



promoting law reform in Northern Ireland

Northern Ireland Law Commission

Regulatory Impact Assessment (RIA) Screening Analysis Form

Proposals for land law reform in Northern Ireland

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REGULATORY IMPACT ASSESSMENT (RIA) SCREENING ANALYSIS FORM

1 Policy to be screened

1.1 Title

Proposals for Land Law Reform in Northern Ireland.

1.2 Aims of the policy to be screened

Aims: To reform, modernise and clarify existing land law in Northern Ireland.

Objectives: To make recommendations to DFP to reform, modernise and simplify existing land law, both common law principles and statutes that relate to land law.

Context: This policy is one of the policies/projects contained within the Northern Ireland Law Commission's (NILC) First programme of reform (2009 – 2011). The policy is being taken forward by the Land Law Project team, within the Northern Ireland Law Commission.

There are no EU obligations specifically relating to land law (see Treaty of Amsterdam 1997, Article 295 - "This Treaty shall in no way prejudice the rules in Member States governing the system of property ownership.")

Desired outcomes: To create a legal framework of land law for the 21st century that is responsive to legal obligations and yet accommodates personal and commercial requirements, needs and circumstances. This reform of land law will provide a firm foundation for the streamlining and efficiency of the whole conveyancing process, potentially benefiting all who deal with property. The proposed clarification and simplification of the law should result in significant economic benefits. Part of the process of simplification would be the repeal of numerous ancient statutes and consolidation into one Act of all the legislative provisions which underpin land ownership and transactions. This renders the law much more accessible to those who want to understand it and those who need to use it. The more complicated the law, the more time it takes professional advisers to carry out transactions and to explain to clients what is being done. That complexity also means that client understanding and satisfaction tends to be low. Clarification and simplification are also necessary groundwork for streamlining the conveyancing process (the buying and selling of land, mortgaging it as security, creating minor interests like rights of way and so on). That in turn promotes computerisation of the registration of title system and development of a paperless, electronic system of conveyancing. Such a system would be much speedier and cheaper than the current system. It would bring substantial benefits to land owners, lending institutions, registration authorities and professional advisers.

Clarification and simplification should also result in significant social benefits. It should render the law more understandable by landowners and transactions more easily explainable by professional advisers. Removal of archaic concepts and language stemming from social and economic conditions which have not existed for centuries should make the law conform with the realities of ownership of land in the 21st century. Reform of the law will also cure defects in the current law which prevent or inhibit landowners from legitimate exploitation of the land. It would also remove aspects of the law which operate in an undesirable way.

1.3 On whom will the policy impact? Please specify

The policy will impact on the general population i.e. anyone who holds or deals with land and specifically on service providers (e.g. Mortgage lenders; Solicitors; Land and Property Services; other property professionals e.g. surveyors, estates agents; Academics, Barristers and the Judiciary). Property transactions occur across all the communities in Northern Ireland but are perhaps less prevalent in the lower income unemployed groups.

Q5 *Freehold estates – fee simple in possession.* This will clarify and simplify the law in relation to freehold estates and will have a positive impact on the conveyancing process, thus benefiting all users of the system.

Q6 *Freehold estates – modified fees.* This will clarify and simplify the law in relation to modified fees. Charities, businesses and community bodies could possibly be affected by options (1)² (i.e. treating all modified fees as fees simple absolute conferring legal title on the holder, subject to the modification attaching to the fee simple in question) and (4)³ (i.e. the modification attaching to the fee simple will be added to the list of impediments contained in s. 3 of the Property (NI) Order 1978, thus enabling holders of such a modification to apply to the Lands Tribunal to have it modified or extinguished) of this proposal because a combination of these options could affect the original grantors of any modified fee in that they may lose rights they originally had (e.g. rights of reverter, rights of entry, rights of re-entry or powers of revocation). However they could possibly obtain compensation from the Lands Tribunal. Conversely, this proposal could have a positive impact where a charity, business or community body was the holder of a modified fee.

