



LAW REFORM
COMMISSION/COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ

ANNUAL REPORT 2012

THE COMMISSION

The Law Reform Commission comprises a President, one full-time Commissioner and three part-time Commissioners. In 2012, the Commission was comprised as follows:

The Hon. Mr. Justice John Quirke

President (from July 2012)

Patricia T Rickard-Clarke BCL, Solicitor
Full-time Commissioner (until February 2012)

Finola Flanagan BL
Full-time Commissioner (from March 2012)

Professor Finbarr McAuley BCL, LLB, MPhil, LL.D,
Part-time Commissioner (until July 2012)

Marian Shanley BCL, Solicitor
Part-time Commissioner (until July 2012)

The Hon. Mr Justice Donal O'Donnell
Part-time Commissioner (until March 2012)

Professor Donncha O'Connell, Faculty of Law, NUI Galway
Part-time Commissioner (from March 2012)

Marie Baker SC
Part-time Commissioner (from July 2012)

Tom O'Malley BL
Part-time Commissioner (from July 2012)

COMMISSION RESEARCH STAFF¹

Director of Research:
Raymond Byrne

Project Manager for Statute Law Restatement:
Alma Clissmann

Project Manager for Legislation Directory:
Heather Mahon (until September 2012)

Legal Researchers
Aileen O'Leary, Barbara Brown, Conor Cunningham
Kate Clancy, Aoife Clarke, Dannie Hanna
Colm Kitson, Donna Lyons, Tara Murphy
Kate McGovern, Stephen O'Connor, Mengxi Hu
Roz O'Connell, Emma Roche-Cagney
Aidan McMahan, Denise Roche

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

Legal Information Manager

Conor Kennedy

Cataloguer

Eithne Boland (until February 2012)

Clerical Officers

Ann Browne

Joseph Cooke

Liam Dargan

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FOREWORD

In presenting the Law Reform Commission's Annual Report for 2012 I would like firstly to express my appreciation to Commissioners Flanagan, O'Malley, Baker and O'Connell for their commitment, industry and dedication during the year.

I would also like to acknowledge the former Commissioners who served during 2012 and whose work toward fulfilling the mission of the Law Reform Commission contributed so significantly to the organisation's success. Patricia T Rickard-Clarke (Commissioner until February 2012), Finbarr McAuley (Commissioner until July 2012), Marian Shanley (Commissioner until July 2012) and Mr. Justice Donal O'Donnell (Commissioner until March 2012) each made an enormous contribution to law reform during their respective periods of office.

The present Commission was appointed by the Government in mid-2012 and remains firmly committed to meaningful reform of the law of Ireland in the coming years. A significant part of this contribution will be delivered through our Fourth Programme of Law Reform, which (subject to the required approval by Government) will begin during 2013. The final aspects of the Commission's 3rd Programme are at an advanced stage and will be complete by the end of 2013.

In addition to its remit pursuant to the Law Reform Commission Act 1975, the Commission is engaged in a further initiative entitled *Access to Legislation* which is intended to make Irish legislation more accessible to all citizens of the State and other interested persons. This project incorporates the development and ongoing maintenance of the Legislation Directory; preparation and online publication of over 100 Revised Acts (the full text of Acts-as-amended) and development and maintenance of a Classified List of Legislation (a list of Acts in force organised by subject heading).

The Commission is indebted to a wide range of people and organisations who enhance and assist the Commission in fulfilling its function. The Attorney General and the members of her Office offer vital assistance and support to the Commission on an on-going basis and the valuable voluntary advice and assistance which Commission 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 are especially appreciated.

Finally, I would like to thank the Commission's small but committed staff – both research and administrative – who provide such expert and dedicated support and who work so hard to ensure that the Commission's work retains its high quality.

Mr Justice John Quirke,
PRESIDENT

August 2013.

CHAPTER 1

INTRODUCTION

FUNCTIONS OF THE COMMISSION

The Commission is a 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.

