitive list of pre-1922 Acts that remain on the statute book. In Chapters 3 and 4, the Commission discusses the developments in 2008 concerning these new areas of work.

Overview of content of Third Programme

The Third Programme of Law Reform lists 37 projects, including the following:³

- Reform of debt enforcement procedures
- Alternative Dispute Resolution
- Reform of the Courts Acts
- Expert evidence
- The Law of Sexual Offences
- The Victim and the Criminal Justice System
- eConveyancing Road Map
- Legal Aspects of Family Relationships, including the rights and responsibilities of fathers and grandparents
- Children and the Law, including consent to medical treatment
- Bioethics: Advanced Care Directives
- Insurance Contracts

In her Foreword to the *Third Programme*, the Commission President, Mrs Justice Catherine McGuinness, stated:

“The Commission shares the ambition of all those who have contributed to the preparation of the Third Programme that it must respond to the needs of a modern Ireland. The topics contained in this Programme reflect a society which is currently in a process of great change... We acknowledge that the successful completion of these projects will depend upon consultation with members of the legal profession, with experts from other disciplines, and with interested parties and organisations.”

The Commission has now begun the process of examining 20 of the 37 challenging projects included in the *Third Programme of Law Reform*.

³ See Report on *Third Programme of Law Reform 2008-2014* (LRC 86-2007), available at www.lawreform.ie

STRATEGY STATEMENT 2006-2008

In 2008, the Commission entered the final year of its *Strategy Statement 2006-2008*, which provided the framework for the work of the Commission over the period spanning the completion of the Second Programme and the preparation of the Third Programme. It followed the Commission's two previous Strategy and Business Plans for 1999-2002 and 2003-2005.

The Commission's most important working document

The Strategy Statement underlined 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 Programme of Law Reform - and to take into account the Commission's new role in Statute Law Restatement and the Legislation Directory, discussed above. It also reflected the views of the Commission and senior management on what needed to be done to maximise the central role and contribution of the Commission to law reform and to ensure that the organisation operated to optimum efficiency and effectiveness and made 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. An evaluation by the Commission of the effectiveness of the Strategy Statement contributed to the development of a new statement for 2009-2011, which was devised in early 2009.

KEY OBJECTIVES

The Commission's Strategy Statement initially identified five Key Objectives which it would implement over the lifetime of the Statement. In 2007, the Commission added Key Objective 6 to reflect its new role concerning the Legislation Directory. The 6 Key Objectives included in the Strategy Statement were:

KEY OBJECTIVE 1

To progress towards completion to a high standard the examination of: (1) the projects currently selected by the Commission from the 37 Projects in the Third Programme of Law Reform 2008-2014; (2) the projects remaining from the Second Programme of Law Reform 2000-2007; and (3) the particular areas of law which the Attorney General has requested the Commission to examine.⁴

KEY OBJECTIVE 2

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

⁴ This was the final version of Key Objective 1. It replaced (from January 2008) the original Key Objective 1, which read: "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." This became redundant when the Commission began work on the *Third Programme of Law Reform 2008-2014*.

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.

KEY OBJECTIVE 6

To implement the responsibilities assigned to the Commission by the Attorney General in 2007 in regard to the Legislation Directory.

These Key Objectives underlined the significant tasks facing the Commission in the three year period covered by the Strategy Statement.

Monitoring Implementation of the Key Objectives

The Strategy Statement also set out important mechanisms for monitoring the implementation of its Key Objectives. These included 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. 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 also liaises with the Office of the Attorney General to review progress generally under the Strategy Statement. As 2008 saw the beginning of the Third Programme of Law Reform 2008-2014, it was agreed in January 2008 to amend Key Objective 1 to take account of this.

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 its Programmes of Law Reform, the Commission ensures that each project is assigned a Researcher who works under the general direction of the Director of Research. In the case of Statute Law Restatement and the Legislation Directory, two teams of researchers assigned specifically to these areas work under the direction of two Project Managers. 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 publications and ongoing work programme in 2008.

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 prepare and publish a Consultation Paper. 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 usually held to which the Commission may invite interested parties, or those who have made submissions. In 2008, the Commission held seminars on the following topics:

- *Civil Liability of Good Samaritans and Volunteers (May)*;
- *Reform of process concerning selection of Juries (June)*

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

In connection with the projects on Statute Law Restatement and the Legislation Directory, the Commission also consults with a wide range of interested parties. This includes the Office of the Attorney General, Government Departments, the Oireachtas, the legal profession and the general public. The Commission has also placed considerable emphasis on the technological aspects of both projects in order to ensure maximum accessibility of published Statute Law Restatement and the maintenance of the Legislation Directory. In particular, the Commission has taken into account the development of the Government's eLegislation strategy and the modernisation of the Irish statute book, including the enactment of the *Statute Law Revision Act 2007*.

Communication with 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.

Annual Stakeholder Conference

Since 2004, the Commission has hosted an Annual Stakeholder Conference connected with the Commission's Programme of Law Reform and rolling work programme. This conference provides the Commission with an opportunity to involve stakeholders in practical discussion on a specific project. The 2008 Annual Conference focused on Advance Care Directives and allowed detailed debate on the Commission's Consultation Paper on this topic, which was published in October. The Conference took place in Dublin Castle and was attended by a cross section of medical and legal practitioners, as well as representatives from civil society. The Commission's work on Advance Care Directives follows on from the detailed recommendations for reform of the law on mental capacity made in its *2006 Report on Vulnerable Adults and the Law*, which are reflected in the Government's *Scheme of a Mental Capacity Bill 2008*. The Commission anticipates that its final recommendations on advance care directives could be incorporated within the framework of mental capacity legislation.

Conferences, Visits and Media Contacts

Commissioners also regularly attend and participate in public seminars and conferences. 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.

CHAPTER 2

THE COMMISSION'S PUBLICATIONS, ROLLING WORK PROGRAMME AND IMPLEMENTATION OF ITS WORK IN 2008

INTRODUCTION

In this Chapter, the Commission outlines the content of its key publications (Reports and Consultation Papers) published during 2008 and the other elements of the Commission's rolling Work Programme. This Chapter also outlines relevant developments in 2008 concerning implementation of proposals for reform made by the Commission.

Reports and Consultation Papers in 2008

In 2008, the Commission published 6 Reports and 5 Consultation Papers. These were:

- *Report on Homicide: Murder and Involuntary Manslaughter* (LRC 87-2008)
- *Report on Privity of Contract and Third Party Rights* (LRC 88-2008)
- *Report on Aspects of Intercountry Adoption Law* (LRC 89-2008)
- *Report on Multi-Unit Developments* (LRC 90-2008)
- *Report on Statute Law Restatement* (LRC 91-2008)
- *Report on Trust Law: General Proposals* (LRC 92-2008)
- *Consultation Paper on Inchoate Offences* (LRC CP 48-2008)
- *Consultation Paper on the Legislation Directory: Towards A Best Practice Model* (LRC CP 49-2008)
- *Consultation Paper on Alternative Dispute Resolution* (LRC CP 50-2008)
- *Consultation Paper on Bioethics: Advance Care Directives* (LRC CP 51-2008)
- *Consultation Paper on Expert Evidence* (LRC CP 52-2008)

These publications dealt with the completion of the Commission's *Second Programme of Law Reform 2000-2007* and the beginning of its *Third Programme of Law Reform 2008-2014* as well as specific matters which the Attorney General requested the Commission to examine under the *Law Reform Commission Act 1975*. They also dealt with the Commission's proposals concerning its recently transferred mandates of Statute Law Restatement and the Legislation Directory (discussed in more detail in Chapters 3 and 4, below). The list of publications in 2008 is set out at the end of this chapter.

