



LAW REFORM
COMMISSION/COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ

ANNUAL REPORT 2011

THE COMMISSION

The Law Reform Commission comprises a President, one full-time Commissioner and three part-time Commissioners. In 2011, the Commission was comprised as follows:

Mrs Justice Catherine McGuinness

President (to February 2011)

Patricia T Rickard-Clarke BCL, Solicitor

Full-time Commissioner

Professor Finbarr McAuley BCL, LLB, MPhil, LLD,

Jean Monnet Professor of Criminal Law, University College Dublin

Part-time Commissioner

Marian Shanley BCL, Solicitor

Former Member of the Commission to Inquire into Child Abuse

Part-time Commissioner

Mr Justice Donal O'Donnell

Judge of the Supreme Court

Part-time Commissioner

COMMISSION RESEARCH STAFF¹

Director of Research:

Raymond Byrne

Project Manager for Statute Law Restatement:

Alma Clissmann

Project Manager for Legislation Directory:

Heather Mahon

Legal Researchers

Barbara Brown

Elaine Cahill,

Kate Clancy,

Aoife Clarke

Conor Cunningham

Andrew Glynn

Dannie Hanna

Helen Kehoe

Rachel Kemp

Donna Lyons

Tara Murphy

Jane O'Grady

Darelle O'Keeffe

Aileen O'Leary

Máire Reidy Helen Whately

¹ Not all members of research staff were employed for the full calendar year.

COMMISSION ADMINISTRATION STAFF

Head of Administration:

Ciara Carberry

Executive Officers:

Deirdre Bell

Ann Byrne

Simon Fallon

Legal Information Manager:

Conor Kennedy

Cataloguer:

Eithne Boland

Clerical Officers:

Ann Browne

Liam Dargan

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FOREWORD

I am very pleased to introduce the Law Reform Commission's Annual Report for 2011 and to pay tribute to the five Commissioners whose industry, energy and tireless excellence contributed so much to the Commission's achievements during that year. Mrs Justice Catherine McGuinness (President from 2005 to 2011), Patricia T Rickard-Clarke (full-time Commissioner from 2001 to 2012), Finbarr McAuley (Commissioner from 1999 to 2012), Marian Shanley (Commissioner from 2001 to 2012) and Mr Justice Donal O'Donnell (Commissioner from 2005 to 2012) each made an enormous contribution to law reform during their respective periods of office.

Between 2005 and 2011, the Commission published comprehensive and well researched reports on the following subjects: (i), the courts and dispute resolution (including comprehensive consolidation and reform of the Courts Acts, and the statutory regulation of mediation and conciliation); (ii), commercial law (including personal insolvency and debt enforcement procedures); (iii), criminal law and procedure (including defences in criminal law, corporate manslaughter and a DNA database); (iv), family law (including the law of cohabitants, the law concerning parental responsibility and consent of children to medical treatment); (v), land law (including comprehensive consolidation and reform of land law and conveyancing law), and, (vi), the law of adult capacity and decision making (including reform of the Wards of Court system and regulation of advance care directives).

I am pleased to record that the vast majority of the Commission's recommendations within those reports have either already been implemented in legislation or are in the process of being proposed for implementation by government. Throughout 2011 the Commission published 3 further Reports and 4 Consultation Papers. Chapter 2 of this Annual Report discusses that work. By the end of that year the Commission had either begun or completed the majority of the projects within its Third Programme.

During 2012, the Government appointed the present five Commissioners for three year terms. On their behalf and my own I wish to say that it is our firm hope and intention to contribute meaningfully to the reform of the law of Ireland in the coming years. This will include the development of a new Fourth Programme of Law Reform, which (subject to the Commission's public consultation process and the required approval by Government) will begin during 2013. It will also include the completion of the Commission's 3rd Programme by the publication of 6 new Reports within the first six months of 2013.

The Commission has, in addition to its remit pursuant to the Law Reform Commission Act 1975, undertaken a number of important projects intended to make Irish legislation more accessible all citizens of the State and other interested persons. These projects have included, (a), the development and ongoing maintenance of a Legislation Directory (which tracks all amendments to Acts, whether pre-1922 or post-1922 Acts), (b), the preparation and online publication of over 100 Revised Acts (the full text of Acts-as-amended) and, (c), the development of a Classified List of Legislation (a list of over 2,000 Acts that remain in force organised under 36 subject headings). The Commission's work on these projects is discussed in Chapters 3 and 4 of this Report. The Commission is conscious of the importance and value of this work and is committed to ensuring that it remains an integral part of the Commission's function in the future.

The impending preparation of the 4th Programme of Law Reform will reflect the Commission's intention to ensure that its programmes continue to address and be relevant to the needs and requirements of Irish society now and in the coming years.

The Commission cannot achieve its objectives without the support of a wide range of people. It is indebted to the Attorney General and the members of her Office, who assist and support it on an on-going basis. However an important Commission asset is the invaluable voluntary advice and assistance which it receives from the many individuals and groups with whom it consults and the cooperation and courtesy which it enjoys from Government Departments with whom it communicates. Perhaps its most important asset is its a small but committed staff – both research and administrative – who provide expert and dedicated support to ensure that its work retains its high quality.

Mr Justice John Quirke,
PRESIDENT

CHAPTER 1

INTRODUCTION

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 2006, 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. In December 2007, the Government approved the Commission's *Third Programme of Law Reform 2008-2014*.

Overview of content of Third Programme

The Commission's *Third Programme of Law Reform 2008-2014* lists 37 projects, including the following:¹

- Debt Management and Enforcement Procedures
- Alternative Dispute Resolution
- Consolidation and Reform of the Courts Acts
- The Law of Evidence: Hearsay, Documentary and Expert Evidence
- The Law of Sexual Offences
- Legal Aspects of Family Relationships, including the rights and responsibilities of fathers and other members of the family
- Children and the Law, including consent to medical treatment
- Insurance Contracts

During 2011, the Commission made further progress in examining the 37 projects included in the *Third Programme of Law Reform*. This included the publication of a number of Reports on some of them and the publication of Consultation Papers on others. These are discussed in Chapter 2, below. The Commission also carried out a review of progress at its projected mid-point,² which the Commission had also done in respect of the *Second Programme of Law Reform 2000-2007*.³ This is discussed in Chapter 6, below. Having regard to the progress made since 2008, the Commission decided that preparations should begin in 2012 on the development of a *Fourth Programme of Law Reform*.

¹ See *Report on Third Programme of Law Reform 2008-2014* (LRC 86-2007), available at www.lawreform.ie, and the full list of 37 Projects in Appendix A to this Annual Report.

² *Report on Third Programme of Law Reform 2008-2014* (LRC 86-2007), p.7.

³ See the Commission's *Annual Report 2004*, Chapter 5.

Statute Law Restatement, Legislation Directory and a Classified List of Legislation in Ireland

Since 2006, the scope of the Commission's research work has included two additional 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 online searchable guide to legislative changes.

These new roles are 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 policy of *Better Regulation*. In Chapters 3 and 4, the Commission discusses the developments in 2011 concerning these areas of work. In addition, the Commission continues to maintain on its website a Classified List of Legislation in Ireland,⁴ which complements the Commission's work on Restatement and the Legislation Directory, and which has arisen from participation in the eLegislation Group, convened by the Department of the Taoiseach.

STRATEGY STATEMENT 2009-2011

In 2011, the Commission entered the final year of its *Strategy Statement 2009-2011*, which provides the framework for the work of the Commission in the three year period covered. The *Strategy Statement 2009-2011* builds on the Commission's experience with its previous strategy statements, and was drafted to take account of the challenging financial environment within which all State bodies must operate. The Strategy Statement reflects 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. Like its predecessors, the *Strategy Statement* represents the key priorities of the Commission for 2009-2011, including clear responsibilities and accountabilities for the achievement of these priorities.

Key Objectives in the Strategy Statement

The Commission's *Strategy Statement 2009-2011* identified 4 Key Objectives. These are:

- 1. To progress towards completion to a high standard the examination of: (1) the projects selected by the Commission from the 37 Projects in the Third Programme of Law Reform 2008-2014; and (2) where relevant, the particular areas of law which the Attorney General has requested the Commission to examine.*
- 2. To implement the responsibilities assigned to the Commission by the Attorney General in 2006 in regard to Statute Law Restatement*
- 3. To implement the responsibilities assigned to the Commission by the Attorney General in 2007 in regard to the Legislation Directory (formerly the Chronological Table of the Statutes).*

⁴ The Classified List of Legislation is discussed in the Commission's *Annual Report 2010*, Chapter 5.

4. Continue to ensure that the research and administrative teams operate together and at optimum efficiency and effectiveness in order to support the Commission in carrying out its role, and with the maximum involvement and participation of staff.

This Annual Report follows the sequence of these Key Objectives. Chapter 2 mirrors Key Objective 1 and provides an overview of the Commission's work programme in 2011, focusing on the progress made on the projects in the *Third Programme of Law Reform 2008-2014*. Chapter 3 reflects Key Objective 2 and discusses Statute Law Restatement while Key Objective 3 is discussed in Chapter 4, which deals with the Legislation Directory. In Chapter 5, the Commission discusses developments in 2011 under Key Objective 4, the important relationship between administration and the Commission's research role. In Chapter 6, the Commission describes the outcome of its review of progress through the Third Programme since 2008.

METHODS OF WORK AND CONSULTATION PROCESS

The Commission's Consultation Papers and Reports are based on careful and thorough research. 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 Programme 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, researchers assigned specifically to these areas work under the direction of two Project Managers. During 2011, the Commission continued to have the additional benefit of the research input of a number of interns. The Commission also makes use of Working Groups and Project Boards, whose members provide their expertise on a voluntary basis in areas where significant expert input is necessary.

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 through the Commission's quarterly Business Plans. Chapter 2 outlines the Commission's publications and ongoing work programme in 2011.

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 then prepares and publishes a Consultation Paper. The Commission seeks written submissions from interested parties on the provisional recommendations made in the Consultation Paper. These submissions are taken into account in the drafting of the final Report on the subject, and any issues or concerns they raise are 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.

Since 2000, the Commission invariably includes a draft Bill in each Report where it makes recommendations requiring legislative change. The Commission considers that these draft Bills form an important component of its statutory remit under the 1975 Act to include draft legislation where it proposes reform of the law.

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 Restatements 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 ongoing modernisation of the Irish statute book in the wider internationally accepted context of *Better Regulation*.

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 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.

Meetings with Oireachtas Committees

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

Annual Law Reform Conference

Since 2004, the Commission has hosted an Annual Law Reform Conference connected with the Commission's Programme of Law Reform and rolling work programme. This conference provides the Commission with an opportunity to involve interested parties in practical discussion on a specific project. The 2011 Annual Conference focused on the Commission's work on sexual offences and capacity to consent, on which it published a Consultation Paper in October 2011. The conference speakers were: Mr Justice Peter Charleton, judge of the High Court; Lord Justice Sir James Munby, judge of the Court of Appeal of England and Wales, Chairman of the Law Commission of England and Wales; Dr Fintan Sheerin, Lecturer in Intellectual Disabilities, Trinity College Dublin; Mr James Hamilton, Director of Public Prosecutions, and Patricia T Rickard-Clarke, Commissioner, Law Reform Commission. The Conference was attended by a cross section of policy makers (including those within Government Departments), legal practitioners, persons with disability and representatives groups. This allowed debate on the Commission's Consultation Paper and it also resulted in the Commission receiving many submissions that will be of great value to the Commission's deliberations on the Report on this topic. The Consultation Paper is discussed in Chapter 2, below.

