



LAW REFORM
COMMISSION/COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ

ANNUAL REPORT

2009

THE COMMISSION

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

Mrs Justice Catherine McGuinness

President

Patricia T Rickard-Clarke BCL, Solicitor

Full-time Commissioner

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

Jean Monnet Professor of Criminal Law, University College Dublin

Part-time Commissioner

Marian Shanley BCL, Solicitor

Member of the Commission to Inquire into Child Abuse

Part-time Commissioner

Donal O'Donnell Senior Counsel

Part-time Commissioner

COMMISSION RESEARCH STAFF

Director of Research:

Raymond Byrne BCL, LL.M (NUI), Barrister-at-Law

Project Manager for Statute Law Restatement:

Alma Clissmann BA (Mod), LLB, Dip Eur Law (Bruges), Solicitor

Project Manager for Legislation Directory:

Heather Mahon LLB (ling. Ger), M. Litt (TCD), Barrister-at-Law

Legal Researchers¹

John P Byrne BCL, LL.M (NUI), PhD (NUI), Barrister-at-Law

Chris Campbell BCL, LLB (NUI), Diop sa Gh (NUI)

Frances Colclough BCL, LL.M (NUI)

Margaret Devaney LLB (NUI), LL.M (TCD)

Siobhan Drislane BCL, LL.M (NUI)

Elizabeth Fitzgerald LLB (TCD), MSc (Edinburgh), Barrister-at-Law

Rachel Kemp BCL (Law and German), LL.M (NUI)

Catriona Moloney BCL, LL.M (NUI)

Claire Murray BCL (NUI) Barrister-at-Law

Gemma Ní Chaoimh BCL, LL.M (NUI)

Verona Ni Dhrisceoil BCL (Dlí agus Gaeilge), LL.M (NUI)

Brid Nic Suibhne BA, LLB (NUI), LL.M (TCD), Diop sa Gh (NUI)

Jane O'Grady BCL, LLB (NUI), LPC (College of Law)

Gerry Sadlier BCL (NUI)

Joseph Spooner BCL (Law with French) (NUI), Dip French and European Law (Paris II) BCL (Oxon)

Ciara Staunton BCL, LL.M (NUI), Diop sa Gh (NUI)

¹ Note: not all legal researchers were employed for the full calendar year.

COMMISSION ADMINISTRATION STAFF:

Head of Administration and Development: Brian Glynn

Executive Officers: Deirdre Bell
Simon Fallon
Darina Moran
Peter Trainor

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

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

Clerical Officers: Ann Browne
Ann Byrne
Liam Dargan
Sabrina Kelly

TABLE OF CONTENTS

FOREWORD	5
CHAPTER 1	6
INTRODUCTION	
Functions of the Commission	6
Strategy Statement 2009-2011	7
Methods of Work and Consultation Process	8
CHAPTER 2	11
THE COMMISSION'S PUBLICATIONS, ROLLING WORK PROGRAMME AND IMPLEMENTATION OF ITS WORK IN 2009	
Introduction	11
Legal System and Public Law	12
Law of Evidence	14
Criminal Law	15
Land Law and Trust Law	17
Family Law	18
Specific and Vulnerable Groups in a Changing Society	18
Technology, Innovation and the Individual	19
Commercial Law and the Law of Obligations	20
CHAPTER 3	22
STATUTE LAW RESTATEMENT	
CHAPTER 4	23
LEGISLATION DIRECTORY	
CHAPTER 5	24
ADMINISTRATION	
Introduction	24
The Commission	24
Management Committee	24
Administrative Staff	24
Research and Library Staff	25
Finance and Audit	26
Governance Arrangements	26
Appendix A:	28
List of Projects in <i>Third Programme of Law Reform 2008-2014</i>	
Appendix B:	30
Working Groups and Project Boards	
Appendix C:	32
Conferences and Visits in 2009	
Appendix D:	36
List of Law Reform Commission Publications	
Appendix E:	42
Organisation Chart (2009)	

FOREWORD

It gives me great pleasure on behalf of the Law Reform Commission to introduce the Commission's *Annual Report 2009*. The year proved to be another exceptionally busy and productive one, during which we published 3 reports and 7 consultation papers under the Commission's *Third Programme of Law Reform 2008-2014* and in response to a specific request of the Attorney General. When these publications are linked to the ongoing work in Statute Law Restatement and the Legislation Directory, the Commission can look back on a year of significant progress.

I am very conscious that 2009 was a very difficult year for Ireland, and that many challenging decisions had to be made to ensure that the State's expenditure reflected the realities we currently face. Against this background, the Commission accepted that a significant reduction in its grant-in-aid was required. I would also wish to place on record the Commission's thanks for the widespread support expressed for the ongoing work of the Commission throughout 2009.

During 2009, the Commission continued work on 20 of the 37 projects included in the *Third Programme*. My fellow Commissioners and I are determined, perhaps even more so in these difficult circumstances, to find innovative ways to complete the work assigned to us within the timeframe of the Programme.

We are, as always, heartened by the manner in which the Government and Oireachtas continue to debate and enact legislation in which the Commission has had a preparatory role. It was an especial honour to have been invited to attend, in July, the final stages of the enactment in Seanad Éireann of the *Land and Conveyancing Law Reform Act 2009*. The 2009 Act represents the culmination of a number of years work on this major law reform project, which involved the replacement of over 150 Acts, many predating the foundation of the State, by a single legislative code.

Reflecting the Commission's intention to be involved in law reform initiatives that have a direct bearing on the needs of contemporary Irish society, our 2009 Annual Law Reform Conference focused on the pressing issue of Personal Debt Management and Debt Enforcement. This allowed for debate on the Commission's detailed Consultation Paper on the topic, which had been published in September 2009. In this Consultation Paper the Commission provisionally recommended wide-ranging reform of the law in this area. The Commission was also happy to respond to the request that we prioritise the recommendation of actions which could be put into place in the short term, pending medium term legislative solutions. As a result the Commission convened a Working Group to assist in preparing an Interim Report. We are extremely grateful to the members of that Working Group for ensuring that this important work was completed in early 2010. This culminated in the publication in May 2010 of the Commission's *Interim Report on Personal Debt Management and Debt Enforcement* containing a Fourteen Point Action Plan.

As President, I would again like to express my appreciation to all those who have contributed to what has been an exceptionally busy year's work. Those who give so freely of their time and experience to assist the Commission in carrying out its function are all especially worthy of our thanks and praise. I would also like particularly to thank the Attorney General and the members of his Office for their continuing support of the work of the Commission.

Mrs. Justice Catherine McGuinness
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 recently, arisen from two main sources: first, under a Programme of Law Reform prepared by the Commission and agreed by Government and laid before the Houses of the Oireachtas under the 1975 Act; and second, in accordance with a request from the Attorney General under the 1975 Act.

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

Statute Law Restatement and Legislation Directory

Since 2006, the scope of the Commission's research work has expanded to include two 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 electronically searchable guide to legislative changes.

These new roles are fully consistent with the Commission's remit of law reform, which (as indicated) the 1975 Act defines to include the codification of the law, including in particular its simplification, and the revision and consolidation of statute law. The Commission is also conscious that these roles may be of assistance to the wider policy of *Better Regulation*. In Chapters 3 and 4, the Commission discusses the developments in 2009 concerning these additional areas of work.

Overview of content of Third Programme

The Commission's *Third Programme of Law Reform 2008-2014* lists 37 projects, including the following:²

- 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

² 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.

- 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
- Bioethics: Advance Care Directives
- Insurance Contracts

During 2009, the Commission made considerable progress in examining 20 of the 37 challenging projects included in the *Third Programme of Law Reform*, including the publication of final Reports on some of them and the publication of Consultation Papers on others. These are discussed in Chapter 2, below.

STRATEGY STATEMENT 2009-2011

In 2009, the Commission began the first year of its *Strategy Statement 2009-2011*, which provides the framework for the work of the Commission in the three year period. This will involve the Commission working past the half-way point of the *Third Programme of Law Reform*, responding to specific requests from the Attorney General, completing its *First Programme of Statute Law Restatement 2008-2009*, developing a *Second Programme of Statute Law Restatement* and maintaining and developing the Legislation Directory.

The Commission's most important working document

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 main purpose of the Strategy Statement is to ensure that the Commission can, to the greatest extent possible, complete the work contained in the *Third Programme of Law Reform* and carry out the Commission's additional roles concerning Statute Law Restatement and the Legislation Directory. It also 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

The Commission's *Strategy Statement 2009-2011* identified 4 Key Objectives which it intends to implement over the lifetime of the Statement. 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. 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.

Monitoring implementation of the Key Objectives

The Strategy Statement also sets out important mechanisms for monitoring the implementation of its Key Objectives. These include the preparation and review of the Commission's Annual Business Plan. The Business Plan sets out clearly the specific actions being taken in each area, the person or persons responsible for the implementation of each action, the overall deadline for each action, the target for the year and for the next quarter; and the person with overall accountability for results under each action. For each quarter, the Commission's Management Committee assesses progress on each key objective in conjunction with the person or persons having overall accountability for the objective. The Management Committee reports on progress regularly to the Commission and also brings to its notice any major problems, threats or opportunities emerging. The Commission also liaises with the Office of the Attorney General to review progress generally under the Strategy Statement.

