



The Law Reform Commission
AN COIMISIÚN UM ATHCHÓIRIÚ AN DLÍ

Seminar Paper

Third Programme of Law Reform

(SP 3-2007)

IRELAND

Law Reform Commission

35-39 Shelbourne Road, Ballsbridge, Dublin 4

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LAW REFORM COMMISSION

Background

The Law Reform Commission is an independent statutory body whose main aim is to keep the law under review and to make practical proposals for its reform. It was established on 20 October 1975, pursuant to section 3 of the *Law Reform Commission Act 1975*.

The Commission's Second Programme for Law Reform, prepared in consultation with the Attorney General, was approved by the Government and copies were laid before both Houses of the Oireachtas in December 2000. The Commission also works on matters which are referred to it on occasion by the Attorney General under the terms of the Act.

To date the Commission has published 82 Reports containing proposals for reform of the law; eleven Working Papers; 44 Consultation Papers; a number of specialised Papers for limited circulation; An Examination of the Law of Bail; and 27 Annual Reports in accordance with section 6 of the 1975 Act. A full list of its publications is contained on the Commission's website at www.lawreform.ie.

Membership

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

The Commissioners at present are:

<i>President:</i>	The Hon Mrs Justice Catherine McGuinness, former Judge of the Supreme Court
<i>Full-time Commissioner:</i>	Patricia T. Rickard-Clarke, Solicitor
<i>Part-time Commissioner:</i>	Professor Finbarr McAuley
<i>Part-time Commissioner</i>	Marian Shanley, Solicitor
<i>Part-time Commissioner:</i>	Donal O'Donnell, Senior Counsel
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LAW REFORM COMMISSION

PUBLIC CONSULTATIONS

THIRD PROGRAMME OF LAW REFORM

National University of Ireland Galway

26 March 2007

University College Cork

30 April 2007

Dublin Castle

18 July 2007

A. INTRODUCTION

Invitation to submit proposals for a new Programme of Law Reform

The *Law Reform Commission Act 1975* 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. We carry out this work primarily through a *Programme of Law Reform* (together with requests by the Attorney General under the 1975 Act to examine specific areas of law). Programmes of Law Reform are prepared by the Commission following consultation with the public, government departments, interested parties and the legal profession.

The Commission is currently nearing the end of its *Second Programme of Law Reform 2000 – 2007* and has begun the process of preparing a new *Third Programme of Law Reform*. This Seminar Paper forms part of the consultation process.

We are seeking submissions from you on any areas of law which in your opinion require reform. We hope that this Paper will assist in explaining how we intend to achieve the input of the public into the process of law reform. The Seminar Paper will also set out how the *Third Programme of Law Reform* will be formulated.

B. MEANING OF LAW REFORM

The *Law Reform Commission Act 1975* defines law reform to include:

- the development of law
- its codification (including its simplification and modernisation) and
- the revision and consolidation of statute law.

This is clearly a very wide mandate, and this Paper explains how the Commission understands its work.

The purpose of law and law reform

We firmly believe that law cannot exist for its own sake or in a vacuum. The law exists to serve Irish society and it operates within the framework of our society. If the law is to continue to have a real meaning for society, it must reflect the values and attitudes of our society. It must be expressed in modern, clear and readily understandable language. This means that members of the community must be given the opportunity to have their views heard on the laws which apply to them and on the reform of such laws where necessary.

Law reform is necessary if Irish law is to be relevant to a modern society. As the Taoiseach stated in a speech to mark the 30th Anniversary of the Commission in 2005:¹

“The establishment of the Commission in 1975 recognised the need for a co-ordinated approach to law reform. This meant standing back from particular sectoral interests and taking a broad view of the law in general. What was envisaged – and what has been achieved over that time – is an impartial agency, engaged in the task of law reform, with the flexibility to consult freely with outside experts from legal and other disciplines.”

As has also been noted internationally, law reform remains a robust concept of “utility for good governance and modernisation.”² The most enduring democracies and economies are those who have “built methods of updating the law and removing the barnacles of injustice and inefficiency.”³

Law reform bodies have been established in an increasing number of countries. As reflected in the Taoiseach’s remarks, law reform agencies

¹ Speech by the Taoiseach, Mr. Bertie Ahern, T.D. on the occasion of the 30th Anniversary of the Law Reform Commission, 23 June 2005, available at www.taoiseach.gov.ie.

² Kirby *The Promise of Law Reform* (Federation Press 2005) at 444 – 445.

³ *Ibid.*

“have brought whole new features to the legal landscape”.⁴ They can propose principled and imaginative new law, and fulfil a role as a catalyst of legal change that is responsive to society and an evolving world. The establishment of the Commission as an independent, full time, statutory body also promotes the systematic and continued review of the law.

The Commission’s existence has resulted in persistent work over long periods of time, on particular areas of law. Two examples show this. First, the Commission’s work on the reform and modernisation of land law and conveyancing law has culminated in the comprehensive reform of this area through the *Land Law and Conveyancing Law Reform Bill 2006*, which was passed by Seanad Éireann in November 2006 and is currently before Dáil Éireann. Second, the Commission’s long standing work in the area of criminal law has been acknowledged as providing significant building blocks in the eventual codification of the criminal work, which will be carried forward by the Criminal Law Codification Advisory Committee, established under Part 14 of the *Criminal Justice Act 2006*.

Law reform and other bodies

The establishment of the Criminal Law Codification Advisory Committee indicates, of course, that the Commission does not have a monopoly on the law reform process. Ultimately, under the Constitution of Ireland, law reform is a matter exclusively for the Oireachtas. In addition, the Government as a whole and the Department of Justice, Equality and Law Reform in particular has a crucial role in this area, acting in conjunction with the Office of the Attorney General and other Government Departments.

Much of actual law reform – in the sense of legislation enacted every year – originated from reviews of the different branches of our law conducted by Government, often with the assistance of specialised working groups or committees with a law reform remit.

Indeed, the *Law Reform Commission Act 1975* states that, in preparing a Programme of Law Reform, the Commission may identify bodies - other than the Commission - which can more appropriately carry out a law reform project. We naturally did this in preparing our previous Programmes of Law Reform and will continue to do so in preparing our Third Programme. For example, if a specific area is identified in the course of the public consultation process which fits with a review already being undertaken by a Government Department it is less likely to be included in our Programme. We do not intend to duplicate work already being done elsewhere. This does not prevent us from working in conjunction with, for example, a Government Department on a wider project. For example, under our Second

⁴ “Law Reform Agencies: Their Role and Effectiveness” (Commonwealth Secretariat 2005) at 1. Available at http://www.calras.org/Other/secretariat_paper.pdf.

Programme, we assisted the Department of Community, Rural and Gaeltacht Affairs with aspects of that Department's major reform of Charities Regulation.⁵

Law reform and policy

The Commission has a very general mandate to keep the law under review. However, this does not mean that it can, or should, examine all areas of the law. A key question for the Commission is whether there is a defined limit to the topics we should examine. The issue of reform of technical law and reform of social law is an important issue, particularly when selecting topics for a Programme of Law Reform. Indeed, this issue has been a concern for law reform agencies worldwide.

It has sometimes been said that law reform bodies should concentrate on "lawyers' law". This seems to mean either:

- Review of technical areas that concern the operation of the legal process, such as the courts, or
- Review of narrow or discrete areas of the law that should be reformed.