Since it was established, the Commission has published over 180 documents (Issues Papers, Consultation Papers, Working Papers and Reports) containing proposals for law reform and these are all available at www.lawreform.ie. A full list of Commission publications is available on the Commission's website at www.lawreform.ie where all publications are available to download free of charge.

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*.

Review of Third Programme and Development of Fourth Programme

In 2011, the Commission carried out a review of progress in the completion of the *Third Programme of Law Reform* at its projected mid-point.² This review indicated that the majority of the projects in the Third Programme had either been completed or were close to completion, and that most of the remaining projects had been overtaken by developments since 2008, including enacted legislation in those areas. As a result, in 2012 the Commission decided that work should begin on the development of a *Fourth Programme of Law Reform* which included discussion of the form and content of the Programme at the Commission's Annual Conference 2012 and a wide-ranging consultation exercise that continued into the first half of 2013. During 2012, the Commission also made significant progress in completing the remaining projects in the *Third Programme of Law Reform*. This is discussed in Chapter 2, below.

Access to Legislation project

In 2012, the Commission integrated its work on the Legislation Directory, the Classified List of Legislation and Revised Acts into a single project on Access to

² See the Commission's *Annual Report 2011*, Chapter 6. This review was provided for in *Report on Third Programme of Law Reform 2008-2014* (LRC 86-2007), p.7. The Commission had also carried out a mid-term review of the *Second Programme of Law Reform 2000-2007*: see the Commission's *Annual Report 2004*, Chapter 5.

Legislation. The Legislation Directory, an online searchable guide to legislative changes, continued to be updated and published on the Irish Statute Book online website, and was expanded to include a Directory of Statutory Instruments from 2000 to 2012. The Classified List of Legislation continued to be updated, and ongoing work to identify in-force Statutory Instruments and classify them with their parent Acts was completed to result in a first draft Classified List of Statutory Instruments, circulated to Government Departments for review.

The Commission decided to move from the preparation of draft Restatements (which required certification by the Attorney General and pre-publication procedures) to Revised Acts to give more flexibility in their publication and updating. Revised Acts from the First and Second Programmes and a number of textually amended Acts from 2006 onwards (forming the start of a programme to update all textually amended post 2006 Acts other than Finance and Social Welfare Acts) were published.

The Commission discusses the 2012 development of the Access to Legislation project in Chapter 3.

STRATEGY STATEMENT 2012-2014

In 2012, the Commission developed a *Strategy Statement 2012-2014*, which provides the framework for the work of the Commission in the three year period covered. The *Strategy Statement 2012-2014* 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. The Strategy Statement's Mission Statement is: "to keep the law under independent, objective and expert review, to make consequent recommendations for law reform and to make current law accessible for all." Like its predecessors, the *Strategy Statement* represents the key priorities of the Commission for 2012-2014, including clear responsibilities and accountabilities for the achievement of these priorities.

Key Objectives in the Strategy Statement

The Commission's *Strategy Statement 2012-2014* identified 3 Key Objectives. These are:

Key Objective 1: Law Reform.

To review the law and to conduct research with a view to developing, simplifying, modernising and codifying the law of Ireland.

Key Objective 2: Access to Legislation.

To make legislation in its current state easily accessible online to the public, as amended rather than as enacted, and provide related information.

Key Objective 3: Administration.

To provide effective, modern and professional corporate administrative and business services to the Commission so as to support it in meeting its objectives.

This Annual Report follows the sequence of these Key Objectives. Chapter 2 mirrors Key Objective 1 and provides an overview of the progress made on the projects in the *Third Programme of Law Reform 2008-2014* and on the development of the *Fourth Programme of Law Reform*. Chapter 3 reflects Key Objective 2 and discusses the Access to Legislation project. In Chapter 4, the Commission discusses developments in 2012 under Key Objective 3, the important relationship between administration and the Commission's research role.

METHODS OF WORK AND CONSULTATION PROCESS

The Commission's research work is 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 and requests from the Attorney General, the Commission ensures that each project is assigned to Researchers who work under the general direction of the Director of Research. In the case of the Access to Legislation project, researchers work under the direction of the Project Manager. During 2012, the Commission continued to have the additional benefit of the research input of a number of interns.