Conferences, Visits and Media Contacts

Commissioners and research staff 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 2011, the Commission attended the annual meeting of five law reform commissions (those of England and Wales, Scotland, Northern Ireland, Jersey

and Ireland, respectively), which took place in Jersey in 2011. 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. Appendix C contains details of conferences in which the Commission actively participated and attended during 2011, as well as visits to and from law reform bodies.

CHAPTER 2

LAW REFORM: THE COMMISSION'S PUBLICATIONS, ROLLING WORK PROGRAMME AND IMPLEMENTATION OF ITS WORK IN 2011

INTRODUCTION

In this Chapter, the Commission outlines the content of its key publications (Reports and Consultation Papers) published during 2011 and the other elements of its rolling Work Programme. This Chapter also outlines relevant developments in 2011 concerning implementation of proposals for reform made by the Commission.

Reports and Consultation Papers in 2011

In 2011, the Commission published 3 Reports and 4 Consultation Papers. These were:

- *Report on Children and the Law: Consent to Medical Treatment* (LRC 103-2011)
- *Report on Limitations of Actions* (LRC 104-2011)
- *Report on Professional Home Carers* (LRC 105-2011)

- *Consultation Paper on Sexual Offences and Capacity to Consent* (LRC CP 63-2011)
- *Consultation Paper on Civil Law Aspects of Missing Persons* (LRC CP 64-2011)
- *Consultation Paper on Insurance Contracts* (LRC CP 65-2011)
- *Consultation Paper on Mandatory Sentences* (LRC CP 66-2011)

These publications dealt with 6 projects under the Commission's *Third Programme of Law Reform 2008-2014*, as well as a request from the Attorney General, made under the *Law Reform Commission Act 1975*, to examine the law on mandatory sentences.

Rolling Work Programme in 2011

The Commission's rolling work programme during 2011 involved active engagement on many of the 37 Projects in the *Third Programme of Law Reform 2008-2014*. As already mentioned, in Chapter 6 the Commission describes the outcome of its review of progress since 2008 on completion of the *Third Programme*.

Developments in 2011 on the implementation of Commission proposals

In terms of implementation of Commission proposals, a number of Acts passed by the Oireachtas in 2011 involved the implementation of recommendations made by the Commission. These included the *Civil Law (Miscellaneous Provisions) Act 2011* (civil liability of good Samaritans and volunteers, amendments to the *Bankruptcy Act 1988* and courts reform); the *Criminal Justice (Defence and the Dwelling) Act 2011*; and the *Multi-Unit Developments Act 2011*. In addition, the *Rules of the Superior Courts (Judicial Review) 2011* (SI No.691 of 2011) implemented Commission recommendations on judicial review procedure.

A number of Bills before the Oireachtas are based, in whole or in part, on Commission recommendations. These include the *Personal Insolvency Bill 2012*, the *Criminal Justice (Spent Convictions) Bill 2012*, the *Privacy Bill 2006* and the *Tribunals of Inquiry Bill 2005*. The Government has also published a number of Schemes of Bills (or Heads of Bills) related to Commission recommendations. These include Schemes for: a *Mediation and Conciliation Bill*, a *Landlord and Tenant Bill* and a *Mental Capacity Bill*.

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 2011

The material in this chapter is discussed under the following 9 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. Specific and Vulnerable Groups in a Changing Society
6. Technology, Innovation and the Individual
7. Commercial Law and the Law of Obligations
8. International law

1. THE LEGAL SYSTEM AND PUBLIC LAW

Jury Service

During 2011, the Commission made significant progress on the development of a *Report on Jury Service* (3rd Programme of Law Reform, Project 1), following the publication of its *Consultation Paper on Jury Service* (LRC CP 60-2010). The Commission intends to publish its Report in 2013.

Personal Insolvency and Debt Management

Section 30 of the *Civil Law (Miscellaneous Provisions) Act 2011* made a number of amendments to the judicial personal insolvency regime in the *Bankruptcy Act 1988*, including by reducing the discharge period from bankruptcy from 12 years to 5 years and to provide for automatic discharge of bankruptcies existing for 12 years or more. This involved implementing aspects of the Commission's *Interim Report on Personal Debt Management and Debt Enforcement* (LRC 96-2010). The *Personal Insolvency Bill 2012* (which is before the Oireachtas at the time of writing this Annual Report) proposes to implement the Commission's key recommendations for a non-judicial debt settlement system in its *Report on Personal Debt Management and Debt Enforcement* (LRC 100-2010) (3rd Programme of Law Reform, Project 2).

Search Warrants and Bench Warrants

In 2011, the Commission made substantial progress towards completion of a *Report on Search Warrants and Bench Warrants* (3rd Programme of Law Reform, Project 3). The Commission postponed completion of this Report pending the outcome of the appeal to the Supreme Court in *Damache v Director of Public Prosecutions* [2011] IEHC 197, [2012] IESC 11. In *Damache* the Court held that the search warrant power in section 29(1) of the *Offences against the State Act 1939* (as inserted by section 5 of the *Criminal Law Act 1976*), which permitted a member of the Garda Síochána to issue a search warrant where that member was directly involved in the criminal investigation in respect of which the search warrant was issued, was unconstitutional. The Commission intends to publish its Report on this matter in 2013.

Limitation of Actions

In 2011, the Commission published its *Report on Limitation of Actions* (LRC 104-2011) (3rd Programme of Law Reform, Project 4), which followed the publication of its *Consultation Paper on Limitation of Actions* (LRC CP 54-2009). The Report examined the limitation periods for the most commonly-litigated civil claims, contract and tort claims, contained in the *Statute of Limitations 1957*, as amended.

The Report noted that the *Statute of Limitations 1957* contains 7 different limitation periods (1, 2, 3, 6, 12, 30 and 60 years) that apply to a wide range of civil actions. These are divided into a number of general headings, including the “common law actions.” This category includes the main, high-volume, civil actions in the courts, such as claims concerning contracts (including debt-related claims) and torts (including personal injury actions). The Report noted that these rules had given rise to litigation as to what time limit applied in a specific case.

As well as the complexity of the rules in the 1957 Statute, the reasons for which a specific limitation applies to a particular action can often be traced back to 17th Century legislation. For example, the current 6 year limitation period for contract cases was first set out in the *Limitation Act 1623*.

The Report reviewed developments in a number of other common law jurisdictions, which had enacted “core limitations” laws. The key features of core limitations regimes in other States are: (1) an across-the-board (uniform) basic limitation period that applies to virtually all civil actions; (2) a uniform commencement date; and (3) a uniform ultimate limitation period (“long-stop”). The Commission recommended that a core limitations law should be introduced in Ireland for the high-volume civil claims, including contract claims and personal injuries claims.

Among the detailed recommendations in the Report are that: there should be a basic limitation period of 2 years for contract claims (for example, debt-related claims) and tort claims (for example, personal injuries claims); the basic limitation period should run from the date of knowledge of the plaintiff (what the plaintiff knew or ought reasonably to have known); there should be an ultimate limitation period (“long stop”) of 15 years (most claims would, therefore, be statute-barred after 15 years); there should be a judicial discretion to extend the 15 year time limit in exceptional cases. These would include: (a) where an injury was symptomless for a very long time (for example, arising from exposure to asbestos fibres); (b) where the person’s ability to decide whether to sue was impaired (for example, due to sexual or physical abuse); and (c) where there was fraud or concealment by the defendant (for example, in a case involving financial loss). The Report includes a draft *Limitations Bill* intended to implement these recommendations.

Alternative Dispute Resolution

In 2012, the Government published the Scheme (or Heads) of a *Mediation and Conciliation Bill*. The Scheme of the Bill would implement the key recommendations in the Commission’s *Report on Alternative Dispute Resolution: Mediation and Conciliation* (LRC 98 - 2010) (3rd Programme of Law Reform, Project 5). The Scheme of the Bill was referred to the Oireachtas Committee on Justice, Defence and Equality, to which the Commission made a written submission in 2012.

Consolidation and Reform of the Courts Acts

Section 64 of the *Civil Law (Miscellaneous Provisions) Act 2011* amended sections 34, 35 and 38 of the *Courts of Justice Act 1936* in respect of sittings of the High Court on Circuit. This involved implementing a recommendation in paragraph 2.125 of the

Commission's 2010 *Report on the Consolidation and Reform of the Courts Acts* (LRC 97-2010). At the time of writing this Annual Report, the Government Legislation Programme includes a proposal to implement the general recommendation in the 2010 Report to enact a *Courts (Consolidation and Reform) Bill*, a draft of which was appended to the 2010 Report.

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), was awaiting Report Stage in Dáil Éireann in 2011.

Judicial Review Procedure

The *Rules of the Superior Courts (Judicial Review) 2011* (SI No.691 of 2011) implemented a number of recommendations on judicial review procedure in the Commission's *Report on Judicial Review Procedure* (LRC 71-2004) (2nd Programme of Law Reform, Project 9).

Statute Law Restatement

In 2011, the Commission continued to prepare Restatements/Revised Acts under its *Programmes of Statute Law Restatement*. This is discussed in more detail in Chapter 3, below.

Legislation Directory

In 2011, the Commission continued to update the Legislation Directory for publication on the electronic Irish Statute Book (eISB), hosted by the Office of the Attorney General, www.irishstatutebook.ie. The Legislation Directory is discussed in more detail in Chapter 4, below.

Classified List of Legislation in Ireland

In 2011, the Commission continued to update on its website the Classified List of Legislation (Acts) in Ireland. The Classified List contains over 2,000 Acts of the Oireachtas (of over 3,000 enacted since 1922) that remain on the statute book, classified under 36 subject-matter headings. The Commission understands that the Classified List was of use to Government Departments in the context of preparing *Transfer of Functions Orders* in the wake of the re-organisation of Departments in 2011.

2. LAW OF EVIDENCE

Hearsay, Documentary Evidence and Expert Evidence

In 2011, the Commission made considerable progress on a composite *Report on the Law of Evidence*, which will incorporate three projects in the *Third Programme of Law Reform* on which the Commission has published three Consultation Papers. These are: *Consultation Paper on Hearsay in Civil and Criminal Cases* (LRC CP 61-2010), *Consultation Paper on Electronic and Documentary Evidence* (LRC CP 57-2009) (3rd Programme of Law Reform, Project 7) and *Consultation Paper on Expert Evidence* (LRC CP 52-2008) (3rd Programme of Law Reform, Project 11). The Commission intends to publish its Report on this area in 2013.