Of course, since it was established, the Commission, like comparable law reform agencies, has carried out this task as part of its mandate, for example, in its work on judicial review, under which the process of administrative decisions are reviewed in the High Court.⁶ However, there is more to law reform than the examination of technical or narrow areas of law. One of the first Reports published by the Commission was the 1982 *Report on Illegitimacy*,⁷ which recommended abolition of the status of illegitimacy. This was not a narrow issue of "lawyer's law" and it resulted in the enactment of significant social legislation, the *Status of Children Act 1987*.

Since then, the Commission has published a wide variety of Reports, some of which deal with narrow areas of law, but many of which cover wider areas of concern to society. Two examples from 2006 illustrate this. The *Report on the Rights and Duties of Cohabitants*⁸ deals with proposals to reflect recent changing family patterns. The *Report on Vulnerable Adults*

⁵ This review of charities regulation culminated in the publication of the Charities Bill 2007.

⁶ *Working Paper on Judicial Review of Administrative Action: the Problem of Remedies* (Working Paper No.8-1979), available at www.lawreform.ie, implemented in Order 84 of the *Rules of the Superior Courts 1986*, available at www.courts.ie.

⁷ LRC 4-1982, available at www.lawreform.ie.

⁸ LRC 82-2006, available at www.lawreform.ie.

*and the Law*⁹ deals with how the law should assess mental capacity of vulnerable adults (including older persons) and also recommends replacement of the Wards of Court system (based on 19th Century legislation) with a modern Guardianship system.

The discussion about the scope of law reform is sometimes presented as a stark choice between law reform of narrow areas of law (which are said to be suitable for a law reform body) and law reform that would impact on areas of policy (not suitable). As the examples already given show, this is an artificial distinction that does not always hold up in practice. At the same time, the Commission is clear that it does not deal with certain issues which are exclusively a matter for the Government and the Oireachtas: for example, what rate of income tax should apply at any given time in the State. Nonetheless, even in some areas of Revenue, the Government may ask the Commission to consider a discrete aspect of taxation administration, as the Attorney General did in 2002 when the Commission was requested to report on whether there should be a Fiscal Prosecutor or Revenue Court.¹⁰

The experience of the Commission since it was established is, therefore, that it is not confined to examining narrow areas of law. This reflects the pattern internationally. For example, the current President of the New Zealand Law Commission has stated that “the emphasis needs to be on larger and more profound projects that demand intensive research and break new ground.”¹¹ He suggested that the New Zealand Commission is best equipped to deal with these types of projects, not only in terms of their statutory mandate, but also in terms of the many other pressing responsibilities and demands on government departments.¹² The Commission shares this view.

Law reform involves policy choices in many settings, even those that seem to involve “lawyer’s law.” For example the examination of the reform of the law of homicide, included in the Commission’s current Second Programme, involves major questions of public policy. We recognise that this is a complex matter and will continue to be aware of the need not to become involved in policy areas in which we have no remit. The consultation process will no doubt assist us in this.

⁹ LRC 83-2006, available at www.lawreform.ie.

¹⁰ This resulted in the Commission’s *Report on a Fiscal Prosecutor and a Revenue Court* (LRC 72-2004), available at www.lawreform.ie.

¹¹ Palmer “The Law Reform Enterprise in New Zealand” [President of the Law Commission of New Zealand Address to the Board of the New Zealand Law Society, 2006, at 4].

¹² *Ibid.* Palmer suggests that it is extremely difficult for government departments to focus their resources on law reform projects that are long term in nature and which “straddle electoral cycles”.

The Time Scale of a Programme of Law Reform

The Commission's current Programme of Law Reform runs from 2000 to the end of 2007. The length of a Programme of Law Reform is clearly linked to the number and breadth of topics included in it. It is well recognised that the examination of areas of law with a view to their reform involves the investment of time. The first annual report of the Law Commission for England and Wales noted that "...haste is the enemy of sound law reform".¹³

The Law Commission for England and Wales currently operates under a 3 year programme of law reform. It has stated that, for its current programme, it was inevitable that it could only undertake and complete a limited number of law reform projects within the constraints of a 3 year period.¹⁴ In contrast the Scottish Law Commission currently operates under a 5 year programme of law reform.¹⁵ This allows the Scottish Commission greater time to complete the projects selected for inclusion in their Programmes of Law Reform.

The length of the current Programme of Law Reform, running from 2000 to 2007, allowed time to examine virtually all the 30 topics in the Programme. It also allowed space to expand considerably on some of them (such as the different components of the land law and conveyancing project) and also to respond to additional requests from the Attorney General between 2000 and 2007.¹⁶ Based on this experience, the Commission has provisionally concluded that its Third Programme should run for a seven year period, from 2008 to 2014.

The Commission is aware that a long Programme of Law Reform should be reviewed to take account of developments after its initial publication. Indeed, for the Second Programme, the Commission conducted a mid-term review in 2004 in order to take stock of developments since 2000 and to plan for completion of the remaining work in the Programme.¹⁷ This exercise proved extremely useful and the Commission envisages that it will repeat this exercise at the mid-way point of the Third Programme.

¹³ Law Commission for England and Wales *First Annual Report 1965 – 1966* (London 1966, at 25).

¹⁴ Law Commission for England and Wales *Ninth Programme of Law Reform* (London, LC293 pub. March 2005, at 2).

¹⁵ Law Commission for England and Wales *Ninth Programme of Law Reform* (London, LC293 pub. March 2005, at 2).

¹⁶ These requests average about one per year.

¹⁷ See Law Reform Commission, *Annual Report 2004*, Chapter 5, available at www.lawreform.ie.

C. VALUES IN CARRYING OUT OUR ROLE

In carrying out its role, we place a particular emphasis on a number of values.

Independence

The Commission's independence in reviewing the law and in formulating proposals for law reform is of paramount importance in ensuring that we fulfil our role. The Commission is free to recommend proposals for law reform and is not bound by suggestions made by any groups or persons consulted. The Commission believes that its independence is vital to its continued success.

While independence is a fundamental principle, we also realise that there must be proper liaison with all stakeholders in society, including the public and Government. It is important that law reform is a collaborative enterprise between the Commission, the public and Government departments.¹⁸ While the Commission is fully committed to retaining its independence; the Commission is of the opinion that independence cannot become a recipe for isolation or non-engagement. Such isolation would impede the effectiveness of the Commission in identifying areas of Irish law in need of modernisation and reform.

Impartiality

The Commission recognises the crucial importance of carrying out its role in an impartial and objective way. This concept is very much intertwined with the notion of the independence of the Law Reform Commission. The Commission objectively makes its recommendations following detailed research, consideration of the legal issues and consultation leading up to and following the publication of Consultation Papers.

High quality research

High quality research and expert review of the law is at the core of the Commission's work. Reports produced by a Law Reform Commission are often regarded as "the definitive text" on that particular area of law.¹⁹ More

¹⁸ The conference on Multi Unit Developments, held in January 2007, is an example of this collaborative enterprise. This conference was held following the publication of the *Consultation Paper on Multi-Unit Developments* in December 2006 and was aimed at members of the public and interested parties. The Commission organised this consultative conference in conjunction with the Department of Justice, Equality and Law Reform. The National Consumer Agency (NCA) and the Office of the Director of Corporate Enforcement (ODCE) were also heavily involved in this consultation and addressed the conference.