METHODS OF WORK AND CONSULTATION PROCESS

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

Methodology

To achieve the goals set out in its 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. 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. A list of Working Groups/Project Boards that were in place in 2009 and their membership is included in Appendix B.

Given the complexity of some of the issues that arise, the Commission regularly consults with experts in particular areas of legal and other professional knowledge on a particular subject. The Commission carries out its work on the basis of a Rolling Work Programme, which contains target dates for the achievement of the various stages of work. In order to assist the Commission in monitoring their achievement of these targets, regular reviews of the Work Programme are conducted through the Commission's quarterly Business Plans. Chapter 3 outlines the Commission's publications and ongoing work programme in 2009.

The consultation process

The consultation process is of central importance to the Commission's work. Consultation may take several forms. In the initial stages of its research, the Commission may meet with experts or practitioners working in a particular area, or representatives of interest groups. The Commission will then prepare and publish a Consultation Paper. The Commission will seek written submissions from interested parties on the provisional recommendations made in the Consultation Paper. These submissions will be taken into account in the drafting of the final Report on the subject, and any issues or concerns they raise will be dealt with in the Report. Before the drafting of the Report, a seminar is usually held to which the Commission may invite interested parties, or those who have made submissions. In 2009, the Commission held four seminars on the following topics:

- Alternative Dispute Resolution (February)
- The Hearsay Rule (March)
- Documentary and Electronic Evidence (March)
- Children and the Law: Medical Treatment (consultation day facilitated by the Office of the Ombudsman for Children) (August)

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 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 technical 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 on 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.

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 2009 Annual Conference focused on the pressing issue of Personal Debt Management and Debt Enforcement. The Conference took place in Dublin Castle and was attended by a cross section of legal practitioners, representatives from the financial services sector and of civil society. This allowed debate on the Commission's detailed Consultation Paper on this topic, which was published in September, and which had provisionally recommended wide-ranging reform of this area. The Commission subsequently convened a Working Group to assist in preparing an *Interim Report on Personal Debt Management and Debt Enforcement* which was published in May 2010 and contains a

14 point Action Plan to develop specific solutions in the short term, pending longer term policy and legislative solutions.

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 2009, the Commission attended the annual meeting of the law reform commissions of UK and Ireland in Belfast. In addition, news and press releases are distributed to the media to coincide with publication of a Consultation Paper or Report. In general, the Director of Research and Commissioners with lead roles in specific projects act as media spokespersons for the Commission. Details of conferences attended, and visits to and from law reform bodies, are contained in Appendix C.

CHAPTER 2

THE COMMISSION'S PUBLICATIONS, ROLLING WORK PROGRAMME AND IMPLEMENTATION OF ITS WORK IN 2009

INTRODUCTION

In this Chapter, the Commission outlines the content of its key publications (Reports and Consultation Papers) published during 2009 and the other elements of its rolling Work Programme. This Chapter also outlines relevant developments in 2009 concerning implementation of proposals for reform made by the Commission.

Reports and Consultation Papers in 2009

In 2009, the Commission published 3 Reports and 7 Consultation Papers. These were:

- *Report on Civil Liability of Good Samaritans and Volunteers* (LRC 93-2009)
- *Report on Bioethics: Advance Care Directives* (LRC 94-2009)
- *Report on Defences in Criminal Law* (LRC 95-2009)

- *Consultation Paper on Legal Aspects of Carers* (LRC CP 53-2009)
- *Consultation Paper on Limitation of Actions* (LRC CP 54-2009)
- *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)
- *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).

These publications dealt with nine projects under the Commission's *Third Programme of Law Reform 2008-2014*, as well as a specific matter which the Attorney General requested the Commission to examine under the *Law Reform Commission Act 1975* (civil liability of "Good Samaritans" and volunteers).

Rolling Work Programme in 2009

The Commission's rolling work programme during 2009 involved active engagement on 20 of the 37 Projects in the *Third Programme of Law Reform 2008-2014*. The Commission is committed to ensuring that, within available resources, progress is achieved at the earliest possible stage of the lifetime of the Third Programme so that it is completed within the 7 year timeframe envisaged.

Developments in 2009 on the implementation of Commission proposals

In terms of implementation of Commission proposals, four Acts passed by the Oireachtas in 2009 involved the implementation of recommendations made by the Commission. These included the *Defamation Act 2009* and the *Land and Conveyancing Law Reform Act 2009*. In addition, 8 other Bills before the Oireachtas were based, in whole or in part, on Commission recommendations. These included the *Civil Partnership Bill 2009* (Part 15 on Cohabitants), the *Fines Bill 2009* and the *Multi-Unit Developments Bill 2009*. The Commission also notes that 2 Schemes of Bills published by the Department of Justice, Equality and Law Reform were also based, again in whole or in part, on Commission recommendations. The Commission's website, www.lawreform.ie, includes a dedicated section containing a general

overview of the implementation of all Commission Reports, and this is updated on a regular basis.

Headings used to discuss the Commission's work in 2009

The material in this chapter is discussed under the following 8 general headings, which are largely based on the headings in the *Third Programme of Law Reform 2008-2014*:

1. The Legal System and Public Law
2. Law of Evidence
3. Criminal Law
4. Land Law and Trust Law
5. Family Law
6. Specific and Vulnerable Groups in a Changing Society
7. Technology, Innovation and the Individual
8. Commercial Law and the Law of Obligations

1. THE LEGAL SYSTEM AND PUBLIC LAW

Statute Law Restatement

During 2009, the Commission made significant progress in achieving the necessary capacity to complete its *First Programme of Statute Law Restatement 2008-2009* through the completion of the recapture and XML mark up of all Acts from 1922 to 1998 and XML conversion of all statutory instruments for the same period, and input into the development of the XML authorising system necessary to support the editing and annotation aspects of restatement, being undertaken by the Commission's provider. Four initial draft Restatements were forwarded to the Attorney General in accordance with the *Statute Law (Restatement) Act 2002*. Statute Law Restatement is discussed in more detail in Chapter 3, below.

Legislation Directory

During 2009, the Commission made significant progress towards its goal of updating the Legislation Directory for the period 2006 to 2010, while concurrently working with the Commission's provider on the development of the XML authoring system designed to support the maintenance of the Directory and its publication in HTML. In July 2010, the updated material (bringing the Legislation Directory up to date to April 2010) went live 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.

Jury Service

During 2009, the Commission made significant progress on a project on the law of juries (3rd Programme of Law Reform, Project 1). This involves a review of the *Juries Act 1976*, in particular qualification for jury service, jury selection and the consequences of failure to attend for jury service. In March 2010, the Commission published its *Consultation Paper on Jury Service* (LRC CP 61-2010), to which we will return in the Annual Report 2010.

Debt Management and Debt Enforcement

In 2009, the Commission published its *Consultation Paper on Personal Debt Management and Debt Enforcement* (LRC CP 56-2009) (3rd Programme of Law Reform, Project 2). The 420 page Paper made 122 provisional recommendations for reform of the law. As is clear from the length of this Consultation Paper, the range of issues that need to be addressed are exceptionally wide and varied. They include:

preventative measures to address personal indebtedness at an early stage, interventions to resolve debt problems in an efficient way; the need to bring debt enforcement processes into line with international best standards; to question the utility of imprisonment as a means of enforcement; and to place this in the context of relevant changes to the financial services regulatory framework. The Commission recommends that a number of areas could be considered by other bodies, such as IFSRA. The Commission subsequently convened a Working Group to assist in preparing an *Interim Report on Personal Debt Management and Debt Enforcement* (LRC 96-2010) which contains a 14 Point Action Plan and to which we will return in the 2010 Annual Report. The Commission's final recommendations, to be included in its final Report to be published in 2010, will concentrate on the law on personal insolvency and court-related enforcement procedures. This will include the development of alternatives to court-based procedures for debt enforcement as well as existing court-based arrangements such as the instalment order procedure.

Search Warrants and Bench Warrants

In 2009, the Commission published its *Consultation Paper on Search Warrants and Bench Warrants* (LRC CP 58-2009) (3rd Programme of Law Reform, Project 3). The Consultation Paper points out that there are over 100 separate Acts and almost 200 Ministerial Regulations that authorise the Garda Síochána to apply to the District Court for search warrants. Many of these contain different rules about applying for, issuing and executing search warrants. The Commission provisionally recommends that these 100-plus separate Acts should be replaced by a single generally-applicable framework Search Warrants Act, which would contain standard rules on applying for, issuing and executing them. The Consultation Paper also points out that other sector-specific Acts may need to be retained, because they contain important points of detail that could not be dealt with in a framework Act. For example, the *Companies (Amendment) Act 2009* amended the powers of the Office of the Director of Corporate Enforcement (ODCE) to search premises in connection with specific offences, for example, in connection with the ODCE investigations into Anglo-Irish Bank. These warrants are issued by the High Court. In connection with bench warrants, the Consultation Paper points out that these are usually issued by the District Court after a person has failed to appear in court. In 2008, over 26,000 bench warrants were issued by the District Court. About 20,000 of these involved: theft, public order offences, drink driving and other road traffic offences, drugs offences and criminal damage. Over 21,000 of the total had been either executed or cancelled by the end of the year. The Commission provisionally recommends reforms that could reduce the number of bench warrants being issued and improve the efficiency of the enforcement system for those that are needed.