3. CRIMINAL LAW

Defences in criminal law

The *Criminal Justice (Defence and the Dwelling) Act 2011* implemented in part the Commission's *Report on Defences in Criminal Law* (LRC 95-2009) (3rd Programme of Law Reform, Project 18).

Sexual Offences: Capacity to Consent

In 2011, the Commission published a *Consultation Paper on Sexual Offences and Capacity to Consent* (LRC CP 63-2011) (3rd Programme of Law Reform, Project 12). This forms part of the general review of the law on sexual offences being undertaken by the Department of Justice and Equality. The Consultation Paper provisionally recommended the repeal and replacement of the existing law on sexual offences involving persons with intellectual disability, section 5 of the *Criminal Law (Sexual Offences) Act 1993*.

The Commission notes in the Consultation Paper that section 5 of the *Criminal Law (Sexual Offences) Act 1993* (a) fails to protect people with intellectual disability from unwanted sexual contact generally (it is limited to sexual intercourse only) and (b) fails to empower people with intellectual disability to realise their right to sexual expression (it does not clearly provide for situations of consensual sex between two persons with intellectual disability). The Health Research Board has indicated that there are just over 26,000 people registered on the National Intellectual Disability Database.

The Commission's general approach in the Consultation Paper is that the law should recognise both the right of persons with intellectual disability to express their sexuality and also that they may be at risk or are otherwise vulnerable to sexual exploitation or abuse. The Commission also recommends that any reform in this area must be accompanied by appropriate inter-agency co-ordination and supports.

Among the Commission's main provisional recommendations in the Consultation Paper include the following: section 5 of the *Criminal Law (Sexual Offences) Act 1993* should be repealed and replaced; the same functional approach to capacity (that is, an assessment of capacity to consent based on understanding the decision and its consequences at the time the decision is being made) must be taken in respect of assessing capacity to marry in the civil law and capacity to consent to sexual relations in the criminal law; consistently with the functional test of capacity, a person lacks capacity to consent to sexual relations if he or she is unable: (a) to understand the information relevant to engaging in the sexual act, and its consequences; (b) to retain that information; (c) to use or weigh up that information as part of the process of deciding to engage in the sexual act; or (d) to communicate his or her decision; a defence of reasonable mistake should apply, as with sexual offences against children, but this defence should not be available to persons in positions of trust or authority.

In addition the Consultation Paper provisionally recommended that: there should be a strict liability offence for sexual acts committed by a person who is in a position of trust or authority with another person who has an intellectual disability; any replacement of section 5 of the 1993 Act should cover all forms of sexual assault and sexual acts which exploit a person's vulnerability, with a maximum sentence of imprisonment of 10 years on conviction; guidelines should be developed for those working in the criminal justice process to identify current obstacles and examine methods by which the participation in court proceedings of adults with intellectual disability could be enhanced; an inter-agency protocol is needed between child protection services and family support services to ensure that, before any care order is made under the *Child Care Act 1991*, there is an assessment of the necessary supports and training that

would assist parents with disabilities to care for their children; and national standards should be developed on safeguards from sexual abuse for at risk adults.

Mandatory Sentences

In 2011, the Commission completed its *Consultation Paper on Mandatory Sentences* (LRC CP 66-2011), and it was published in January 2012. The Consultation Paper followed a request from the Attorney General under the *Law Reform Commission Act 1975* to examine the law of mandatory sentences and, if appropriate, recommend reforms in relation to the circumstances in which it may be appropriate or beneficial to provide for mandatory sentences for offences.

The Consultation Paper contains a detailed analysis of the development of the law in Ireland on mandatory sentences, and an analysis of similar laws enacted in other jurisdictions such as the United Kingdom and the United States. The Commission noted that the only completely mandatory sentence in Ireland is the life sentence for murder – judges have no discretion here and must impose a life sentence, and do not even have the power to suggest any specific minimum sentence, unlike the position in Northern Ireland where the sentencing judge can recommend a minimum life tariff. The Commission also examined other “presumptive” mandatory sentences, such as those introduced in 1999 for certain drugs offences and in 2006 for certain firearms offences. The Commission also examined other mandatory sentences law which require judges to impose higher or consecutive sentences where the convicted person is a repeat offender or has committed offences on bail.

In the Consultation Paper, the Commission supports the view that the proposed Judicial Council should develop and publish suitable guidance or guidelines on sentencing; and also provisionally recommends that these would have regard to decisions of the Court of Criminal Appeal, to the sentencing principles discussed in the Consultation Paper, and to information in databases such as the Court Service’s Irish Sentencing Information System (ISIS). The Commission also provisionally recommended that, while the use of the entirely mandatory sentence may be applied to the offence of murder, it should be amended to provide that, on the date of sentencing, the court should be empowered to indicate or recommend that a minimum specific term should be served by the defendant, having regard to the particular circumstances of the offence and of the offender.

The Commission also provisionally recommended that the presumptive sentencing regime that applies in the case of certain drugs and firearms offences should not be extended to any other offences but should be reviewed because, while it has succeeded in one objective, namely, an increased severity of sentences for certain drugs and firearms offences, it has not been established that it has achieved another general aim of the criminal justice system, namely reduced levels of criminality through deterrence. The Commission noted that, in particular, the presumptive drugs offences regime had had the following results: a discriminatory system of sentencing where all cases are treated alike regardless of differences in the individual circumstances of the offenders; the adaptation of the illegal drugs industry to the sentencing regime by using expendable couriers to hold and transport drugs; that these relatively low-level offenders, rather than those at the top of the drugs industry, are being apprehended and dealt with under the presumptive regime; a high level of guilty pleas in order to avoid the presumptive minimum sentence; and a consequent bulge in the prison system comprising low-level drugs offenders.

The Commission also provisionally recommends that the existing legislation concerning mandatory sentences (and, where relevant, presumptive mandatory sentences) as it applies in the case of second and subsequent offences should not be extended to any other offences; but the Commission also considers that, as a general

proposition, a statutory framework that takes account in sentencing of repeat offending is consistent with the general aims of the criminal justice system and the principles of sentencing.

Spent Convictions

The *Criminal Justice (Spent Convictions) Bill 2012*, which would implement the key recommendations in the Commission's *Report on Spent Convictions* (LRC 84-2007) (2nd Programme of Law Reform, Project 10), was awaiting Second Stage in Seanad Éireann in 2012.

4. LAND LAW AND TRUST LAW

eConveyancing

During 2008 to 2010, the Commission engaged in ongoing liaison with the Department of Justice and Equality, the Property Registration Authority, the Law Society of Ireland and other interested parties on the development of an eConveyancing system (3rd Programme of Law Reform, Project 22). In 2011, the Commission decided that as this matter is now being developed by those other parties it should not continue further work on this project as it had been overtaken by these developments.

Adverse Possession

During 2011, the Commission reviewed progress on the completion of its project on the law of adverse possession (3rd Programme of Law Reform, Project 20). 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 Commission decided to defer further work on the project pending the outcome of the Supreme Court decision in *Shirley v A O'Gorman & Co Ltd* [2012] IESC 5.

Trust Law and the Settled Land Acts

In 2011, the Commission completed work on its project on trust law and the Settled Land Acts (3rd Programme of Law Reform, Project 21), which arises from the repeal of the Settled Land Acts by the *Land and Conveyancing Law Reform Act 2009*. This involved the preparation (in liaison with the Department of Justice and Equality) of draft provisions on settled land trusts for inclusion in the Scheme of a Trusts Bill (Heads of Bill). At the time of writing this Annual Report, the Commission understands that the Government may publish the Scheme of a Trusts Bill in 2013.

Multi-Unit Developments, including apartment complexes

The *Multi-Unit Developments Act 2011* implemented the key elements in the Commission's *Report on Multi-Unit Developments* (LRC 90-2008) (2nd Programme of Law Reform, Project 22).

5. SPECIFIC AND VULNERABLE GROUPS IN A CHANGING SOCIETY

Children and the Law: medical treatment

In 2011, the Commission published its *Report on Children and the Law: Medical Treatment* (LRC 103-2011) (3rd Programme of Law Reform, Project 26). The recommendations in the Report were intended to (a) clarify existing law that 16 and 17 year olds can consent to medical treatment; (b) ensure that mature minors (those under 16) have their views fully taken into account when they seek medical treatment; and (c) provide clarity to parents, guardians and health care professionals. The Report also includes a draft *Health (Children and Consent to Health Care Treatment) Bill* and

Outline Scheme of a Mental Health (Amendment) Bill to implement these recommendations.

The Report acknowledges that it deals with the complex interaction between the rights, responsibilities and roles of parents and young people. The Report points out that, under the Constitution and international human rights conventions, parents and guardians are presumed to be best placed to ensure that the rights of children are implemented in practice, especially in the case of very young children. As children mature towards adulthood, their capacity to exercise their rights must be recognised. The literature on early adult development points out that maturing is usually a gradual process that occurs as the young person approaches adulthood; that many factors affect this, including the young person's life experiences (such as health and medical experiences) and wider influences from society. This gradual maturing is also recognised in the law, which sometimes sets down definitive age thresholds for specific matters (especially in the criminal law) and sometimes sets down rules based on tests of maturity and understanding (for example, in assessing whether a child or young person's views should be taken into account in child care or adoption proceedings). The Commission has taken this into account in the Report.

Among the recommendations in the Report are:

1. *16 and 17 year olds*: the Commission recommends that 16 and 17 year olds should be presumed to have full capacity (based on a functional test that they understand the health care decision and its consequences) to consent to, and refuse, health care and medical treatment. This includes: advice, over-the-counter medicine, surgery, access to contraception and mental health services. The Commission noted in the Report that section 23 of the *Non-Fatal Offences Against the Person Act 1997* already provides that consent given by a 16 and 17 year old to medical treatment is a defence in any criminal prosecution for assault against a medical professional.
2. *Those under 16*: the Commission recommends that those under 16 should not be presumed competent to consent to, or refuse, medical treatment; but that, in exceptional circumstances they may be able to give their consent or refusal, based on an assessment of their maturity, and a presumption that their parents or guardians will usually be involved.
3. The assessment of whether a person under 16 is sufficiently mature to consent to or refuse medical treatment would have to take account of the following factors: (a) whether he or she has sufficient maturity to understand the information relevant to making the specific decision and to appreciate its potential consequences; (b) whether his or her views are stable and reflect his or her values and beliefs; (c) the nature, purpose and utility of the treatment; (d) the risks and benefits involved in the treatment; and (e) any other specific welfare, protection or public health considerations, such as the mandatory application of the 2011 *Children First Guidelines*.
4. Where any person under 18 refuses life-sustaining treatment, an application to the High Court would be required to decide on the validity of any such refusal.
5. The Commission recommends that the *Mental Health Act 2001* be amended to make specific provision for people under 18: for example, that a Mental Health Tribunal (with an age appropriate focus) rather than the District Court should review their admission and treatment.
6. The Commission recommends that a detailed statutory Code of Practice be published to provide guidance on the application of the Commission's recommendations; and that the Minister for Children and Youth Affairs should establish a broad-based Working Group to advise on its content (membership to include representatives of parents, young people and health care professionals).

