



promoting law reform in Northern Ireland

Northern Ireland Law Commission

Equality Impact Assessment (EQIA) Report

Proposals for land law reform in Northern Ireland

Linum Chambers, 8th Floor
2 Bedford Square
Bedford Street
Belfast, BT2 7ES

TABLE OF CONTENTS

PREFACE	3
INTRODUCING NORTHERN IRELAND LAW COMMISSION	4
THE COMMISSION and SECTION 75	8
PROPOSALS FOR LAND LAW REFORM IN NORTHERN IRELAND	9
<ul style="list-style-type: none">• Feudal Tenure• Estates in land	
CONSIDERATION OF AVAILABLE DATA AND RESEARCH	10
CONSIDERATION OF IMPACT	27
MEASURES TO MITIGATE AND ALTERNATIVE POLICIES (Preliminary Recommendations)	29
FORMAL CONSULTATION	30
DECISION BY PUBLIC AUTHORITY	30
PUBLICATION OF RESULTS	30
MONITORING FOR ADVERSE IMPACT	30
APPENDIX	31
<ul style="list-style-type: none">• Examples of Section 75 Groups by Dimension	

PREFACE

Further to the statutory duties contained within Section 75 of the Northern Ireland Act 1998, the Northern Ireland Law Commission is committed to carrying out an equality impact assessment (EQIA) on each policy or group of co-joined policies where screening had indicated that there may be significant implications in relation to one or more of the nine equality dimensions.

This report has been made available as part of the formal consultation stage of the EQIA relating to the proposals for land law reform in Northern Ireland (PLLR). We would welcome any comments you may have about this EQIA and our preliminary recommendations with regard to measures to mitigate adverse impact and alternative policies.

Further copies of this EQIA report are available on the Commission's website at www.nilawcommission.gov.uk. If this format does not meet your needs please contact the Commission.

The Equality Officer
Northern Ireland Law Commission
Linum Chambers,
2 Bedford Square,
Bedford Street,
Belfast BT2 7ES
Tel: +44 (0)28 9054 4860
Email: info@nilawcommission.gov.uk
Website: www.nilawcommission.gov.uk

Deadline for comments is 12 Noon on Thursday 24th December 2009

INTRODUCING THE NORTHERN IRELAND LAW COMMISSION

The Northern Ireland Law Commission (the Commission) was set up in 2007 following the recommendations of the Criminal Justice Review Group (2000). Its purpose is to keep the law of Northern Ireland under review and make recommendations for its systematic development and reform.

The Justice (Northern Ireland) Act 2002, under which the Commission was established, requires the Commission to consider any proposals for the reform of the law of Northern Ireland referred to it. The Commission must also submit to the Secretary of State programmes for the examination of different branches of the law with a view to reform. The Secretary of State must consult with the Lord Chancellor, the First and deputy First Minister and the Attorney General before approving any programme submitted by the Commission.¹

MISSION STATEMENT

The central aim of the Commission is directly linked to the aim of the government which is delivery of a fair and impartial system of justice to the community in Northern Ireland. The Commission recognises that a fundamental premise of a modern system of justice is that each citizen has rights and duties under the law. The Commission – alongside other bodies responsible for developing aspects of the law – will respect, safeguard and promote those rights and duties by providing for Northern Ireland an effective means of simplifying and modernising the law and making it accessible to the people.

The Commission is establishing itself as a body that puts forward well thought through and workable proposals for improving the law and its practice in Northern Ireland. This includes looking at any regulatory, financial and human rights implications of proposals. An emphasis on achieving practical outcomes is an important value defining the work of the Commission.

Although the Commission has a statutory duty to keep all of the law of Northern Ireland under review, responsibility for law reform is not a monopoly of the Commission. Most of the Northern Ireland Departments and the NIO are involved at the instances of Government with the reform and amendment of substantial and important areas of the law. Ways of coordinating their efforts with those of the Commission and other law reform agencies, to ensure the most efficient use of resources and the orderly and systematic review of those branches of the law, will be an important aspect of the Commission's considerations.

Around the world independent Law Reform Commissions have a special status in the legislative and administrative regimes in the jurisdictions within which they operate. The matters with which the Commission are concerned are often technical and non controversial. That can properly impact on the process of implementation of recommendations. It is hoped that the Northern Ireland Law Commission

¹ Northern Ireland Law Commission Business Plan 2008 – 2009 p. 3

can establish itself as a valued part of the constitutional structures of Northern Ireland and that its reform proposals will carry weight and will be handled expeditiously by Government. To this end the Commission will develop a Memorandum of Understanding (MOU) with Government in which respective responsibilities are clearly articulated. The MOU will be developed to take account of any changes introduced as a result of any further devolution settlement.²

STRUCTURE

The Commission consists of a Chairman, who must hold the office of judge of the High Court, and four Commissioners, one of whom must be a person from outside the legal professions. The Chairman and Commissioners are appointed on a part-time basis. There is also a Chief Executive, who is appointed from the legal professions.

These positions are currently held by:

Chairman:	(new appointment pending)
Commissioner:	Professor Sean Doran (Barrister-at-Law)
Commissioner:	Mr Neil Faris (Solicitor)
Commissioner:	Mr Robert Hunniford (Lay Commissioner)
Commissioner:	Dr Venkat Iyer (Law Academic)
Chief Executive:	Ms Judena Goldring MA, BLegSc, Solicitor

Legal Staff

Mrs Sarah Witchell LLB, Solicitor
Mrs Diane Drennan LLB, M Phil, Solicitor
Mrs Leigh McDowell LLB, Solicitor
Miss Clare Irvine, Solicitor, LLB, Solicitor
Ms Katie Quinn LLB, MSc

Legal Researchers:

Miss Joan Kennedy BCL
Mr Darren McStravick LLB, LLM

Administration Staff

Business Manager: Mr Derek Noble
Communications & HR Personnel Manager: Ms Cathy Lundy
Private Secretary to the Chairman and Chief Executive: Ms Paula Sullivan
Administrative Officers: Mr Chris Gregg BA Hons
Mr Andrew McIlwrath

² Northern Ireland Law Commission Business Plan 2008 – 2009 pp. 4 & 5

The Legal Team for this project was

Mrs Sarah Witchell LLB, Solicitor

Professor John Wylie LLM (Harvard), LLD (Belfast), Professor of Law at Cardiff University, (Consultant)

Mrs Diane Drennan LLB, M Phil, Solicitor

Mrs Leigh McDowell LLB, Solicitor

Contact Details

Further information can be obtained from:

Business Manager
Northern Ireland Law Commission
Linum Chambers,
2 Bedford Square,
Bedford Street,
Belfast
BT2 7ES

Tel: +44 (0)28 9054 4860

Email: info@nilawcommission.gov.uk

Website: www.nilawcommission.gov.uk

THE COMMISSION and SECTION 75

Section 75 (1) of the Northern Ireland Act 1998 requires that the Commission shall, in carrying out its functions, powers and duties, relating to Northern Ireland, have due regard to the need to promote equality of opportunity between the following nine Section 75 dimensions:

- Persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- Men and women generally;
- Persons with a disability and persons without; and
- Persons with dependents and persons without.