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 and reviews its work through the Commission's Business Plan.

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 an Issues Paper or Consultation Paper. The Commission seeks written submissions from interested parties. 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 Access to Legislation project, the Commission also consults with a wide range of interested parties. This includes the Office of the Attorney General, Government Departments, the legal profession and the general public. The Commission places considerable emphasis on the technological aspects of the project in order to facilitate accessibility of the project's outputs on the electronic Irish Statute Book and Commission websites. The Commission has also 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 Equality, 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. This conference provides the Commission with an opportunity to involve interested parties in practical discussion on a specific project. The 2012 Annual Conference focused on the development of the Commission's Fourth Programme of Law Reform. The conference speakers were:

The Honourable Mr Justice Donal O'Donnell , Judge of the Supreme Court and former member of the Law Reform Commission

The Honourable Mr Justice Gerard Hogan, Judge of the High Court

Professor Frances Ruane, Director, The Economic and Social Research Institute

Professor Blanaid Clarke, McCann FitzGerald Chair of Corporate Law, Trinity College

Paul Appleby, Former Director of Corporate Enforcement

Professor David Ormerod, Law Commissioner, Law Commission of England and Wales

Desmond M. Clarke, Emeritus Professor of Philosophy, University College Cork

The Conference was attended by a cross section of policy makers (including those within Government Departments), legal practitioners and representatives groups.

Conferences, Visits and Media Contacts

Commissioners and research staff also regularly attend and participate in public seminars and conferences. Contacts with law reform bodies in other jurisdictions are also maintained through attendance at relevant seminars and through hosting visits from other law reform bodies. In July 2012, the Commission hosted the annual meeting of five law reform commissions (those of England and Wales, Scotland, Northern Ireland, Jersey and Ireland, respectively), and the President of Ireland also hosted a reception for the meeting at Áras an Uachtaráin. In general, Commissioners with lead roles in specific projects and the Director of Research act as media spokespersons for the Commission.

CHAPTER 2

LAW REFORM: DEVELOPMENT OF THE FOURTH PROGRAMME, PROGRESS ON COMPLETION OF THE THIRD PROGRAMME AND IMPLEMENTATION OF THE COMMISSION'S WORK

INTRODUCTION

In this Chapter, the Commission outlines the work during 2012 on the development of the Fourth Programme of Law Reform. It also outlines the progress in 2012 towards completion of the Third Programme of Law Reform and relevant developments during the year concerning implementation of proposals for reform made by the Commission.

A. DEVELOPMENT OF THE FOURTH PROGRAMME

As mentioned in Chapter 1, the Commission carried out in 2011 a review of progress in the completion of the *Third Programme of Law Reform* at its projected mid-point.³ This review indicated that the majority of the projects in the Third Programme had either been completed or were close to completion, and that most of the remaining projects had been overtaken by developments since 2008, including enacted legislation in those areas. As a result, in 2012 the Commission decided that work should begin on the development of a *Fourth Programme of Law Reform* and this included engaging in public consultation consistent with published Government Guidelines on Public Consultation. This involved the following elements, among others.

1. Website notice and online discussion forums

In October 2012, the Commission posted a general notice on its website, www.lawreform.ie, inviting submissions for consideration for inclusion in the Fourth Programme of Law Reform. This notice was copied by a number of online discussion forums.

2. Letter of invitations to public bodies and NGOs

Also in October 2012, the President of the Commission wrote to a wide range of public bodies and NGOs inviting submissions on the Fourth Programme of Law Reform. Among the bodies were:

- Barnardos
- Central Bank of Ireland
- Equality Authority
- Free Legal Advice Centres (Flac)
- Garda Commissioner
- Government Departments (16 Secretaries General)
- Injuries Board
- Irish Business and Employers Confederation (IBEC)
- Irish Congress of Trade Unions (ICTU)
- Irish Human Rights Commission
- Irish Penal Reform Trust
- Law Commissions of England/Wales, Scotland and Northern Ireland
- Law Schools and Faculties of Third Level Institutions
- Medical Council
- National Consumer Agency
- Nursing and Midwifery Board

³ See the Commission's *Annual Report 2011*, Chapter 6. This review was provided for in *Report on Third Programme of Law Reform 2008-2014* (LRC 86-2007), p.7. The Commission had also carried out a mid-term review of the *Second Programme of Law Reform 2000-2007*: see the Commission's *Annual Report 2004*, Chapter 5.