Limitation of Actions

In 2009, the Commission published its *Consultation Paper on Limitation of Actions* (LRC CP 54-2009) (3rd Programme of Law Reform, Project 4). The Consultation Paper notes that the *Statute of Limitations 1957* contains seven 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 what are called common law actions. This 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). 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*. While a 6 year time limit may have made sense in an era of slow communications, this cannot be justified in a time of virtually instantaneous communication. The Consultation Paper reviews limitation laws in many other States, and notes that a trend has emerged of more simplified and streamlined limitations laws. These are usually called "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 provisionally recommends that some form of core limitations law should be introduced in Ireland. The Consultation Paper provisionally recommends that there should be either: (1) one basic limitation period of general application, running for a period of two years; or (2) three basic limitation periods of specific application, of one, two and six years; that the basic limitation period should run from the date of knowledge of the plaintiff; that there should be an ultimate limitation period (“long stop”) of 12 years; that the ultimate limitation period should apply to contract and tort cases, including personal injuries actions; and that there could be a judicial discretion to extend the time limits in exceptional cases (for example, in cases associated with asbestos exposure).

Alternative Dispute Resolution

During 2009, the Commission made substantial progress on the development of its Report on Alternative Dispute Resolution (3rd Programme of Law Reform, Project 5), focusing on mediation and conciliation. The Commission had, in 2008, published a *Consultation Paper on Alternative Dispute Resolution* (LRC CP 50-2008). The Consultation Paper examined the growing use of Alternative Dispute Resolution (ADR) both internationally and in Ireland as reflecting the increasing number of options available to help resolve civil disputes. These disputes include: big commercial and small consumer claims, family breakdown, industrial disputes, medical claims and property disputes (especially boundary disputes). The main recommendations in the Consultation Paper are that there should be a general statutory framework that defines clearly what is meant by mediation (mainly facilitating agreement) and conciliation (facilitating agreement and sometimes also advising the parties about an agreed resolution). In February 2009, the Commission held a seminar to discuss with interested parties the provisional recommendations in the Consultation Paper. The Commission intends to publish its Report on this project, including a draft *Mediation and Conciliation Bill*, in 2010.

Consolidation and Reform of the Courts Acts

During 2009, the Commission made substantial progress on its project to consolidate and reform the Courts Acts (3rd Programme of Law Reform, Project 6), on which it had published a *Consultation Paper on Consolidation and Reform of the Courts Acts* (LRC CP 46-2007). The Courts Acts comprise over 200 Acts, including a large number that predate the foundation of the State. Since 1922, almost 60 Courts Acts have been enacted by the Oireachtas, making it difficult to access the relevant law. The Commission has embarked on this project jointly with the Department of Justice and Law Reform and the Courts Service. The Commission intends to publish its Report on this project, including a draft *Courts Consolidation and Reform Bill*, in 2010.

Tribunals of Inquiry

The *Tribunals of Inquiry Bill 2005*, based on the draft *Tribunals of Inquiry Bill* in the Commission’s *Report on Public Inquiries Including Tribunals of Inquiry* (LRC 73 -2005) (2nd Programme of Law Reform, Project 8), passed Committee in Dáil Éireann in 2009.

2. LAW OF EVIDENCE

Documentary Evidence and Technology

In 2009, the Commission published its *Consultation Paper on Electronic and Documentary Evidence* (LRC CP 57-2009) (3rd Programme of Law Reform, Project 7). Documentary evidence is an essential element of nearly all civil and criminal cases. The main provisional recommendations in the Consultation Paper on documentary evidence generally is that there should be a general presumption (subject to certain

procedural safeguards) that documents and records, whether manual or electronic, should be admissible in civil and criminal cases. Currently, witnesses (including ICT specialists from private businesses and members of the Garda Síochána) are often required to turn up on the morning of a court hearing in case they are needed to authenticate documents, but their presence is often not needed if this is agreed on the day. The Commission's proposed change would reduce the amount of time – and cost – taken up in unnecessary court appearances under the current law. On electronic and digital signatures, the Consultation Paper provisionally recommends that detailed, smart economy, technical standards for using and verifying electronic and digital signatures (currently used in the Revenue Online Service (ROS)) should be agreed by an expert working group. These would apply to specific commercial transactions, including those involving the State. In September 2009, the European Telecommunications Standards Institute (ETSI) agreed an electronic signatures standard for PDF documents (TS 102 778, based on ISO 32000, the global standard for PDFs) that could facilitate secure paperless business transactions throughout Europe in accordance with the 1999 EU Directive on Electronic Signatures, which Ireland implemented in the *Electronic Commerce Act 2000*. The Commission's Report on this area will also incorporate the projects on hearsay and expert evidence, below.

Hearsay in Civil and Criminal Cases

During 2009, the Commission made substantial progress on its project on hearsay in civil and criminal cases (3rd Programme of Law Reform, Project 8). The Commission published its *Consultation Paper on Hearsay in Civil and Criminal Cases* (LRC CP 60-2010) in March 2010, and we will return to this in the Commission's Annual Report 2010. The Commission's Report on this area will also incorporate the projects on documentary evidence, above, and expert evidence, below.

Expert Evidence

In 2009 the Commission began work on the development of its final recommendations on the law concerning expert evidence, having published its *Consultation Paper on Expert Evidence* (LRC CP 52-2008) (3rd Programme of Law Reform, Project 11) in 2008. The Commission's Report on this area will also incorporate the projects on documentary evidence and the hearsay rule, above.

3. CRIMINAL LAW

Defences in criminal law

In 2009, the Commission published its *Report on Defences in Criminal Law* (LRC 95-2009) (3rd Programme of Law Reform, Project 18), which dealt with legitimate defence (self-defence); defence of the home; use of force in law enforcement; the defence of provocation; and the defences duress and necessity. The Report included a draft *Criminal Law (Defences) Bill* to implement these recommendations.

On legitimate defence generally (self-defence), the Commission recommended that the defence should be divided into four key elements: a threshold requirement (only certain types of unlawful attack can justify use of defensive force, especially lethal defensive force); the attack must be immediate; the use of defensive force must be necessary (a person should usually retreat if possible); and the defensive force must be proportionate to the unlawful attack. The test of whether the use of force is necessary and proportionate is based on an objective standard of a reasonable person (if the person attacked used lethal force, and subjectively believed it was necessary and proportionate but objectively it was not, the person should be found guilty of manslaughter, not murder: this is usually referred to as excessive or disproportionate force).

As to defence of the dwelling, the Commission recommended that the general requirements for legitimate defence (self-defence) should apply to defence of the dwelling and its vicinity; but that the general rule that a person should retreat where possible does not apply where the attack is in the home. The *Criminal Law (Defence and the Dwelling) Bill 2010* proposes to amend the *Non-Fatal Offences Against the Person Act 1997*, taking into account the Commission's recommendations on this specific area.

On use of force in law enforcement, the Commission recommended that the use of lethal force in law enforcement (to assist in arresting a person, to deal with serious public disorder, such as a riot, or to prevent prison escapes) should be limited to members of An Garda Síochána and prison officers; and that the use of force, including lethal force, is permitted only when it is necessary and proportionate in the circumstances.

On provocation, the Commission recommended that it should continue to operate as a partial defence in homicide cases only, reducing what would otherwise be murder to manslaughter. The defence should be based primarily on whether the provocation (words or acts, such as assault) was such that it was reasonable for the accused, based on the standard of an ordinary person, to have lost self-control. The Commission also recommended that the fact that the killing did not immediately follow the provocation does not, in itself, mean that the defence cannot be raised. Instead, the presence or absence of an immediate response to provocation should be a matter which a jury is to take into account, along with all the other evidence, in deciding whether the accused lost self-control. This could be especially relevant in the context of cumulative violence.

On the defence of duress, which applies where threats of death or serious injury are made ("do this, or else..."), the Commission recommended that it should continue to apply as a defence to most crimes (with the exception of treason, murder and attempted murder), and should also include threatening situations (duress of circumstances). As to the defence of necessity, which applies in very limited situations (such as where damage to property is committed to save a life, or in cases of medical necessity such as the case of operating on conjoined twins), the Commission recommended that it should continue to develop on a case-by-case basis and should not be placed on a general statutory footing.

Inchoate offences: conspiracy, attempt and incitement

During 2009, the Commission made substantial progress on its project on inchoate offences (3rd Programme of Law Reform, Project 19), on which it published a *Consultation Paper on Inchoate Offences* (LRC CP 48-2008) in 2008. The Commission will publish its Report on this in 2010.