Legal Aspects of Professional Home Carers

In 2011, the Commission completed its *Report on Legal Aspects of Professional Home Care* (3rd Programme of Law Reform, Project 29), and it was published in January 2012. The Report recommended that the Health Information and Quality Authority (HIQA) should be given additional regulatory and inspection powers to ensure that appropriate legal standards are in place for undertakings providing professional home care (the Report does not propose that the HIQA regulatory and inspection system would apply to informal carers, such as family members). The Report included a draft *Health (Professional Home Care) Bill* to implement these recommendations.

The Report noted that the proportion of people living in Ireland who are aged over 65 has been increasing in recent years, and is projected to increase at an even greater rate over the next few decades. It also noted that the overwhelming majority of people aged over 65 wish to continue living in their own homes for as long as possible. The Report also acknowledged that Government policy is to support this clear preference, most clearly indicated by the provision in recent years of home care support, primarily through the Department of Health and the Health Service Executive (HSE). At the same time, the home care provision by the State has been mirrored by the emergence of commercial home care providers.

The Report pointed out that, under the *Health Act 2007*, HIQA is the regulatory and standard-setting body for the residential nursing home setting. In 2009, HIQA published national standards for the residential care setting, which cover 5% of the over 65 category. The *Health Act 2007* does not, however, empower HIQA to set comparable standards for the provision of health care in the home setting, which would cover the remaining 95% of the over 65 category (the Report noted that not all this group require home care). The Commission therefore recommended in the Report that the *Health Act 2007* should be extended to allow HIQA to regulate professional home carers.

Among the specific recommendations in the Report are:

- HIQA should be empowered to regulate and monitor undertakings that provide professional home care (whether public sector or private sector, and whether for-profit or not-for-profit)
- While the main beneficiaries of the proposed new HIQA regulation would be likely to be those over 65, the proposed system should apply to professional home care provided to any adult over the age of 18 in their own home
- HIQA national standards for professional home carers should be specifically tailored for the home care setting, building on 2008 draft HSE home care guidelines and existing HIQA standards for nursing homes
- the proposed standards should have regard to specific principles, including the right of the care recipient to independent living, privacy, dignity, quality of care and protection from abuse.
- there should be a specific register of professional home carers, which would set out specific requirements in relation to the registration and monitoring of professional home carers
- the terms and conditions of home care arrangements should be agreed between professional home carers and recipients, and this would be recorded in a care contract in order to offer the maximum protection to the care recipient
- the care contract should contain clear policies and procedures, in plain language, relation to the handling by a professional carer of money and personal property of the care recipient
- an individual who wishes to enter into an arrangement for the provision of professional home care services should have the option to contract with an intermediary, whether a State body (such as the HSE) or a private sector body, who would arrange for the provision of care and who would assume the responsibilities of an employer towards the professional home carer

The Commission also noted in the Report the importance of funding arrangements for professional home care, and it contained a survey of recent developments, but as this is a matter of ongoing government policy development, the Commission did not make any recommendations on this area.

6. TECHNOLOGY, INNOVATION AND THE INDIVIDUAL

Assisted Human Reproduction

In 2011, the Commission decided that, as the Department of Health was engaged in a general review of the law on assisted human reproduction, the Commission should not continue further work on this project (3rd Programme of Law Reform, Project 31) as it had been overtaken by these developments.

7. COMMERCIAL LAW AND THE LAW OF OBLIGATIONS

Insurance Contracts

In 2011, the Commission completed its *Consultation Paper on Insurance Contracts* (LRC CP 65-2011) (3rd Programme of Law Reform, Project 34), and it was published in January 2012. The Consultation Paper noted that some aspects of insurance contract law include long-established common law principles. This includes the principle that there is a duty on the person taking out the policy of insurance to disclose material information that is relevant to the risk that the insurer is being asked to take on. The Paper also points out that a number of *Insurance Acts* enacted by the Oireachtas have already made important changes to the common law rules. In addition, the Central Bank's *Consumer Protection Code 2012* also contains general principles and specific rules that affect the format and content of insurance contracts. Along with these statutory innovations, voluntary Codes of Practice have also been developed by representative bodies such as the Irish Insurance Federation (IIF), and the Commission considers that these have further potential if they were given statutory backing.

Among the specific recommendations in the Consultation Paper are:

- regulatory bodies (in particular the Central Bank and the National Consumer Agency) should continue to liaise with each other in order to develop comprehensive statutory Codes of Practice setting out standards of best practice, building on the best practice standards developed by the Irish Insurance Federation and on the statutory model of the Central Bank's *Consumer Protection Code 2012*; these would, in general, apply to consumer insurance contracts and those involving small and medium sized enterprises (SMEs).
- in any litigation or other dispute resolution process, such statutory Codes of Practice setting out standards of best practice should be admissible in evidence; and that, if any provision of such Code is relevant to a question arising in the litigation or other dispute resolution process, the provision may be taken into account in determining that question, but that this would be without prejudice to the substantive rights between the parties.
- legislation should provide that an otherwise valid insurance claim cannot be rejected by the insurer solely because the insured lacks an "insurable interest" as it has been traditionally defined, that is, a legal or equitable relationship between the insured and the subject matter of the insurance contract. The Commission provisionally recommended that, instead, insurable interest should, in the interests of certainty, be defined in legislation (to reflect current Irish case law) as an interest that operates when a person may benefit from the continued existence or safekeeping of the subject matter of the insurance or may be prejudiced by its loss; and that this definition would apply both to non-life insurance (in particular property and liability insurance) and to life insurance. In connection with life

policies, the Commission also provisionally recommended reform of the “natural love and affection” category of insurable interest to include civil partnership, cohabitation and other familial relationships.

- the pre-contractual duty of disclosure in insurance contract law should be retained, but that it should (in accordance with authoritative case law in Ireland) be restricted to facts or circumstances of which the person applying for insurance cover – the proposer – has actual knowledge; and that the duty of disclosure would not, therefore, extend to every fact or circumstance which ought to be known by him or her (constructive knowledge).
- the current duty on the proposer/insured to give “true” answers should be replaced by a duty to answer specific questions honestly and carefully. The Commission also considered that the insurer must ensure that any question posed in writing to the proposer/insured is drafted in plain, intelligible language; that any such question should be specific as to the information being sought by the insurer; and that where there is doubt about the meaning of a question, it should be interpreted by reference to a standard of what is fair and reasonable; and that the failure of an insurer to follow up on an obviously incomplete answer should be regarded as a waiver of the duty of disclosure in appropriate cases.

Civil Liability of Good Samaritans and Volunteers

Section 4 of the *Civil Law (Miscellaneous Provisions) Act 2011*, which inserted a new Part IVA into the *Civil Liability Act 1961* (comprising sections 51A to 51G of the 1961 Act), implemented the key recommendations in the Commission’s *Report on Civil Liability of Good Samaritans and Volunteers* (LRC 93-2009). The Report followed a request from the Attorney General under the *Law Reform Commission Act 1975* to examine the civil liability of Good Samaritans and volunteers.

7. INTERNATIONAL LAW

Civil Law Aspects of Missing Persons

In 2011, the Commission published a *Consultation Paper on Civil Law Aspects of Missing Persons* (LRC CP 64-2011) (3rd Programme of Law Reform, Project 37). The Consultation Paper noted that between 7,000 and 8,000 people are reported missing every year in Ireland, almost 20 every day. Most of these turn up within a very short time, and less than 1% remain missing for a long time. The Garda Missing Persons Bureau reported that, between 2003 and 2010 there were 53,915 missing persons reports; of these, 381 people remained missing at the end of 2010.

The Consultation Paper also pointed out that, in the context of the violence in Northern Ireland from the 1970s to the late 1990s, missing persons also include “the Disappeared,” a group of 17 people who are presumed to have been killed but whose bodies had not been found. The Independent Commission for the Location of Victims’ Remains, established after the 1998 Good Friday Agreement to locate their remains, had, by 2011, located 10 bodies, so that 7 of “the Disappeared” remained missing in 2011. Against this background, in 2009, the Northern Ireland Assembly enacted the *Presumption of Death (Northern Ireland) Act 2009*, which allows relatives to apply to court for a presumption of death order.

The Commission concluded in the Consultation Paper that, in addition to the need for a statutory framework for presumption of death orders, there is a need to have in place arrangements to deal with some immediate practical problems for family members of a missing person (often referred to as those left behind). In particular, there is a need to allow access to a missing person’s bank account (especially where the bank account is in his or her sole name) so that bills can be paid. The Commission provisionally recommended, therefore, that legislation should be enacted to allow the family left behind to take out a limited grant of administration of the missing person’s estate

(through the Probate Office of the High Court). This would allow the family to pay bills or, for example, to renew insurance on a car or motorbike. This process could be in place for up to 2 years (with a possible extension of 2 more years).

As to presumption of death, the Consultation Paper noted that the current law is that there is a presumption that a missing person is alive for up to 7 years, and that a presumption of death applies after 7 years. These presumptions can be rebutted by evidence, so a person can be presumed dead where they have been missing for less than 7 years; and an absence of 7 years does not always lead to a declaration of presumed death. The current law is limited, because it only allows family members to apply to the High Court to have the estate of the missing persons administered. In rare cases, an inquest has been held involving a missing person, which can lead to a coroner's declaration of death, allowing the family to obtain a death certificate. The Commission pointed out that this had occurred in 2011 in an inquest into the disappearance of a woman who had gone missing from a Dublin hospital in 1979 aged 57.

In the Consultation Paper, the Commission provisionally recommended reform of the law on presumed death, in particular to ensure that families can deal as far as possible in the least expensive way with the emotional trauma of their loved one going missing. This would include amending the *Coroners Act 1962* to make it clear that families of missing persons may apply to have a coroner's inquest and to have a declaration of presumed death; this would apply to cases where death is almost certain. In cases where death is highly probable, the Commission provisionally recommended that a court application would be needed, but that this would allow not only for the administration of the missing person's estate but also for the making of a presumption of death order. This would allow the family of the missing person to obtain a death certificate. The Commission provisionally recommended that, as far as possible, the law in this State should mirror the provisions of the *Presumption of Death (Northern Ireland) Act 2009*, so that any cases involving "the Disappeared" that might be dealt with in the State would be based on a similar legal framework.

The Consultation Paper also made provisional recommendations to deal with the rare situations where a missing person who has been declared dead is, in fact, alive and returns. The Commission's provisional recommendations would allow the person to have property returned to him or her (subject to any irreversible orders that have been made in the meantime). The Commission also invited submissions on the status of any second marriage/civil partnership that a spouse/civil partner may have entered into while the person was missing. The current law is that the second marriage/civil partnership is completely invalid.

CHAPTER 3

STATUTE LAW RESTATEMENT

OVERVIEW

In 2011, the Commission completed work on its *First Programme of Statute Law Restatement* (which had been extended in 2009) by completing and publishing the Road Traffic Acts 1961 to 2010. The Commission made good progress in relation to its Second Programme of Statute Law Restatement. All restated Acts were placed on the Commission's website in pre-certified form, pending certification by the Attorney General under the Statute Law (Restatement) Act 2002 or the making of other arrangements.