In addition and without prejudice to these obligations, in carrying out its functions relating to Northern Ireland, the Commission is also committed to have due regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

The Commission's Equality Scheme sets out arrangements as to how the Commission proposes to fulfil the obligatory duties determined through Section 75 legislation and its implementation. The Equality Scheme also acknowledges the commitment to carrying out equality impact assessments and policy reviews on existing policies and to develop new policies as required.

The Commission has conducted an Equality Screening Analysis to assess if the policy potentially impacts on equality of opportunity and/or good relations obligations. The policy was considered using the following criteria during the initial screening process:

- (a) Is there any indication or evidence of higher or lower participation or uptake of different groups?
- (b) Is there any indication or evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy?
- (c) Have previous consultations with relevant groups, organisations or individuals indicated that particular policies create problems, that are specific to them?
- (d) Is there an opportunity to better promote equality of opportunity or good relations by altering the policy or working with others in government or in the larger community?

The screening exercise revealed that only two of the proposals within the consultation paper required further consideration and impact assessment. These were the proposal to abolish feudal tenure and the options relating to overreaching of equitable interests in land. The impacts of these proposals are assessed below at pages 19 & 20 below.

Determining Responsibility for ‘Proposals for land law reform in Northern Ireland’

Origins: This Policy began in the Office of Law Reform (OLR) within the Department of Finance and personnel (DFP). On the establishment of the Commission in 2007 the policy was transferred to it.

Delivery: The Commission has responsibility for undertaking the review and making the proposals but it should be expressly stated that implementation of the proposals/recommendations emerging from the policy lies with Government.

s. 75 equality duties: It should also be expressly stated that the Commission will address s. 75 equality duties in respect of this policy only and it will be for Government, if and when they adopt any or all of the Commission’s proposals/recommendations, to discharge its own statutory duties in respect of these.

PROPOSALS FOR LAND LAW REFORM IN NORTHERN IRELAND

Background and context

The Commission believes it is time to modernise land law and conveyancing law in Northern Ireland as the system is outdated and outmoded. There is no doubt that land law is long overdue for reform and that there is an urgent need for modernisation. The law must be more easily understood and accessible.

Land law in Northern Ireland is based on ancient concepts and a legislative framework that is essentially 19th century in origin, with some parts dating to a much earlier period. Although at one time similar systems would have existed throughout the common law world, extensive reforms have taken place in most other jurisdictions.

It is difficult to define precisely the boundaries of land law or conveyancing law. Nevertheless the Commission has had to work out its priorities and accordingly has concluded that it will focus on the areas of substantive land law that are most in need of reform and modernisation. The following have been selected as the subject headings which form a coherent framework of land law and accordingly are the subject of the emerging proposals for land law reform: feudal tenure, estates in land, easements and other rights over land, future interests, settlements and trusts, concurrent interests, mortgages, contracts for the sale of land, conveyances and legislation.

The Commission recognises that there are other topics that might be regarded as coming under the general umbrella of land law and which are worthy of consideration in their own right. After due reflection and taking into account the fact that there are limited resources available, the Commission has come to the conclusion that these areas of law cannot properly be dealt with at this stage. Examples of these areas are: land registration, business tenancies, agricultural tenancies, housing, planning, flats and apartments, wills and succession, the general law of trusts and vesting, compulsory acquisition and compensation. Further, the Commission has not sought to venture into the realms of social policy, or to interfere with particular case law issues.

It seems to the Commission that there are two underlying principles in the formulation of the proposals for reform:

- Simplicity, clarity and certainty
- Freedom of contract

The Commission has sought to balance these principles in its consideration of the issues relating to the PLLR. Whilst land law should be comprehensible to everyone, there is no escape from the fact that dealings in property require a law of considerable sophistication. The law should facilitate the transfer of land and an owner should have the freedom to own, use and dispose of the land as he or she pleases, so long as it does not impinge substantially on the interests of other members of society. There is no

advantage in the law being comprehensible and unambiguous if it is not sufficiently flexible to allow people to reach agreement on terms that are commercially acceptable to them.

The Commission recognises that for the general public the transfer of property depends on much more than the principles and foundations of land law. Most people are more concerned about the cost, speed and efficiency of the conveyancing process than about the finer points of the title to their property. The Commission recognises that reform of the law, which underpins the conveyancing process, is only one part of the wider development of modern systems which will update and improve the transfer of property in general.

The Commission appreciates that other organisations also have a vital role to play in the reform of land law and the conveyancing process. In particular, it recognises the importance of the work of the Land Registers of Northern Ireland in rolling out compulsory registration of title and in the development of electronic processes. It also values the work of the Law Society of Northern Ireland in laying down procedures and setting out standards of good practice. Each is important in its own right but they are also mutually dependent and only when all the strands are joined together can a modern and effective system of property transfer be properly built.³

Proposals

- **Feudal Tenure**

The Commission considers the concept of tenure which was a key feature of the feudal system. The PLLR explains that the feudal system, which originated in continental Europe, was adopted first in England and then later in other common law countries. All land is ultimately owned by the Crown and the greatest interest that anyone can have in land is an estate in fee simple which is held from the Crown. Although the owner of an estate is technically a tenant of the Crown, nowadays an estate in fee simple is considered by everyone except lawyers as equivalent to absolute ownership. It is generally accepted that tenure is outmoded and is of only technical significance today. There are no longer any duties or services to be performed by the tenant to a lord of the manor or to the Crown. However, it is important to be aware that in law the owner of land owns an estate in land and not the land itself. The doctrine of estates is inextricably linked to the doctrine of tenure. This leads to the question whether the legal position can now be aligned with the public perception of ownership. To inform its thinking on this subject the Commission undertook some comparative research and looked at the measures introduced in other common law jurisdictions to modernise ownership.