Rolling Work Programme in 2008

The Commission's rolling work programme during 2008 involved active engagement on 20 of the 37 Projects in the *Third Programme of Law Reform 2008-2014*. The Commission is committed to ensuring that, within available resources, progress is achieved at the earliest possible stage of the lifetime of the Third Programme so that it is completed within the 7 year timeframe envisaged.

Developments in 2008 on the implementation of Commission proposals

In terms of implementation of Commission proposals, two Acts passed by the Oireachtas in 2008 involved the implementation of recommendations made by the Commission. In addition, 7 other Bills before the Oireachtas were based, in whole or in part, on Commission recommendations. The Commission also notes that 2 Schemes of Bills published (by the Department of Justice, Equality and Law Reform) in 2008 which were also based, again in whole or in part, on Commission recommendations. 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.

Headings used to discuss the Commission's work in 2008

The material in this chapter is discussed under the following 10 general headings, which are largely based on the headings in the *Third Programme of Law Reform 2008-2014*:

- 1 The Legal System and Public Law
- 2 Law of Evidence
- 3 Criminal Law
- 4 Land Law and Trust Law
- 5 Family Law
- 6 Specific and Vulnerable Groups in a Changing Society
- 7 Technology, Innovation and the Individual
- 8 Commercial Law and the Law of Obligations
- 9 Revenue Law
- 10 Law Reform Miscellaneous Provisions Act 2008.

1. THE LEGAL SYSTEM AND PUBLIC LAW

Statute Law Restatement

In July 2008, the Commission published its *Report on Statute Law Restatement* (LRC 91-2008), which followed the *2007 Consultation Paper on Statute Law Restatement* (LRC CP 45-2007). The Report contains the details of the Commission's *First Programme of Statute Law Restatement 2008-2009*. Statute Law Restatement is discussed in more detail in Chapter 3, below.

Legislation Directory

In July 2008, the Commission published a Consultation Paper on the Legislation Directory: Towards A Best Practice Model (LRC CP 49-2008). The Consultation Paper reviews the development of the Legislation Directory to date and sets out the Commission's view on how it can be further enhanced in terms of content and accessibility. The Legislation Directory is discussed in more detail in Chapter 4, below.

The Law Relating to Juries

In 2008, the Commission began a project on the law of juries (3rd Programme of Law Reform, Project 1). This will involve a general review of the law concerning the jury system in Ireland, with particular emphasis on reform of the *Juries Act 1976*. This will include qualification for jury service, jury selection and the consequences of failure to attend for jury service. In June 2008, the Commission held a roundtable discussion on the project with interested parties. The Commission intends to publish a Consultation Paper on this area in 2009.

Debt Enforcement and Securing Interests over Personal Property

In 2008, the Commission began a project on the law of debt enforcement and securing interests over personal property (3rd Programme of Law Reform, Project 2). This project will include an examination of alternatives to court-based procedures for debt enforcement as well as existing court-based arrangements such as the instalment order procedure. The Commission will also examine the attachment of security interests to personal property. The Commission is aware that FLAC (the Free Legal Advice Centres) has carried out work on some aspects of this project and will consult with them and other interested parties. The Commission intends to publish a Consultation Paper on this area in 2009.

Bench Warrants and Search Warrants

In 2008, the Commission began a project on the law of bench warrants and search warrants (3rd Programme of Law Reform, Project 3). This project will examine the enforcement of court orders, in particular the procedure for the execution of bench warrants and search warrants. The associated procedural problems in this area have resulted in inefficient use of court resources. The Commission intends to publish a Consultation Paper on this area in 2009.

Limitation of Actions

In 2009, the Commission intends to publish a Consultation Paper on the law on limitations (3rd Programme of Law Reform, Project 4). This project will examine in general the limitation periods for civil claims in the *Statute of Limitations 1957* and the potential for consolidation of the limitation periods. It also builds on earlier work by the Commission that reviewed specific aspects of this area of law.

Alternative Dispute Resolution

In July 2008, the Commission published a *Consultation Paper on Alternative Dispute Resolution* (LRC CP 50-2008) (3rd Programme of Law Reform, Project 5). The Consultation Paper examines the growing use of Alternative Dispute Resolution (ADR) both internationally and in Ireland as reflecting the increasing number of options available to help resolve civil disputes. These disputes include: big commercial and small consumer claims, family breakdown, industrial disputes, medical claims and property disputes (especially boundary disputes).

The main recommendations in the Consultation Paper are that: there should be a general statutory framework that defines clearly what is meant by mediation (mainly facilitating agreement) and conciliation (facilitating agreement and sometimes also advising the parties about an agreed resolution); mediation and conciliation should be seen as very different from litigation but should also be considered as part of a fully integrated civil justice system that includes litigation; the key principles of mediation and conciliation should be set out, including their voluntary nature, the ability of the parties to control the process, the need for confidentiality, and the need for transparency and quality control of the process; a court should be able to enforce an agreement made at mediation or conciliation; and the training and accreditation of mediators should be based on agreed international standards, building on existing accreditation structures already in place in Ireland.

The Commission also invited submissions on a number of issues, including: whether a statutory Code of Practice or Guidelines should be introduced for collaborative practice in the family law setting; whether the regulation of mediators should continue as at present on a non-statutory basis, subject to the principles to be set out in a statutory framework for mediation and conciliation. The Commission intends to publish its Report on this area by the end of 2009.

Consolidation and Reform of the Courts Acts

During 2008, the Commission made significant progress on its project to consolidate and reform the Courts Acts (3rd Programme of Law Reform, Project 6), on which it published a *Consultation Paper on Consolidation and Reform of the Courts Acts* (LRC CP 46-2007). The Courts Acts 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. The Commission intends to publish its Report on this project, including a draft *Courts Consolidation and Reform Bill*, by the end of 2009 or early 2010.

Tribunals of Inquiry

The *Tribunals of Inquiry Bill 2005*, based on the draft *Tribunals of Inquiry Bill* in the Commission's *Report on Public Inquiries Including Tribunals of Inquiry* (LRC 73 -2005) (2nd Programme of Law Reform, Project 8), passed Second Stage in Dáil Éireann in 2008.

2. LAW OF EVIDENCE

Documentary Evidence and Technology

In 2008, the Commission began a project on documentary and technology (3rd Programme of Law Reform, Project 7). Documentary evidence is an essential element of nearly all litigation. This project will discuss the rules concerning proof of execution and authentication of documents, and consider the need for their modernisation. The project will also consider whether electronic evidence should be regulated as a separate category of evidence. The Commission intends to publish a Consultation Paper on this area by the end of 2009.