The Commission entered into discussions with the Office of the Attorney General in relation to the certification process and alternative means of certification. The context was the cumbersome procedure envisaged by the 2002 Act and resource issues in both organisations. It was agreed that the issue would be further explored in 2012 with a view to maximising public availability of the work done to date and future restatements or alternative forms of administrative consolidations.

WORK IN 2011 ON THE COMMISSION'S PROGRAMMES OF STATUTE LAW RESTATEMENT

The Commission's *First Programme of Restatement* was largely completed in 2010, with the exception of the Road Traffic legislation. Restatements of these Acts were completed in the course of 2011.

The Commission's *Second Programme of Restatement* involves 12 groups of Acts and an additional 3 groups, to be undertaken if there is time. The groups of Acts are as follows:

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

Full details of the Acts included in the Second Programme are set out on the Commission's website.

Restatements of the following Acts from the *Second Programme* were prepared in the course of 2011, primarily from the Employment and Road Traffic groups (the latter from the First Programme). New restatements of Acts were (and continue to be)

published on the Commission website as they became available. In addition, certain other Acts already restated were updated in the course of 2011.

[Bail Act 1997](#)

[Children Act 2001](#)

[Employees \(Provision of Information and Consultation\) Act 2006](#)

[Employment Agency Act 1971](#)

[Employment Permits Act 2003](#)

[Employment Permits Act 2006](#)

[Guardianship of Infants Act 1964](#)

[Industrial Relations Act 1946](#)

[Industrial Relations Act 1969](#)

[Industrial Relations Act 1976](#)

[Industrial Relations Act 1990](#)

[Industrial Relations \(Amendment\) Act 2001](#)

[Industrial Training Act 1967](#)

[Labour Services Act 1987](#)

[Local Authorities \(Traffic Wardens\) Act 1975](#)

[Minimum Notice and Terms of Employment Act 1973](#)

[National Minimum Wage Act 2000](#)

[National Training Fund Act 2000](#)

[National Tourism Development Authority Act 2003](#)

[Organisation of Working Time Act 1997](#)

[Payment of Wages Act 1991](#)

[Protection of Employees \(Employers' Insolvency\) Act 1984](#)

[Protection of Employees \(Fixed-Term Work\) Act 2003](#)

[Protection of Employees \(Part-Time work\) Act 2001](#)

[Protection of Employment Act 1977](#)

[Protection of Young Persons \(Employment\) Act 1996](#)

[Redundancy Payments Act 1967](#)

[Redundancy Payments Act 1971](#)

[Redundancy Payments Act 1979](#)

[Road Traffic Act 1961](#)

[Road Traffic Act 1968](#)

[Road Traffic \(Amendment\) Act 1984](#)

[Road Traffic Act 1994](#)

[Road Traffic Act 2002](#)

[Road Traffic Act 2004](#)

[Road Traffic Act 2006](#)

[Safety, Health and Welfare at Work Act 2005](#)

[Terms of Employment \(Information\) Act 1994](#)

[Transnational Information and Consultation of Employees Act 1996](#)

[Transport Act 1958](#)

[Transport \(Miscellaneous Provisions\) Act 1955](#)

[Unfair Dismissals Act 1977](#)

[Youth Work Act 2001](#)

The Restatements are completed in XML format suitable for online publication, with PDF versions also available.

The Commission also considered the issue of maintaining Restatements up to date. As a first step, to prevent backlogs of amendments piling up in the future, it was decided to embark on a Maintenance Programme to start in 2012. The Maintenance Programme was designed to focus on preparing Restatements of all legislation (other than Finance and Social Welfare Acts) from 2006 onwards, and maintaining them up to date in the future.

CHAPTER 4 LEGISLATION DIRECTORY

OVERVIEW

In 2011, the Commission continued to update the Legislation Directory and forward periodic updates to the Office of the Attorney General for publication on the electronic Irish Statute Book (eISB) website.

The Commission also embarked on the creation of a new Legislation Directory for Secondary Legislation (Statutory Instruments). The period from 2011 back to 2004 was included. This meant that for the first time all amendments to Statutory Instruments from 2004 to 2011 were recorded in a readily accessible and searchable index similar to that maintained for Acts. In addition, any amendments to other pre-2004 Statutory Instruments were also recorded. The programme of work planned in 2011 envisaged the extension of this new Legislation Directory of SIs back to 2000 in the course of 2012.

Research continued on the identification of the status of Statutory Instruments made since 1922 and their classification, with a view to completing a first draft of a list of in-force Statutory Instruments by end 2012.

THE COMMISSION'S WORK IN 2011 ON THE LEGISLATION DIRECTORY

The Commission supplied updates to the Legislation Directory in the course of 2011. The supply of XML versions of new secondary legislation necessary for the Commission to do this was sufficient, but not always as timely as desirable.

The Commission completed the inclusion in the Legislation Directory pre-1922 amendments to pre-1922 (pre-Independence) Acts that remain in force. Until 2010, only amendments made after 1922 to pre-1922 Acts were tracked in the Legislation Directory. By the end of 2011, the Commission had tracked all pre-1922 amendments to all 1,364 Acts retained by the Statute Law Revision Act 2007. For example, all changes made pre-1922 and post-1922 to the *Offences Against the Person Act 1861* (which is applied in the District Court on a regular basis) are now available on the Legislation Directory.

When the Commission took over the Legislation Directory project, it realised that there was a significant deficit in relation to secondary legislation. There was no equivalent Legislation Directory database for this body of law. The Commission thus began working on a Legislation Directory of Statutory Instruments from 2006 onwards, which would allow tracking of amendments made to these important statutory materials. Each year, about 40 Acts are passed by the Oireachtas, while over 600 Statutory Instruments are made. Thus while the Oireachtas has enacted over 3,000 Acts since 1922 (in respect of which, because of the existence of the Legislation Directory, we are able to state that over 2,000 remain in force), up to 35,000 statutory instruments have been made since 1922 (but we are unable to say with any precision how many of these remain in force).

The Commission initially published the Legislation Directory for Secondary Legislation containing information from 2006 to 2011 and added updates including additional years 2005 and 2004. The Commission aims to publish the Legislation Directory for Secondary Legislation from 2012 - 2000 in 2012, and maintain it up to date thereafter.

Work continued on another project undertaken by the Commission in the area of statute law: the identification of the status (in force or revoked/spent) of the estimated

35,000 statutory instruments made since 1922. The objective is to give clarity as to what statutory instruments remain in force (in the absence of a complete Legislation Directory), to complement the Classified List of Acts with their related instruments and thereby also classify them, and to lay the foundation of a Legislation Directory of Secondary Legislation recording changes only to legislation which remains in force. (The creation of a Legislation Directory of all Statutory Instruments back to 1922 would not be economically justifiable or particularly useful). This project envisages the completion of a first draft list of in-force Statutory Instruments by the end of 2012. It mirrors the project on a Classified List of Legislation in Ireland, mentioned in Chapter 2, above.

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 (as of 2011) is set out in Appendix E.

THE COMMISSION

The Commission consisted of a President and 4 Commissioners. The Commissioners are appointed by the Government for a term of up to 5 years, and their appointment may be renewed. In 2011, the Commission consisted of the President, a full-time Commissioner and three part-time Commissioners. The President of the Commission (to February 2011) Mrs Justice Catherine McGuinness is a former judge of the Supreme Court. The 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, formerly member of the Commission to Inquire into Child Sexual Abuse; and Mr Justice Donal O'Donnell, judge of the Supreme Court.

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 in 2011 consisted of the President of the Commission, the full time Commissioner, the Head of Administration, the Director of Research, the Restatement Project Manager and the Legislation Directory Project Manager. The Management Committee met 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, which is updated on a quarterly basis.

ADMINISTRATIVE STAFF

The Commission's administrative and library staff consisted of a Head of Administration (appointed in August 2011) and a team of **five** staff as of December 2011. During 2011, transfer, redeployment and other arrangements were put in place to take into account the reduction in the Commission's grant-in-aid for 2011.

During 2011, the Administration Unit had overall responsibility for carrying out the day-to-day administrative tasks within the Commission. In particular the Unit was responsible for:

- Managing, processing and reporting on all financial transactions in the Commission. The latter included 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

The Administration Unit also provided support for the research function within the Commission. Typically this involved arranging for the printing and distribution of the Commission's publications and planning and organising 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.

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 Project Initiation Document and 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 law reform research team is headed by the Director of Research, to whom the law reform research staff report directly. The present Director of Research is Raymond Byrne, formerly of the School of Law and Government, Dublin City University. The Commission's projects on Statute Law Restatement and the Legislation Directory are overseen by two project managers. During 2011, the Commission had authority to employ 8 full-time Legal Researchers, who are usually engaged on one year contracts. These 8 researchers are assigned by the Commission to law reform, Statute Law Restatement and the Legislation Directory. 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 law reform research team, 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.

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. In 2011, the library was 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 worked 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, was circulated to all staff on a weekly basis. The Legal Information Manager/Librarian was 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 Public Expenditure Reform. Total income received in 2011 from all sources (including grant-in-aid, net deferred funding from pensions, transfers to capital account, sale of publications and income received from Department of Social Protection) amounted to €2,451,945.

Expenditure in 2011 amounted to €2,450,350. 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.

Prompt payments

The Commission did not incur any late interest penalties during 2010 under the *Prompt Payment of Accounts Act 1997*, as amended by the *European Communities (Late Payment in Commercial Transactions) Regulations 2002*.

Audit Committee

The Commission's Audit Committee monitors on an ongoing basis the Commission's grant-in-aid, and liaises with the internal audit committee of the Office of the Attorney General.

ENERGY EFFICIENCY

In accordance with the *European Communities (Energy End-use Efficiency and Energy Services) Regulations 2009* (SI No.542 of 2009), and Directive 2006/32/EC, the Commission ensured during 2011 that it engaged in appropriate steps concerning energy conservation and reduction measures.

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.

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. As indicated, the Commission also derives a small amount of income from the sale of publications (€6,857 in 2011). 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, which in 2011 was chaired by Commissioner Shanley.

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

CHAPTER 6

REVIEW OF PROGRESS THROUGH THIRD PROGRAMME OF LAW REFORM

In this Chapter, the Commission takes the opportunity to describe the progress made since 2008 in progressing to completion the projects in its *Third Programme of Law Reform*. The *Third Programme* contained a commitment that the Commission would publish a review of progress at its projected mid-point,¹ which the Commission had also done in respect of the *Second Programme of Law Reform 2000-2007*.²

In summary (the details are set out below):

- The *Third Programme* consists of 37 projects grouped under 9 major headings
- The Commission has begun or completed 22 of the 37 projects
- A further 9 of the 37 projects have been overtaken by developments since 2008 (including planned or enacted legislation in those areas)
- The remaining 6 projects are to be reconsidered for relevance and importance in the context of the development of the Commission's *Fourth Programme of Law Reform*.