¹⁹ Weisbrot, "The Future for Institutional Law Reform" in Opeskin and Weisbrot (eds) *The Promise of Law Reform* (Federation Press 2005), at 25.

significantly, they “...may serve to shape attitudes, values and understandings into the future, laying the ground work for reform at a later time.”²⁰

We increasingly see the value of interdisciplinary research. Law reform agencies throughout the world increasingly examine law reform topics outside of traditional “black letter law”. Such legal research requires greater interdisciplinary work. These law reform projects often involve more social policy and will require better comprehension of disciplines such as information technology, economics and medical science for example. The Commission’s 2005 *Report on the Establishment of a DNA Database*²¹ greatly benefited from consultation with forensic scientists. Similarly, the 2006 *Report on Vulnerable Adults and the Law*²² required considerable consultation with experts from general and specialised areas of medicine and with NGOs and State bodies involved with those having limited intellectual capacity. Indeed, the Commission gained some of its most valuable insights from informal discussions with carers and the families of those with limited intellectual capacity.

Effective relationships

External legal specialists and other experts are invited as members of working groups, and they play an important part in the examination of particular areas of the law. The Commission also has ongoing relationships with the Office of the Attorney General, the Department of Justice, Equality and Law Reform and other Departments of Government. The development of effective relationships is of key importance to the Commission’s work, consistent with the Commission’s commitment to ensuring that its independence and impartiality is retained at all times.

The Implementation of Recommendations

As the Commission is independent from the Government, it is natural that, from time to time, the Government does not agree with some recommendations of the Commission and will take a different course of reform, or decide not to implement some recommendations. In general terms, however, about 70% of the Commission’s recommendations have been or are in the process of being enacted into law.²³

²⁰ *Ibid.* This point is illustrated by the fact that a 1986 Australian Law Reform Commission *Report on the Recognition of Aboriginal Customary Law* remains the most requested Commission publication, even though the document is out of date and has never been implemented by the Australian government.

²¹ LRC 78-2005, available at www.lawreform.ie.

²² LRC 83-2006, available at www.lawreform.ie.

²³ See Appendix 3 for the Table of Implementation of Commission Reports.

The Commission is firmly of the view that its recommendations should be rooted in rigorous analysis but should also be tested against the question: “will they work in practice?” It believes that this approach will ensure that its work remains relevant to the public - and to their public representatives in Government and the Oireachtas. The Commission is also committed to ensuring that implementation of its recommendations is facilitated through the continued publication of draft legislation in Reports.

This approach requires a “clear sense of both the possibilities and limitations of law reform”.²⁴ It is relevant not only to the types of recommendations made by the Commission but also to the projects which were selected for inclusion in its current Programme. We are committed to ensuring that the topics included in the Third Programme reflect real law reform needs for society.

While the Commission recognises the need to be implementation minded, the Commission is also committed not to become implementation obsessed. The Commission will continue to focus on a number of other indicators of “success.”²⁵ For example the Commission places value on:

- Raising community awareness of a particular issue
- Instigation of debate on an area of law
- Encouraging alternative reform mechanisms which do not involve legislative change, consistent with the *Government’s White Paper Better Regulation* (2004).²⁶

Responsiveness

Our responsiveness to the needs of Irish society is a core value. Responsiveness is particularly important as we engage in the public consultation for the *Third Programme of Law Reform*. This will also be underpinned during the mid-term review of the new Programme.

Consultation

The consultation process is integral to the formulation of the Commission’s *Third Programme of Law Reform*. The majority of issues included in the Commission’s current Programme originated in suggestions made during the consultation process for that Programme. The input of the public is vital to any deliberation on law reform. The input from the public and interested

²⁴ Weisbrot, “The Future for Institutional Law Reform” in Opeskin and Weisbrot (eds) *The Promise of Law Reform* (Federation Press 2005), at 35.

²⁵ For a fuller discussion of other measures of success see Opeskin “Measuring Success” in *The Promise of Law Reform* (Federation Press 2005), at 202.

²⁶ Available at www.betterregulation.ie.

groups into the Commission's Consultation Papers and Reports under the First and Second Programmes for Law Reform enriched the content of these publications and the laws enacted as a result.

The aim of the Commission is to ensure that consultation for the Third Programme will present the widest opportunity for comment on areas of law that require renewal and reform. A key part of the consultation process is the public consultative seminars, which form an integral part of the Commission's strategy to identify law reform topics for the Third Programme.

The Commission sees the engagement of the public in the renewal and reform of the law as one of its primary functions. The Commission hopes that the expanded consultation process for the Third Programme will achieve an inclusive and open relationship between the Commission and the public.

The principle of public consultation is intertwined with the concepts of independence, interdisciplinary research, responsiveness, relevance and accountability. We hope that the consultation process benefits not only the Commission but also the persons and organisations consulted; the process of law reform, and ultimately the law once it is reformed.

Confidentiality

Private submissions are treated confidentially. Submissions received by the Commission are often from individuals who disclose highly personal information. They may also come from academics, industry, professional associations, community groups, and other sources who may not wish to have their views placed on the public record. As submissions often contain sensitive material, we will not disclose any information that is submitted in confidence.

D. TYPES OF PROJECTS DEALT WITH UNDER THE SECOND PROGRAMME OF LAW REFORM 2000 – 2007

The Commission's *Second Programme of Law Reform 2000-2007* reflected the rapid social and political change in Ireland when it was adopted in 2000. At that time, the Commission acknowledged the increased emphasis on the importance of government accountability; and on the need to improve the interface between the citizen and the law.

The Commission also acknowledged that the contents of the Second Programme were ambitious for the timeframe involved, particularly taking into account additional work arising from requests by the Attorney General. Nonetheless, by the end of the timeframe for the Second Programme, the Commission will have begun or completed work on 27 of the 30 areas of law set out in the Second Programme. The Commission did not undertake work on the remaining areas in the Second Programme, as these had been largely

overtaken by the work of other bodies.²⁷ The Commission's publications under the Second Programme have dealt with matters such as:

Administrative Law, including a Report on Public Inquiries and Tribunals of Inquiry
Criminal Law, including Consultation Papers on Murder and Legitimate Defence and a Report on the Indexation of Fines
Evidence, including a Report on the Establishment of a DNA Database
Family Law, including a Report on the Rights and Duties of Cohabitants
Land Law, including a Report on the Reform and Modernisation of Land Law and Conveyancing Law
Vulnerable Groups and the Law, culminating in a Report on Vulnerable Adults and the Law

As mentioned, the Commission selects different and varied areas of law that are in need of reform and modernisation. The diversity of our work is illustrated by the following brief outline of some of the recent work of the Commission.

Criminal Law: Homicide and Defences

In 2006, the Commission published a *Consultation Paper on Legitimate Defence*, including self-defence. This was the third in a series of Consultation Papers on defences in criminal law, following the Commission's *Consultation Paper on Homicide: The Plea of Provocation* and *Consultation Paper on Duress and Necessity*.

The Commission published a *Consultation Paper on Involuntary Manslaughter* in April 2007, which follows the Commission's *Consultation Paper on Homicide: the Mental Element in Murder*. It is the intention of the Commission to publish a Report on Murder and Manslaughter which will bring together the material in both Consultation Papers. This will complement the Commission's related work on defences in the criminal law.

Land and Conveyancing Law: General Reform and eConveyancing

The Commission's 2005 *Report on the Reform and Modernisation of Land Law and Conveyancing Law* led to the publication of the Government's *Land and Conveyancing Law Reform Bill 2006*. The 2006 Bill was passed by the Seanad on 23 November 2006 and is due to be enacted in 2007.

²⁷ Separate work was initiated by the Government on adoption and restorative justice. However, the Commission has published work on aspects of these areas of law. For example, the Commission published a *Consultation Paper on Aspects of Inter-country Adoption* in March 2007.