Sources indicate that such modified fees are extremely rare in general terms rendering any impact negligible. Moreover, the effect on charities, businesses and community bodies would be of even less effect. In relation to the administrative costs associated with the adoption of option 4 above, the impact on the Lands Tribunal of increased applications in respect of this is likely to be low as systems are already in place. Such costs would also be impossible to quantify prior to implementation of the proposal.

Q7 *Freehold estates - A Minor's interest.* This proposal will clarify and simplify the law in relation to how minors hold and deal with land. As such, it will have a positive impact on the whole conveyancing process.

Q8 & Q9 *Freehold estates – Fee tail.* These proposals will get rid of an archaic concept and will have a positive impact on the whole conveyancing process.

Chapter 4: Easements and other rights over land

Q21 – Q28 *Reform – Easements and profits – Prescription.* These proposals will clarify and simplify the law in relation to the doctrine of prescription and as such will have a positive impact on the whole conveyancing process.

Q29 *Reform - Easements and profits a prendre – Implied rights.* This proposal will cure defects and undesirable aspects of the current system. A new statutory scheme is proposed to replace the rule in *Wheeldon v Burrows*, which states that on a sale of part of the land, the purchaser may acquire an easement over the portion retained by the vendor. The new statutory scheme will deal with rights and obligations continuing or accruing when land is divided into parcels for sale. This will have a positive impact on all holders of land by clarifying the law relating to acquisition of easements and profits a prendre by implication. (also see Q92 below).

However, although this proposal has an indirect impact, a proportionate response may indicate that no full or partial RIA is required. The impact on the conveyancing system on setting up such a statutory scheme is likely to be low.

Q30 & Q31 *Reform - Easements and profits a prendre – implied rights.* This proposal will cure defects and undesirable aspects of the current system. A statutory provision is proposed so as to replace s. 6 of the Conveyancing Act 1881. This will ensure that only existing rights pass with a conveyance of land and no new interest or right is created nor is any

² See NILC Land Law Consultation Paper 3.24(1)

³ See NILC Land Law Consultation Paper 3.24(4)

Chapter 6: Settlements and Trusts

Q43 *Reform - Unitary Trusts of land.* This proposal gets rid of archaic concepts and clarifies and simplifies the law on settlements and trusts. It proposes a new statutory scheme for "trusts of land" which covers all trusts relating to land, including implied and constructive trusts, bare trusts and trusts for sale. In other words, it consolidates existing trusts in relation to land and brings it in line with general trust law. This will have a positive impact on beneficiaries of land under a trust and trustees which will affect charities, businesses and community bodies.

However, as this proposal represents a consolidation exercise it will involve negligible costs. Savings may be made in that this type of Trust may be simpler to administer. However, such savings would be impossible to quantify prior to implementation of the proposal.

Chapter 7: Concurrent ownership of land

Q49 *Reform - Severance of a joint tenancy – a notice in writing.* This proposal will cure defects and undesirable aspects of the current system. This will have a positive impact as the parties would know when severance proposed. The service and registration of a simple written notice would attract negligible costs in respect of postal charges and registration fees. Such costs would be impossible to quantify prior to implementation of the proposal as the precise nature of the notice is unknown.

Q50 *Reform - Unilateral severance of a joint tenancy.* See above

Q51 *Reform – Partition.* This proposal will clarify and simplify the law in relation to Partition. It replaces the Partition Acts with a broad discretion given to the courts to make the appropriate order. This is a positive impact with social and administrative benefits which would build on the system already in place.

Q52 *Commorientes.* This proposal will clarify and simplify the law in relation to Commorientes. This is a positive impact with social and administrative benefits.

Chapter 8: Mortgages

Q58 *Reform – Creation of Mortgages.* This proposal will clarify and simplify the law in relation to Mortgages. This is a positive impact with social and administrative benefits which would build on the system already in place.