³ Consultation Paper on Land Law, Northern Ireland Law Commission, NILC 2 (2009) (“CP”) pp xiv - xvi

It seems to the Commission that there are three possible options in relation to feudal tenure:

1. To preserve the *status quo*, retaining the concepts of both tenure and estates, on the basis that the system has worked perfectly well for over a thousand years and forms an important foundation of land law;
2. To abolish feudal tenure, because it is of no practical significance, but retain the doctrine of estates because it is a well understood and accepted concept;
3. To abolish both feudal tenure and the doctrine of estates which are conceptual fictions, since by making radical change a simpler concept of ownership could be introduced.⁴

- **Estates in land**

The current law in relation to estates in land is undoubtedly too complicated and if the concept of estates is to be retained, it is clear that it should be simplified. The Commission proposes that there should only be two possible legal estates in land – the fee simple absolute in possession and a leasehold term. Further, it is suggested that there should be a “curtain” between those legal estates and the various equitable “family” interests i.e. any party who could have an interest in the property other than a legal interest, which would be overreached (the principle of ‘overreaching’). In this context it is important to consider which rights and interests should appear on the title, which rights and interests should affect a purchaser and how much protection should be given to any equitable rights of occupation. This is a matter of striking a proper balance between the needs of the conveyancer and the rights of the family or other occupiers.

Broadly, there are four possible options:

1. To give a purchaser a clean title free of equitable interests as long as the property is sold by at least two trustees and the purchaser had made proper enquires as to any occupiers;
2. To increase protection for occupiers and provide that their interests should not be overreached unless they consented to the sale – this would correspondingly increase the burden on a purchaser to obtain their consent to the sale;
3. To extend the principle of overreaching to sales by a single owner and to require an occupier to register his or her interest in order to protect it – this would facilitate conveyancing and alleviate the burden on the purchaser to make enquiries, but might potentially cause injustice to the occupier whose rights would be reduced;
4. To couple an extended principle of overreaching with reform of the law of cohabitants – this seems to raise substantial issues which go beyond the scope of the Consultation Paper.

The Commission is also looking at existing forms of estate that would cease to have legal effect (such as modified fees and fees tail) and is considering possible conversion provisions.⁵

⁴ CP pp xvi - xvii

⁵ CP pp xvii - xviii

Scope of the EQIA Assessment

It is important to bear in mind that an EQIA is designed to consider potential adverse effects of a policy in relation to the nine Section 75 dimensions. For this reason, an evaluation of the broader economic or business ramifications of PLLR may fall outside the scope of this assessment where there is no impact on equality of opportunity. For the purposes of the EQIA the following will be considered:

- Feudal Tenure
- Estates in land

CONSIDERATION OF AVAILABLE DATA AND RESEARCH

In summary, in order to carry out this Equality Impact Assessment, the following sources of information have been considered and are reported on in the preceding sections. Very few s.75 issues are raised in this literature, which indicates that the PLLR policy is more likely to promote equality of opportunity. However, the following section, 'Consideration of Impact', contains possible adverse impacts. These will be examined at this point in order to highlight the salient issues in relation to s.75.

➤ **Feudal tenure (abolition of feudal tenure) (see page 8 above for summary)**

This is a **conceptual reform** which may nonetheless be perceived by those holding a particular political belief as having an adverse impact on Crown sovereignty. The appropriate sources are listed below :-

1. 1857 Minnesota Constitution section 15
2. Abolition of Feudal Tenure etc. (Scotland) Act 2000 (ASP 5)
3. Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp.5)
4. Arkansas Declaration of Rights section 28
5. Australian Courts Act 1828 (c. 33)
6. Commonwealth of Australia v Yarmirr (2001) 208 CLR 1)
7. Devereux and Dorsett "Towards a Reconsideration of the Doctrine of Estates and Tenure" (1996) 4 APLJ No 1
8. Edgworth, "Tenure, Allodialism and Indigenous Rights at Common Law: English, United States and Australian Land Law Compared after Mabo v Queensland" (1994) 23 Anglo-American Law Review 397
9. Fejo v Northern Territory (1998) 195 CLR 96
10. Hepburn "Disinterested Truth: Legitimation of the Doctrine of Tenure Post-Mabo" [2005] MULR 1
11. Kerajaan Negeri Selango v Sagong bin Tasi [2005] AILR 71 (Malaysia)
12. Mabo v Queensland (No.2) (1992) 175 CLR 1
13. Manu Kapua v Para Haimona [1913] AC 761
14. Members of the Yorta Yorta Aboriginal Community v Victoria [2002] HCA 58
15. Reid K, The Abolition of Feudal Tenure in Scotland (2003) LexisNexis
16. Report on Abolition of the Feudal System Scot Law Com No. 168
17. The Consultation Paper on the Reform and Modernisation of Land Law and Conveyancing Law, LRC CP 34 – 2004 Law Reform Commission, Republic of Ireland
18. Western Australia v Ward (2002) 213 CLR 1
19. Wik Peoples v Queensland (1996) 187 CLR 1
20. Wisconsin Constitution Article 1: section 14
21. Wylie, Irish Land Law 3rd ed. (1997)

➤ **Estates in land (overreaching of equitable interests and the reform of the law of cohabitees) (see page 8 above for summary)**

] Certain proposals, as recommended by the 1990 Final Report, which relate to overreaching on a conveyance by a single legal owner, would involve the holder of an equitable interest registering it in the Registry of Deeds or Land Registry, otherwise it would be void against a purchaser, mortgagee or other person acquiring legal title. This proposal would result in more efficient conveyancing, by reducing the number of enquiries purchasers and mortgagees have to make. However, the proposal would not increase protection for holders of equitable interests. This would therefore have a potentially adverse effect on unmarried cohabitants and same sex couples who have not entered into a civil partnership. The relevant sources are as follows:-