The eConveyancing project is a joint project between the Commission and the Department of Justice, Equality and Law Reform. The next stage of the project involves conducting a detailed assessment of the most appropriate model for eConveyancing in Ireland, including preparation of proposals for Government as to the design, establishment, operational governance and implementation of the actual model. The Commission intends to have a final Report for Government by the end of 2008.

Multi-Unit Developments

In 2006, the Commission published a *Consultation Paper on Multi-Unit Developments*. An estimated 500,000 people now live in apartments in Ireland and this is set to increase. The Commission's Consultation Paper set out a range of potential solutions to the problems arising from company, consumer, regulatory and land law issues relating to multi-unit housing. The Consultation Paper also discusses the options available to solve existing problems with multi-unit living.

Vulnerable Adults and the Law

The work of the Commission on vulnerable adults required us to examine issues such as the law on mental capacity and a new form of public guardianship. The Commission published a *Report on Vulnerable Adults and the Law* in 2006, which included its final recommendations for reform.²⁸

Ongoing work at the Commission

The Commission is finishing working on the remainder of the topics set out under the *Second Programme of Law Reform*. The Commission is preparing Consultation Papers on Alternative Dispute Resolution, Codification of the Courts Acts, Civil Liability of Good Samaritans and Volunteers, Evidence and Inchoate Offences. The Commission is also preparing Reports on Privity of Contract: Third Party Rights, Defences in Criminal Law, Spent Convictions, Trustee Law, Manslaughter and Aspects of International Adoption.

E. TOWARDS THE THIRD PROGRAMME OF LAW REFORM

The *Third Programme of Law Reform* will begin in 2008 and for the reasons, already given, the Commission has provisionally decided it should run for 7 years until 2014. We recognise that, even in the relatively short time since the Second Programme was prepared, Ireland has changed dramatically and faces many challenges.

²⁸ The *Mental Capacity and Guardianship Bill 2007* a Private Members Bill was introduced into the Seanad in February 2007, incorporating the recommendations made in the Commission's Report. The Government accepted the principles of the Bill and it was deemed to have passed the Seanad stage.

The Commission is committed to a strategic and forward looking approach to the selection of topics for the *Third Programme of Law Reform*. It also recognises that the renewal and reform of law in Ireland is influenced not only by what happens in the courtroom, but also by what occurs in the society as a whole: workplaces, schools and universities, scientific laboratories, hospitals, and the home.

We regard the engagement and participation of Irish society in the law reform process as essential to its work. In facing up to this challenge the Commission has employed the use of new forms of technology and consultation to encourage submissions from a wide range of sources on its *Third Programme of Law Reform*. Written and oral submissions on the areas of law which you think are outmoded or flawed are welcome. The Commission hopes that the Consultation Process for the Third Programme will fully engage Irish society in the law reform process.

The context of law reform in 2007

As we approach the preparation of the Third Programme, the Commission is conscious that its role of law reform takes place against the background of a number of related initiatives:

- Better Regulation: the Government's White Paper *Better Regulation* (2004) is based on the same principles that underlie the *Law Reform Commission Act 1975*: modernisation and simplification of the law.
- Pre-1922 Statute Law Revision Project: this is a major component of the Better Regulation Project, and has culminated in the passing of the *Statute Law Revision Act 2007*, which contains the first definitive list (the "White List") of all pre-1922 Acts that currently apply in the State.
- Significant increase in the level of general legislative law reform in the Oireachtas in recent years.
- The establishment of specific working groups or committees to deal with reform in specific areas – some placed on a statutory footing, such as the Company Law Review Group and the Criminal Law Codification Advisory Committee.
- The increasing importance of the international dimension to law reform, including the EU, OECD, the UN, the 1998 Belfast Agreements and other international treaties.
- The enactment of the *European Convention on Human Rights Act 2003* and the increased relevance of the European Court of Human Rights and its case law.

General Approach to Third Programme

The following general criteria set out our approach to the development of the *Third Programme of Law Reform*:

- Develop, update and clarify the law
- Respond to changes in our society
- Include some projects that will involve codification of areas of law and some which deal with discrete areas of law
- Have regard to the work of other bodies engaged in law reform. As already mentioned, we do not have a monopoly on the law reform process and will endeavour to ensure that the Commission will remain aware of the work of other bodies with a law reform remit
- Have regard to the international – including comparative – aspects of law reform

When the *Law Reform Commission Act 1975* was being debated in Dáil Éireann in 1975, the Attorney General of the time summed up concisely the rationale behind the establishment of the Commission:

“If a community’s laws become inadequate for the functions for which they were designed, if they become obsolete, or are too numerous, or over-refined by judicial interpretation, then cases of individual injustices will multiply and society as a whole will suffer. Governments in a dynamic and fast changing world should ensure that the laws are kept under constant review and are regularly and systematically reformed.”

The Commission considers that this view of law reform is still very relevant today.

The general criteria that will be applied in selecting projects

The Commission will apply the following criteria when selecting projects to be included in the *Third Programme of Law Reform*.

- (i) Public benefit: projects must meet a real community need by providing a remedy for a deficiency or gap in the law, including the need to modernise an outdated law.
- (ii) Suitable for a law reform body: projects should be suitable to analysis by the legal expertise available in the Commission, supplemented by appropriate consultation with other professionals and interested parties.
- (iii) Mix of projects and resources: the programme should include a mix of narrow-focus projects and wider-focus projects that are relevant

to society, so that the Commission's resources are not tied up in one project.

- (iv) Avoid duplication: projects should not overlap with the work of other bodies engaged in law reform activities, but should complement such work where appropriate.

Submissions for the Third Programme of Law Reform

We welcome all submissions on areas of law in need of reform. In addition to the consultative seminars being organised by the Commission, written and oral submissions are also welcomed at the contact points listed here.

Secretary/Head of Administration
The Law Reform Commission
35 – 39 Shelbourne Road
Ballsbridge
Dublin 4

Email: thirdprog@lawreform.ie

Tel: +353(0)1 6377601

Submissions by the end of July

Later this year, the Commission must submit its proposed *Third Programme of Law Reform* for Government approval under the *Law Reform Commission Act 1975*. Bearing this in mind, all submissions should be made by **Monday, 30 July 2007**, so that we can give full consideration to all submissions before presenting our proposals to Government.

Feedback on Consultation

We will explain the decision making process behind the inclusion of the various different legal areas in the Third Programme, following the Programme's approval by Government. We will continue our policy of consulting widely with the general public, experts, governmental organisations and academics in all relevant disciplines on the topics included in the Third Programme. We are committed to establishing appropriate Working Groups when required, which will include experts in relevant fields to the law reform topic under examination.

The engagement of the public in the law reform process is crucial to any deliberation on law reform. It is our aim that the consultation process for the Third Programme will provide the widest possible opportunity for engagement and comment on any laws that are in need of renewal and reform.

APPENDIX 1

OVERVIEW OF HOW THE LAW REFORM COMMISSION WORKS

A Programme of Law Reform

The *Law Reform Commission Act 1975* requires the Commission to prepare Programmes of Law Reform from time to time. The topics set out in our Programmes of Law Reform provide the main source of our work. The current *Second Programme of Law Reform 2000-2007*¹ contains 30 specific topics, many of which contain, in turn, a number of sub-headings requiring separate investigation and review.