Indexation of Fines

The *Fines Bill 2009*, based on the Commission's *Report on the Indexation of Fines* (LRC 65-2002) (2nd Programme of Law Reform, Project 17), was enacted as the *Fines Act 2010*.

Spent Convictions

The *Spent Convictions Bill 2007*, based on the draft *Spent Convictions Bill* in the Commission's *Report on Spent Convictions* (LRC 84 -2007) (2nd Programme of Law Reform, Project 10), was awaiting Committee Stage in Dáil Éireann in 2009.

4. LAND LAW AND TRUST LAW

Land and Conveyancing Law Reform Act 2009

During the first half of 2009, the Commission continued to convene an Expert Group (convened by the Commission at the request of the Attorney General and the Minister for Justice, Equality and Law Reform) to assist in drafting the final amendments to 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) (2nd Programme of Law Reform, Project 23). The 2006 Bill was enacted as the *Land and Conveyancing Law Reform Act 2009* in July 2009 and came into effect generally on 1 December 2009. The 2009 Act repealed over 150 pre-1922 Acts in this area (commencing with *De Donis Conditionalibus* of 1285) and replaced in a single legislative code many common law and statutory rules on land law, conveyancing and related areas. The substantive changes made in the 2009 Act form part of the Commission's eConveyancing Project, discussed below.

eConveyancing

The Commission's eConveyancing Project involves three interlocking elements. Firstly, a comprehensive review and reform of the substantive law, now enacted in the *Land and Conveyancing Law Reform Act 2009*. The second and third elements embrace the relevant procedural and administrative aspects, with a view to the eventual introduction of eConveyancing. Under the *Second Programme of Law Reform 2000-2007* (2nd Programme of Law Reform, Project 23) the Commission oversaw (with the assistance of the Information Society Commission) a modelling of the current conveyancing process in Ireland, which led to the *Report on eConveyancing: Modelling of the Irish Conveyancing System* (LRC 79-2006). The Report sets out the views and recommendations of the Commission on *Modelling of the Irish Conveyancing System*, a report prepared for the Commission by BearingPoint Management and Technology Consultants. The Modelling Report includes the first detailed 'end-to-end' process model of the entire conveyancing transaction, taking account of the roles played by the vendor and purchaser, estate agents, solicitors, financial institutions, local and planning authorities, the Land Registry and Registry of Deeds and other stakeholders. In the next stage of this project (3rd Programme of Law Reform, Project 22) the Commission will, in conjunction with the Department of Justice, Equality and Law Reform, assist in developing a roadmap for an eConveyancing system.

Adverse Possession

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

Trust Law and the Settled Land Acts

During 2009, the Commission made substantial progress 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*. The project will complement the Commission's *Report on Trust Law - General Proposals* (LRC 92-2008), which contained a draft *Trustee Bill* to replace the *Trustee Act 1893*, the main legislation concerning the duties and powers of trustees. The Government indicated its intention to publish a *Trustee Bill* in its Legislation Programme 2009.

Trust Law and Charitable Trusts

The *Charities Act 2009* was based in part (in that it dealt with the duties of charitable trustees) on the draft *Charities Bill* published in the Commission's *Report on Charitable Trusts and Legal Structures for Charities* (LRC 80 -2006) (2nd Programme of Law Reform, Project 20).

Multi-Unit Developments, including apartment complexes

The *Multi-Unit Developments Bill 2009*, passed by the Seanad in June 2010, proposes to implement the key elements in the Commission's *Report on Multi-Unit Developments* (LRC 90-2008) (2nd Programme of Law Reform, Project 22).

5. FAMILY LAW

Legal Aspects of Family Relationships: fathers and extended family members

In 2009, the Commission published its *Consultation Paper on Legal Aspects of Family Relationships* (LRC CP 55-2009) (3rd Programme of Law Reform, Project 23). Among the provisional recommendations made in the Consultation Paper are that instead of the current legal terms guardianship, custody and access, the law should use the terms parental responsibility, day-to-day care and contact. This would give a clearer indication of what is actually involved in this part of family law; and remove any misunderstanding that parents might have rights involving their children without corresponding responsibilities. It would also ensure that the terms used in Ireland would be in line with those used in EU legislation, by the Council of Europe, and in other international instruments to which Ireland is a party. The Consultation Paper also suggested that there should either be a statutory presumption that a non-marital father be granted an order for guardianship (parental responsibility) unless to do so would be contrary to the best interests of the child or would jeopardise the welfare of the child; or that automatic guardianship (parental responsibility) for all fathers should be introduced (on which the Commission invited submissions). The Commission also invited submissions on whether the categories of persons who can apply for access (contact) should be expanded to include persons with a genuine (*bona fide*) interest; and on whether it would be appropriate to develop a procedure to extend guardianship (parental responsibility) to a step-parent.

Adoption

The *Adoption Bill 2009*, which was enacted by the Oireachtas as the *Adoption Act 2010*, implemented the 1993 Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption. This had been recommended by the Commission in its *Report on Aspects of Intercountry Adoption* (LRC 89-2008), reiterating a previous recommendation made by the Commission in 1998.

Cohabitants

Part 15 of the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (published in 2009 as the *Civil Partnership Bill 2009*) was based on the draft *Cohabitants Bill* in the Commission's *Report on the Rights and Duties of Cohabitants* (LRC 82 - 2006) (2nd Programme of Law Reform, Project 30).

6. SPECIFIC AND VULNERABLE GROUPS IN A CHANGING SOCIETY

Children and the Law: medical treatment

In 2009, the Commission published its *Consultation Paper on Children and the Law: Medical Treatment* (LRC CP 59-2009) (3rd Programme of Law Reform, Project 26).

The Consultation Paper made over 20 provisional recommendations for reform, which are aimed at (a) ensuring that mature teenagers have their views fully taken into account when they seek medical treatment and (b) providing clarity to health care professionals and families. For this project, the Commission was able to use the invaluable assistance of the Office of the Ombudsman for Children to arrange a Consultation Day with 15 to 18 year olds on 26 August 2009. During this Consultation Day, the Commission heard the perspective and voices of young people. These views, which are summarised in the Consultation Paper, indicate that issues such as openness, the need for clear information on medical treatment (including that relevant to sexual relationships), and to take account of the actual maturity of an individual, as well as his or her age, all need to be considered. The main provisional recommendations in the Consultation Paper on 16 and 17 year olds were that they should be presumed to have full capacity (based on a functional test of understanding) to consent to, and refuse, medical treatment, including surgery and in terms of access to contraception. On 14 and 15 year olds, the Commission provisionally recommended that they could be able to consent to and refuse medical treatment, subject to certain conditions, including the best interests of the 14 and 15 year old.

Legal Aspects of Carers

In 2009, the Commission published its *Consultation Paper on Legal Aspects of Carers* (LRC CP 53-2009) (3rd Programme of Law Reform, Project 29). Under the *Health Act 2007*, the Health Information and Quality Authority (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. These standards 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 (though, of course, not all this group require home care). The Commission therefore provisionally recommends in the Consultation Paper that the *Health Act 2007* should be extended to allow HIQA to regulate professional home carers. The Commission intends to publish its Report on this project by the end of 2010.

7. TECHNOLOGY, INNOVATION AND THE INDIVIDUAL

Legal Aspects of Bioethics: Advance Care Directives

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) (3rd Programme of Law Reform, Project 30). The Report recommended the enactment of legislation to cater for people who make advance care directives, whether verbally or in writing. An advance care directive sets out a person's wishes about what should happen to him or her in the event of an incapacitating accident (such as a serious car crash) or illness (such as stroke or the onset of Alzheimer's disease) that makes it impossible for the person to communicate his or her wishes directly.

The main recommendations in the Report are that: the proposed legislation should be facilitative in nature and be seen in the wider context of a process of health care planning by an individual, whether in a general health care setting or in the context of hospice care; the proposed legislation would not alter or affect the existing criminal law under which euthanasia and assisted suicide is prohibited; the proposed legislation would apply to advance care directives by adults involving refusal of treatment, for example: "I do not wish to receive a flu injection" or "I do not wish to be resuscitated"; a person could refuse treatment on religious grounds; an advance care directive could, in general, be verbal or written; under the proposed legislation, an advance care directive could include an instruction to refuse life-sustaining treatment

(treatment which is intended to sustain or prolong life and that replaces or maintains the operation of vital bodily functions that are incapable of independent operation - this type would have to be in writing and witnessed); the proposed legislation would allow for the nomination of a health care proxy to carry out the person's wishes.

The Commission recommends that a person could not refuse basic care, (such as warmth, shelter, palliative care, oral nutrition and hydration and hygiene measures). The Commission also recommends that a statutory Code of Practice on Advance Care Directives should contain detailed guidance for health care professionals, including the circumstances in which artificial nutrition and hydration (ANH) may be considered to be basic care or, as the case may be, artificial life-sustaining treatment. The Commission recommends that a person should be encouraged to seek medical advice when making an advance care directive, but it would not be mandatory. Healthcare professionals would not have any legal liability where they follow an advance care directive that they believe to be valid and to be applicable to the condition being treated. The Commission also recommends that the proposed legislation on advance care directives should be incorporated into the Government's proposed overhaul of the law on mental capacity, contained in the *Scheme of a Mental Capacity Bill 2008*. The Report includes a draft *Mental Capacity (Advance Care Directives) Bill* to implement these recommendations.