1. City of London Building Society v Flegg [1988] AC 54
2. Final Report of the Land Law Working Group (1990) Office of Law Reform, Department of Finance & Personnel, Belfast (“the Final Report”)(Volume 2, Article 2)
3. Fox, Conceptualising Home: Theories, Laws and Policies (2006) Hart Publishing
4. Harpum “Overreaching Trustees’ Powers and the Reform of the 1925 Legislation” [1990] CLJ 277 at 328
5. Harvey, B, Settlements of Land (1973) London: Sweet & Maxwell Modern Legal Studies Series
6. Land and Conveyancing Law Reform Bill 2006, section 21(3)(b)(iii)
7. Land Registration Act (Northern Ireland) Act 1970 (c. 18)
8. Land Registration Act 1925 (15 & 16 Geo. 5) (c. 21)
9. Mee, The Property Rights of Cohabitees (1999) Hart Publishing
10. Overreaching: Beneficiaries in Occupation (1989) Law Com No. 188, Law Commission of England and Wales
11. Registration of Title to Land in Northern Ireland, Report of the Committee on the Registration of Title to Land (1967) (“the Lowry Report”)
12. Residential Tenancies Act 2004 (No. 27) (Ireland)
13. Settled Land Acts 1882 - 1890
14. Survey of the Land Law of Northern Ireland (1971) by a working party of the Faculty of Law, QUB, A report to the Director of Law Reform for Northern Ireland (“the Survey”)
15. Williams & Glyn’s Bank Ltd. v Boland [1981] AC 48
16. Wylie “An Irish Perspective on Protecting a Non-owning Spouse in the Home” in Meisel and Cook, (eds.) Property and Protection: Essays in Honour of Brian W. Harvey (2000) Hart Publishing Chapter 6

General Sources of Information:

1. Consultation Paper Reform and Modernisation of Land Law and Conveyancing Law, LRC CP 34-2004, Law Reform Commission, Republic of Ireland
2. European Convention on Human Rights. Rome (1950)
3. Arkansas Declaration of Rights - section 28
4. Minnesota 1857 Constitution - section 15
5. Wisconsin Constitution - Article I : section 14
6. Law Society of Northern Ireland's Vendor's Replies to Pre-Contract Enquiries (2008 edition)
7. Final Report of the Land Law Working Group (1990), Office of Law Reform, Department of Finance and personnel, Belfast, Her Majesty's Stationery Office
8. Internet sources
9. Land and Conveyancing Law Reform Bill 2006, Republic of Ireland
10. Megarry and Wade, The Law of Real Property, 7th ed. by Harpum, Bridge and Dixon (2008) Sweet and Maxwell Ltd.
11. Moir, Land Registration Manual (2nd ed.) 2005, Belfast, The Law Society of Northern Ireland
12. Online Legal subscription services:
 - a. Westlaw.ie. and Westlaw.co.uk online legal information service. (www.westlaw.ie and www.westlaw.co.uk)
 - b. LexisNexis www.lexisnexis.com
 - c. Justis www.justis.com and Justcite www.justcite.com
 - d. Lawtel www.lawtel.com
13. Pearce and Mee, Land Law, 2nd Edition (2000) Round Hall Sweet and Maxwell
14. Registration of Title to Land in Northern Ireland, Report of the Committee on the Registration of Title to Land (1967), Belfast, Her Majesty's Stationery Office.
15. Report on the Reform and Modernisation of Land Law and Conveyancing Law, LRC 74-2005, Law Reform Commission, Republic of Ireland
16. Statutes:
 - a. Compulsory Registration of Title (Northern Ireland) Orders 1995 – 2002
 - b. Ground Rents Act (Northern Ireland) 2001 (c. 5)
 - c. Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 (No. 1452 N.I. 7)
 - d. Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 (c. 7)
 - e. Property (Northern Ireland) Order 1978 (No. 459 N.I. 4)
 - f. Property (Northern Ireland) Order 1997 (No. 1179 N.I. 8)
 - g. Registration (Land and Deeds) (Northern Ireland) Order 1992 (No. 811 N.I. 7)
17. Survey of the Land Law of Northern Ireland (1971) by a working party of the Faculty of Law, QUB, a report to the Director of Law Reform for Northern Ireland, Belfast, Her Majesty's Stationery Office,
18. Wylie and Woods, Irish Conveyancing Law, 3rd ed. (2005) Tottel Publishing.

19. Wylie, Irish Land Law, 3rd ed. (1997) Butterworths.
20. Wylie, Irish Landlord and Tenant Law, 2nd ed. (1998) Butterworths.

Reports and Consultations:

1. British Columbia Law Reform Commission, Canada
2. English Law Reform Committee
3. Land Law Working Group, Northern Ireland
4. Law Commission, England and Wales
5. Law Reform Advisory Committee, Northern Ireland
6. Law Reform Commission, Australia
7. Law Reform Commission, Ireland
8. Manitoba Law Reform Commission, Canada
9. New Zealand Law Commission
10. Northern Ireland law Commission
11. Ontario Law Reform Commission, Canada
12. Parliament of Victoria, Australia
13. Scottish Law Commission

Sources of Articles:

1. Anglo-American Law Review
2. APLJ – Australian Property Law Journal
3. CLJ – Commonwealth Law Journal
4. CLWR – Common Law World Review
5. Conv – Conveyancer and Property Lawyer
6. CPLJ - Conveyancing and Property Law Journal
7. DULJ – Dublin University Law Journal
8. EG – Estates Gazette
9. IJFL- Irish Journal of Family Law
10. LQR – Law Quarterly Review
11. LS – Legal Studies
12. MLR – Modern Law Review
13. MULR – Melbourne University Law Review
14. NILQ – Northern Ireland Legal Quarterly
15. NLJ – New Law Journal
16. OUCLJ – Oxford University Commonwealth Law Journal
17. Real Property, Probate and Trusts Journal
18. Stair Society
19. Yale LJ – Yale Law Journal

Sources of Case Law:

1. AC – Law Reports, Appeal Cases
2. AILR - (Malaysia)
3. All ER - All England Law Reports
4. BCC – British Company Cases
5. Beav - Beavan's Rolls Court Reports
6. CA – Commonwealth Appeals
7. Ch - Law Reports, Chancery Division (3rd Series)
8. Ch App - Law Reports, Chancery Appeal Cases
9. ChD – Chancery Division (2nd Series)
10. CLR – Commonwealth Law Reports
11. ECHR Grand Chamber – European Court of Human Right, Grand Chamber
12. EWHC (Ch) – England and Wales High Court (Chancery Division)
13. HCA – High Court of Australia
14. IEHC – High Court of Ireland
15. IR - Irish Reports
16. KB – Law Reports, Kings Bench
17. Lloyd's Rep Bank
18. LR – Law Reports (1st Series)
19. NI – Northern Ireland Law Reports
20. NICA - Northern Ireland court of Appeal
21. NICH - High Court of Justice Northern Ireland: Chancery Division
22. NIFam - High Court of Justice Northern Ireland: Family Division
23. Ph - Phillips' Chancery Reports
24. QB – Law Reports, Queen's Bench (3rd Series)
25. UKHL - United Kingdom House of Lords
26. Ves - Vesey Junior's Chancery Reports
27. WLR – Weekly Law Reports
28. Wms Saund - Saunders' King's Bench Reports

Sources of Statute Law:

1. Chronological Table of the Statutes for Northern Ireland (33rd ed.) Published by Authority, Belfast:
The Stationery Office
2. Office of public sector information www.opsi.gov.uk
3. Statute Law Database www.statutelaw.gov.uk
4. The Northern Ireland Statutes, Belfast, Her Majesty's Stationery office
5. The Statutes Revised Northern Ireland (2nd ed.) Published by Authority, Belfast, Her Majesty's Stationery office

Stakeholders

1. Academics from Queen's University, Belfast (QUB) & University of Ulster, Jordanstown (UUJ) and other Universities.
2. Barristers
3. Judiciary
4. Lands Tribunal, DFP
5. Lending Institutions
6. Royal Institute of Chartered Surveyors (RICS)
7. Solicitors
8. The Land Registers of Northern Ireland, DFP
9. The Law Society of Northern Ireland

Beneficiaries

1. All Stakeholders as above
2. The General public

- **Feudal Tenure (see page 10 above)**

Books

1. Buckland and McNair, *Roman Law and Common Law* (2nd ed. Cambridge University Press
2. Hinde McMorland & Sim, *Land Law in New Zealand* Volume 1, (2003) LexisNexis, para. 2.014
3. Pearce and Mee, *Land Law*, 2nd Edition (2000) Round Hall Sweet and Maxwell
4. Reid K, *The Abolition of Feudal Tenure in Scotland* (2003) Tottel Publishing
5. Wylie, *Irish Land Law*, 3rd ed. (1997) Butterworths
6. Wylie, *Irish Landlord and Tenant Law*, 2nd ed. (1998) Butterworths

Constitutional Documents

1. Arkansas Declaration of Rights - section 28
2. Minnesota 1857 Constitution - section 15
3. Wisconsin Constitution - Article I: section 14

Reports and Consultations from other jurisdictions

1. A New Property Law Act (1994) NZLC R29, Law Commission, New Zealand
2. Consultation Paper on the Reform and Modernisation of Land Law and Conveyancing Law, LRC CP 34 – 2004, Law Reform Commission, Republic of Ireland
3. Eleventh Programme of Law Reform (Law Com No. 306 para. 6.12), Law Commission, England and Wales
4. Land Registration for the Twenty-first Century, A Conveyancing Revolution (2001) Law Com No. 271 para. 11.3, Law Commission, England and Wales

5. Land Tenure in Scotland : A Plan for Reform (1969) Cmnd 4099, Law Commission, Scotland
6. Report on Abolition of the Feudal System (1999) Scot Law Com No. 168, Law Commission, Scotland
7. Report on the Reform and Modernisation of Land Law and Conveyancing Law, LRC 74-2005, Law Reform Commission, Republic of Ireland
8. Statute Law Revision: First Report (1969) Law Com No. 22 (Cmnd 4052), Law Commission, England and Wales
9. Tenure and Estates in Land (1992) NZLC PP 20, Law Commission, New Zealand
10. The Recognition of Aboriginal Customary Laws (1986) ALRC 31, Law Commission, Australia

Articles

- 1.
2. Nugee "The feudal system and the Land Registration Acts 2002" (2008) 124 LQR 586
3. Secker "The Doctrine of Tenure in Australia Post-Mabo: Replacing the Feudal Tenure Fiction with Mere Radical Title Fiction, Parts 1 & 2" (2006) 13 APLJ No 2 107 & 140
4. Vance "The Quest for Tenure in the United States" (1924) 33 Yale LJ 248

Case law

1. Aurelio Cal, et al. v Attorney General of Belize (Claim 121/2007) (18 October 2007) (Belize)
2. Commonwealth of Australia v Yarmirr (2001) 208 CLR 1)
3. Fejo v Northern Territory (1998) 195 CLR 96
4. Kerajaan Negeri Selango v Sagong bin Tasi [2005] AILR 71 (Malaysia)
5. Mabo v Queensland (No. 2) (1992) 175 CLR 1
6. Manu Kapua v Para Haimona [1913] AC 761
7. Members of the Yorta Yorta Aboriginal Community v Victoria [2002] HCA 58,
8. SCMLLA Properties Limited v Gesso properties (B.V.I.) Limited [1995] BCC 793
9. Veale v Brown (1866) 1 CA 152
10. Webb v Ireland [1988] IR 353
11. Western Australia v Ward (2002) 213 CLR 1
12. Wik Peoples v Queensland (1996) 187 CLR 1,

Statutes

1. Abolition of Feudal Tenure etc. (Scotland) Act 2000 (ASP 5)
2. Australian Courts Act 1828 (c. 33)
3. Administration of Estates Act (Northern Ireland) 1955 (c. 24)
4. Administration of Estates Act 1925 (15 & 16 Geo. 5) (c. 23)
5. Birkenhead legislation 1925
6. Companies (Northern Ireland) Order 1986 (No. 1032 N.I. 6)
7. Companies Act 1985 (c. 6)

8. Crown Lands Act 1702 (1 Ann.) (c.1)
9. Insolvency (Northern Ireland) Order 1989 (No. 2/405 N.I. 19)
10. Land Registration Act (Northern Ireland) 1970 (c. 18)
11. Land Tenure Reform (Scotland) Act 1974 (c. 38)
12. Landlord and Tenant Law Amendment (Ireland) Act 1860 (23 & 24 Vict.) (c. 154) (Deasy's Act)
13. Law of Property Act 1925 (16 & 17 Geo. 5) (c. 20)
14. Property Law Act 2007 (No. 91) (New Zealand)
15. State Property Act 1954 (No. 51) (New Zealand)
16. Statutes of Westminster the Third 1289-1290 (*Quia Emptores*) (18 Edw. I) (cc. 1,2,3)
17. Succession Act 1965 (No. 27) (Ireland)
18. Tenures Abolition Act (Ireland) 1662 (14 & 15 Chas. 2 sess. 4) (c. 19)
19. Tenures Abolition Act 1660 (12 Chas. 2) (c. 24)

- **Estates in land (see page 10 above)**

Books

1. Fox, *Conceptualising Home: Theories, Laws and Policies* (2006) Hart Publishing
2. Harvey, B, *Settlements of Land* (1973) London: Sweet & Maxwell Modern Legal Studies Series.
3. Mee, *The Property Rights of Cohabitees* (1999) Hart Publishing;
4. Megarry and Wade, *The Law of Real Property*, 7th ed. by Harpum, Bridge and Dixon (2008) Sweet and Maxwell Ltd. para 6-014 & appendix paras A032 – A037, para. 17-075 – 17-084
5. Pearce and Mee, *Land Law*, 2nd Edition (2000) Round Hall Sweet and Maxwell
6. Wallace, *Land Registry Practice in Northern Ireland* 2nd ed. (1987) SLS Legal Publications (Northern Ireland) pp 16 – 24
7. Wylie and Woods, *Irish Conveyancing Law*, 3rd ed. (2005) Tottel Publishing, 16.48 – 16.59
8. Wylie, *Irish Land Law*, 3rd ed. (1997) Butterworths
9. Wylie, *Irish Landlord and Tenant Law*, 2nd ed. (1998) Butterworths, paras 4.21 & 4.39, 2.23, 4.04

Misc.