Hearsay in Civil and Criminal Cases

In 2008, the Commission began a project on hearsay in civil and criminal cases (3rd Programme of Law Reform, Project 8). The Commission has previously examined the hearsay rule as it applies in civil cases. This project will build on this previous work and extend the analysis to include the use of hearsay in both civil and criminal cases. The Commission intends to publish a Consultation Paper on this area by the end of 2009.

Expert Evidence

In 2008, the Commission published a *Consultation Paper on Expert Evidence* (LRC CP 52-2008) (3rd Programme of Law Reform, Project 11). The Consultation Paper made a number of provisional recommendations to ensure the continued benefits of having reliable expert evidence available to courts. Among the recommendations in the Consultation Paper are that: the term “expert” should be defined, and the Commission invited submissions on whether, for example, experience-only based knowledge should be sufficient or whether formal, professional qualifications, study or training is necessary to be considered an expert; there should be detailed guidelines containing a list of factors which can be used to help the court assess the reliability of expert evidence; there should be a formal guidance code for expert witnesses (which could be statutory or non-statutory) which would outline the duties owed by expert witnesses; the expert witness should continue to owe a duty to the court which supersedes any duty owed to the instructing party; there should be a ban on any fee arrangements with expert witnesses which are conditional on the outcome of a case, because these are likely to impede the independence of the experts; both parties should be required to exchange expert reports prior to any civil claims (this currently only applies in personal injuries civil actions); and there should be a set form and structure for expert reports. The Commission intends to publish a Report on this area which will also incorporate the projects on documentary evidence and the hearsay rule, above.

3. CRIMINAL LAW

The Law of Homicide

In 2008, the Commission published its *Report on Homicide: Murder and Involuntary Manslaughter* (LRC 87-2008) (3rd Programme of Law Reform, Project 17). In the Report the Commission recommended that the existing definition of the mental element in murder – an intention to kill or cause serious injury – should be retained and should be extended to include a subjective form of reckless indifference to the value of human life. The Commission concluded that this was required to ensure that murder clearly encompassed the most heinous unlawful killings.

As to involuntary manslaughter, the Commission has also recommended that the current two divisions of involuntary manslaughter – unlawful and dangerous act manslaughter and gross negligence manslaughter – should be retained. Unlawful and dangerous act manslaughter would occur where the act which causes death constitutes a criminal offence and poses a risk of bodily harm to another; and the act is one which an ordinary reasonable person would consider to be dangerous, that is, is likely to cause bodily harm. Low levels of deliberate violence would be removed from the scope of unlawful and dangerous act manslaughter and the Commission recommended that a new offence of assault causing death be enacted to deal with these. Gross negligence manslaughter would continue to require negligence of a very high degree and that the negligence involved a high degree of risk or likelihood of substantial personal injury to others.

The Commission also recommended that the specific offence of dangerous driving causing death should continue to exist alongside the more serious offence of manslaughter. The Commission also recommended the enactment of a new offence of careless driving causing death.

Defences in criminal law

During 2008, the Commission made significant progress on its project on defences in criminal law (3rd Programme of Law Reform, Project 18). Under the *Second Programme of Law Reform 2000-2007*, the Commission published three Consultation Papers, a Consultation Paper on Homicide: *The Plea of Provocation* (LRC CP 27-2003), a *Consultation Paper on Duress and Necessity* (LRC CP 39-2006) and a *Consultation Paper on Legitimate Defence* (LRC CP 41-2006). The material in the Consultation Papers will be incorporated into a Report on Defences in Criminal Law which the Commission will publish in 2009.

Inchoate offences: conspiracy, attempt and incitement

In 2008, the Commission published a *Consultation Paper on Inchoate Offences* (LRC CP 48-2008) (3rd Programme of Law Reform, Project 19). This contains the Commission's provisional recommendations for reform in the law concerning conspiracy, attempts and incitement. As to conspiracy the Commission provisionally recommends that only agreements to commit a criminal offence should be criminal conspiracies. This would be a significant reform of current law. At present the crime of conspiracy comprehends agreements to commit civil as well as criminal wrongs. As to attempt, the Commission provisionally recommends that the physical aspect of an attempt should be defined as an act which is close to the completion of the target criminal offence. This ensures that the defendant can fairly be said to have been trying to commit the target offence. As to incitement the Commission provisionally recommends codification of the current position, namely, that incitement is committed by encouraging, commanding or requesting the carrying out of a criminal act with the intention that the act is carried out. This proposal aims to cover those people who are trying to get another person to commit a crime. For all three inchoate offences the Commission provisionally recommends that impossibility should not be a defence. The Commission will publish a Report on this in 2009.

Indexation of Fines

The *Fines Bill 2007*, based on the Commission's *Report on the Indexation of Fines* (LRC 65-2002) (2nd Programme of Law Reform, Project 17), was at Second Stage in Dáil Éireann in 2008.

Spent Convictions

The *Spent Convictions Bill 2007*, based on the draft *Spent Convictions Bill* in the Commission's *Report on Spent Convictions* (LRC 84 -2007) (2nd Programme of Law Reform, Project 10), passed Second Stage in Dáil Éireann in 2008.

4. LAND LAW AND TRUST LAW

Land and Conveyancing Law Reform Bill 2006

During 2008, the Commission continued to convene an Expert Group (convened by the Commission at the request of the Attorney General and the Minister for Justice, Equality and Law Reform) to assist in drafting amendments to the *Land and Conveyancing Law Reform Bill 2006*, which is based on its draft Bill in the *Report on the Reform and Modernisation of Land Law and Conveyancing Law* (LRC 74-2005) (2nd Programme of Law Reform, Project 23). When

enacted, the 2006 Bill will repeal over 150 pre-1922 Acts in this area (commencing with *De Donis Conditionalibus* of 1285) and replace in a single legislative code many common law and statutory rules on land law, conveyancing and related areas. The substantive changes being made in the 2006 Bill form part of the Commission's eConveyancing Project, discussed below. The 2006 Bill passed Second Stage in Dáil Éireann in 2008, and is expected to be enacted in 2009.

eConveyancing Road Map

The Commission's eConveyancing Project involves a comprehensive review and reform of the substantive law (being enacted in the form of the *Land and Conveyancing Law Reform Bill 2006*) and also embraces the relevant procedural and administrative elements, with a view to the eventual introduction of eConveyancing. Under the *Second Programme of Law Reform 2000-2007* (2nd Programme of Law Reform, Project 23) the Commission oversaw (with the assistance of the Information Society Commission) a modelling of the current conveyancing process in Ireland, which led to the *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. In the next stage of this project (3rd Programme of Law Reform, Project 22) the Commission will continue to work to bring the project to a successful conclusion.

Multi-Unit Developments, including apartment complexes

In 2008, the Commission published a *Report on Multi-Unit Developments* (LRC 90-2008) (2nd Programme of Law Reform, Project 22). The Report noted that apartment complexes and other multi-unit developments had been a recent – and significant – phenomenon in the housing market, resulting in about 500,000 people living in apartments in 2006. The Report contains 67 recommendations for reform and also includes a draft *Multi-Unit Developments Bill*. The Report recommended that, for new apartment developments, legislation should be enacted with the following elements: a developer would have to incorporate an Owners' Management Company (OMC, a specially-tailored company for apartment complexes) for apartment developments of 5 units or more (co-ownership would be possible for smaller developments); the developer would be required to transfer legal title of the development to the OMC and must register the title with the Land Registry/Property Registration Authority before any apartment sale is completed (the developer retains the commercially valuable beneficial title to the development); and each apartment buyer would have one vote in the owners' management company, and weighted voting would be prohibited.