In addition to projects directly related to the *Third Programme*, the Commission has begun or completed 7 other projects since 2008, 3 of which concerned specific additional requests made by the Attorney General under the *Law Reform Commission Act 1975* (the other 4 relate to the Commission's work on making legislation more accessible).

Having regard to the progress made since 2008, the Commission decided that preparations should begin in 2012 on the development of a *Fourth Programme of Law Reform*.

A. Legal System and Public Law

Under this heading, the *Third Programme* lists 6 projects:

1. Jury Service
2. Personal Debt Management and Debt Enforcement
3. Search Warrants and Bench Warrants
4. Limitation of Actions
5. Alternative Dispute Resolution
6. Consolidation and Reform of the Courts Acts

A.1 General comment on projects under Legal System and Public Law heading

Under this heading the Commission has begun or completed each of the 6 projects.

A.2 Detailed comments on projects under Legal System and Public Law heading

1. Jury Service. In 2010, the Commission published its *Consultation Paper on Jury Service* (LRC CP 60-2010). The Report is nearing completion.
2. *Personal Debt Management and Debt Enforcement*. In 2010, the Commission published its *Report on Personal Debt Management and Debt Enforcement* (LRC 100-2010), following its *Interim Report on Personal Debt Management and Debt Enforcement* (LRC 96-2010) and *Consultation Paper on Personal Debt Management and Debt Enforcement* (LRC CP 56-2009). *Project Completed*.
3. Search Warrants and Bench Warrants. In 2009, the Commission published its *Consultation Paper on Search Warrants and Bench Warrants* (LRC CP 58-2009). The Report is nearing completion.

¹ *Report on the Third Programme of Law Reform 2008-2014* (LRC 86-2007), p.7.

² See the Commission's *Annual Report 2004*, Chapter 5.

4. *Limitation of Actions*. In 2011, the Commission published its *Report on Limitation of Actions* (LRC 104-2011), following its *Consultation Paper on Limitation of Actions* (LRC CP 54-2009). *Project Completed*.
5. *Alternative Dispute Resolution*. In 2010, the Commission published its *Report on Alternative Dispute Resolution: Mediation and Conciliation* (LRC 97-2010), following its *Consultation Paper on Alternative Dispute Resolution* (LRC CP-50 2008). *Project Completed*.
6. *Consolidation and Reform of the Courts Acts*. In 2010, the Commission published its *Report on Consolidation and Reform of the Courts Acts* (LRC 98-2010), following its *Consultation Paper on Consolidation and Reform of the Courts Acts* (LRC CP 46-2007). *Project Completed*.

[Additional projects since 2008 related to this heading: work on making legislation more accessible, including two Programmes of Revised/Restated Acts (administrative consolidations of Acts, of which over 120 are available on the Commission's website), the Legislation Directory and a Classified List of In-Force Legislation in Ireland.]

B. Law of Evidence

Under this heading, the *Third Programme* lists 5 projects:

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

B.1 General comment on projects under Law of Evidence heading

Under this heading the Commission has begun or completed 3 of the 5 projects. The remaining 2 projects have been overtaken by developments since 2008.

B.2 Detailed comments on projects under Law of Evidence heading

7. Documentary Evidence and Technology. In 2009, the Commission published its *Consultation Paper on Electronic and Documentary Evidence* (LRC CP 57-2009). The Report is nearing completion (Report will also incorporate projects 8 and 11).
8. Hearsay in Civil and Criminal Cases. In 2010, the Commission published its *Consultation Paper on Hearsay in Civil and Criminal Cases* (LRC CP 61-2010). The Report is nearing completion (Report will also incorporate projects 7 and 11).
9. Advance Disclosure of Defence Cases. This project has been overtaken by developments since 2008, as this issue is now dealt with in the *Criminal Procedure Act 2010*.
10. Forensic Evidence. This project has been overtaken by developments since 2008, having regard to the proposed *Criminal Justice (Forensic Evidence and DNA Database System) Bill* (scheduled for publication in 2012).
11. Expert Evidence. In 2008, the Commission published its *Consultation Paper on Expert Evidence* (LRC CP 52 - 2008). The Report is nearing completion (Report will also incorporate projects 7 and 8).

C. Criminal Law

Under this heading, the *Third Programme* lists 8 projects:

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

C.1 General comment on projects under Criminal Law heading

Under this heading the Commission has begun or completed 5 of the 8 projects. The remaining 3 projects have been overtaken by developments since 2008.

C.2 Detailed comments on projects under Criminal Law heading

12. The Law of Sexual Offences. In 2011, the Commission published its *Consultation Paper on Sexual Offences and Capacity to Consent* (LRC CP 63-2011). The Report is nearing completion (this project complements the general review of the law on sexual offences being undertaken by the Department of Justice and Equality: see also Project 14, below).
13. The Victim and the Criminal Justice System. This project has been overtaken by developments since 2008: the *Programme for Government 2011-2015* contains specific proposals for reform in this area (taking account of proposed EU Directive).
14. Vulnerable Persons and the Criminal Justice System. The *Consultation Paper on Sexual Offences and Capacity to Consent* (LRC CP 63-2011) (Project 12, above) has incorporated this.
15. Restorative Justice. This project has been overtaken by developments since 2008: see 2009 *Report of the National Commission on Restorative Justice*, available at www.justice.ie.
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. This project has been overtaken by developments since 2008: see *Draft Criminal Code Bill* published in 2011 by the Department of Justice and Equality in conjunction with the Criminal Law Codification Advisory Committee, which includes a draft General Part.
17. *The Law of Homicide*. In 2008, the Commission published its *Report on Homicide: Murder and Involuntary Manslaughter* (LRC 87-2008), which followed its *Consultation Paper on Involuntary Manslaughter* (LRC CP 44-2007) and *Consultation Paper on Homicide: the Mental Element in Murder* (LRC CP 17-2001). *Project Completed*.
18. *Defences in the Criminal Law*. In 2009, the Commission published its *Report on Defences in Criminal Law* (LRC 95-2009), which followed its *Consultation Paper on Legitimate Defence* (LRC CP 41-2006), *Consultation Paper on Duress and Necessity* (LRC CP 39-2006) and *Consultation Paper on Homicide: The Plea of Provocation* (LRC CP 27-2003). *Project Completed*.
19. *Inchoate Offences*. In 2010, the Commission published its *Report on Inchoate Offences* (LRC 99 - 2010), which followed its *Consultation Paper on Inchoate Offences* (LRC CP 48-2008). *Project Completed*.

[Additional project since 2008 related to this heading. *Consultation Paper on Mandatory Sentences* (LRC CP 66-2011), which arises from a specific request from the Attorney General under the *Law Reform Commission Act 1975*. The Report is nearing completion.]

D. Land Law and Property

Under this heading, the *Third Programme* lists 3 projects:

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

D.1 General comment on projects under Land Law and Property heading

Under this heading the Commission has completed 1 of the 3 projects; another has been overtaken by developments since 2008; and the remaining project is to be reconsidered for relevance and importance in the context of developing the *Fourth Programme of Law Reform*.

D.2 Detailed comments on projects under Land Law and Property heading

20. Further Statutory Codification of Land Law. Project on adverse possession: to be reconsidered for relevance and importance in the context of developing the *Fourth Programme of Law Reform*.
21. *Trust Law and the Settled Land Acts*. In 2011, the Commission completed its work with the Department of Justice and Equality on provisions concerning trusts (in the wake of the repeal of the *Settled Land Acts*), to be included in the proposed *Trustee Bill*. *Project completed*.
22. eConveyancing Road Map. This project has been overtaken by developments since 2008. The Commission engaged in ongoing liaison during 2008-2010 with the Department of Justice and Equality, the Property Registration Authority, the Law Society of Ireland and other interested parties; and this project is now being developed by those other parties.

E. Family Law

Under this heading, the *Third Programme* lists 3 projects:

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

E.1 General comment on projects under Family Law heading

Under this heading the Commission has begun or completed 2 of the 3 projects. The other project is to be reconsidered for relevance and importance in the context of developing the *Fourth Programme of Law Reform*.

E.2 Detailed comments on projects under Family Law heading

23. *Legal Aspects of Family Relationships*. In 2010, the Commission published its *Report on Legal Aspects of Family Relationships* (LRC 101-2010), which followed its *Consultation Paper on Legal Aspects of Family Relationships* (LRC CP 55-2009). *Project Completed*.
24. Domestic Violence. The Commission began work on this project in 2012 (intended to complement a general review of the law on domestic violence being undertaken by the Department of Justice and Equality: see also Project 12, above).
25. The Law of Annulment in the 21st Century: to be reconsidered for relevance and importance in the context of developing the *Fourth Programme of Law Reform* (note also 1984 *Report on Nullity of Marriage* (LRC 9-1984)).

[Additional project since 2008 related to this heading: *Report on Aspects of Intercountry Adoption* (LRC 89-2008) (Attorney General Request under *Law Reform Commission Act 1975*).]

F. Specific Groups in a Changing Society

Under this heading, the *Third Programme* lists 4 projects:

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

29. Legal Aspects of Carers

F.1 General comment on projects under Specific Groups in a Changing Society heading

Under this heading the Commission has completed 2 of the 4 projects. The remaining 2 projects have been overtaken by developments since 2008.

F.2 Detailed comments on projects under Specific Groups in a Changing Society heading

26. *Children and the Law*. In 2011, the Commission published its *Report on Children and the Law: Medical Treatment* (LRC 103-2011), which followed its *Consultation Paper on Children and the Law: Medical Treatment* (LRC CP 59-2009). *Project Completed*.
27. Gender Recognition. This project has been overtaken by developments since 2008: see the 2011 *Report of Gender Recognition Advisory Group* and proposed legislation to implement this.
28. Legal Aspects of the New and Emerging Members of Irish Society (Reunification Procedures and Citizenship). This project has been overtaken by developments since 2008: it is to be dealt with in the forthcoming *Immigration, Residence and Protection Bill*.
29. Legal Aspects of Carers. In 2011, the Commission published its *Report on Professional Home Care* (LRC 105-2011), which followed its *Consultation Paper on Legal Aspects of Carers* (LRC CP 53-2009). *Project Completed*.

G. Technology, Innovation and the Individual

Under this heading, the *Third Programme* lists 3 projects:

30. Legal Aspects of Bioethics
31. Legal Aspects of Assisted Human Production
32. Privacy

G.1 General comment on projects under Technology, Innovation and the Individual heading

Under this heading the Commission has completed 1 of the 3 projects. A second project has been overtaken by developments since 2008, and the third project is to be reconsidered for relevance and importance in the context of developing the *Fourth Programme of Law Reform*.