1. European Convention on Human Rights Rome (1950)
2. Law Society of Northern Ireland's *Vendor's Replies to Pre-Contract Enquiries* (2008 edition)

Reports and Consultations from other jurisdictions

1. *Cohabitation: the Financial Consequences of Relationship Breakdown* (2007) Law Com No. 307 (Cm 7182), Law Commission of England and Wales
2. *Overreaching: Beneficiaries in Occupation* (1989) Law Com No. 188, Law Commission of England and Wales

3. Property Law – Rights of Reverter (1978) Law Com No. 111 (Cmnd 8410), Law Commission of England and Wales
4. Report No. 10 Matrimonial Property (LRAC No. 8, 2000), Law Reform Advisory Committee, Northern Ireland
5. Report on the Law of Landlord and Tenant (LRC 85-2007), Law Commission of England and Wales

Articles

1. Bright, “Leases, Exclusive Possession and Estates” (2000) 116 LQR 7;
2. Bright, “Uncertainty in Leases – Is it a Vice?” (1993) LS 38;
3. Dixon, “The Non-proprietary Lease: The Rise of the Feudal Phoenix” [2000] CLJ 25;
4. Harpum “Overreaching Trustees’ Powers and the Reform of the 1925 Legislation” [1990] CLJ 277 at 328
5. Hinojosa, “On Property Licences, Horses and Carts: Revisiting Bruton v London & Quadrant Housing Trust” [2005] Conv 114;
6. Pawlowski, “Occupational Rights in Leasehold Law: Time for Rationalisation” [2002] Conv 550;
7. Routle, “Tenancies and Estoppel – After Bruton v London & Quadrant Housing Trust” (2000) MLR 424
8. Sparkes, “Certainty of Leasehold Terms” (1993) 109 LQR 93
9. Wylie “An Irish Perspective on Protecting a Non-owning Spouse in the Home” in Meisel and Cook, (eds.) Property and Protection: Essays in Honour of Brian W. Harvey (2000) Hart Publishing Chapter 6;

Case law

1. Bruton v London & Quadrant Housing Trust [2000] 1 AC 406
2. City of London Building Society v Flegg [1988] AC 54
3. Cottage Holiday Associates Ltd. v Customs and Excise Commissioners [1983] QB 735;
4. J A Pye (Oxford) Ltd. v United Kingdom (Application No 44302/02), 15 November 2007, ECHR Grand Chamber
5. Kay & Anor. v (1) London Borough of Lambeth (2) Leeds City Council v Price & Others [2006] 2 AC 465),
6. London Borough of Harrow v Qazi [2003] UKHL 43;
7. McCann v United Kingdom (Application No. 19009/04, 13 May 2008)
8. Prudential Assurance Co Ltd. v London Residuary Body [1992] 2 AC 386;
9. Re O’Sullivan’s Application (RI High Court 24 March 1983);
10. State Bank of India v Sood [1997] Ch 276
11. Ulster Bank Ltd. v Shanks [1982] NI 143
12. Walsh v Wightman [1927] NI 1
13. Williams & Glyn’s Bank Ltd. v Boland [1981] AC 487

Statutes

1. Abolition of Feudal Tenure etc. (Scotland) Act 2000 (ASP 5)
2. Birkenhead legislation 1925
3. Conveyancing Act 1881 (44 & 45 Vict) (c. 41)
4. Conveyancing Act 1911 (1 & 2 Geo. 5) (c. 37)
5. Entail (Scotland) Act 1914 (4 & 5 Geo. 5) (c. 43)
6. Family Home Protection Act 1976 (No. 27) (Ireland)
7. Family Homes and Domestic Violence (Northern Ireland) Order 1998 (No. 1071 N.I. 6)
8. Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 (No. 1984 N.I. 14)
9. Fines and Recoveries (Ireland) Act 1834 (4 & 5 Will. 4) (c. 92)
10. Ground Rents Act (Northern Ireland) 2001 (c. 5)
11. Land Registration Act (Northern Ireland) Act 1970 (c. 18)
12. Land Registration Act 1925 (15 & 16 Geo. 5) (c. 21)
13. Land Registration Act 2002 (c. 9)
14. Landlord and Tenant Law Amendment (Ireland) Act 1860 (23 & 24 Vict.) (c. 154) (Deasy's Act)
15. Law of Property (Amendment) Act 1926 (16 & 17 Geo. 5) (c. 11)
16. Law of Property Act 1925 (16 & 1 Geo. 5) (c. 20)
17. Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 (c. 7)
18. Leases for Schools (Ireland) Act 1881 (44 & 45 Vict.) (c. 65)
19. Leasing Powers Amendment Act for Religious Worship (Ireland) Act 1875 (38 & 39 Vict.) (c. 11)
20. Leasing Powers for Religious Worship (Ireland) Act 1855 (18 & 19 Vict.) (c. 39)
21. Literary and Scientific Institutions Act 1854 (17 & 18 Vict.) (c. 112)
22. Perpetuities Act (Northern Ireland) 1966 (c. 2)
23. Places of Worship Sites Act 1873 (36 & 37 Vict.) (c. 50)
24. Property (Northern Ireland) Order 1978 (No. 459 N.I. 4)
25. Property (Northern Ireland) Order 1997 (No. 1179 N.I. 8)
26. Property Law Act 1952 (No. 51) (New Zealand)
27. Property Law Act 2007 (No. 91) (New Zealand)
28. Renewable Leasehold Conversion Act 1849 (12 & 13 Vict.) (c. 105)
29. Residential Tenancies Act 2004 (No. 27) (Ireland)
30. Reverter of Sites Act 1987 (c. 15)
31. School Sites (Ireland) Act 1810 (50 Geo. 3) (c. 33)
32. School Sites Act (Northern Ireland) 1928 (18 & 19 Geo. 5) (c. 8)
33. School Sites Act 1841 (4 & 5 Vict.) (c. 38)
34. Settled Land Act 1882 (c. 38)
35. Settled Land Acts 1882 - 1890
36. Statute of Uses (Ireland) 1634 (10 Chas. 1 sess. 2) (c. 1)
37. Statute of Westminster the Second 1285 (*De Donis Conditionalibus*) (13 Edw. I) (c. 1)

Previous Consultations/Reports

There have been three previous reports in relation to the reform of land law in Northern Ireland. They are as follows:-

1. Registration of Title to Land in Northern Ireland, Report of the Committee on the Registration of Title to Land (1967), Belfast, Her Majesty's Stationery Office ("the Lowry Report").