Attorney General Requests

Under the 1975 Act the Attorney General may also request that the Commission examine, conduct research into or make proposals for reform of particular branches of the law whether or not they are included in a Programme of Law Reform. Examples of recent requests include:

- The possible benefits of a revenue court and a fiscal prosecutor
- The establishment of a DNA Database
- Civil Liability of Good Samaritans and Volunteers

Law Reform Commission Consultation Papers and Reports

The Commission publishes Consultation Papers and Reports based on detailed and thorough research. In the course of our research, we give careful consideration to the relevant legislation, case law and academic commentary that is available. We also place a focus on comparative law, because the laws of other States may provide solutions to the area of law under review.

In the initial stages of our research, we may meet with professionals working in a particular area, or representatives of interest groups. We then publish a Consultation Paper, containing our analysis and provisional recommendations. The Commission then looks for submissions from the public and all interested parties on the provisional recommendations made in the Consultation Paper. We often hold a seminar after a Consultation Paper is published in order to provide a forum for experts and interested parties to make their views known on the Commission's provisional recommendations.

The Commission takes the submissions from the consultation process into account when drafting the final Report on the subject. Any issues or concerns raised are considered within the Report, which contains the Commission's final recommendations and, where relevant, draft legislation.

¹ Available at www.lawreform.ie

Working Groups

In addition to the consultation process already mentioned, the Commission may set up Working Groups to assist in the examination of particular areas of law, such as the reform and modernisation of land law and conveyancing law. We receive the benefit of the advice and knowledge of the members of these working groups on a purely voluntary basis. The time and advice which is freely given by our working group members is an invaluable addition to our work.

APPENDIX 2

SUBJECT MATTER OF REPORTS UNDER THE FIRST AND SECOND PROGRAMMES OF LAW REFORM²

Commercial, Contract and Tort Law

- 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)
- Report on the Statutes of Limitations: Claims in Contract and Tort in Respect of Latent Damage (Other Than Personal Injury) (LRC 64-2001) (February 2001)
- Report on Aggravated, Exemplary and Restitutionary Damages (LRC 60-2000) (May 2000)
- Report on Privacy: Surveillance and the Interception of Communications (LRC 57-1998) (June 1998)
- Report on Personal Injuries: Periodic Payments and Structured Settlements (LRC 54-1996) (December 1996)
- Report on Occupiers' Liability (LRC 46-1994) (April 1994)
- Report on the Civil Law of Defamation (LRC 38-1991) (December 1991)
- Report on Debt Collection: (2) Retention of Title (LRC 28-1988) (April 1989)
- Report on Debt Collection: (1) The Law Relating to Sheriffs (LRC 27-1988) (October 1988)
- Report on the Statute of Limitations: Claims in Respect of Latent Personal Injuries (LRC 21-1987) (September 1987)
- Report on Civil Liability for Animals (LRC 2-1982) (May 1982)
- Report on Defective Premises (LRC 3-1982) (May 1982)

Criminal Law and Procedure

- Report on Prosecution Appeals and Pre-Trial Hearings (81-2006) (November 2006)
- Report on Corporate Killing (LRC 77-2005) (October 2005)

² Commission Reports are all available at:
<http://www.lawreform.ie/publications/publications.htm>.

- Report on the Court Poor Box: Probation of Offenders (LRC 75-2005) (September 2005)
- Report on Penalties for Minor Offences (LRC 69-2003) (March 2003)
- Report on the Indexation of Fines: A Review of Developments LRC 65-2002) (July 2002)
- Report on Sentencing (LRC 53-1996) (August 1996)
- Report on Intoxication (LRC 51-1995) (November 1995)
- An Examination of the Law of Bail (LRC 50-1995) (August 1995)
- Report on Contempt of Court (LRC 47-1994) (September 1994)
- Report on Non-Fatal Offences Against the Person (LRC 45-1994) (February 1994)
- Report on The Law Relating to Dishonesty (LRC 43-1992) (September 1992)
- Report on the Crime of Libel (LRC 41-1991) (December 1991)
- Report on the Indexation of Fines (LRC 37-1991) (October 1991)
- Report on Confiscation of the Proceeds of Crime (LRC 35-1991) (January 1991)
- Report on Sexual Offences against the Mentally Handicapped (LRC 33-1990) (September 1990)
- Report on Child Sexual Abuse (LRC 32-1990) (September 1990)
- Report on Malicious Damage (LRC 26-1988) (September 1988)
- Report on Rape and Allied Offences (LRC 24-1988) (May 1988)
- Report on Receiving Stolen Property (LRC 23-1987) (December 1987)
- Report on Offences Under the Dublin Police Acts and Related Offences (LRC 14-1985) (July 1985)
- Report on Vagrancy and Related Offences (LRC 11-1985) (June 1985)

Evidence

- Report on the Establishment of a DNA Database (LRC 78-2005) (November 2005)

- Report on the Rule Against Hearsay in Civil Cases (LRC 25-1988)(September 1988)
- Report on Competence and Compellability of Spouses as Witnesses (LRC 13-1985) (July 1985)
- Report on Oaths and Affirmations (LRC 34-1990) (December 1990)

Family Law

- Report on the Rights and Duties of Cohabitants (82-2006) (December 2006)
- Report on Family Courts (LRC 52-1996) (March 1996)
- Report on Recognition of Foreign Divorces and Legal Separations (LRC 10-1985) (April 1985)
- Report on Nullity of Marriage (LRC 9-1984) (October 1984)
- Report on Divorce a Mensa et Thoro and Related Matters (LRC 8-1983) (December 1983)
- Report on Domicile and Habitual Residence as Connecting Factors in the Conflict of Laws (LRC 7-1983) (December 1983)
- Report on Restitution of Conjugal Rights, Jactitation of Marriage and Related Matters (LRC 6-1983) (November 1983)
- Report on Illegitimacy (LRC 4-1982) (September 1982)
- First Report on Family Law - Criminal Conversation, Enticement and Harbours 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 1-1980) (March 1981)

International Law

- Report on the Hague Convention on Protection of Children and Co-operation in Respect on Inter Country Adoption 1993 (LRC 58-1998) (June 1998)
- Report on The Unidroit Convention on Stolen or Illegally Exported Cultural Objects (LRC 55-1997) (October 1997)
- Report on the Hague Convention Abolishing the Requirement of Legalisation for Public Documents (LRC 48-1995) (February 1995)
- Report on United Nations (Vienna) Convention on Contracts for the International Sale of Goods 1980 (LRC 42-1992) (May 1992)
- Report on the Hague Convention on Succession to the Estates of Deceased Persons (LRC 36-1991) (May 1991)

- Report on the Recognition of Foreign Adoption Decrees (LRC 29-1989) (June 1989)
- Report on the Service of Documents Abroad re Civil Proceedings - the Hague Convention (LRC 22-1987) (December 1987)
- 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)
- 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 the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (LRC 16-1985) (August 1985)
- Report on the Hague Convention on the Civil Aspects of International Child Abduction and Some Related Matters (LRC 12-1985) (June 1985)

Land Law and Conveyancing Law

- Report on Charitable Trusts and Legal Structures for Charities (80-2006) (October 2006)
- Report on eConveyancing: Modelling of the Irish Conveyancing System (79-2006) (April 2006)
- Report on the Reform and Modernisation of Land Law and Conveyancing Law (LRC 74-2005) (July 2005)
- Report on Land Law and Conveyancing Law: (7) Positive Covenants over Freehold Land and other Proposals (LRC 70-2003) (March 2003)
- Report on Title by Adverse Possession of Land (LRC 67-2002) (December 2002)
- Report on The Acquisition of Easements and Profits A Prendre by Prescription (LRC 66-2002) (December 2002)
- Report on the Variation of Trusts (LRC 63-2000) (December 2000)
- Report on the Rule against Perpetuities and Cognate Rules (LRC 62-2000) (December 2000)
- Report on Gazumping (LRC 59-1999) (August 1999)