Privacy and surveillance

The *Criminal Justice (Surveillance) Act 2009*, based in part on the Commission's *Report on Privacy: Surveillance and the Interception of Communications* (LRC 57 - 1998) (1st Programme of Law Reform, paragraph 13), was enacted by the Oireachtas in July 2009. The *Privacy Bill 2006*, also based in part on the Commission's 1998 Report, was at Second Stage in Seanad Éireann in 2009.

8. COMMERCIAL LAW AND THE LAW OF OBLIGATIONS

Insurance Contracts

During 2009, the Commission made substantial progress on its project on insurance contracts (3rd Programme of Law Reform, Project 34). This project will review existing rules concerning insurance contracts, such as formalities, material non-disclosure, 'basis of contract' clauses and the concept of insurable interest. The project will examine whether these rules would benefit from codification, from the perspectives of business efficiency and consumer protection. The Commission intends to publish a Consultation Paper on this area by the end of 2010.

Civil Liability of Good Samaritans and Volunteers

In 2009, the Commission published its *Report on Civil Liability of Good Samaritans and Volunteers* (LRC 93-2009), which followed its 2007 *Consultation Paper on the Civil Liability of Good Samaritans and Volunteers* (LRC CP 47-2007). The project arose from a request in 2006 by the Attorney General to consider the duty of care and/or standard of care in law of Good Samaritans and those providing voluntary services for the benefit of society; and whether the law should be reformed to impose a duty to intervene to assist an injured person or a person at risk of such an injury.

The Commission examined the Attorney General's request against the background of two major issues: the roll-out of defibrillators (Automatic External Defibrillators (AEDs)) in public places to prevent cardiac death (recommended in the 2006 *Report of the Task Force on Sudden Cardiac Death*) and the general promotion of active citizenship, discussed in the 2007 *Report of the Task Force on Active Citizenship*. The issue of possible liability of Good Samaritans or voluntary rescuers has been raised in this context, although the Task Force Report noted that any concerns had not prevented

people from continuing to volunteer. In approaching the Attorney General's request, the Commission fully took into account this general background. The Commission's analysis was that it was unlikely that liability would arise in most situations, although a residual risk of litigation could not be ruled out, especially in the context of organised volunteering activity. Even here, the Commission was not aware of any claims against those involved in saving people's lives or rescuing people in emergency situations.

The Commission recommended that, to deal with any anxiety on the part of those who decide to be Good Samaritans or who volunteer in society, and also to clarify the law, the relevant rules should be put in a statutory form. The Commission's Report includes a draft *Civil Liability (Good Samaritans and Volunteers) Bill* which contained the Commission's detailed proposals. The draft Bill would cover both Good Samaritans and also voluntary rescuers. The Commission recommended that the proposed legislation should provide for a full defence against a civil liability claim for Good Samaritans and voluntary rescuers, unless there is gross negligence, that is, negligence of a very high level and that involves a high degree of risk or likelihood of injury. This gross negligence test is in line with similar laws in place in many countries, including the United States, Canada, Australia and New Zealand. The Commission also recommend that, while volunteering organisations would have to comply with the normal rules of civil liability – to take reasonable care in all the circumstances – they should also be able to argue that liability should not be imposed on them if it would not be just and reasonable in the circumstances to do so. This takes account of the overall policy objectives of encouraging volunteering activity in Ireland. Part 3 of the *Civil Law (Miscellaneous Provisions) Bill 2010* proposes to implement the Commission's recommendations.

Defamation

The *Defamation Act 2009* was enacted by the Oireachtas in July 2009. The 2009 Act derived from the Commission's recommendations in its *Report on the Civil Law of Defamation* (LRC 38 -1991) and *Report on the Crime of Libel* (LRC 41 -1991) (both arising from a request in 1987 by the Attorney General to examine this area), which had been incorporated into the 2003 *Report of the Legal Advisory Group on Defamation*.

CHAPTER 3

STATUTE LAW RESTATEMENT

OVERVIEW

The Commission's focus in 2009 in relation to the Restatement project was to progress the *First Programme of Restatement* and to continue to build its capacity to produce restatements.

Considerable progress was made on the restatements listed in the first programme, initially in the word-processing software Word. This work was converted to XML as the authoring system became available. The system's final features became available in May 2010, permitting the addition of cover pages and introductions, and most of the Acts in the first programme were forwarded to the Office of the Attorney General in July 2010 for certification in accordance with the Statute Law (Restatement) Act 2002. 2009 also saw a draft restatement of the Central Bank Act 1942 at the request of the Attorney General.

The Commission's capacity to produce restatements depends on access to a repository of legislation correctly marked up in XML, and an authoring system allowing legislation to be edited and annotated in XML. Considerable work had already been done in 2008 on the conversion of statutory instruments and the capture and XML mark up of the repository of Acts from 1922 to 1998. This was completed and a validation exercise conducted in 2009, to assure the quality of the work done. In addition, over 400 selected pre-1922 Acts were captured and marked up, thus allowing restatements involving pre-1922 legislation such as the *Prevention of Corruption Acts 1889 – 2005*. This new version of the post-1922 repository was made available to the Attorney General's Office, which decided to upload the new material onto the eISB website (www.irishstatutebook.ie). The material was also made available to the Houses of the Oireachtas Service for use on their websites.

Work continued on the development and testing of the XML authoring system, in which the Commission was closely involved. Many of the restatements authored in Word were converted to XML in the course of 2009, and finally updated and completed in May and June of 2010, when the final features of the system became available.

The Commission continued its participation in the eLegislation Group, chaired by the Department of the Taoiseach. The Group also includes representative from the Office of the Attorney General, Department of Finance and the Houses of the Oireachtas Service. The Group continued to progress initiatives aimed at using integrated or interchangeable technology and working methods, with the objective of improving efficiency in the preparation, publishing and updating of legislation. In terms of general accessibility to legislation, this also included during 2009 the initial stages of developing a Classified List of Extant Acts.

CHAPTER 4

LEGISLATION DIRECTORY

OVERVIEW

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

Following transfer of the function, the Commission reviewed the content of the current Legislation Directory and in July 2008 published a *Consultation Paper on the Legislation Directory: Towards a Best Practice Model* (LRC CP 49-2008).

In the second half of 2008, the Commission began work on compilation of the Legislation Directory from 1 January 2006. The Commission continued this work during the course of 2009. Updates to the Legislation Directory were published on the electronic Irish Statute Book (eISB) website www.irishstatutebook.ie in July 2010. These covered legislative changes made in the period 1 January 2006 to 3 April 2010. They were completed using the Commission's new authoring tool.

These updates also contained enhancements to the traditional Legislation Directory database. Comprehensive information on commencement provisions as well as other associated secondary legislation was included for the first time. The Commission gave a commitment to provide regular updates to current legislation into the future.

The Commission also began some work in 2009 on remedying omissions in the existing Legislation Directory. Previously, there had been no information on pre-1922 amendments to pre-1922 legislation. This meant that if a pre-1922 Act was amended pre-1922 there was no reference to the Act at all on the Legislation Directory. If it was amended both pre-1922 and post-1922, only the post-1922 amendments appeared. This was misleading for users of the Legislation Directory.

The Commission examined the list of 1,364 pre-1922 Acts that had been retained in force by the *Statute Law Revision Act 2007*. Subject to further repeals effected since 2007 (such as the repeal of over 150 pre-1922 Acts by the *Land and Conveyancing Law Reform Act 2009*: see Chapter 2, above), these continue to have the force of law in this jurisdiction. The Commission thus decided to compile information on pre-1922 amendments to those Acts retained in force by the 2007 Act. In July 2010, the Commission uploaded information in respect of pre-1922 amendments to pre-1922 Acts covering the years 1900 to 1922. Thus, for the first time, users of the Legislation Directory can see references to all amendments made, for example, to the *Probation of Offenders (Ireland) Act 1907* and are no longer limited to seeing amendments made to the 1907 Act since 1922. The Commission will continue to work in reverse chronological order to deal with this issue and upload information on the eISB.

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

THE COMMISSION

The Commission consists of a President and 4 Commissioners. The Commissioners are appointed by the Government for a term of up to 5 years, and their appointment may be renewed. The President and one other Commissioner are engaged in a full-time capacity. During 2009, the members of the Commission were as follows. The President of the Commission was Mrs Justice Catherine McGuinness, 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 in 2009 were: Professor Finbarr McAuley, Jean Monnet Professor of Criminal Law, University College Dublin; Marian Shanley, Solicitor, member of the Commission to Inquire into Child Abuse; and Donal O'Donnell, Senior Counsel.

The Commission decides on the content of the programme of law reform, determines the contents of the research output of the Commission (contained in Consultation Papers and Reports), and makes all key administrative and financial decisions. The Commission meets formally as a body at least once a month. In addition, its members meet frequently and are in ongoing communication and consultation with each other and with Commission staff.