Background

This report dealt with the law and practice relating to the registration of title to land in Northern Ireland. A committee of experts held numerous meetings and took oral evidence. It made recommendations dealing with changes in the existing system of land registration under the Land Registration of Title (Ireland) Act 1891, the extension of the compulsory registration under the existing system and other steps to facilitate land transfer.

Outcome

The Lowry Report's recommendations led to the passing of the Land Registration Act (Northern Ireland) 1970 (c. 18).

2. Survey of the Land Law of Northern Ireland (1971) by a working party of the Faculty of Law, QUB, a report to the Director of Law Reform for Northern Ireland, Belfast, Her Majesty's Stationery Office ("the Survey").

Background

A working party was established in 1967 which surveyed the substantive land law of Northern Ireland. It held meetings, considered research and heard representations as well as distributing to a large number of associations and individuals copies of draft proposals, draft clauses of Bills and questionnaires. The Survey considered for example, legal estates and tenure, settlements, contracts and conveyances, mortgages, land obligations, co-ownership of land and perpetuities. The main recommendations included a reduction in the number of legal estates, abolition of feudal tenure, prohibition of future fee farm grants, reduction in the variety of permitted rentcharges, conversion of perpetually renewable freehold leases into terms of years.

Outcome

The Property (Northern Ireland) Order 1978 enacted a limited number of the Survey's recommendations in relation to dealings with impediments to the enjoyment of land (Part II: Arts 3 – 8), and issues concerning conveyances and covenants (Part II: Arts 10 – 12).

3. Final Report of the Land Law Working Group (1990), Office of Law Reform, Department of Finance and personnel, Belfast, Her Majesty's Stationery Office ("the Final Report")

Background

The working group was appointed in 1980 and published discussions and held consultations. It made final recommendations on the subject of ground rents and other periodic payments and also looked at the general law of property, including e.g. estates, co-ownership, settlements, mortgages, interest in the land of another, powers of the Lands Tribunal in relation to restrictions affecting land, perpetuities and recommendations concerning leases.

Outcome

The Property (Northern Ireland) Order 1997 enacted provisions in relation to ground rents and certain other rents (Part II: Arts 5 – 27; now repealed by Schedule 3 of the Ground Rents Act (Northern Ireland) 2001 (chapter 5)) the running of freehold covenants, provisions regarding leases, leases for lives and perpetually renewable leases. It also prohibited the further creation of fee farm grants. There were also miscellaneous provisions regarding co-ownership and compulsory acquisition.

4. The Law Reform Advisory Committee:

- a. Discussion Paper, Deeds and Escrows No. 7

Background

This discussion paper was circulated to interested parties including members of the legal professions, other key stakeholders and representatives of s. 75 groups. The paper suggested reforms in relation to deeds, escrows and proposed abolition of the rule in Pigot's case.

Outcome

The discussions in this paper were continued and finalised in the Report on Deeds and Escrows in 2002 (see below).

- b. Report on Deeds and Escrows, No. 10 (2002)

Background

This report suggested specific provisions in relation to bodies corporate and deeds executed by attorneys as well as the matters considered in the discussion paper above. It was circulated to the same parties as the discussion paper.

Outcome

The provisions set out in the discussion paper and report were embodied in legislation by the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 (No. 1452 N.I.7) Part II: Arts 3 – 8).

- c. Formalities for contracts relation to the sale of land or interest in land and the rule in *Bain v Fothergill*

Background

This report, circulated as mentioned above, made detailed proposals in relation to contracts for the sale of land. It also recommended abolition of the rule in the 19th century case of *Bain v Fothergill*.

Outcome

The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 (No. 1452 N.I.7), Article 9 abolished the rule in *Bain v Fothergill*.

CONSIDERATION OF IMPACT

Each of the elements that make up the PLLR was examined in the light of information obtained to assess whether or not there was potential for an adverse/positive impact on any of the nine equality categories (see Appendix) and to ascertain if action could be taken to promote good relations.

It is worth noting at this stage that the options proposed within the Consultation Paper are defined at a high level and their impact would be very difficult to assess. Options would only be sufficiently defined at the implementation stage to assess potential impacts. However the following options have been identified as possible adverse impacts.

- **Feudal Tenure**

Abolition of 'Feudal Tenure'⁶

The abolition of feudal tenure is a conceptual reform proposal which will have no practical impact on landowners. However, it may be that members of the Unionist community may perceive the abolition of this ancient form of land holding as having an adverse impact on Crown sovereignty. The Commission is aware of the potential for misconstruing this proposal. We therefore wish to emphasise that if feudal tenure was to be abolished there would be no implications for the constitutional framework or the political structures/arrangements for Northern Ireland and no constitutional relationships would be altered. In Scotland, the concept of feudal tenure was successfully abolished under the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (ASP 5) with no adverse impact on Crown sovereignty. Indeed, the 2000 Act contains a specific saving for Crown prerogative rights, such as those relating to ownerless or unclaimed property (section 58). Also preserved are rights in respect of the seabed and foreshore (section 60) (CP para. 2.35- 2.36). If this proposal is adopted in Northern Ireland, similar provisions would be applied here to preserve Crown prerogative and other rights (CP para 2.56(2) & (3)).

In conclusion, no adverse impact is envisaged arising from the above proposal.

- **Estates in land**

'Overreaching' of equitable interests and the reform of the law of cohabitants⁷

Available qualitative data and research from previous reports (1971 Survey, 1990 Final Report and the England and Wales Law Commission's 1989 report "*Overreaching: beneficiaries in occupation*" Law Com 188) have resulted in the four options set out below. Two of the four options relate to the overreaching of equitable interests (see 3 & 4 below).