- Report on Land Law and Conveyancing Law; (6) Further General Proposals including the execution of Deeds (LRC 56-1998) (May 1998)
- Report on Interests of Vendor and Purchaser in Land during the Period between Contract and Completion (LRC 49-1995) (April 1995)
- Land Law and Conveyancing Law: (5) Further General Proposals (LRC 44-1992) (October 1992)
- Report on Land Law and Conveyancing Law: (4) Service of Completion Notices (LRC 40-1991) (December 1991)
- Report on Land Law and Conveyancing Law: (3) The Passing of Risk from Vendor to Purchaser (LRC 39-1991) (December 1991)
- Report on Land Law and Conveyancing Law: (2) Enduring Powers of Attorney (LRC 31-1989) (October 1989)
- Report on Land Law and Conveyancing Law: General Proposals (LRC 30-1989) (June 1989)

Legal System and Administrative Law

- Report on Multi-Party Litigation (LRC 76-2005) (September 2005)
- Report on Public Inquiries including Tribunals of Inquiry (LRC 73-2005) (May 2005)
- Report on Judicial Review Procedure (LRC 71-2004) (February 2004)
- Report on A Fiscal Prosecutor and A Revenue Court (LRC 72-2004) (December 2004)
- Report on Statutory Drafting and Interpretation: Plain Language and the Law (December 2000)(LRC 61-2000)

Vulnerable Groups and the Law

- Report on Vulnerable Adults and the Law (83-2006) (December 2006)
- Report on Minors' Contracts (LRC 15-1985) (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 Age of Majority, the Age for Marriage and Some Connected Subjects (LRC 5-1983) (April 1983)

APPENDIX 3

IMPLEMENTATION TABLE OF COMMISSION REPORTS³

Report	Statutory provisions	Recommendation	Implementation
Report on Vulnerable Adults and the Law LRC 83-2006	Bill prepared and contained in the Report	Recommends general mental capacity law to facilitate informal decision-making for adults who lack capacity; and establishment of Guardianship Board and Office of Public Guardian to replace Wards of Court system	<i>Mental Capacity and Guardianship Bill 2007</i> (Private Members Bill) accepted in principle by Government and deemed to pass Second Stage in Seanad Éireann (March 2007)
Report on Rights and Duties of Cohabitants LRC 82-2006	Bill prepared and contained in the Report	Recommends reform to allow cohabitant agreements, to confer certain entitlements on cohabitants and to provide for application to court for relief for certain qualified cohabitants	
Report on Prosecution Appeals and Pre-trial Hearings LRC 81-2006	No recommendation for new legislation ('without prejudice' prosecution appeal introduced in <i>Criminal Justice Act 2006</i>)	Approved 'without prejudice' appeal for prosecution in trials on indictment in <i>Criminal Justice Act 2006</i> (recommended in Consultation Paper); recommended non-statutory pre-trial questionnaire	<i>Criminal Justice Act 2006</i> , ss.21 to 24

³ Note: the references to implementation of Commission Reports involve general implementation of Reports in some instances and partial implementation in others.

Report on Charitable Trusts and Legal Structures for Charities LRC 80-2006	Bill prepared and contained in the Report	Recommends reform of duties of charity trustees and new legal structure for charities, Charitable Incorporated Organisation	In part: <i>Charities Bill 2007</i> published by Government (April 2007) (charity trustees):
Report on eConveyancing: Modelling of the Irish Conveyancing System LRC 79-2006	Report on Modelling of Conveyancing System: no recommendations for legislation	Recommends establishment of eConveyancing Group to set out roadmap and recommendation to Government	eConveyancing Steering Group established (March 2007)
Report on the Establishment of a DNA Database LRC 78-2005	Bill prepared and contained in the Report	Recommends establishment of limited DNA Database	General Scheme of <i>Criminal Justice (Forensic Sampling and Evidence) Bill 2007</i> published by Government (February 2007)
Report on Corporate Killing LRC 77-2005	Bill prepared and contained in the Report	Recommends offence of corporate killing and associated individual offence	
Report on Multi-Party Litigation LRC 76-2005	Draft Rules of Court and Bill prepared and contained in the Report	Recommends Multi-Party Litigation Procedure in Rules of Court	
Report on the Court Poor Box: Probation of Offenders LRC 75-2005	Bill prepared and contained in the Report	Recommends replacement of court poor and updating <i>Probation of Offenders Act 1907</i>	
Report on Reform and Modernisation of Land Law and Conveyancing Law LRC 74-2005	Bill prepared and contained in the Report	Recommends reform and modernisation of over 140 pre-1922 Acts on land law and conveyancing law	<i>Land and Conveyancing Law Reform Bill 2006</i> passed by Seanad Éireann (November 2006)
Report on Public Inquiries Including Tribunals of Inquiry LRC 73-2005	Bill prepared and contained in the Report	Recommends reform and consolidation of <i>Tribunals of Inquiry Acts 1921 to 2004</i>	<i>Consolidating Tribunals of Inquiry Bill 2005</i> published by Government (September 2005)

Report on a Fiscal Prosecutor and a Revenue Court LRC 72-2004	Bill prepared and contained in the Report	Recommends changes to Taxes Consolidation Act 1997	In part in <i>Finance Act 2005</i> (threshold for publication of tax defaulters)
Report on Judicial Review Procedure LRC 71-2004	Bill and amendments to Rules of Court prepared and contained in the Report	Recommends changes to O.84 <i>Rules of the Superior Courts 1986, Illegal Immigrants (Trafficking) Act 2000</i> and making of various Practice Directions	
Report on Land Law and Conveyancing Law (7): Positive Covenants over Freehold Land and Other Proposals LRC 70-2003	Bill prepared and contained in the Report		<i>Land and Conveyancing Law Reform Bill 2006</i> passed by Seanad Éireann (November 2006)(see LRC 74-2005)
Report on Penalties for Minor Offences LRC 69-2003	Draft legislative provisions contained in the Report.	Recommends limit to imprisonment power of District Court; to allow amount of fine to be tailored to means of individual offender; to increase maximum fine for corporation to 3 times that for individuals.	Administrative implementation (by parliamentary counsel) of consideration of limit to imprisonment power of District Court; <i>Fines Bill 2007</i> published by Government (January 2007)
Report on the Deductibility of Collateral Benefits from Awards of Damages LRC 68-2002	Draft legislative provisions contained in the Report.	Recommends amendment to s. 2 of the <i>Civil Liability Act 1964</i> (as amended) and s. 50 of the <i>Civil Liability Act 1961</i> .	<i>Civil Liability and Courts Act 2004</i> , section 27
Report on Title by Adverse Possession of Land LRC 67-2002	Bill prepared and contained in the Report.	Clarifies the exact type of title acquired by a 'squatter' and recommends the granting of a parliamentary conveyance.	<i>Land and Conveyancing Law Reform Bill 2006</i> passed by Seanad Éireann (November 2006) (see LRC 74-2005)