MANAGEMENT COMMITTEE

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

ADMINISTRATIVE STAFF

The Commission's administrative staff consisted of a Head of Administration and Development and a team of 10 other staff in the first half of 2009. During the second half of 2009, arrangements were put in place to take into account the planned major reduction in the Commission's grant-in-aid for 2010.

During 2009, the Administration Unit had overall responsibility for carrying out the day-to-day administrative tasks within the Commission. In particular the Unit is responsible for:

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

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

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

RESEARCH AND LIBRARY STAFF

Research Staff

The research staff is organised around the Commission's current three research functions: Law Reform, Statute Law Restatement and the Legislation Directory.

The law reform research team is headed by the Director of Research. The Statute Law Restatement and the Legislation Directory research teams are each headed by a Project Manager. The research staff report directly to the Director of Research and Project Managers, respectively. During 2009, the Commission had sanction to employ 15 full-time Legal Researchers in connection with its research functions, ten of whom were engaged in law reform projects, three in Statute Law Restatement and two in the Legislation Directory

The function of the Director of Research and of the Project Managers is to lead and manage the research teams, and generally advise and assist the researchers with a view to assuring an appropriate output and quality of work. The Director of Research and the Project Managers organise monthly meetings of the entire research team to discuss developments in their respective areas and to exchange views. They also conduct a number of seminars during the year for the researchers on areas of particular interest. 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. The library is staffed by a Legal Information Manager/Librarian and a Cataloguer/Library Assistant. Assistance is also provided, when required, by members of the administrative staff.

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

FINANCE AND AUDIT

Income and expenditure

The Commission is funded by a grant-in-aid from the Minister for Finance, on the recommendation of the Attorney General, and the grant-in-aid figure for 2009 was €3,296,894. A sum of €6,533 was received from the sale of publications.

Expenditure in 2009 amounted to €3,582,727.52. The expenditure covered salaries and superannuation of Commissioners and staff, rent and premises overheads, maintenance of the Commission's library, maintenance of the Commission's IT network and printing and distribution costs.

The Commission has an audit committee which oversees administrative and financial procedures in the Commission. The Commission's audit committee complements the work of the internal audit Committee of the Office of the Attorney General. In accordance with the *Law Reform Commission Act 1975*, the Commission's annual accounts are audited by the Comptroller and Auditor General.

During the second half of 2009, extensive discussions occurred between the Commission and the Office of the Attorney General having regard to the planned major reduction in the Commission's grant-in-aid for 2010. During that time preliminary discussions took place concerning reductions in the pay and non-pay elements of the Commission's projected grant-in-aid, which included possible redeployment of civil service staff and reduction in the number of sanctioned contract research staff. These discussions were concluded by the end of 2009. We will return to this in the *Annual Report 2010*.

Prompt payments

The Commission did not incur any late interest penalties during 2009 under the *Prompt Payment of Accounts Act 1997*, as amended by the *European Communities (Late Payment in Commercial Transactions) Regulations 2002*.

GOVERNANCE ARRANGEMENTS

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

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

Progress made in achieving these targets is monitored on a regular basis by the Management Committee, with a formal review each quarter.

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

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

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

Appendix A:

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: **WORKING GROUPS AND PROJECT BOARDS**

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

EXPERT GROUP ON THE LAND AND CONVEYANCING LAW REFORM BILL 2006

In 2006, at the request of the Attorney General and the Minister for Justice, Equality and Law Reform, the Commission convened an Expert Group to assist in drafting the *Land and Conveyancing Law Reform Bill 2006*, which is based on its draft Bill in the *Report on the Reform and Modernisation of Land Law and Conveyancing Law (LRC 74-2005)*. The Expert Group continued to meet in the first half of 2009 to discuss and consider amendments to the 2006 Bill during its passage through the Oireachtas, which was enacted in July 2009 as the *Land and Conveyancing Law Reform Act 2009*.

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

Mrs Justice Catherine McGuinness, President
Commissioner Patricia T Rickard-Clarke
Mr Raymond Byrne, Director of Research
Professor John C W Wylie, Professor of Law, Cardiff University
Mr Seamus Carroll, Principal Officer, Department of Justice and Law Reform
Ms Tracey O'Keeffe, Assistant Principal Officer, Department of Justice and Law Reform
Mr Chris Hogan, former Senior Deputy Registrar, Land Registry

Christopher Campbell acted as Secretary/Researcher to the Group in 2009.

PROJECT BOARD ON THE CONSOLIDATION AND REFORM OF THE COURTS ACTS

In January 2008, the Commission established a Project Board on the Consolidation and Reform of the Courts Acts. This is a joint project involving the Commission, the Department of Justice, Equality and Law Reform and the Courts Service.

Members of Project Board on the Consolidation and Reform of the Courts Acts

Mrs Justice Catherine McGuinness, President
Commissioner Patricia T Rickard-Clarke
Mr Raymond Byrne, Director of Research
Mr Sean Barton, McCann FitzGerald, Solicitors (drafting specialist for the draft *Courts Consolidation and Reform Bill*)
Mr Brian O'Neill, Assistant Principal Officer, Courts Policy Division, Department of Justice and Law Reform
Mr Noel Rubotham, Director of Reform and Development, Courts Service

Claire Bruton acted as Secretary/Researcher to the Project Board in 2009.

AD HOC GROUP ON ADVERSE POSSESSION

In December 2009, the Commission established an *ad hoc* Group on Adverse Possession to assist in the Commission's project on the law of adverse possession.

Members of ad hoc Group on Adverse Possession

Mrs Justice Catherine McGuinness, President
Commissioner Patricia T Rickard-Clarke
Professor John C W Wylie, Professor of Law, Cardiff University
Dr Una Woods, Faculty of Law, University of Limerick
Mr Frank Treacy, Property Registration Authority

Christopher Campbell acted as Secretary/Researcher to the Group in 2009.

Appendix C: CONFERENCES AND VISITS IN 2009

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. In addition, numerous media interviews (press, radio and television) were given by the President, Commissioners and the Director of Research in connection with the launch of the Commission's ten publications (Reports and Consultation Papers) in 2009.

The following is a list of conferences attended - and other external discussions conducted - by Commissioners and researchers during 2009. In many instances, these involved delivering papers concerning the Commission's work.

- | | |
|--------------|--|
| 29 January | Personal Debt Management and Debt Enforcement Attendance at Dublin Solicitors Bar Association Continuing Professional Development (CPD) Seminar "Insolvency and the Equitable Relief of Specific Performance" |
| 30 January | Advance Care Directives Commissioner Rickard-Clarke made a presentation at the Tallaght Education Forum |
| 5 February | Mental Capacity Commissioner Rickard-Clarke made a presentation at the National Disability Authority/Department of Justice, Equality and Law Reform Conference on the Mental Capacity Bill |
| 18 February | Law Reform Presentation by President on Processes of Law Reform at NUIG Post-graduate course |
| 18 February | Statute Law Restatement lecture by Alma Clissmann on Statute Law Restatement, NUI Galway |
| 2 March | Personal Debt Management and Debt Enforcement Commissioner Rickard-Clarke participated in a roundtable discussion at a FLAC Conference on over-indebtedness |
| 3, 4 March | Evidence: Hearsay Successful round table discussions were held at the offices of the Law Reform Commission dealing with the civil law and criminal law aspects of Evidence and Hearsay |
| 9 March | Mental Capacity Commissioner Rickard-Clarke made a presentation concerning the position in this State at a Northern Ireland DHSS workshop on "Mental Capacity in Four Jurisdictions" (UK and Ireland). |
| 10 March | Elder Abuse Commissioner Rickard-Clarke participated in a roundtable discussion at the National Centre for Older People, UCD |
| 11, 12 March | Advance Care Directives President made presentation to Irish Hospice Foundation End of Life Forum, and Commissioner Rickard-Clarke participated as a panel member |
| 12 March | Expert Evidence Presentation made to Irish Society of Chartered Surveyors |
| 14 March | Human Rights Two Presentations made by researchers at Annual Student Human rights Conference of Freedom of Expression, Nottingham |
| 24 March | President chaired Annual Fitzpatrick Lecture in Legal Bibliography |
| 25 March | Personal Debt Management and Debt Enforcement Attendance at Debt Management Seminar |
| 31 March | Law and the Older Person Launch of "Single Procedure a chance for change" for Refugee Council at the Law Society of Ireland |