⁶ See options 2 & 3 under the heading 'Feudal Tenure' on p. 8

⁷ See options 3 & 4 under the heading 'Estates' on p. 8

1. To give a purchaser a clean title free of equitable interests as long as the property is sold by at least two trustees and the purchaser had made proper enquires as to any occupiers;
2. To increase protection for occupiers and provide that their interests should not be overreached unless they consented to the sale;
3. To extend the principle of overreaching to sales by a single legal owner and to require an occupier to register his or her interest in order to protect it;
4. To couple an extended principle of overreaching i.e. no. 3 above, with reform of the law of cohabitees.

Regarding options 3 & 4, there may be a potential adverse impact on non-owning cohabitants (whether married or unmarried or whether in a civil partnership or not) in relation to certain proposals regarding “overreaching” of equitable interests i.e. where a cohabitee holds an interest in land other than full legal ownership, that interest will be transferred to the proceeds of sale of the land.

For example, where two elderly sisters live in the same house, and one sister is the legal owner, the other will have an equitable interest. Currently under options 3 and 4 if the legal owner wishes to sell the property the equitable owner will have no right to participate in such a sale unless she protects her interest by registration either in the Land Registry or the Registry of Deeds as appropriate. Her interest therefore ceases to attach to the land itself and attaches instead to the capital money paid to the conveying legal owner. This could involve a considerable loss to the holder of such an equitable interest especially when the property is her home, involving psychological, social and economic connections.⁸

Overreaching creates risks for holders of equitable interests in that “*often the person entitled to such interest will be unaware of his or her claim. If the person entitled is unaware, it will not be protected by registration and so will remain at risk of overreaching. On such overreaching, the legal owner receiving any capital money from the legal title...may dissipate [spend it] before the equitable owner asserts any claim.*”⁹ Moreover, a requirement to register claims may cause problems for some people because registration itself might be considered a ‘hostile’ act against a non-owning spouse or partner.¹⁰

The benefits to be gained from adopting either of these two options lie in the simplification of conveyancing practice in that the enquiries to be made by purchaser’s solicitors may be limited and such solicitors would no longer need to worry about “hidden” equitable interests.¹¹ This would simplify the process for both purchaser and vendor of the property. However, the Commission is alert to the potential disbenefits of these options and wishes to consider them carefully.

⁸ See CP para. 3.41

⁹ See CP para. 3.42

¹⁰ See CP para. 3.43

¹¹ See CP para. 3.40

Quantitative data from the Northern Ireland Research and Statistics Agency (NISRA) indicates that over a million people¹² live in owner occupied accommodation. The 2001 census provides information in relation to population numbers and various demographics, but while it supplies general information as to household composition by tenure and occupancy, it does not offer detailed information as to how property is owned. Therefore, for the purposes of analysing the impact of these options, the available statistics are extremely limited as they do not indicate how property is held i.e. by two people jointly or by a single legal owner. In light of this, those potentially affected cannot be identified from the statistics presently available.

MEASURES TO MITIGATE AND ALTERNATIVE POLICIES (PRELIMINARY RECOMMENDATIONS)

As noted above no mitigation is required in relation to the 'conceptual' feudal tenure proposal as no adverse impact is envisaged.

In relation to overreaching of equitable interests and the reform of the law of cohabitees, having considered available data and research and explored the potential adverse impacts which might arise out of the adoption of options 3 & 4 set out above, the Commission recognises that it is necessary to balance these with the public interest in simplifying the conveyancing process for vendor and purchaser. A balance needs to be struck between the needs of these parties and the rights of the family or other occupiers. While we have taken such data as is available into consideration we welcome evidence and information from consultees for further consideration.

The policy options will be regularly monitored to ensure that no further adverse impact occurs.

¹² Figures taken from 2001 Census, as supplied by NISRA.

FORMAL CONSULTATION

The Commission wishes to consult as widely as possible on the findings included in this EQIA, together with the preliminary recommendations offered above. The following actions are proposed:

- This report will be issued to all consultees listed in our Equality Scheme including representatives of particular interest groups and to any members of the public on request.
- Prominent advertisements will be placed in the Belfast Telegraph, Irish News and Newsletter newspapers, inviting the public to comment on this matter in accordance with normal practice.
- A copy will be posted on the Commission's website.
- Individual consultation meetings will be arranged with staff on request and with representatives of particular interest groups if requested.
- The Commission will put in place systems to ensure that the scheme can be made available in accessible formats on request.

The arrangements for consultation are being co-ordinated by the Equality Officer to whom all enquiries should be made.

Deadline for comments is 12 Noon on Thursday 24th December 2009

DECISION BY THE PUBLIC AUTHORITY

Following the formal consultation period and consideration of the findings from the consultation, the Commission will reach a decision in terms of the EQIA process and will ensure that such decisions are implemented through any necessary modifications to the PLLR.

PUBLICATION OF RESULTS OF EQUALITY IMPACT ASSESSMENT

The outcomes of this EQIA will be published in the press and will also be posted on the Commission's website. It will be made available in different formats on request where appropriate.

MONITORING FOR ADVERSE IMPACT IN THE FUTURE AND PUBLICATION OF THE RESULTS OF SUCH MONITORING

The Commission will establish an appropriate system to monitor the impact of the policy in the future on relevant groups. This will be reviewed on a regular basis. If this monitoring and evaluation shows that the revised policy results in greater adverse impact than predicted, or if opportunities arise which would allow for greater equality of opportunity to be promoted, the Commission will revise the policy accordingly.

APPENDIX:

Examples of Section 75 Groups by Dimension

Category	Main Groups
Religious belief	Protestants; Catholics; Hindu; Jewish; Muslim; Sikh; Buddhist; other religion; people of no religious belief
Political opinion	Unionists generally; Nationalists generally; members/supporters of any political party; other.
Racial Group	Chinese; Irish Travellers; Indians; Pakistanis; Bangladeshis; Black Africans; Black Caribbean; White; Mixed Ethnic Group; any other ethnic group; nationality.
Gender	Men (including boys); women (including girls); trans-gendered people, transsexual people
Marital status	Married people; unmarried people; divorced or separated people; widowed people
Age	For most purposes, the main categories are: children under 18, people aged between 18-65, and people over 65. However, the definition of age groups will need to be sensitive to the policy under consideration.
"Persons with a disability"	Disability is defined as: A physical or mental impairment, which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities as defined in Sections 1 and 2 and Schedules 1 and 2 of the Disability Discrimination Act 1995
"Persons with dependants"	Persons with personal responsibility for the care of a child; persons with personal responsibility for the care of a person with an incapacitating disability; persons with personal responsibility for the care of a dependant elderly person
Sexual orientation	Heterosexuals; bi-sexuals; gays; lesbians

(This list may be amended or added to as appropriate.)