The Commission accepts that not all its recommendations can be applied retrospectively to existing developments. The Commission recommends that, for existing apartment developments, legislation should be enacted with the following elements: all apartment owners must receive 21 days notice of an annual general meeting and it must be held reasonably near the development and at reasonable times; all developments must have in place schemes for service charges; all developments must provide specified financial information to apartment owners, including how

annual service charges will be spent in the next year; within 5 years of the legislation coming into force, all existing developments must have in place schemes for building investments funds (sinking funds); existing developments should, if they want to, be allowed to convert relatively easily to the new OMC system that applies to new developments; core covenants (mutual agreements) must be agreed between developers, unit owners and the owners' management companies; the Small Claim Court could deal with non-payment of service charges or building investment funds up to €3,000 (this would also apply to new developments); and the Circuit Court could make a "remedial order" to allow the rescue and rehabilitation of a multi-unit apartment development (for example, in a situation comparable to where a company goes into examinership) (this would also apply to new developments).

Adverse Possession

In 2008, the Commission began a project on the law of adverse possession (3rd Programme of Law Reform, Project 20). The project will involve an analysis of the legal principles and rules concerning adverse possession in Ireland and from a comparative perspective. This area of law is often described as the law on "squatters' rights" but the majority of cases involving adverse possession involve the need to clarify title where, for example, a son or daughter has occupied property for many years after inheriting it from a parent but where no formal registration of title occurred. The project will also take into account the implications of the decision of the European Court of Human Rights in *Pye (Oxford) Ltd v United Kingdom (2007)*. The Commission intends to publish a Consultation Paper on this area by the end of 2009.

Trust Law generally

In 2008, the Commission published its *Report on Trust Law - General Proposals* (LRC 92-2008), which completed a major part of the Law Reform Commission's review of the law of trusts under the *Second Programme of Law Reform 2000-2007* (2nd Programme of Law Reform, Project 20). A trust is usually created when a person transfers assets to another person or persons - called the trustee(s) - to be held for the beneficiaries of the trust. A typical example of a trust is one created to transfer assets (such as houses, shares or other valuables) to be held by the trustees on trust for the person's children (whether under age or a vulnerable adult). Another example is a trust created for charitable purposes.

The Commission's review of trust law is intended to lead to a modern legislative code concerning the duties, responsibilities and powers of trustees, in particular how they deal with and protect the trust assets. The result would be to replace the *Trustee Act 1893*, the main legislation concerning the duties and powers of trustees, with a modern legislative code. The Report also contains a draft *Trustee Bill 2008* to implement these recommendations.

The Commission recommends that the new legislative code for trustees should contain a clear statement that the office of trustee is a fiduciary position (like a company director), who must carry out his or her duties honestly and in good faith for the benefit of the beneficiaries, and that this duty cannot be avoided or limited. The Commission also recommends that there should be a general statutory duty of care, involving a requirement to act with objective 'reasonable care and skill', but which also takes into account any special knowledge or experience the trustee may have. This is especially relevant to professional trustee corporations (corporate trustees),

who are paid for their services, and whose expertise should be reflected in a different standard compared to individual trustees who are often acting for no pay at all.

The Report also recommends that trustees should be given clearly stated powers to borrow, and to buy and sell property, provided they comply with their duty to act in good faith. As to investments, the Commission recommends that the current arrangements in the law, under which trustees can invest in “authorised securities” specified by the Minister for Finance, should be retained and updated. The Commission recommends that trustees’ powers of delegation be expanded, in order to allow trustees to delegate a wider range of functions than is currently permitted, to ensure that trust is carried out efficiently.

Trust Law and the Settled Land Acts

In 2008, the Commission began a project on trust law and the Settled Land Acts (3rd Programme of Law Reform, Project 21) that will deal with an issue arising from the repeal of the Settled Land Acts when the *Land and Conveyancing Law Reform Bill 2006* is enacted. The project will also build on the work of the Commission in the *Report on Trust Law - General Proposals* [LRC 92-2008], above.

Trust Law and Charitable Trusts

The *Charities Bill 2007*, based in part (duties of charitable trustees) on the draft *Charities Bill* in the Commission’s *Report on Charitable Trusts and Legal Structures for Charities* [LRC 80 -2006] (2nd Programme of Law Reform, Project 20), was passed by Dáil Éireann in 2008.

5. FAMILY LAW

Adoption Law

In 2008, the Commission published a *Report on Aspects of Intercountry Adoption* [LRC 89-2008], which followed its *Consultation Paper on Aspects of Intercountry Adoption* [LRC CP 43-2007]. This arose from a request to the Commission by the Attorney General, in accordance with the *Law Reform Commission Act 1975*, 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. The request from the Attorney General came against the immediate background of *Attorney General v Dowse* [2006], which concerned the adoption of an Indonesian child, and which was recognised and registered in Ireland under the *Adoption Act 1991*, but which the adoptive parents later applied to have revoked. This was an unusual intercountry or foreign adoption because the adoptive parents did not live in Ireland and the child never set foot here. Such adoptions represent approximately 10% of all the intercountry or foreign adoptions recognised and registered by the Adoption Board in the Register of Foreign Adoptions. Around 75% of intercountry or foreign adoptions recognised and registered in Ireland involve adoptive parents who live in Ireland and have been assessed before they travel abroad and adopt a child. Once a foreign adoption is recognised and registered by the Adoption Board, the child is

entitled to become an Irish citizen provided that at least one of the adoptive parents is an Irish citizen. This is what occurred in the *Dowse* case even though the adoptive parents and child were resident outside the State.

The Commission's research shows that this approach is accepted by a growing number of countries and it recommended in the Report that this should remain the law on this point. The Commission highlighted the practical difficulties of ensuring the legal and constitutional rights of an Irish citizen child who is resident in another jurisdiction and notes that the Constitution of Ireland states that most rights are subject to a test of how "practicable" it is to protect them. The Commission also recommended that if a situation like the *Dowse* case arises in future, the Attorney General, in his role as guardian of the public interest, and in conjunction with the diplomatic and consular services of the Government, is the most appropriate officer of the State to protect the rights of the child subject to relevant principles of international law. The Commission also reiterated a previous recommendation made in 1998 that the 1993 Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption be ratified and incorporated in Irish law. The Commission welcomes the Government's decision to do so through the publication of the Adoption Bill 2009.

Legal Aspects of Family Relationships: fathers and grandparents

In 2008, the Commission began a project on the legal aspects of family relationships (3rd Programme of Law Reform, Project 23). This project will examine the rights and duties of fathers, in relation to guardianship, custody and access to their children. It will also examine the rights and duties (if any) of grandparents. The Commission intends to publish a Consultation Paper on this area by the end of 2009.