G.2 Detailed comments on projects under Technology, Innovation and the Individual heading

30. Legal Aspects of Bioethics. In 2009, the Commission published its *Report on Bioethics: Advance Care Directives* (LRC 94-2009), which followed its *Consultation Paper on Bioethics: Advance Care Directives* (LRC CP 51-2008). *Project Completed*.
31. Legal Aspects of Assisted Human Production. This project has been overtaken by developments since 2008, as the Department of Health is engaged in a general review of the law on assisted human reproduction.
32. Privacy. This project is to be reconsidered for relevance and importance in the context of developing the *Fourth Programme of Law Reform* (note: the *Privacy Bill 2006* is currently on the Order Paper of Seanad Éireann; and note the establishment in 2010 of the Press Ombudsman and Press Council, recognised under the *Defamation Act 2009*).

H. Commercial Law and the Law of Obligations

Under this heading, the *Third Programme* lists 3 projects:

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

H.1 General comment on projects under Commercial Law and the Law of Obligations heading

Under this heading the Commission has begun 1 of the 3 projects; the other two are to be reconsidered for relevance and importance in the context of developing the *Fourth Programme of Law Reform*.

H.2 Detailed comments on projects under Commercial Law and the Law of Obligations heading

33. Frustration of Contracts: to be reconsidered for relevance and importance in the context of developing the *Fourth Programme of Law Reform*.
34. Insurance Contracts. In 2011, the Commission published its *Consultation Paper on Insurance Contracts* (LRC CP 65-2011). Report is scheduled for 2013.
35. Damages in Contract and Tort Law: to be reconsidered for relevance and importance in the context of developing the *Fourth Programme of Law Reform* (note: 2000 *Report on Aggravated, Exemplary and Restitutionary Damages* (LRC 60-2000)).

[Additional project since 2008 related to this heading: *Report on Civil Liability of Good Samaritans and Volunteers* (LRC 93-2009) (Attorney General Request under *Law Reform Commission Act 1975*).]

H. International Law

Under this heading, the *Third Programme* lists 2 projects:

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

I.1 General comment on projects under International Law heading

Under this heading the Commission has begun 1 of the 2 projects; the other to be reconsidered for relevance and importance in the context of developing the *Fourth Programme of Law Reform*.

I.2 Detailed comments on projects under International Law heading

36. The Status of International Law in Domestic Irish Law: to be reconsidered for relevance and importance in the context of developing the *Fourth Programme of Law Reform*.
37. Civil Law Aspects of the Law of Missing Persons. In 2011, the Commission published its *Consultation Paper on the Civil Law Aspects of Missing Persons* (LRC CP 64-2011). The Report is nearing completion.

Appendix A:

LIST OF PROJECTS IN THIRD PROGRAMME OF LAW REFORM 2008-2014

A. Legal System and Public Law

- 38. The Law Relating to Juries
- 39. Debt Enforcement and Securing Interests over Personal Property
- 40. Bench Warrants and Search Warrants
- 41. Limitation of Actions
- 42. Alternative Dispute Resolution
- 43. Consolidation and Reform of the Courts Acts

B. Law of Evidence

- 44. Documentary Evidence and Technology
- 45. Hearsay in Civil and Criminal Cases
- 46. Advance Disclosure of Defence Cases
- 47. Forensic Evidence
- 48. Expert Evidence

C. Criminal Law

- 49. The Law of Sexual Offences
- 50. The Victim and the Criminal Justice System
- 51. Vulnerable Persons and the Criminal Justice System
- 52. Restorative Justice
- 53. Having regard to the establishment of the Criminal Law Codification Advisory Committee, examination of issues arising in the general part of the criminal law
- 54. The Law of Homicide
- 55. Defences in the Criminal Law
- 56. Inchoate Offences

D. Land Law and Property

- 57. Further Statutory Codification of Land Law
- 58. Trust Law and the Settled Land Acts
- 59. eConveyancing Road Map

E. Family Law

- 60. Legal Aspects of Family Relationships
- 61. Domestic Violence
- 62. The Law of Annulment in the 21st Century

F. Specific Groups in a Changing Society

- 63. Children and the Law
- 64. Gender Recognition
- 65. Legal Aspects of the New and Emerging Members of Irish Society (Reunification Procedures and Citizenship)
- 66. Legal Aspects of Carers

G. Technology, Innovation and the Individual

- 67. Legal Aspects of Bioethics
- 68. Legal Aspects of Assisted Human Production
- 69. Privacy

H. Commercial Law and the Law of Obligations

- 70. Frustration of Contracts
- 71. Insurance Contracts
- 72. Damages in Contract and Tort Law

I. International Law

- 73. The Status of International Law in Domestic Irish Law
- 74. 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 ACT 2009

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 was based on its draft Bill in the *Report on the Reform and Modernisation of Land Law and Conveyancing Law (LRC 74-2005)* and which was enacted by the Oireachtas as the *Land and Conveyancing Law Reform Act 2009*. In the wake of the enactment of the 2009 Act, the Expert Group is convened from time to time to discuss and consider possible amendments to the 2009 Act.

Members of Expert Group on the Land and Conveyancing Law Reform Act 2009

Mrs Justice Catherine McGuinness, President (to February 2011)
Commissioner Patricia T Rickard-Clarke
Mr Raymond Byrne, Director of Research
Professor John C W Wylie, Professor of Law, Cardiff University
Mr John Deeney, Property Registration Authority
Mr Seamus Carroll, Principal Officer, Department of Justice and Law Reform

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 2011. In many instances, these involved delivering papers concerning the Commission's work.

12 January 2011 (Presentation) Ballymun Community Law Centre Presentation by Commission on – ADR (RB), Personal Debt (PTRC) and Family Relationships (CMcG)

21 January 2011 eLegislation Group meeting (and throughout 2011) Department of the Taoiseach, Government Buildings

25 January 2011 (Presentation) *Scheme of the Mental Capacity Bill 2008* Certificate in Capacity and Mental Health Law Law Society/STEP Law Society Blackhall Place Dublin

22 February 2011 (Presentation) *Financial abuse: The legal and regulatory gaps* The Legal and Policy Challenges of Financial Elder Abuse National Centre for the Protection of Older People University College Dublin

4 March 2011 (Presentation) *Elder Abuse and the Law of Agency* LLM Students University College Galway

29 March 2011 (Presentation) *Report on Alternative Dispute Resolution: Mediation and Conciliation* Dublin Solicitors Bar Association seminar on ADR Clauses in Civil and Commercial cases, Dublin

6 April 2011 (Attended) *Cloud Computing* Mason Hayes Solicitors Dublin

10 May 2011 (Presentation) *Debt Management Proposals* Recent Developments Impacting the Management of Distressed Accounts Institute of Bankers in Ireland North Wall Dublin 1

11 May 2011 (Attended) Mental Health Law National Disability Authority Dublin

18 May 2011 (Attended) Briefing on the implications of the EU's Ratification of the UN Disability Convention for Ireland Leinster House, Kildare Street

27 May 2011 (Attended) STEP Annual Conference Radisson Hotel Stillorgan Dublin

15 June 2011 (Attended) World Elder Abuse Awareness Day National Centre for the Protection of Older People University College Dublin

22 June 2011 (Presentation) *Legal Structures for Charities and Non for Profit Organisations* Clann Credo – The Social Investment Fund Inchicore Dublin

23 June 2011 (Attended) *The Right to be a Parent* TCD/Inclusion Ireland TCD

23 June 2011 (Presentation) Launch of Solicitors for the Elderly Dr Stevens Hospital Dublin

7 and 8 July 2011 (Attended) Law Reform Commissions 5 Jurisdictions meeting Jersey

24 September 2011 (Presentation) *Review of Trust Law proposals* STEP Certificate in Trust and Estate Planning Law Society Dublin

12 October 2011 (Attended) Forum on End of Life Hospice Foundation Croke Park Conference Centre Dublin

13 October 2011 (Presentation) *Reform of Section 5 of the Criminal Law (Sexual Offences) Act 1993* NDA Annual Conference People with Disabilities participating fully and safely in the Community Croke Park Conference Centre Dublin

4 November 2011 (Presentation) *Advance Care Planning* St Luke's Day Symposium Royal College of Physicians Kildare Street Dublin

7 November 2011 (Commission Annual Conference)
Commission's Annual Conference 2011: Sexual Offences and Capacity President's Hall of the Law Society Blackhall Place Dublin

1 December 2011 Meeting with China Law Society Commission offices

Appendix D: **LIST OF LAW REFORM COMMISSION PUBLICATIONS**

All Commission publications are available at www.lawreform.ie

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

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

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

Working Paper No 3-1977, Civil Liability for Animals

First (Annual) Report (PrI 6961 1977)

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

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

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

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

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

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

Working Paper No 9-1980, The Rule Against Hearsay

Third (Annual) Report (PrI 9733 1980)

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)

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

Fourth (Annual) Report (1981) (PI 742)

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

Report on Defective Premises (LRC 3-1982)

Report on Illegitimacy (LRC 4-1982)

Fifth (Annual) Report (1982) (PI 1795)

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

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

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

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

Sixth (Annual) Report (1983) (PI 2622)

Report on Nullity of Marriage (LRC 9-1984)

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

Seventh (Annual) Report (1984) (PI 3313)

Report on Recognition of Foreign Divorces and Legal Separations (LRC 10-1985)

Report on Vagrancy and Related Offences (LRC 11-1985)

Report on the Hague Convention on the Civil Aspects of International Child Abduction and Some Related Matters (LRC 12-1985)

Report on Competence and Compellability of Spouses as Witnesses (LRC 13-1985)

Report on Offences Under the Dublin Police Acts and Related Offences (LRC 14-1985)
Report on Minors' Contracts (LRC 15-1985)
Report on the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (LRC 16-1985)
Report on the Liability in Tort of Minors and the Liability of Parents for Damage Caused by Minors (LRC 17-1985)
Report on the Liability in Tort of Mentally Disabled Persons (LRC 18-1985)
Report on Private International Law Aspects of Capacity to Marry and Choice of Law in Proceedings for Nullity of Marriage (LRC 19-1985)
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)
Eighth (Annual) Report (1985) (PI 4281)

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

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

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

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

Report on Confiscation of the Proceeds of Crime (LRC 35-1991)
Consultation Paper on the Civil Law of Defamation
Report on the Hague Convention on Succession to the Estates of Deceased Persons (LRC 36-1991)
Twelfth (Annual) Report (1990) (PI 8292)
Consultation Paper on Contempt of Court
Consultation Paper on the Crime of Libel
Report on the Indexation of Fines (LRC 37-1991)
Report on the Civil Law of Defamation (LRC 38-1991)
Report on Land Law and Conveyancing Law: (3) The Passing of Risk from Vendor to Purchaser (LRC 39-1991)
Report on Land Law and Conveyancing Law: (4) Service of Completion Notices (LRC 40-1991)
Thirteenth (Annual) Report (1991) (PI 9214)
Report on the Crime of Libel (LRC 41-1991)

Report on United Nations (Vienna) Convention on Contracts for the International Sale of Goods 1980 (LRC 42-1992)
Report on the Law Relating to Dishonesty (LRC 43-1992)
Land Law and Conveyancing Law: (5) Further General Proposals (LRC 44-1992)