Report on the Acquisition of Easements and <i>Profits à Prendre</i> by Prescription LRC 66-2002	Bill prepared and contained in the Report.	New scheme for prescriptive acquisition, and recommends the repeal of the <i>Prescription Act 1832</i> .	<i>Land and Conveyancing Law Reform Bill 2006</i> passed by Seanad Éireann (November 2006) (see LRC 74-2005)
Report on the Indexation of Fines: A Review of Developments LRC 65-2002	Draft legislative provisions contained in the Report.	Recommends the introduction of standard fine system based on the model proposed in the Commission's Report on Indexation of Fines (LRC 37-1991): see below.	<i>Fines Bill 2007</i> published by Government (January 2007)
Report on the Statutes of Limitations: Claims in Contract and Tort in Respect of Latent Damage (Other than Personal Injury) LRC 64-2001	Draft Bill contained in Report.	Recommends that the discoverability limitation period begins when person first knew or ought reasonably to have known of the relevant factors.	
Report on the Variation of Trusts LRC 63-2000	Draft Bill contained in Report	Various recommendations on jurisdiction of courts to vary trusts.	<i>Civil Law (Miscellaneous Provisions) Bill 2006</i> passed Second Stage in Dáil Éireann (October 2006)
Report on the Rule against Perpetuities and Cognate Rules LRC 62-2000	Draft Bill published in Report.	Recommends the abolition of the rule against perpetuities and the rule against accumulations.	<i>Land and Conveyancing Law Reform Bill 2006</i> passed by Seanad Éireann (November 2006) (see LRC 74-2005)
Report on Statutory Drafting and Interpretation: <i>Plain Language and the Law</i> LRC 61 - 2001	Draft legislative provisions in Report.	Recommends purposive approach to legislation, updated interpretation of older legislation and use of plain language in drafting legislation.	<i>Interpretation Act 2005</i>

Report on Aggravated, Exemplary and Restitutionary Damages LRC 60 - 2000		Recommended primarily judicial development of the law on aggravated, exemplary and restitutionary damages; limited statutory reform	
Report on Gazumping LRC 59 - 1999	Did not recommend legislation	Recommended gazumping should be dealt with by way of information to consumers	Approved in <i>Report of Auctioneering/Estate Agency Review Group</i> (2005)
Report on the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption LRC 58 - 1998		Recommended State ratification of Convention	<i>Adoption (Hague Convention) Bill 2007</i> to be published (Government Legislative Programme, January 2007)
Report on Privacy LRC 57 - 1998	Draft Bill included in Report	Recommended various legislative protections for privacy in connection with surveillance	<i>Privacy Bill 2006</i> published by Government (June 2006)
Report on Land Law and Conveyancing Law; (6) Further General Proposals Including the Execution of Deeds LRC 56 - 1998	Draft legislative provisions included in Report	Recommended that words of limitation should not be required for the creation or transfer of any interest in freehold registered land	<i>Land and Conveyancing Law Reform Bill 2006</i> passed by Seanad Éireann (November 2006) (<i>see LRC 74-2005</i>)
Report on the Unidroit Convention on Stolen or Illegally Exported Cultural Objects LRC 55 - 1997		Recommended State ratification of Convention	

Report on Personal Injuries: Periodic Payments and Structured Settlements LRC 54 - 1996	Draft legislative provisions included in Report	Recommended periodic payments and structured settlements in compensation claims	
Report on Sentencing LRC 53 - 1996	Recommended limited legislative reforms; primarily recommended non-legislative reform	Recommended discretion to reduce sentence where guilty plea entered; recommended non-statutory sentencing guidelines	<i>Criminal Justice Act 1999</i> , s.29 (discretion of court to reduce sentence where guilty plea entered)
Report on Family Courts LRC 52 - 1996		Various recommendations on family law and its administration	<i>Children Act 1997</i> , s.28 (appointment of guardian for litigation); <i>Civil Liability and Courts Act 2004</i> , s.40 (in camera rule)
Report on Intoxication LRC 51 - 1995		Recommended that intoxication not a defence.	Incorporated into <i>Report on Codification of Criminal Law</i> (2004): Advisory Committee in <i>Criminal Justice Act 2006</i>
An Examination of the Law of Bail LRC 50 - 1995		Not requested to make specific proposals for reform	<i>Bail Act 1997</i>
Report on the Interests of Vendor and Purchaser in Land during the Period Between Contract and Completion LRC 49 - 1995			<i>Land and Conveyancing Law Reform Bill 2006</i> passed by Seanad Éireann (November 2006) (see LRC 74-2005)

Report on Hague Convention Abolishing Requirement of Legalisation of Foreign Public Documents LRC 48 – 1995		Recommended State ratification of Convention	<i>Rules of the Superior Courts (No.1) (Proof of Foreign Diplomatic, Consular and Public Documents) 1999 (SI No.3 of 1999)</i>
Report on Contempt of Court LRC 47 - 1994		Recommended reform of contempt of court law	
Report on Occupiers' Liability LRC 46 - 1994		Recommended reform of common law rules and legislative regulation	<i>Occupiers Liability Act 1995</i>
Report on Non-Fatal Offences Against the Person LRC 45 - 1994		Recommended reform of common law and statutory rules	<i>Non-Fatal Offences Against the Person Act 1997</i>
Land Law and Conveyancing Law: (5) Further General Proposals LRC 44 - 1992		Various recommendations for reform	<i>Land and Conveyancing Law Reform Bill 2006 passed by Seanad Éireann (November 2006) (see LRC 74-2005)</i>
Report on the Law Relating to Dishonesty LRC 43 - 1992		Recommended reform of common law and statutory rules	<i>Criminal Justice (Theft and Fraud) Offences Act 2001</i>
Report on United Nations (Vienna) Convention on Contracts for the International Sale of Goods LRC 42 – 1992		Recommended State ratification of Convention	
Report on the Crime of Libel LRC 41 - 1991		Recommended reform of common law and statutory rules	<i>Defamation Bill 2006 (Part 5 of Bill) at Committee Stage in Seanad Éireann (March 2007)</i>

Report on Land Law and Conveyancing Law: (4) Service of Completion Notices LRC 40 - 1991		Various recommendations for reform	<i>Land and Conveyancing Law Reform Bill 2006</i> passed by Seanad Éireann (November 2006) (see LRC 74-2005)
Report on Land Law and Conveyancing Law: (3) The Passing of Risk from Vendor to Purchaser LRC 39 - 1991		Various recommendations for reform	<i>Land and Conveyancing Law Reform Bill 2006</i> passed by Seanad Éireann (November 2006) (see LRC 74-2005)
Report on the Civil Law of Defamation LRC 38 - 1991		Recommended reform of common law and statutory rules	<i>Defamation Bill 2006</i> at Committee Stage in Seanad Éireann (March 2007)
Report on Indexation of Fines LRC 37 - 1991		Recommends the introduction of standard fine system	<i>Fines Bill 2007</i> published by Government (January 2007)
Report on the Hague Convention on Succession to the Estates of Deceased Persons LRC 36 – 1991		Recommended State ratification of Convention	
Report on Confiscation of the Proceeds of Crime LRC 35 - 1991		Recommended introduction of restraint orders, and international co-operation regarding confiscation orders	<i>Criminal Justice (No.3) Act 1994</i> , <i>Proceeds of Crime Act 1996</i> and <i>Proceeds of Crime (Amendment) Act 2005</i>
Report on Oaths and Affirmations LRC 34 - 1990		Various recommendations	Implemented in part (<i>Children Act 1997</i>)
Report on Sexual Offences against the Mentally Handicapped LRC 33 - 1990		Various recommendations on sexual offences with person of limited intellectual capacity; consent of DPP required to take proceedings	<i>Criminal Law (Sexual Offences) Act 1993</i> and <i>Criminal Justice (Miscellaneous Provisions) Act 1997</i>