Cohabitation

Part 7 of the *General Scheme of the Civil Partnership Bill 2008*, based on the draft *Cohabitants Bill* in the Commission's *Report on the Rights and Duties of Cohabitants* (LRC 82 - 2006) (2nd Programme of Law Reform, Project 30), was published by the Department of Justice, Equality and Law Reform in 2008, having been approved by Government.

6. SPECIFIC AND VULNERABLE GROUPS IN A CHANGING SOCIETY

Mental capacity and guardianship

The *Scheme of the Mental Capacity Bill 2008*, based on the draft *Mental Capacity Bill* in the Commission's *Report on Vulnerable Adults and the Law* (LRC 83 - 2006) (2nd Programme of Law Reform, Projects 27 and 28), was published by the Department of Justice, Equality and Law Reform in 2008, having been approved by Government. The draft Scheme proposes to reform the ward of court system, for which the *Lunacy Regulation (Ireland) Act 1871* is the main legislative basis.

Children and the Law

In 2008, the Commission began a project on children and the law (3rd Programme of Law Reform, Project 26). This project will examine a range of issues, including the age at which children are competent to consent to medical treatment and the issue of internet regulation for children. The Commission is committed to ensuring that its consultation process includes appropriate mechanisms for obtaining the views of young persons. The Commission will also liaise with the Ombudsman for Children on this project. The Commission intends to publish a Consultation Paper on the element of the project dealing with consent to medical treatment by the end of 2009.

Legal Aspects of Carers

In 2008, the Commission began a project on the legal aspects of carers (3rd Programme of Law Reform, Project 29). This project will examine the extent to which the current law ensures appropriate standards for professional carers, in particular those engaged in the provision of care to vulnerable persons. The Commission will ensure that this project takes full account of the work of the Health Information and Quality Authority (HIQA). The Commission intends to publish a Consultation Paper on this by the end of 2009.

7. TECHNOLOGY, INNOVATION AND THE INDIVIDUAL

Legal Aspects of Bioethics: Advance Care Directives

In 2008, the Commission published a *Consultation Paper on Bioethics: Advance Care Directives* (LRC CP 51-2008) (3rd Programme of Law Reform, Project 30). The Consultation Paper provisionally recommends that there is a need for legislation to cater for people who make advance care directives, whether verbally or in writing. An advance care directive sets out a person's wishes about what should happen to them in the event of an incapacitating accident (such as a serious car crash) or illness (such as stroke or the onset of Alzheimer's disease) that makes it impossible for them to communicate their wishes directly. The main recommendations in the Consultation Paper are that: the proposed legislation would not involve euthanasia, assisted suicide or allow a person to refuse basic care; it would deal only with advance care directives involving refusal of treatment, for example: "I do not wish to be resuscitated;" an advance care directive could, in general, be written or verbal but one that refuses life-sustaining treatment would have to be in writing; the proposed legislation could, in general, allow a person to refuse treatment on religious grounds; a person should be encouraged to seek medical advice when making an advance care directive, but it should only be mandatory in the case of directives involving the refusal of life-sustaining treatment.

The Consultation Paper was launched at the Commission's 5th Annual Stakeholder Conference, *Bioethics: Advance Care Directives*, held on 14 October 2008. The Conference was chaired by the Commission President, and Commissioner Patricia Rickard-Clarke delivered a presentation setting out the main elements of the Consultation Paper. The Conference speakers also included: Dr Katherine Froggatt (Institute of Health Research, Lancaster University, England), Dr Mary Keys (School of Law, NUI Galway), Dr Doiminic Ó Brannagáin (Consultant Physician in Palliative

Medicine), Prof David Smith (Irish Council for Bioethics) and Mr Mervyn Taylor (Hospice Friendly Hospitals). The Conference was opened by Máire Hctor, TD, Minister of State for Older Persons, Department of Health and Children. The Commission intends to publish a Report on this project in 2009.

Privacy

The *Privacy Bill 2006*, based in part on the Commission's *Report on Privacy* (LRC 57 -1998) (1st Programme of Law Reform, paragraph 13), was at Second Stage in Seanad Éireann in 2008.

8. COMMERCIAL LAW AND THE LAW OF OBLIGATIONS

Contract law: third party rights

In 2008, the Commission published its *Report on Privity of Contract and Third Party Rights* (LRC 88-2008) (2nd Programme of Law Reform, Project 19). Privity of contract is a long-established part 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 rely on or enforce the terms of that contract. In its Report, the Commission has 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 rely on and enforce the agreement if it is not carried out properly. The Commission considers that, while complex projects will continue to need detailed standard form contracts to regulate their performance, reform of the privity rule might lead to simplification of some terms. The Report notes that, since the privity rule was reformed in the UK under a *Third Party Rights Act 1999*, the new versions of the standard form building and civil engineering contracts used in the United Kingdom have become more simplified and have opted in to the 1999 Act.

In addition to the general right of a third party to enforce a contract term intended to benefit them, the Report contains detailed recommendations for reform of the privity rule. These include that: the third party can be identified in the contract either by name or by description; the contracting parties should remain free to include in the contract an express term providing for variation or termination of the contract; existing common law and statutory exceptions to the privity rule should be retained but be kept under review; the proposed legislation should not apply to certain contracts, such as employment contracts, certain contracts involving companies and various transport contracts regulated by international conventions; and (as already mentioned) contracting parties should be able to exclude or "contract out" of the proposed legislation. The Report contains a draft *Contract Law (Privity of Contract and Third Party Rights) Bill*.

Insurance Contracts

In 2008, the Commission began a project on insurance contracts (3rd Programme of Law Reform, Project 34). This project will review existing rules concerning insurance contracts, such as formalities, material non-disclosure, 'basis of contract' clauses and the concept of insurable

interest. The project will examine whether these rules would benefit from codification, from the perspectives of business efficiency and consumer protection. The Commission intends to publish a Consultation Paper on this area by the end of 2009.

Defamation

The *Defamation Bill 2006*, based on the Commission's *Report on the Civil Law of Defamation* (LRC 38 -1991) and *Report on the Crime of Libel* (LRC 41 -1991) (both arising from a request in 1987 by the Attorney General to examine this area), passed Seanad Éireann in 2008.

Civil Liability of Good Samaritans and Volunteers

During 2008, the Commission made significant progress on a project concerning the civil liability of Good Samaritans and volunteers, following its 2007 *Consultation Paper on the Civil Liability of Good Samaritans and Volunteers* (LRC CP 47-2007). The project arises from a request in 2006 by the Attorney General to consider the duty of care and/or standard of care in law of Good Samaritans and those providing voluntary services, for the benefit of society; and whether the law should be reformed to impose a duty to intervene to assist an injured person or a person at risk of such an injury. In May 2008, the Commission held a seminar on the project with interested parties. The Commission intends to publish a Report on this issue in the first half of 2009.

9. REVENUE LAW

The *Finance (No.2) Act 2008*, section 98 and Schedule 5, implemented the recommendation in the Commission's *Report on a Fiscal Prosecutor and Revenue Court* (LRC 72-2004) (which arose from a request in 2002 by the Attorney General to examine this area) that an independent tribunal examine whether a person is liable to a civil penalty for contravention of tax or duty legislation.