- Office of the Director of Corporate Enforcement
- Oireachtas Committee on Justice, Equality and Defence
- Ombudsman
- Ombudsman for Children.

3. *Advertisements*

In November 2012, the Commission placed an advertisement concerning the Fourth Programme in two journals that have a wide circulation in the legal profession, the Law Society of Ireland Gazette and the Bar Review.

4. *Annual Conference and public seminars*

The Commission's 2012 Annual Conference, held on 11 December 2012, focused on the development of the Fourth Programme of Law Reform. The Conference speakers addressed the wide social and economic setting for the development of a new programme of Law Reform. The speakers were:

- Mr Paul Appleby, former Director of Corporate Enforcement
- Professor Blánaid Clarke, McCann FitzGerald Professor of Corporate Law, Trinity College Dublin
- Mr Justice Gerard Hogan, Judge of the High Court
- Mr Justice Donal O'Donnell, Judge of the Supreme Court and former Commissioner (who delivered the keynote address on the subject of law reform and the role and function of the Commission)
- Professor Frances Ruane, Director, Economic and Social Research Institute.

The Commission also held a further public seminar in NUI Galway on 27 February 2013. The Commission completed its preparation of the draft Fourth Programme in the first half of 2013. This will be further discussed in the Commission's 2013 Annual Report.

B. PROGRESS ON COMPLETION OF THIRD PROGRAMME AND IMPLEMENTATION OF COMMISSION PROPOSALS IN 2012

As already mentioned, the Commission's 2011 review of the *Third Programme of Law Reform* indicated that the majority of the projects had either been completed or were close to completion, and that most of the remaining projects had been overtaken by developments since 2008 including enacted legislation in those areas. As well as deciding in 2012 that work should begin on the development of a *Fourth Programme of Law Reform*, the Commission also decided that it would complete work on the following remaining projects during 2012 and 2013 (one of which, concerning mandatory sentences, arose from a request from the Attorney General).

1. 3rd Programme, Project 1: Jury Service (the Report for which had been published at the time this Annual Report was being prepared).
2. 3rd Programme, Project 3: Search Warrants and Bench Warrants.
3. 3rd Programme, Projects 7, 8, 11: Law of Evidence.
4. 3rd Programme, Projects 12 and 14: Sexual Offences and Capacity to Consent.
5. 3rd Programme, Project 24: Domestic Violence (Issues Papers for which had been published at the time this Annual Report was being prepared).
6. 3rd Programme, Project 34: Insurance Contracts.
7. 3rd Programme, Project 37: Civil Law of Missing Persons (the Report for which had been published at the time this Annual Report is being prepared).
8. Attorney General Request: Mandatory Sentences (the Report for which had been published at the time this Annual Report is being prepared).

In terms of implementation of Commission proposals during 2012, the *Personal Insolvency Act 2012* involved the implementation of recommendations made by the Commission. A number of Bills before the Oireachtas at the time this Annual Report was being prepared are based, in whole or in part, on Commission recommendations. These include, 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 the Scheme of a *Mediation and Conciliation 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.

The material in this part of the chapter is discussed under the following 6 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. Commercial Law and the Law of Obligations
6. International law

1. THE LEGAL SYSTEM AND PUBLIC LAW

Jury Service

During 2012, 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 published the *Report on Jury Service* in 2013.

Personal Insolvency and Debt Management

The *Personal Insolvency Act 2012* implemented 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 2012, 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* [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 will publish its Report on this matter in 2013.