- 2 April **Children and the Law** Attendance at Children's Rights Alliance Conference in Dublin Castle
- 4 April **Law Reform** Two Legal Researcher made presentations at Trinity College Dublin: Law Student Colloquium "Rethinking the Law".
- 7 April Two Researchers made presentations at the Socio-Legal Studies Association Conference, De Montfort University, Leicester, UK
- 21 April President spoke at Nursing Convention in Sligo
- 24 April **Alternative Dispute Resolution** President launched Kildare Collaborative Law Website
- 21 April **Personal Debt Management and Debt Enforcement** Attendance at launch of Report by Combat Poverty Agency: "A Policy Framework for Addressing Over-Indebtedness."
- 27 April **Corporate Killing** Director of Research Byrne made presentation at ICTU Conference to commemorate those killed at work.
- 30 April **Personal Debt Management and Debt Enforcement** Attendance at Irish Centre for European Law seminar on Cross-Border Insolvency and Debt Actions
- 30 April Five Researchers made presentations at University College Cork Postgraduate Conference "The Promise of Law"
- 30 April **Alternative Dispute Resolution** President made presentation at the introduction of Collaborative Law to Galway
- 12 May Legal Researcher spoke at Council of Europe "Foundations of European Law and Polity Annual Conference" Helsinki
- 13 May **Trust Law** Attendance at Irish Charities Tax Research Ltd/Mental Health Commission Conference: "The Charities Act 2009: Where to from here?"
- 14-15 May **Alternative Dispute Resolution** Attendance at Academy of European Law: Practical issues of cross-border mediation, Trier, Germany
- 18 May **Mental Capacity** Commissioner Rickard-Clarke presented paper at Irish Mental Health Commission Conference "Mental Health: Human Rights and Legislation: What's Possible in Ireland?"
- 21 May **Mental Capacity** Commissioner Rickard-Clarke presented paper at Association of Mental Health Lawyers Conference
- 22 May **Trust Law** Attendance at STEP Annual Conference
- 26 May **Law and the Older Person** Attendance An Bord Altranais Annual Conference "Caring for and about the older person" at the Davenport Hotel Dublin.
- 27 May Attendance at National Economic Social Forum Conference
- 3 June **Advance Care Directives** President chaired Irish Hospice Foundation End of Life Forum
- 3 June **Personal Debt Management and Debt Enforcement** Attendance at the launch of the Irish Banking Federation-Money Advice and Budgeting Services Operational Protocol: Working Together to Manage Debt at the offices of the Irish Banking Federation.
- 9 June **Expert Evidence** Director of Research Byrne made presentation to Association of Consulting Engineers (ACFE)
- 10 June **Law and the Older Person** Commissioner Rickard-Clarke presented paper to Alzheimer's Society of Ireland Elder Mediation World Summit & Symposium
- 15 June Researcher made presentation to Fifth Irish Criminal Conference, UCD
- 16 June **Children and the Law** President attended Irish Council for Civil Liberties (ICCL) and Irish Criminal Bar Association (ICBA) briefing

- seminar on Protecting Children and Respecting the Rule of Law, Leinster House.
- 23 June **Evidence** Attendance at Web Seminar on Evidence: Practice and Procedure
- 24 June **Visit of Czech Republic Parliamentary Delegation to Commission** A delegation from the Committee on Mandates and Immunities, Chamber of Deputies, Parliament of the Czech Republic visited the Commission's offices to discuss general issues of comparative law reform.
- 25 June **Personal Debt Management and Debt Enforcement** Attendance at a seminar by the Irish Society of European Law "Financial Services Regulation in Ireland in the context of the banking crisis" Blackhall Place.
- 26 June **Law and the Older Person** Commissioner Rickard-Clarke spoke at Age Action Ireland "Protecting Older Adults: Interweaving Responses to Elder Abuse"
- 1 July **Personal Debt Management and Debt Enforcement** Commissioner Rickard-Clarke spoke at Irish Banking Federation/Crannagh & Co in Association with Erwin Mediation Services "The Role of Mediation in Debt Management"
- 2 July **Personal Debt Management and Debt Enforcement** Presentation at International Graduate Legal Research Conference
- 4-7 August Attendance at International Family Justice Conference in Windsor, England
- 25 August **Visit of Judges from different African States to Commission** A delegation of Judges from different African States African Judges visited the Commission visited the Commission's offices to discuss general issues of comparative law reform as part of their conference on legal developments organised by Trinity College Dublin School of Law (Prof William Binchy)
- 26 August **Children and the Law** A Consultation Day for Young People was facilitated by the Office of the Ombudsman for Children and mediated by the Commission.
- 8 September **Personal Debt Management and Debt Enforcement Debt Enforcement** Commissioner Rickard-Clarke made presentation at Credit Union Managers Association, Athlone
- 15 September Commissioner Rickard-Clarke made presentation on the Presentation Mental Health Act 2001 at CPD Focus Seminar, Law Society of Ireland and Mental Health Commission
- 25 September **Land and Conveyancing Law Reform Act 2009** Commissioner Rickard-Clarke made presentation on the trust Law provisions in the 2009 Act at CPD Focus Seminar, Law Society of Ireland
- 1 October **Multi-Unit Developments** Commissioner Rickard-Clarke made presentation at IPFMA (Irish Property & Facility Management Association) Croke Park, Dublin
- 15 October President attended launch of series of events to mark 10th anniversary of equality legislation in Ireland, Dublin Castle
- 16 October **Mental Capacity** Director of Research Byrne discussed 2006 *Report on Vulnerable Adults and the Law* and 2008 *Scheme of Mental Capacity Bill* on RTE Radio 1 programme *Outside the Box*.
- 21 October **Law and the Older Person** President attended the launch of Older and Bolder campaign, Dublin
- 28 October **Carers and the Law** President launched NESF Carers Report, Italian Room, Department of the Taoiseach

- 29 October **Children and the Law** President made presentation at conference “Keeping Children Safe, Critical Times, Critical Issues,” jointly organised by UCC and the HSE
- 4 November **Children and the Law** President spoke at seminar “A Need for a Constitutional Provision for the Protection of the Rights of the Child” University of Limerick Law Society
- 5 November **Legal Aspects of Family Relationships** Presentations at Ballymun Community Law Centre Law Reform Seminar on the Legal Aspects of Family Relationships
- 6 November **Personal Debt Management and Debt Enforcement** Attendance at the Mutual Learning on Financial Inclusion (MULFI) Final Conference, Brussels.
- 10 November **Personal Debt Management and Debt Enforcement** Attendance at the UK Insolvency Service 4th Insolvency Research Conference, London.
- 12 November **Vulnerable Adults and the Law** Commissioner Rickard-Clarke made presentation “Acting for the Vulnerable Client” at CPD Focus Seminar Law Society of Ireland
- 14 November **Personal Debt Management and Debt Enforcement** Attendance at public forum discussing the provisional recommendations made in the Commission’s Consultation Paper on Personal Debt Management.
- 15 November **Alternative Dispute Resolution** Attendance at MII (Mediators Institute of Ireland) Annual Conference “A Time to Mediate: Applications in Practice”
- 17 November **Alternative Dispute Resolution** President spoke at conference on mediation in medical claims, State Claims Agency.
- 18 November **Annual Conference: Personal Debt Management and Debt Enforcement** Commission’s Annual Conference, Dublin Castle, chaired by President and presentation made by Commissioner Rickard-Clarke
- 19 November **Trust Law** Commissioner Rickard-Clarke made presentation to STEP Diploma in Trust Law and Practice course
- 26 November **Mental Capacity** Commissioner Rickard-Clarke presentation to Mental Health Commission Training Symposium

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 (**December 1976**) (**PrI 5984**)

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

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

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

First (Annual) Report (1977) (**PrI 6961**)

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

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

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

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

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

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

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

Third (Annual) Report (1980) (**PrI 9733**)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Report on Offences Under the Dublin Police Acts and Related Offences (LRC 14-1985) (July 1985)

Report on Minors' Contracts (LRC 15-1985) (August 1985)

Report on the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (LRC 16-1985) (August 1985)

Report on the Liability in Tort of Minors and the Liability of Parents for Damage Caused by Minors (LRC 17-1985) (September 1985)

Report on the Liability in Tort of Mentally Disabled Persons (LRC 18-1985) (September 1985)

Report on Private International Law Aspects of Capacity to Marry and Choice of Law in Proceedings for Nullity of Marriage (LRC 19-1985) (October 1985)

Report on Jurisdiction in Proceedings for Nullity of Marriage, Recognition of Foreign Nullity Decrees, and the Hague Convention on the Celebration and Recognition of the Validity of Marriages (LRC 20-1985) (October 1985)

Eighth (Annual) Report (1985) (PI 4281)

Report on the Statute of Limitations: Claims in Respect of Latent Personal Injuries (LRC 21-1987) (September 1987)

Consultation Paper on Rape (December 1987)

Report on the Service of Documents Abroad re Civil Proceedings -the Hague Convention (LRC 22-1987) (December 1987)

Report on Receiving Stolen Property (LRC 23-1987) (December 1987)

Ninth (Annual) Report (1986-1987) (PI 5625)

Report on Rape and Allied Offences (LRC 24-1988) (May 1988)

Report on the Rule Against Hearsay in Civil Cases (LRC 25-1988) (September 1988)

Report on Malicious Damage (LRC 26-1988) (September 1988)

Report on Debt Collection: (1) The Law Relating to Sheriffs (LRC 27-1988) (October 1988)

Tenth (Annual) Report (1988) (PI 6542)

Report on Debt Collection: (2) Retention of Title (LRC 28-1988) (April 1989)