Report on Child Sexual Abuse LRC 32 - 1990		Various recommendations: mandatory reporting of child sexual abuse; immunity for those who report child abuse in good faith; care orders; barring orders; offences of child sexual abuse; consenting and non-consenting sexual offences with children (same-sex and opposite sex); video-recording evidence	Implemented in part: <i>Child Care Act 1991, Criminal Evidence Act 1992, Criminal Law (Sexual Offences) Act 1993, Domestic Violence Act 1996, Criminal Justice (Miscellaneous Provisions) Act 1997, Protection for Persons Reporting Child Abuse Act 1998</i>
Report on Land Law and Conveyancing: (2) Enduring Powers of Attorney LRC 31 - 1989		Recommendations on characteristics, registration and scope of power of attorney	<i>Powers of Attorney Act 1996, Family Law (Miscellaneous Provisions) Act 1997</i>
Report on Land Law and Conveyancing: (1) General Proposals LRC 30 - 1989		Recommended substitution of 5 years for 3 years for a new tenancy	<i>Landlord and Tenant (Amendment) Act 1994</i>
Report on the Recognition of Foreign Adoption Decrees LRC 29 - 1989		Recommended validity of foreign adoptions made in place of habitual residence of the adopters	<i>Adoption Act 1991</i>
Report on Debt Collection: (2) Retention of Title LRC 28 - 1988		Various recommendations concerning retention of title contract clauses	
Report on Debt Collection: (1) The Law Relating to Sheriffs LRC 27 - 1988		Recommended abolition of power of sheriffs to seize leasehold land	<i>Land and Conveyancing Law Reform Bill 2006</i> passed by Seanad Éireann (November 2006) (see LRC 74-2005)

Report on Malicious Damage LRC 26 - 1988		Various recommendations including abolition of common law offence of arson and making of compensation orders	<i>Criminal Damage Act 1991, Criminal Justice Act 1993</i>
Report on the Rule Against Hearsay in Civil Cases LRC 25 - 1988		Various recommendations for reform of common law rules	<i>Civil Evidence Bill to be published (Government Legislative Programme January 2007)</i>
Report on Rape and Allied Offences LRC 24 - 1988		Recommended wider definition of rape; and abolition of marital rape exemption	<i>Criminal Law (Rape) (Amendment) Act 1990, Criminal Justice Act 1993</i>
Report on Receiving Stolen Property LRC 23 - 1987		Recommended new offence of handling stolen goods: see also Report on the Law Relating to Dishonesty, LRC 43– 1992, above.	<i>Larceny Act 1990, Criminal Justice (Theft and Fraud Offences) Act 2001</i>
Report on the Service of Documents Abroad re Civil Proceedings – the Hague Convention LRC 22 - 1987		Recommended ratification of Convention by State.	<i>Rules of the Superior Courts (No.3) 1994, District Court (Service Abroad of Documents in Civil or Commercial Matters) Rules 1994 (now consolidated in District Court Rules 1997)</i>
Report on the Statute of Limitations: Claims in Respect of Latent Personal Injuries LRC 21 - 1987		Recommended that limitation period should begin to run from the date of knowledge of certain facts.	<i>Statute of Limitations (Amendment) Act 1991</i>

Report on Jurisdiction in Proceedings for Nullity of Marriage, Recognition of Foreign Nullity Decrees and Hague Convention LRC 20 - 1985		Recommended ratification of Convention by State.	<i>Family Law Act 1995</i>
Report on Private International Law Aspects of Capacity to Marry and Choice of Law in Proceedings for Nullity of Marriage LRC 19 - 1985		Made recommendations concerning recognition of foreign annulments.	
Report on the Liability in Tort of Mentally Disabled Persons LRC 18 - 1985		Made recommendations concerning extent of liability in tort.	
Report on the Liability in Tort of Minors and the Liability of Parents for Damage Caused by Minors LRC 17 - 1985		Made recommendations concerning extent of liability in tort	
Report on the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters LRC 16 - 1985		Recommended ratification of Convention by State.	
Report on Minors' Contracts LRC 15 - 1985		Made recommendations concerning extent of liability in contract law	
Report on Offences Under the Dublin Police Acts and Related Offences LRC 14 – 1985		Recommended reform of public order offences	<i>Criminal Justice (Public Order) Act 1994</i>

Report on Competence and Compellability of Spouses as Witnesses LRC 13 - 1985		Recommended that spouse or former spouse is competent to give evidence	<i>Criminal Evidence Act 1992</i>
Report on the Hague Convention on the Civil Aspects of International Child Abduction and Some Related Matters LRC 12 -1985		Recommended ratification of Convention in the State.	<i>Child Abduction and Enforcement of Custody Orders Act 1991</i>
Report on Vagrancy and Related Offences LRC 11 - 1985		Recommended abolition of offence of wandering abroad in the Vagrancy Act 1824; new offences of: entering a building with intent to commit an offence; soliciting or importuning for the purposes of the commission of a sexual offence; living on earnings of prostitution	<i>Housing Act 1988, Criminal Law (Sexual Offences) Act 1993, Criminal Justice (Public Order) Act 1994</i>
Report on Recognition of Foreign Divorces and Legal Separations LRC 10 - 1985		Recommended residence as basis for recognition, in place of domicile	<i>Domicile and Recognition of Foreign Divorces Act 1986, Family Law Act 1995</i>
Report on Nullity of Marriage LRC 9 - 1984		Recommended reform and codification of common law rules	
Report on Divorce a Mensa et Thoro and Related Matters LRC 8 - 1983		Recommended replacement of common law divorce <i>a mensa et thoro</i> with statutory judicial separation	<i>Judicial Separation and Family Law Reform Act 1989, Family Law Act 1995</i>

Report on Domicile and Habitual Residence as Connecting Factors in the Conflict of Laws LRC 7 - 1983		Recommended abolition of domicile of dependency	<i>Domicile and Recognition of Foreign Divorces Act 1986</i>
Report on Restitution of Conjugal Rights, Jactitation of Marriage and Related Matters LRC 6 - 1983		Recommended abolition of proceedings for the restitution of conjugal rights, and of petition for jactitation of marriage.	<i>Family Law Act 1988, Family Law Act 1995</i>
Report on the Age of Majority, the Age for Marriage and Some Connected Subjects LRC 5 - 1983		Recommended reduction of age of majority from 21 years to 18 years; and concerning age of marriage	<i>Age of Majority Act, 1985, Family Law Act 1995, Family Law (Miscellaneous Provisions) Act 1997</i>
Report on Illegitimacy LRC 4 - 1982		Recommended abolition of status of illegitimacy; that the marital status of parents to have no effect on children's status; refusal to give a blood test in paternity proceedings allows court to draw its own inferences.	<i>Status of Children Act 1987</i>
Report on Defective Premises LRC 3 - 1982	Draft Bill prepared and included in Report	Recommended statutory provisions to protect purchasers of defective premises	Non-statutory HomeBond scheme introduced

Report on Civil Liability for Animals LRC 2 - 1982	Draft Bill prepared and included in Report	Recommended reform of common law rules concerning damage caused by animals straying onto a highway; and powers of Garda Síochána concerning stray animals.	<i>Animals Act 1985.</i>
Report on Family Law LRC 1 - 1981	Draft Bill prepared and included in Report	Recommended abolition of common law action for criminal conversation and for harbouring a spouse, and of action for breach of a promise to marry.	<i>Family Law Act 1981.</i>