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

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

Tribunals of Inquiry

The *Tribunals of Inquiry Bill 2005*, based on the draft *Tribunals of Inquiry Bill* in the Commission's *Report on Public Inquiries Including Tribunals of Inquiry* (LRC 73-2005) (2nd Programme of Law Reform, Project 8), was awaiting Report Stage in Dáil Éireann in 2012.

2. LAW OF EVIDENCE

Hearsay, Documentary Evidence and Expert Evidence

In 2012, 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 by the end of 2013.

3. CRIMINAL LAW

Sexual Offences: Capacity to Consent

In 2012, the Commission made substantial progress towards completion of a *Report on Sexual Offences and Capacity to Consent* (3rd Programme of Law Reform, Projects 12 and 14), following the publication in 2011 of a *Consultation Paper on Sexual Offences and Capacity to Consent* (LRC CP 63-2011). This forms part of the general review of the law on sexual offences being undertaken by the Department of Justice and Equality.

Mandatory Sentences

In 2012, the Commission engaged in further consultation with practitioners on a draft *Report on Mandatory Sentences*, following its *Consultation Paper on Mandatory Sentences* (LRC CP 66-2011), which was published in January 2012. This project 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 Commission's *Report on Mandatory Sentences* was published in 2013.

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

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 Government's Legislation Programme indicates that it may publish the Scheme of a Trusts Bill in 2013.

5. COMMERCIAL LAW AND THE LAW OF OBLIGATIONS

Insurance Contracts

In 2012, the Commission began work on the preparation of a draft *Report on Insurance Contracts* (3rd Programme of Law Reform, Project 34), following its *Consultation Paper on Insurance Contracts* (LRC CP 65-2011), which was published in January 2012. The Commission's Report will be published in 2013.

6. INTERNATIONAL LAW

Civil Law Aspects of Missing Persons

In 2012, the Commission substantially completed work on its *Report on Civil Law Aspects of Missing Persons* (3rd Programme of Law Reform, Project 37) and it was published in January 2013.

CHAPTER 3

ACCESS TO LEGISLATION

The Commission's work on the Legislation Directory, the Classified List of Legislation and Statute Law Restatement was integrated in 2012 under the title of Access to Legislation.

A. LEGISLATION DIRECTORY

The Commission continued to update the Legislation Directory in 2012 to reflect changes made by both Acts and Statutory Instruments, and forward periodic updates to the Office of the Attorney General for publication on the electronic Irish Statute Book (eISB) website.

In accordance with the programme of work planned in 2011 the Commission completed the creation of a new Legislation Directory for Statutory Instruments from 2012 back to 2000. This meant that for the first time all amendments to Statutory Instruments from 2000 to 2012 were recorded in a readily accessible and searchable index similar to that maintained for Acts. Amendments made by Statutory Instruments in that period to earlier Statutory Instruments were also recorded.

B. CLASSIFIED LIST OF LEGISLATION

The Classified List lists over 2,000 Acts in force under 36 subject titles. Thus for example a user can find all family legislation under Title 17, and all legislation on Financial Services and Credit Institutions under Title 18.

The Classified List of Acts was maintained up to date in the course of 2012 showing all repealed and new Acts, and published on the Commission website.

Research on the identification of the status of 35,000 Statutory Instruments made since 1922 and their classification was completed to first draft stage. This draft Classified List of in-force Statutory Instruments was circulated in December 2012 to Government Departments for comment and feedback.

When completed in 2013 this list will bring clarity to the status of all Statutory Instruments that remain in force and classify them.

C. REVISED ACTS

In 2012 the Commission prepared and published on its website the following in the form of Revised Acts. (The decision to publish Revised Acts rather than Restatements with the certification of the Attorney General was taken in consultation with the Office of the Attorney General.)