Report on the Recognition of Foreign Adoption Decrees (LRC 29-1989) (June 1989)

Report on Land Law and Conveyancing Law: (1) General Proposals (LRC 30-1989) (June 1989)

Consultation Paper on Child Sexual Abuse (August 1989)

Report on Land Law and Conveyancing Law: (2) Enduring Powers of Attorney (LRC 31-1989) (October 1989)

Eleventh (Annual) Report (1989) (PI 7448)

Report on Child Sexual Abuse (LRC 32-1990) (September 1990)

Report on Sexual Offences against the Mentally Handicapped (LRC 33-1990) (September 1990)

Report on Oaths and Affirmations (LRC 34-1990) (December 1990)

Report on Confiscation of the Proceeds of Crime (LRC 35-1991) (January 1991)

Consultation Paper on the Civil Law of Defamation (March 1991)

Report on the Hague Convention on Succession to the Estates of Deceased Persons (LRC 36-1991) (May 1991)

Twelfth (Annual) Report (1990) (PI 8292)

Consultation Paper on Contempt of Court (July 1991)

Consultation Paper on the Crime of Libel (August 1991)

Report on the Indexation of Fines (LRC 37-1991) (October 1991)

Report on the Civil Law of Defamation (LRC 38-1991) (December 1991)

Report on Land Law and Conveyancing Law: (3) The Passing of Risk from Vendor to Purchaser (LRC 39-1991) (December 1991); (4) Service of Completion Notices (LRC 40-1991) (December 1991)

Thirteenth (Annual) Report (1991) (PI 9214)

Report on the Crime of Libel (LRC 41-1991) (December 1991)

Report on United Nations (Vienna) Convention on Contracts for the International Sale of Goods 1980 (LRC 42-1992) (May 1992)

Report on the Law Relating to Dishonesty (LRC 43-1992) (September 1992)

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

Consultation Paper on Sentencing (March 1993)

Consultation Paper on Occupiers' Liability (June 1993)

Fourteenth (Annual) Report (1992) (PN 0051)

Report on Non-Fatal Offences Against The Person (LRC 45-1994) (February 1994)

Consultation Paper on Family Courts (March 1994)

Report on Occupiers' Liability (LRC 46-1994) (April 1994)

Report on Contempt of Court (LRC 47-1994) (September 1994)

Fifteenth (Annual) Report (1993) (PN 1122)

Report on the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (LRC 48-1995) (February 1995)

Consultation Paper on Intoxication as a Defence to a Criminal Offence (February 1995)

Report on Interests of Vendor and Purchaser in Land during the period between Contract and Completion (LRC 49-1995) (April 1995)

An Examination of the Law of Bail (LRC 50-1995) (August 1995)

Sixteenth (Annual) Report (1994) (PN 1919)

Report on Intoxication (LRC 51-1995) (November 1995)

Report on Family Courts (LRC 52-1996) (March 1996)

Seventeenth (Annual) Report (1995) (PN 2960)

Report on Sentencing (LRC 53-1996) (August 1996)

Consultation Paper on Privacy: Surveillance and the Interception of Communications (September 1996)

Report on Personal Injuries: Periodic Payments and Structured Settlements (LRC 54-1996) (December 1996)

Eighteenth (Annual) Report (1996) (PN 3760)

Consultation Paper on the Implementation of The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993 (September 1997)

Report on the Unidroit Convention on Stolen or Illegally Exported Cultural Objects (LRC 55-1997) (October 1997)

Report on Land Law and Conveyancing Law; (6) Further General Proposals including the execution of deeds (LRC 56-1998) (May 1998)

Consultation Paper on Aggravated, Exemplary and Restitutionary Damages (May 1998)

Nineteenth (Annual) Report (1997) (PN 6218)

Report on Privacy: Surveillance and the Interception of Communications (LRC 57-1998) (June 1998)

Report on the Implementation of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993 (LRC 58-1998) (June 1998)

Consultation Paper on the Statutes of Limitation: Claims in Contract and Tort in Respect of Latent Damage (Other Than Personal Injury) (November 1998)

Twentieth (Annual) Report (1998) (PN 7471)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Twenty Fourth (Annual) Report (2002)

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

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

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

Consultation Paper on Judgment Mortgages (LRC CP 30-2004) (March 2004)
Consultation Paper on the Court Poor Box (LRC CP 31-2004) (March 2004)
Consultation Paper on the Rights and Duties of Cohabitees (LRC CP 32-2004) (April 2004)
Consultation Paper on Prosecution Appeals from Unduly Lenient Sentences in the District Court (LRC CP 33-2004) (June 2004)
Twenty Fifth (Annual) Report (2003) (July 2004)
Consultation Paper on the Reform and Modernisation of Land Law and Conveyancing Law (LRC CP 34-2004) (October 2004)
Report on A Fiscal Prosecutor and A Revenue Court (LRC 72 – 2004) (December 2004)

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

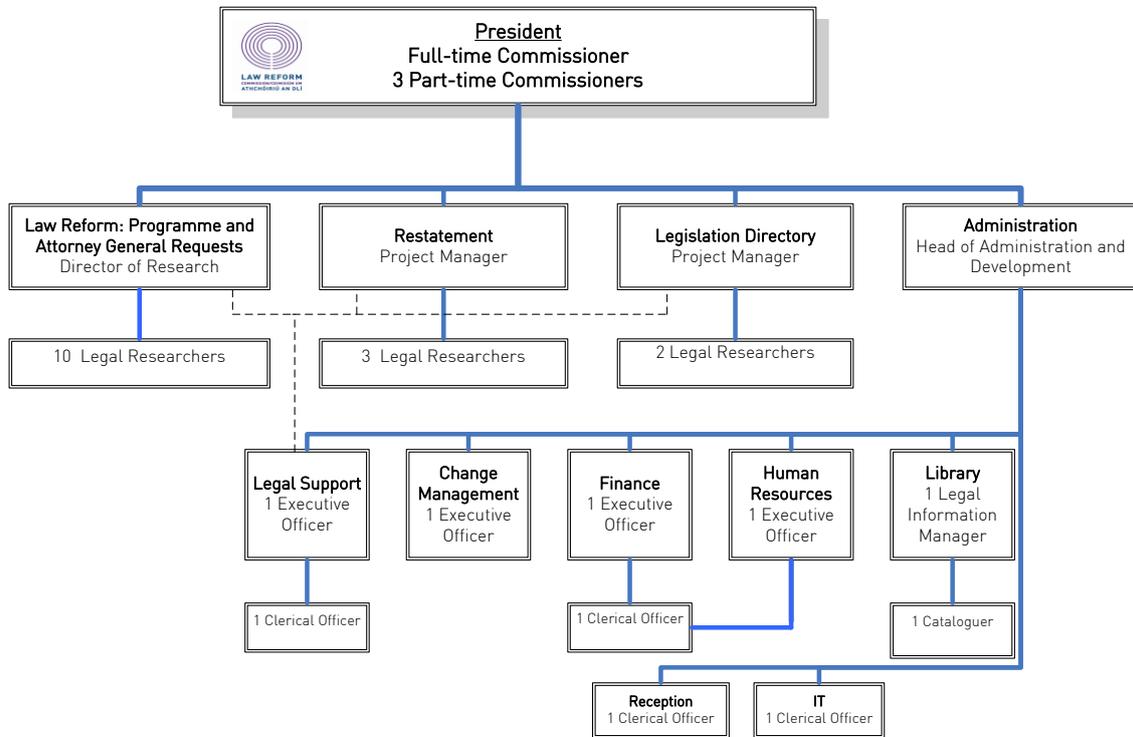
Report on eConveyancing: Modelling of the Irish Conveyancing System (LRC 79-2006) (April 2006)
Consultation Paper on Duress and Necessity (LRC CP 39-2006) (April 2006)
Report on Charitable Trusts and Legal Structures for Charities (LRC 80-2006) (October 2006)
Consultation Paper on Privity of Contract: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

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

Report - Homicide: Murder and Involuntary Manslaughter (LRC 87-2008) (January 2008)
Report - Privity of Contract and Third Party Rights (LRC 88-2008) (February 2008)
Report - Aspects of Intercountry Adoption Law (LRC 89-2008) (February 2008)

Consultation Paper on Inchoate Offences (LRC CP 48-2008) (February 2008)
Report - Multi-Unit Developments (LRC 90-2008) (June 2008)
Report on Statute Law Restatement (LRC 91 - 2008) (July 2008)
Consultation Paper on the Legislation Directory: Towards a Best Practice Model (LRC CP 49 - 2008) (July 2008)
Consultation Paper on Alternative Dispute Resolution (LRC CP - 50 2008) (July 2008)
Annual Report 2007 (October 2008)
Consultation Paper on Bioethics: Advance Care Directives (LRC CP 51 - 2008) (October 2008)
Report on Trust Law: General Proposals (LRC 92 - 2008) (December 2008)
Consultation Paper on Expert Evidence (LRC CP 52 - 2008) (December 2008)

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



³ Organisation Chart as at May 2009.



LAW REFORM
COMMISSION/COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