10. LAW REFORM MISCELLANEOUS PROVISIONS ACT 2008

The *Civil Law (Miscellaneous Provisions) Act 2008* includes a number of elements – such as those in Part 4 of the 2008 Act (landlord and tenant) and Part 8 of the 2008 Act (succession law) – which derived from proposals made to Government by the Commission in accordance with the commitment in the *Second Programme of Law Reform 2000-2007* to prepare a *Law Reform Miscellaneous Provisions Bill*.

CHAPTER 3

STATUTE LAW RESTATEMENT

OVERVIEW

The Commission agreed to take on a new responsibility and area of work in relation to Statute Law Restatement in 2006. In July 2007, the Commission published a Consultation Paper on this topic (LRC CP 45-2007), and in 2008 published a Report (LRC 91-2008). The Report considered submissions received in response to the consultation, and included a First Programme of Restatement for the 18-month period mid 2008 to end 2009.

Work commenced on the preparation of restatements in Word (as opposed to XML, pending development of an XML authoring system) in accordance with the First Programme. Progress was made on restatements of the Prevention of Corruption legislation, the Data Protection Acts 1988 and 2003, the Civil Liability Acts 1961, 1964 and 1996, the Statutes of Limitations 1957, 1991 and 2000, the Firearms Acts 1925 to 2007 and the Ethics in Public Office legislation.

The Commission entered into a contract with TSO to supply an XML authoring system to enable restatement to be produced in XML, identified as the mark-up language of choice for holding and working with the electronic repository of legislation. Work continued throughout 2008 on the development and testing of the system, which was adapted from a similar system developed for the Statute Law Database project in the UK.

To enable editing in XML, the electronic repository of legislation from 1922 to 1998 needed to be upgraded. The Commission entered into a public procurement process for the data capture and mark-up of Acts of this period, the contract for which was awarded to Compuscript Ltd. Work on this task was nearing completion by end 2008. The Commission also undertook a public procurement process for the conversion of the repository of statutory instruments and orders for the same period, the contract for which was awarded to Propylon Ltd. This work was completed in December 2008.

The Commission also continued its participation in the working group on eLegislation chaired by the Department of the Taoiseach. The group was engaged in identifying actions to progress the concept of eLegislation – using integrated or interchangeable technology and working methods to improve the efficiency of preparing, publishing and updating legislation.

CHAPTER 4

LEGISLATION DIRECTORY

OVERVIEW

Responsibility for the Legislation Directory (previously known as the Chronological Tables of Statutes) was transferred from the Office of the Attorney General to the Law Reform Commission in July 2007. The Office of the Attorney General completed the last of its maintenance functions on the Legislation Directory in January 2008 when it updated the Legislation Directory to 31 December 2005.

Following transfer of the function, the Commission reviewed the content of the current Legislation Directory and in July 2008 published a Consultation Paper – *The Legislation Directory: Towards a Best Practice Model*. In the second half of 2008, the Commission began work on compilation of the Legislation Directory from 01 January 2006 for publication in 2009.

The contract for the authoring tool concluded with TSO also included provision for a tool in respect of the authoring and maintenance of the Legislation Directory. Work on the tool continued in 2008.

CHAPTER 5

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 current organisation structure of the Commission (May 2009) is set out in Appendix E.

COMMISSION

The Commission consists of a President and four Commissioners. The Commissioners are appointed by the Government for a term of up to five years, and their appointment may be renewed. The current Commission consists of two full-time Commissioners and three part-time Commissioners. The President of the Commission, Mrs Justice Catherine McGuinness, former judge of the Supreme Court, is one of the fulltime Commissioners. The other full-time Commissioner, Patricia Rickard-Clarke, is a solicitor who, until her appointment, had been a partner with McCann FitzGerald, Solicitors. The three part-time Commissioners are: Professor Finbarr McAuley, Jean Monnet Professor of Criminal Law, University College Dublin; Marian Shanley, Solicitor, member of the Commission to Inquire into Child Sexual Abuse; and Donal O'Donnell, Senior Counsel.

The Commission decides on the content of the programme of law reform, determines the contents of the research output of the Commission (contained in Consultation Papers and Reports), and makes all key administrative and financial decisions. 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.

MANAGEMENT COMMITTEE

The Commission's Management Committee consists of the President of the Commission, the full time Commissioner, the Head of Administration and Development, the Director of Research, the Restatement Project Manager and the Legislation Directory Project Manager. The Management Committee meets on a regular basis to review all major issues relevant to the efficient and effective operation of the Commission. One of the principal responsibilities of the Committee is to monitor progress on achieving the targets set out in the Commission's Annual Business Plan.

ADMINISTRATIVE STAFF

The Commission's administrative staff consisted of a Head of Administration and Development and a team of 11 staff in 2008.

The Administration Unit has overall responsibility for carrying out the day-to-day administrative tasks within the Commission. In particular the Unit is responsible for:

- Managing, processing and reporting on all financial transactions in the Commission. The latter includes managing the Commission's payroll function
- Maintaining the Commission's buildings and IT infrastructure
- Managing the Commission's human resource function
- Providing administrative support for the research function
- Carrying out a variety of administrative functions in relation to launches of publications and the printing of Reports and Consultation Papers

These functions are carried into effect by the Head of Administration and Development and other members of the administrative staff, acting under the direction of the Commission.

The Administration Unit provides support for the research function within the Commission. Typically this involves arranging for the printing and distribution of the Commission's publications and planning and organizing the various tasks associated with the launch of the Commission's publications. The Administration Unit was also involved in the preparation of launches, seminars and the Annual Conference.

2008 saw the consolidation of the Commission's accommodation at its headquarters in Shelbourne Road, with all staff now located in one building.

RESEARCH AND LIBRARY STAFF

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 is Raymond Byrne, formerly of the School of Law and Government, Dublin City University. During 2008, the Commission had authority to employ 15 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 scoping 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 meet regularly as a group to exchange views on the areas on which they are conducting research. Researchers also attend conferences on relevant areas of interest. 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 Restatement Team is headed by the Project Manager, Alma Clissmann, who manages the three researchers working on restatement. Heather Mahon is the Project Manager for the Legislation Directory Team and manages two researchers.

Library and Information Services

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. The Legal Information Manager/Librarian is assisted in his role by a full time Cataloguer.

FINANCE

Income and expenditure

The Commission is funded by a grant-in-aid from the Minister for Finance, on the recommendation of the Attorney General, and the grant-in-aid figure for 2008 was € 3,553,673. A sum of € 8,277.88 was received from the sale of publications.

Expenditure in 2008 amounted to €3,704,641. The expenditure covered salaries and superannuation of Commissioners and staff, rent and premises overheads, maintenance of the Commission's library, maintenance of the Commission's IT network and printing and distribution costs. The Commission did not incur any late interest penalties during 2008 under the *Prompt Payment of Accounts Act*.

GOVERNANCE ARRANGEMENTS

Overall responsibility and accountability for Commission activities rests with the Commission. The Commission is assisted in that role by the Management Committee, the Administrative Unit, the Research team and the Library staff.

The Strategy Statement objectives, listed in Chapter 1, are matched at an organisation level by a series of targets which are set out in the Commission's Annual Business Plan. The Business Plan contains quarterly targets under each strategic objective. Progress made in achieving these

targets is monitored on a regular basis by the Management Committee, with a formal review each quarter.

