



LAW REFORM
COMMISSION/COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ

COIMISIÚN UM ATHCHÓIRIÚ AN DLÍ PREASRÁITEAS
LAW REFORM COMMISSION PRESS RELEASE

EMBARGO: MIDNIGHT 24TH SEPTEMBER 2020

**LAW REFORM COMMISSION PUBLISHES
REPORT ON ACCESSIBILITY OF LEGISLATION IN THE DIGITAL AGE**

FRIDAY 25TH SEPTEMBER 2020: The Law Reform Commission has today published a *Report on Accessibility of Legislation in the Digital Age*.

Background: need to make legislation-as-amended more easily available online

The Report makes a wide range of recommendations as to how legislation – in particular Acts of the Oireachtas, which constitute the main source of law in the State – can be made available online in a more consolidated and comprehensive way. The Report points out that there are over 3,000 Acts in force (of which more than 1,000 are pre-1922 Acts from before the State was established) and the vast majority of these Acts have been amended many times, but they are not all available in their up-to-date, as-amended format.

The Report points out that this is not satisfactory from a number of perspectives, including:

- the constitutional or rule of law perspective: it is vital that all citizens have access to the law as it currently stands; and
- the economic and digital policy perspective: improving online access to legislation is consistent with the State’s policy on reducing the cost of doing business, and also “digital by design” policy, including GovTech, which involves applying emerging technologies such as advanced data processing to improve the delivery of public services.

The Report notes that there have been significant improvements in recent years in making legislation in its enacted form available free online, including on the electronic Irish Statute Book (the eISB), managed by the Office of the Attorney General, and on the Legislative Observatory of the Houses of the Oireachtas. In addition, the Commission tracks all amendments to all Acts (through the Legislation Directory), which is also available through the eISB.

The Report also points out that, over the years, a number of areas of law have been brought together in single Consolidation and Reforming Acts. These include:

- the *Taxes Consolidation Act 1997*,
- the *Social Welfare Consolidation Act 2005*,
- the *Land and Conveyancing Law Reform Act 2009* and
- the *Consumer Insurance Contracts Act 2019*.



In addition, the Commission maintains and updates administrative consolidations, called Revised Acts, of over 380 Acts on the Commission's website. These include all textually amended Acts enacted since 2005 and over 100 much-used Acts enacted before 2005.

The Report being published today seeks to build on these significant improvements by proposing additional methods to make more legislation, whether as enacted or in its amended form, available online in this digital age. In doing so the Report discusses how other countries have addressed these problems, for example:

- enactment of comprehensive codes of legislation, such as the legislative codes in the United States, where all federal law can be found online under 54 subject-headings, called Titles, of the United States Code: one of its best-known is Title 11, the bankruptcy code; and
- consolidation of priority areas of legislation, such as in New Zealand and Wales where planned programmes of consolidation must be presented to their parliaments.

The Commission recommends that the New Zealand and Welsh approaches are best suited to Ireland at present, although the development of comprehensive codes of legislation, such as those in the US, should remain a possible long-term goal.

Key recommendations in the Report

The Report published today therefore recommends that a more structured approach to the consolidation of Acts, and of Revised Acts, should be put in place.

The key recommendations in the Report are:

1. There should be planned programmes of consolidation of Acts, which should be organised over defined time periods of five years.
2. The planned programmes should be overseen by a multi-agency group, the Accessibility and Consolidation of Legislation Group (ACLG).
3. The following areas should be considered for inclusion in the first planned programme of consolidations:
 - a) *Road traffic legislation* (see the case study below on the difficulty of finding road traffic legislation, including drink-driving legislation);
 - b) *Employment legislation*;
 - c) *Gambling control legislation*;
 - d) *Sale of alcohol legislation*;
 - e) *Monuments and archaeological heritage legislation*;
 - f) *Consumer protection legislation*; and
 - g) *Landlord and tenant legislation*.
4. The Law Reform Commission itself should, in collaboration with the proposed ACLG, continue to prepare planned programmes of Revised Acts.



5. The online version of legislation on the electronic Irish Statute Book (eISB), which is the principal source of legislative data in the State, should be given presumptive official status (as has already occurred in many other European states and for EU law), provided that the online version is accompanied by a qualified electronic signature that complies with the 2014 EU Regulation on the mutual recognition of electronic identification and signatures (the eIDAS Regulation).
6. Information and Communications Technology (ICT) should also be used to its full potential in making legislation more accessible online: this should include linking relevant information with the actual text of legislation, including background Reports, Regulatory Impact Analyses (RIAs), pre-legislative and post-legislative scrutiny reports by the Oireachtas, and relevant case law from the courts; and
7. The proposed Accessibility and Consolidation of Legislation Group should prepare and publish guidance on legislative policy standards.