Building Control Act 2007
Carbon Fund Act 2007
Child Abduction and Enforcement of Custody Orders Act 1991
Child Care Act 1991
Children Act 2001
Communications Regulation (Amendment) Act 2007
Community, Rural and Gaeltacht Affairs (Miscellaneous Provisions) Act 2007
Consumer Protection Act 2007
Criminal Law (Insanity) Act 2006
Criminal Law (Sexual Offences) Act 2006
Derelict Sites Act 1990
Domestic Violence Act 1996
Domicile and Recognition of Foreign Divorces Act 1986
Dumping at Sea Act 1996

Employees (Provision of Information and Consultation) Act 2006
Employment Permits Act 2003
Employment Permits Act 2006
Energy (Miscellaneous Provisions) Act 2006
Equal Status Act 2000
Family Law Act 1981
Family Law Act 1995
Family Law (Divorce) Act 1996
Family Law (Maintenance of Spouses and Children) Act 1976
Firearms Act 1925 (update)
Firearms Act 1964 (update)
Firearms and Offensive Weapons Act 1990 (update)
Guardianship of Infants Act 1964
Health Act 2007
Health (Repayment Scheme) Act 2006
Industrial Relations Act 1946
Industrial Relations Act 1969
Industrial Relations Act 1976
Industrial Relations Act 1990
Industrial Relations (Amendment) Act 1991
International Criminal Court Act 2006
Judicial Separation and Family Law Reform Act 1989
Legitimacy Act 1931
Maintenance Act 1994
Markets in Financial Instruments and Miscellaneous Provisions Act 2007
Married Women's Status Act 1957
Medical Practitioners Act 2007
National Oil Reserves Agency Act 2007
National Sports Campus Development Authority Act 2006
Ombudsman for Children Act 2002
Organisation of Working Time Act 1997
Parental Leave (Amendment) Act 2006
Payment of Wages Act 1991
Pharmacy Act 2007
Planning and Development Act 2000
Protection of Children (Hague Convention) Act 2000
Protection of Employees (Employers' Insolvency) Act 1984
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
Registration of Deeds and Title Act 2006
Road Safety Authority Act 2006
Sea-Fisheries and Maritime Jurisdiction Act 2006
Sea Pollution (Miscellaneous Provisions) Act 2006
Status of Children Act 1987
Statute of Limitations 1957 (update)
Statute of Limitations (Amendment) Act 1991
Water Services Act 2007
Youth Work Act 2001

CHAPTER 4 ADMINISTRATION

INTRODUCTION

The Commission's administration aims to provide effective, modern and professional corporate administrative and business services to the Commission so as to support it in meeting its objectives. The outcome is a satisfactory working environment where administrative units support the legal work of the Commission by providing excellent corporate business support services such as human resource management, financial management, legal and corporate support, information technology, and library and information services.

The current organisation structure of the Commission (as of December 2012) is set out in Appendix B.

THE COMMISSION

The Commission consists of a President and four Commissioners. Commissioners are appointed by the Government for a term of up to five years, and their appointment may be renewed. The President of the Commission (from July 2012), Mr. Justice John Quirke, is a former judge of the High Court. The full-time Commissioner, Finola Flanagan (appointed in March 2012), is a barrister and former Director General of the Office of the Attorney General. The three part-time Commissioners are: Marie Baker, Senior Counsel and Professor Donncha O'Connell and Professor Tom O'Malley, both of University College Galway.

The Commission makes recommendations to Government 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 key administrative and financial decisions. The Commission meets formally as a body at least ten times each year.

MANAGEMENT COMMITTEE

The Commission's Management Committee in 2012 consisted of the full-time Commissioner, the Head of Administration, the Director of Research, and the Project Managers. 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 and a team of five staff as of December 2012.

During 2012, the Administration had overall responsibility for:

- Managing, processing and reporting on all financial transactions in the Commission.
- Managing the Commission's accommodation 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 also arranged 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 as well as event management and corporate services associated with launches, seminars and the Annual Conference.

RESEARCH AND LIBRARY STAFF

The primary role of the research staff is to develop draft texts for consideration by the Commission. 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 the Legislation Directory, Classified List of Legislation and Statute Law Restatement were merged into a single Access to Legislation project in late 2012, overseen by a single project manager (Alma Clissmann). During 2012, the Commission maintained 8 full-time Legal Researcher positions, filled by legal researchers engaged on one year contracts. These researchers were assigned by the Commission to Law Reform, the Legislation Directory and Statute Law Restatement.