Performance of individual staff members is managed through a performance management system for both managers and staff. Civil servants are subject to the Civil Service Performance Management Development System. For all other staff, the Commission has its own performance management system which is overseen by the full-time Commissioner.

Under current accounting procedures, monies are drawn down from the Office of the Attorney General on a monthly basis by way of a Grant-In-Aid. The Commission also derives some income from the sale of publications. Commission internal financial controls and expenditure are monitored by the Comptroller and Auditor General on an annual basis. The Commission is also subject to audit by the Office of the Attorney General's Internal Audit Unit and maintains its own Internal Audit Committee.

The Commission's risk management register is updated on a regular basis and is kept under review by the Commission.

APPENDIX A

THIRD PROGRAMME OF LAW REFORM 2008-2014

PROJECTS INCLUDED IN THE THIRD PROGRAMME OF LAW REFORM

A. Legal System and Public Law

1. The Law Relating to Juries
2. Debt Enforcement and Securing Interests over Personal Property
3. Bench Warrants and Search Warrants
4. Limitation of Actions
5. Alternative Dispute Resolution
6. Consolidation and Reform of the Courts Acts

B. Law of Evidence

7. Documentary Evidence and Technology
8. Hearsay in Civil and Criminal Cases
9. Advance Disclosure of Defence Cases
10. Forensic Evidence
11. Expert Evidence

C. Criminal Law

12. The Law of Sexual Offences
13. The Victim and the Criminal Justice System
14. Vulnerable Persons and the Criminal Justice System
15. Restorative Justice
16. Having regard to the establishment of the Criminal Law Codification Advisory Committee, examination of issues arising in the general part of the criminal law
17. The Law of Homicide
18. Defences in the Criminal Law
19. Inchoate Offences

D. Land Law and Property

20. Further Statutory Codification of Land Law
21. Trust Law and the Settled Land Acts Project
22. eConveyancing Road Map

E. Family Law

23. Legal Aspects of Family Relationships
24. Domestic Violence
25. The Law of Annulment in the 21st Century

F. Specific Groups in a Changing Society

- 26. Children and the Law
- 27. Gender Recognition
- 28. Legal Aspects of New and Emerging Members of Irish Society
(Reunification Procedures and Citizenship)
- 29. Legal Aspects of Carers

G. Technology, Innovation and the Individual

- 30. Legal Aspects of Bioethics
- 31. Legal Aspects of Assisted Human Reproduction
- 32. Privacy

H. Commercial Law and the Law of Obligations

- 33. Frustration of Contracts
- 34. Insurance Contracts
- 35. Damages in Contract and Tort Law

I. International Law

- 36. The Status of International Law in Domestic Irish Law
- 37. Civil Law Aspects of the Law of Missing Persons

APPENDIX B

WORKING GROUPS AND PROJECT BOARDS

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

EXPERT GROUP ON THE LAND AND CONVEYANCING LAW REFORM BILL 2006

In 2006, at the request of the Attorney General and the Minister for Justice, Equality and Law Reform, the Commission convened an Expert Group to assist in drafting the *Land and Conveyancing Law Reform Bill 2006*, which is based on its draft Bill in the *Report on the Reform and Modernisation of Land Law and Conveyancing Law* (LRC 74-2005). The Expert Group continued to meet in 2008 to discuss and consider amendments to the 2006 Bill during its passage through the Oireachtas.

Members of Expert Group on the Land and Conveyancing Law Reform Bill 2006

Mrs Justice Catherine McGuinness, President

Commissioner Patricia T Rickard-Clarke

Mr Raymond Byrne, Director of Research

Professor John C W Wylie, Professor of Law, Cardiff University

Mr Seamus Carroll, Principal Officer, Department of Justice, Equality and Law Reform

Ms Tracey O’Keeffe, Assistant Principal Officer, Department of Justice, Equality and Law Reform

Mr Chris Hogan, former Senior Deputy Registrar, Land Registry

Áine Clancy acted as Secretary/Researcher to the Group in 2008.

PROJECT BOARD ON THE CONSOLIDATION AND REFORM OF THE COURTS ACTS

In January 2008, the Commission established a Project Board 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 Project Board on the Consolidation and Reform of the Courts Acts

Mrs Justice Catherine McGuinness, President

Commissioner Patricia T Rickard-Clarke

Mr Raymond Byrne, Director of Research

Mr Sean Barton, McCann FitzGerald, Solicitors (drafting specialist for the draft *Courts Consolidation and Reform Bill*)

Mr Brian O'Neill, Principal Officer, Courts Policy Division, Department of Justice, Equality and Law Reform

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

Claire Bruton acted as Secretary/Researcher to the Project Board in 2008.

AD HOC GROUP ON APARTMENT COMPLEXES AND MULTI-UNIT DEVELOPMENTS

In 2003 the Commission established an *ad hoc* Group to assist its deliberations on the subject of Apartment Complexes and Multi Unit Developments. The Group met in 2008 to discuss the Commission's draft *Report on Multi-Unit Developments*.

Members of Working Group on Multi Unit Developments

Mrs Justice Catherine McGuinness, President

Commissioner Patricia T Rickard-Clarke

Mr Raymond Byrne, Director of Research

Professor John C W Wylie, Professor of Law, Cardiff University

Ms Sheena M Beale, Solicitor

Ms Vivienne Bradley, Solicitor

Ms Marjorie Murphy, Solicitor

Mr Jerry Sheehan, Solicitor

Áine Clancy acted as Secretary/Researcher at the Group's meeting in 2008.

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 Third 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 2008. In many instances, these involved delivering papers concerning the Commission's work.

- 18 January** Visit to Office of Public Sector Information
London
Legislation Directory/eLegislation
- 05 February** Attendance at Presentation by Ed Hicks, Canadian Expert in XML
Drafting Tool
Office of the Attorney General
eLegislation
- 06 February** Daughters of Charity Relationship and Sexuality Workshop
Croagh Park Dublin
Capacity
- 13 February** University College Galway LLM students
Galway
Law Reform
- 7 March** University College Galway LLM in Public Law
Galway
Guardianship: A new structure for Vulnerable Adults
- 13 March** Attendance at Presentation by EU Expert, Jacques Raybaut,
at eLegislation Scoping Exercise
Leinster House
eLegislation
- 01 April** Formal launch of Northern Ireland Law Commission
Belfast
- 03 April** Irish College of Psychiatrists Spring Conference
Malahide Dublin
Mental capacity, legal and ethical issues.