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

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

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

Report on Family Courts (LRC 52-1996)
Seventeenth (Annual) Report (1995) (PN 2960)
Report on Sentencing (LRC 53-1996)
Consultation Paper on Privacy: Surveillance and the Interception of Communications
Report on Personal Injuries: Periodic Payments and Structured Settlements (LRC 54-1996)
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
Report on the Unidroit Convention on Stolen or Illegally Exported Cultural Objects (LRC 55-1997)
Report on Land Law and Conveyancing Law; (6) Further General Proposals including the execution of deeds (LRC 56-1998)
Consultation Paper on Aggravated, Exemplary and Restitutionary Damages
Nineteenth (Annual) Report (1997) (PN 6218)
Report on Privacy: Surveillance and the Interception of Communications (LRC 57-1998)
Report on the Implementation of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993 (LRC 58-1998)
Consultation Paper on the Statutes of Limitation: Claims in Contract and Tort in Respect of Latent Damage (Other Than Personal Injury)

Twentieth (Annual) Report (1998) (PN 7471)
Consultation Paper on Statutory Drafting and Interpretation: Plain Language and the Law (LRC CP14-1999)
Consultation Paper on Section 2 of the Civil Liability (Amendment) Act, 1964: The Deductibility of Collateral Benefits from Awards of Damages (LRC CP15-1999)
Report on Gazumping (LRC 59-1999)
Twenty First (Annual) Report (1999) (PN 8643)

Report on Aggravated, Exemplary and Restitutionary Damages (LRC 60-2000)
Second Programme for examination of certain branches of the law with a view to their reform: 2000-2007 (PN 9459)
Consultation Paper on the Law of Limitation of Actions arising from Non-Sexual Abuse of Children (LRC CP16-2000)
Report on Statutory Drafting and Interpretation: Plain Language and the Law (LRC 61-2000)
Report on the Rule against Perpetuities and Cognate Rules (LRC 62-2000)
Report on the Variation of Trusts (LRC 63-2000)

Report on The Statutes of Limitations: Claims in Contract and Tort in Respect of Latent Damage (Other than Personal Injury) (LRC 64-2001)
Consultation Paper on Homicide: The Mental Element in Murder (LRC CP17-2001)
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)
Consultation Paper on Prosecution Appeals in Cases brought on Indictment (LRC CP19-2002)
Report on the Indexation of Fines: A Review of Developments (LRC 65-2002)
Twenty Third (Annual) Report (2001) (PN 11964)
Report on the Acquisition of Easements and Profits à Prendre by Prescription (LRC 66-2002)
Report on Title by Adverse Possession of Land (LRC 67-2002)
Report on Section 2 of the Civil Liability (Amendment) Act 1964: The Deductibility of Collateral Benefits from Awards of Damages (LRC 68-2002)

Consultation Paper on Judicial Review Procedure (LRC CP 20-2003)
Report on Penalties for Minor Offences (LRC 69-2003)
Consultation Paper on Business Tenancies (LRC CP 21-2003)
Report on Land Law and Conveyancing Law: (7) Positive Covenants over Freehold Land and other Proposals (LRC 70-2003)
Consultation Paper on Public Inquiries Including Tribunals of Inquiry (LRC CP 22 – 2003)
Consultation Paper on Law and the Elderly (LRC CP 23 – 2003)
Consultation Paper on A Fiscal Prosecutor and A Revenue Court (LRC CP 24 – 2003)
Consultation Paper on Multi-Party Litigation (Class Actions) (LRC CP 25 – 2003)
Consultation Paper on Corporate Killing (LRC CP 26 – 2003)
Consultation Paper on Homicide: The Plea of Provocation (LRC CP 27 – 2003)
Seminar on Consultation Paper: Law and the Elderly (LRC SP 2-2003)
Twenty Fourth (Annual) Report (2002)
Consultation Paper on General Law of Landlord and Tenant (LRC CP 28 – 2003)

Report on Judicial Review Procedure (LRC 71-2004)
Consultation Paper on the Establishment of a DNA Database (LRC CP 29-2004)
Consultation Paper on Judgment Mortgages (LRC CP 30-2004)
Consultation Paper on the Court Poor Box (LRC CP 31-2004)
Consultation Paper on the Rights and Duties of Cohabitees (LRC CP 32-2004)
Consultation Paper on Prosecution Appeals from Unduly Lenient Sentences in the District Court (LRC CP 33-2004)
Twenty Fifth (Annual) Report (2003)
Consultation Paper on the Reform and Modernisation of Land Law and Conveyancing Law (LRC CP 34-2004)
Report on A Fiscal Prosecutor and A Revenue Court (LRC 72 – 2004)

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

Report on eConveyancing: Modelling of the Irish Conveyancing System (LRC 79-2006)

Consultation Paper on Duress and Necessity (LRC CP 39-2006)
Report on Charitable Trusts and Legal Structures for Charities (LRC 80-2006)
Consultation Paper on Privity of Contract: Third Party Rights (LRC CP 40-2006)
Twenty Seventh (Annual) Report (2005)
Report on Prosecution Appeals and Pre-Trial Hearings (LRC 81-2006)
Consultation Paper on Legitimate Defence (LRC CP 41-2006)
Report on the Rights and Duties of Cohabitants (LRC 82-2006)
Report on Vulnerable Adults and the Law (LRC 83-2006)
Consultation Paper on Multi-Unit Developments (LRC CP 42-2006)

Consultation Paper on Aspects of Intercountry Adoption Law (LRC CP 43-2007)
Seminar Paper on Third Programme of Law Reform (LRC SP 3-2007)
Consultation Paper on Involuntary Manslaughter (LRC CP 44-2007)
Consultation Paper on Statute Law Restatement (LRC CP 45-2007)
Consultation Paper on Reform and Consolidation of Courts Acts (LRC CP 46-2007)
Report on Spent Convictions (LRC 84-2007)
Twenty Eighth (Annual) Report (2006)
Consultation Paper on Civil Liability of Good Samaritans and Volunteers (LRC CP 47-2007)
Report on Law of Landlord and Tenant (LRC 85-2007)
Report on Third Programme of Law Reform 2008-2014 (LRC 86-2007)

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)
Consultation Paper on Inchoate Offences (LRC CP 48-2008)
Report on Multi-Unit Developments (LRC 90-2008)
Report on Statute Law Restatement (LRC 91 - 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)
Annual Report 2007
Consultation Paper on Bioethics: Advance Care Directives (LRC CP 51 - 2008)
Report on Trust Law: General Proposals (LRC 92 - 2008)
Consultation Paper on Expert Evidence (LRC CP 52 - 2008)

Report on Civil Liability of Good Samaritans and Volunteers (LRC 93-2009)
Consultation Paper on Legal Aspects of Carers (LRC CP 53-2009)
Consultation Paper on Limitation of Actions (LRC CP 54-2009)
Report on Bioethics: Advance Care Directives (LRC 94-2009)
Consultation Paper on Legal Aspects of Family Relationships (LRC CP 55-2009)
Consultation Paper on Personal Debt Management and Debt Enforcement (LRC CP 56-2009)
Annual Report 2008
Consultation Paper on Electronic and Documentary Evidence (LRC CP 57-2009)
Consultation Paper on Search Warrants and Bench Warrants (LRC CP 58-2009)
Consultation Paper on Children and the Law: Medical Treatment (LRC CP 59-2009)
Report on Defences in Criminal Law (LRC 95-2009)

Consultation Paper on Jury Service (LRC CP 60 - 2010)
Consultation Paper on Hearsay in Civil and Criminal Cases (LRC CP 61 - 2010)
Interim Report on Personal Debt Management and Debt Enforcement (LRC 96 - 2010)
Report on Alternative Dispute Resolution: Mediation and Conciliation (LRC 97 - 2010)
Report on Consolidation and Reform of the Courts Acts (LRC 98 - 2010)
Report on Inchoate Offences (LRC 99 - 2010)
Annual Report 2009
Report on Personal Debt Management and Debt Enforcement (LRC 100 - 2010)
Report on Legal Aspects of Family Relationships (LRC 101 - 2010)
Consultation Paper on a Classified List of Legislation in Ireland (LRC CP 62 - 2010)

Report on the Legislation Directory (LRC 102 - 2010)

Consultation Paper on Sexual Offences and Capacity to Consent (LRC CP 63-2011)

Report on Children and the Law: Consent to Medical Treatment (LRC 103-2011)

Annual Report 2010

Report on Limitations of Actions (LRC 104-2011)

Consultation Paper on Civil Law Aspects of Missing Persons (LRC CP 64-2011)

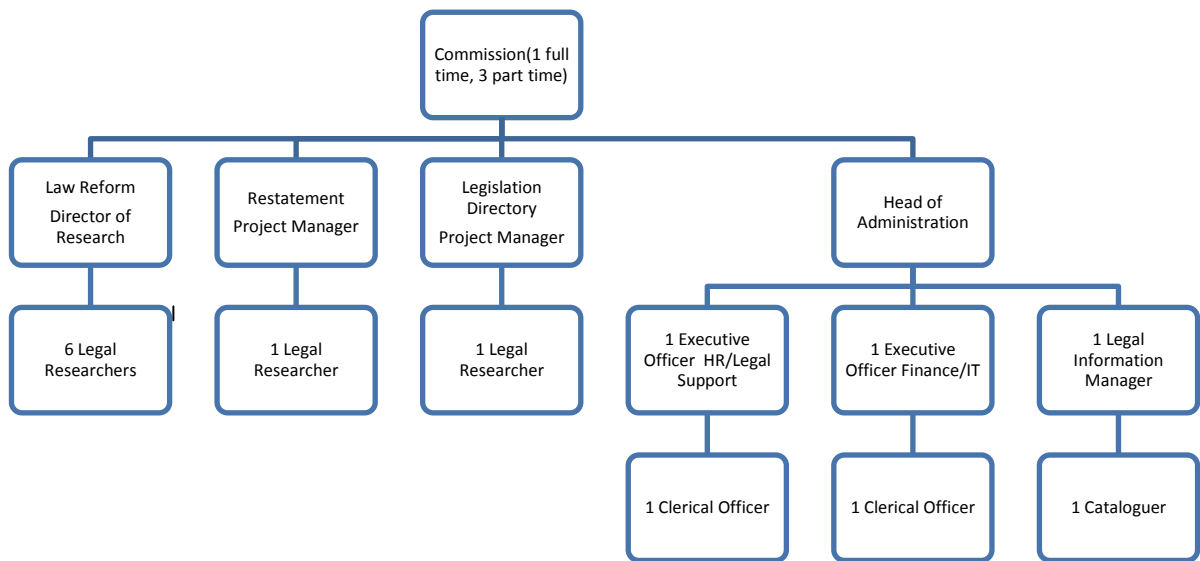
Consultation Paper on Insurance Contracts (LRC CP 65-2011)

Consultation Paper on Mandatory Sentences (LRC CP 66-2011)

Report on Professional Home Carers (LRC 105-2011)

APPENDIX E:

ORGANISATION CHART¹



Law Reform Commission Organisation Chart as at 31 December 2011

¹ Organisation Chart as at December 2011.