The Director of Research leads and manages the law reform research team, and generally advises and assists 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 attend conferences on relevant areas of interest. They 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 is to anticipate and respond to the needs of the Commissioners and the Commission's research team for library and information services.

The Legal Information Manager/Librarian worked in 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 (until her retirement in February 2012).

FINANCE

Income and expenditure

The Commission is funded by a grant-in-aid from the Minister for Public Expenditure Reform. Total income received in 2012 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 €2,330,204.

Expenditure in 2011 amounted to €2,283,438. 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 2012 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 is audited by 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 2012 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 Administration, the Research team and the Library staff.

The *Strategy Statement* Key Objectives are matched at an organisation level by targets set out in the Commission's Business Plan. The Business Plan contains quarterly targets under each objective. Progress made in achieving these targets is monitored on a regular basis by the Management Committee.

Performance of individual staff members is managed through the PMDS.

Under current accounting procedures, monies are drawn down from the Office of the Attorney General on a monthly basis by way of a Grant-In-Aid. The Commission also derives a small amount of income from the sale of publications (€2,197 in 2012). 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.

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

Appendix A:

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

A. Legal System and Public Law

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

B. Law of Evidence

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

C. Criminal Law

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

D. Land Law and Property

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

E. Family Law

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

F. Specific Groups in a Changing Society

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

G. Technology, Innovation and the Individual

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

H. Commercial Law and the Law of Obligations

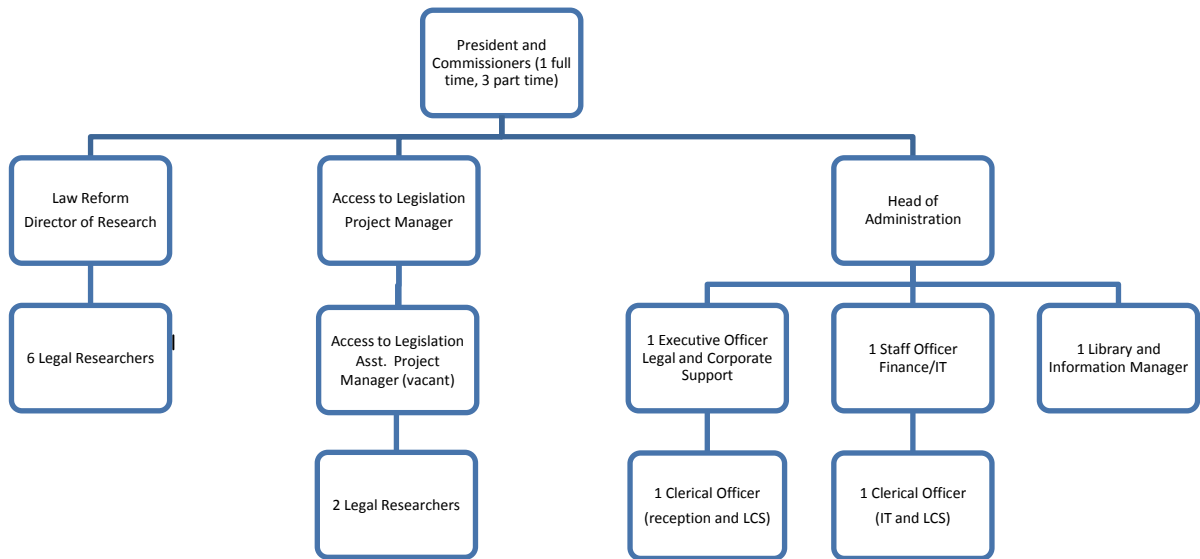
- 33. Frustration of Contracts
- 34. Insurance Contracts
- 35. Damages in Contract and Tort Law

I. International Law

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

APPENDIX B:

ORGANISATION CHART



Law Reform Commission Organisation Chart as at 31 December 2012