Case studies that illustrate difficulties in finding legislation

The Report provides some examples of the current difficulties in finding legislation, for example, the up-to-date road traffic law, including the law on drink-driving.

Example: difficulty of finding road traffic law, including drink-driving law

The *Road Traffic Act 1961* was an important consolidating Act intended to bring together the main provisions on road traffic law. However, since the 1961 Act was enacted there have been more than 20 *Road Traffic Acts* as well as provisions in other Acts that now form what might loosely be called the “road traffic code.” This makes it extremely difficult to ascertain what the law on road traffic is at any given time. Users also have to examine over 900 statutory instruments made under these Acts to get a complete picture of the road traffic code.

It is difficult to trace the current position concerning the offences related to drink-driving, probably the offences on the statute book most subject to legal challenges and appeals (because a conviction carries automatic disqualification from driving). These offences have at various times been governed by sections 49 and 50 of the 1961 Act, Part 5 of the *Road Traffic Act 1968*, Part 3 of the *Road Traffic (Amendment) Act 1978* and Part 3 of the *Road Traffic Act 1994*. Each of these provisions was substantially amended on a regular basis, and both the 1978 and 1994 Acts substituted entirely new sections 49 and 50 into the 1961 Act. The 1978 Act also substantially repealed the 1968 Act and set down new provisions for taking specimens. This was itself then repealed and replaced by the 1994 Act. Separately a standalone provision in section 4 of the *Road Traffic Act 2006* provided for the establishment of checkpoints and mandatory testing of all motorists stopped at that checkpoint.

The relevant provisions of the 1961 Act, the 1994 Act and the 2006 Act were subsequently repealed by Part 2 of the *Road Traffic Act 2010*, which set down new provisions for offences of drink-driving as well as new procedures regarding the taking of specimens. The provision of the 2010 Act repealing the previous provisions came into



force, in part, in 2011 and at the same time significant amendments to Part 2 of the 2010 Act made by the *Road Traffic (No.2) Act 2011* also came into force. Part 2 of the 2010 Act has since been further amended by the *Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012*, the *Taxi Regulation Act 2013*, the *Road Traffic Act 2014*, the *Road Traffic Act 2016* and the *Road Traffic (Amendment) Act 2018*.

The complexity of the law in this area was criticised in one of the last judgments delivered in the Supreme Court by the late Mr Justice Adrian Hardiman in *Oates v Browne* [2016] IESC 7, in which he said that the law had been repeatedly amended in a piecemeal manner to the point that this area of the statute book had become “positively misleading”. While the Commission has published a Revised Act version of the *Road Traffic Act 1961*, which removes some of the complexity in tracing the law, many experienced lawyers in this area have called for the consolidation of road traffic legislation as a matter of priority.

**For further information / interview with Commissioner Raymond Byrne or other Commission spokesperson contact:
Winifred McCourt, McCourt CFL T: 087-2446004**

Background Notes for Editors

The Law Reform Commission is an independent statutory body. The purpose of the Commission is to keep the law under independent, objective and expert review; to make recommendations for law reform and to make current law accessible for all.

To be successful, law reform must be an inclusive process. As such, the consultation process is of central importance to the Commission's work. Consultation takes several forms:

- preparing Issues Papers to stimulate debate and discussion on the issues under consideration;
- receiving and considering submissions made in response to Issues Papers;
- hosting seminars, roundtable discussions and meetings with interested parties, experts, practitioners and representatives of interest groups.

Our aim is to develop and reform the laws of Ireland to ensure that they are equitable, modern, fair and efficient. We pursue this aim through the production of our consultative Issues Papers (including related public consultative events), final Reports, and our work on Access to Legislation (comprising the maintenance of the Legislation Directory, a collection of over 380 Revised Acts and the Classified List of In-Force Legislation).

Approximately 70% of our Reports have influenced the content of enacted legislation. Our research work is also frequently cited in court decisions and in academic commentary.

The Report will be available on the Commission's website, www.lawreform.ie, from 7am on **FRIDAY 25TH SEPTEMBER 2020**.