- 17 April** Irish Hospice Foundation Workshop
Croagh Park Dublin
Decision-making and advance care planning
- 18 April** Áras an Uachtaráin
Law Reform bodies
- 09 May** Annual meeting of Law Reform bodies
Edinburgh Scotland
- 25 May** Royal College of Psychiatrists
Celtic Conference
Edinburgh Scotland
Capacity Law and Practice across the Divisions
- 30 June** Visit of Jim Emmerton,
Director British Columbia Law Institute, Canada
- 29 July** Visit of Ugandan Judicial Officials
- 08 October** RTÉ Today with Pat Kenny
Dublin
Advance Care Directives
- 22 October** Law Reform Commission's Annual Conference
Dublin Castle
Advance Care Directives
- 10 November** NDA Roundtable
Dublin
Scheme of the Mental Capacity Bill 2008

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) (Pl 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) (Pl 5625)
- Report on Rape and Allied Offences** (LRC 24-1988) (May 1988)
- 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) (Pl 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 CP 14-1999) (July 1999)
Consultation Paper on Section 2 of the Civil Liability (Amendment) Act, 1964: The Deductibility of Collateral Benefits from Awards of Damages (LRC CP 15-1999) (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 CP 16-2000) (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 CP 17-2001) (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 CP 19-2002) (May 2002)
Report on the Indexation of Fines: A Review of Developments (LRC 65-2002) (July 2002)
Twenty Third (Annual) Report (2001) (PN 11964)
Report on the Acquisition of Easements and Profits à Prendre by Prescription (LRC 66-2002) (December 2002)
Report on Title by Adverse Possession of Land (LRC 67-2002) (December 2002)
Report on Section 2 of the Civil Liability (Amendment) Act 1964: The Deductibility of Collateral Benefits from Awards of Damages (LRC 68-2002) (December 2002)
Consultation Paper on Judicial Review Procedure (LRC CP 20-2003) (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)

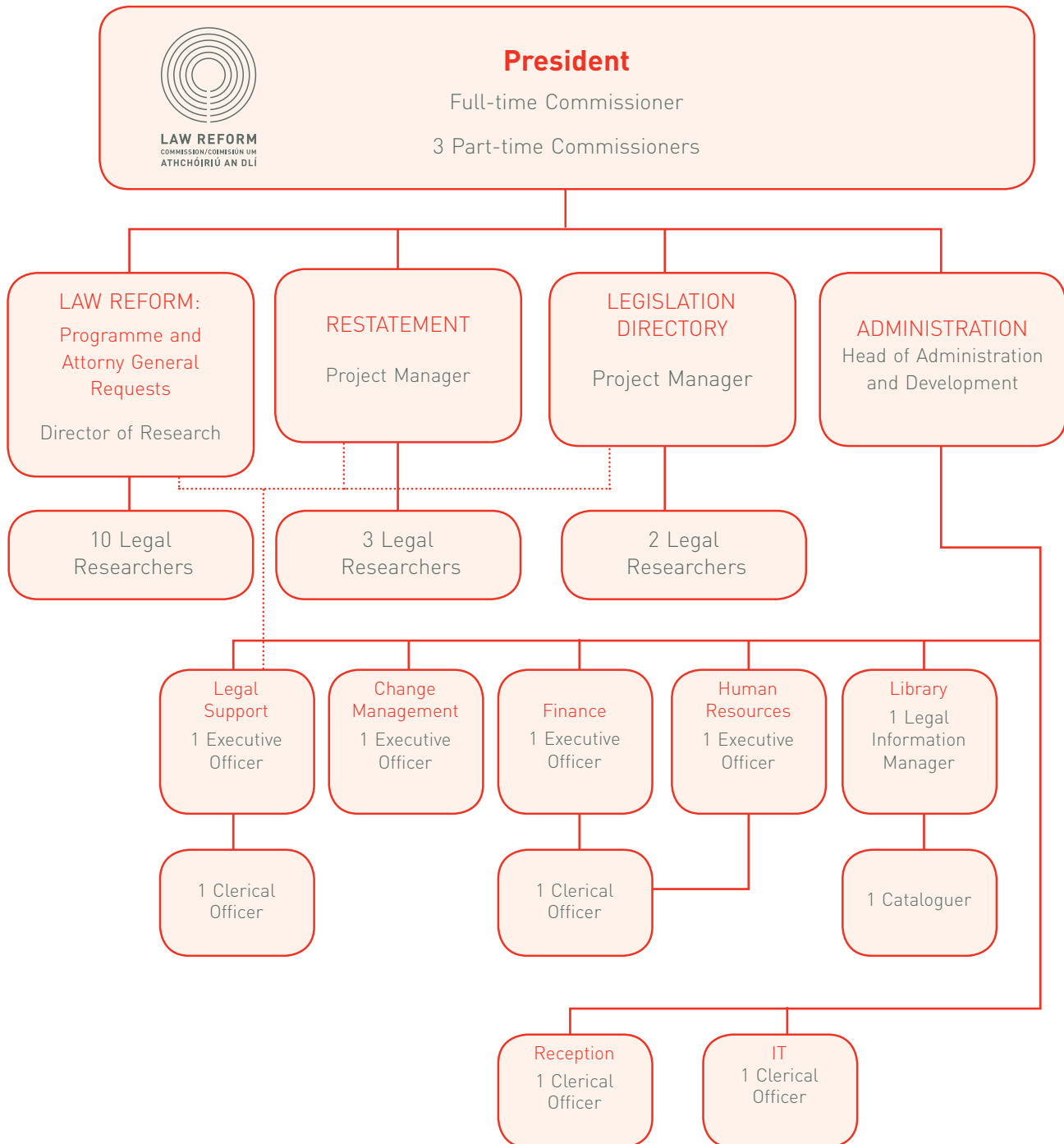
Consultation Paper on Aspects of Intercountry Adoption Law (LRC CP 43-2007) (March 2007)

Twenty Eighth (Annual) Report (2006) (April 2008)

Seminar Paper on Third Programme of Law Reform (LRC SP 3-2007) (March 2007)
Consultation Paper on Involuntary Manslaughter (LRC CP 44-2007) (April 2007)
Consultation Paper on Statute Law Restatement (LRC CP 45-2007) (July 2007)
Consultation Paper on Reform and Consolidation of Courts Acts (LRC CP 46-2007) (July 2007)
Report on Spent Convictions (LRC 84-2007) (July 2007)
Consultation Paper on Civil Liability of 'Good Samaritans' and Volunteers (LRC CP 47-2007) (November 2007)
Report on the Law of Landlord and Tenant (LRC 85-2007) (November 2007)
Report on Third Programme of Law Reform 2008-2014 (LRC 86-2007) (December 2007)
Report - Homicide: Murder and Involuntary Manslaughter (LRC 87-2008) (January 2008)
Report - Privity of Contract and Third Party Rights (LRC 88-2008) (February 2008)
Report - Aspects of Intercountry Adoption Law (LRC 89-2008) (February 2008)
Consultation Paper on Inchoate Offences (LRC CP48-2008) (February 2008)
Report - Multi-Unit Developments (LRC 90-2008) (June 2008)
Report on Statute Law Restatement (LRC 91 - 2008) (July 2008)
Consultation Paper on the Legislation Directory: Towards a Best Practice Model (LRC CP-49 2008) (July 2008)
Consultation Paper on Alternative Dispute Resolution (LRC CP - 50 2008) (July 2008)
Consultation Paper on Bioethics: Advance Care Directives (LRC CP - 51 2008) (October 2008)
Report on Trust Law: General Proposals (LRC 92 - 2008) (December 2008)
Draft Trustee Bill 2008 (Appendix to Report)
Consultation Paper on Expert Evidence (LRC CP - 52 2008) (December 2008)

APPENDIX E

ORGANISATION CHART⁵



⁵ Structure as at May 2009

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LAW REFORM COMMISSION

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



LAW REFORM
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