Q60 *Reform – Mortgagee remedies.* This proposal will cure defects and undesirable aspects of the current system. This is a positive impact with social and administrative benefits which would build on the system already in place.

Q62 *Reform – Mortgagee remedies – taking possession.* This proposal will cure defects and undesirable aspects of the current system. This is a positive impact with social and administrative benefits which would build on the system already in place.

Q64 & Q65 *Reform – Mortgagee remedies – Foreclosure.* These proposals will get rid of an archaic concept.

Q66 *Mortgagees remedies – sale.* This proposal will clarify and simplify the law and cure defects and undesirable aspects of the current system. It Mortgagee obtaining the best price possible when exercising its power of sale (without obtaining a court order). Positive impact on all Mortgagors. This proposal extends to all mortgagees the duty to obtain the best price possible which endorses the common law position and which was already imposed on Building Societies by statute.

provisions has not been detailed, any costs or benefits flowing from them cannot be ascertained at this stage.

Q80 *Title to be deduced – length of title.* This proposal will clarify and simplify the law and cure defects and undesirable aspects of the current system. It is proposed that the period for title to be deduced by a vendor under an open contract should be reduced from 40 to 15 years. This will have a positive impact on prospective vendors, in that the investigation of title by conveyancers will be speeded up and this will have a 'knock-on' effect on the efficiency of the whole conveyancing process and may thereby involve a saving in costs.

Q81 *Title to be deduced – length of title – the presumed truth of statement in deeds.* This proposal will clarify and simplify the law and cure defects and undesirable aspects of the current system. This proposal reduces the 20 year period for presumed truth of statements in title deeds to 15 years; in line with the period for title deduction at Q80 above. For impact see comments in relation to Q80 above.

Q82 *Title to be deduced – length of title.* This proposal will clarify and simplify the law and cure defects and undesirable aspects of the current system. It will thus involve a positive impact on all users of the conveyancing system.

Q83 *Title to be deduced – leasehold titles.* This proposal will clarify and simplify the law and cure defects and undesirable aspects of the current system. It will thus involve a positive impact on all users of the conveyancing system.

Q84 *Title to be deduced – Rule in Patman v Harland.* It is proposed that the rule in *Patman v Harland* be abolished. This proposal will clarify and simplify the law and cure defects and undesirable aspects of the current system. The rule states that where a grantee of a leasehold interest is fixed with constructive notice of any adverse interest affecting the superior title even though the grantee is prohibited from calling for deduction of that title. This rule ran counter to the statutory provisions and caused confusion. This would have a positive impact on prospective grantees of a leasehold interest as it will provide one clear statutory provision.

It is of limited application and would therefore have minimal affect on businesses, charities or community bodies.

Q85 *Title to be deduced – Other conditions of title.* This proposal will clarify and simplify the law and cure defects and undesirable aspects of the current system. It will thus involve a positive impact on all users of the conveyancing system.

Q86 *Deeds and their operation.* This proposal will get rid of archaic concepts. It is proposed that ancient methods of conveyancing such as 'feoffment with livery of seisen' be removed and the modern deed would become the sole means of conveying land.

This is a conceptual reform which has little practical implication. However, any impact would be a positive one. It would modernise conveyancing but as it has not been used in practise for many years and therefore this will have no cost implications.

Q87 – Q88 *Deeds and their operation.* These proposals will get rid of an archaic concept. It will thus involve a positive impact on all users of the conveyancing system.

Q89 *Deeds and their operation – Words of limitation.* This proposal will clarify and simplify the law and cure defects and undesirable aspects of the current system. It is proposed that the need to include words of limitation (to indicate the freehold estate being conveyed) in deeds relating to unregistered land should be abolished. This is in line with what has been the case for a long time with transfers of registered land. This will have a positive impact on all holders of unregistered land in that failure to include such words of limitation will not cause the conveyance to be defective.

3 RIA Recommendation

3.1 Full RIA procedures should be carried out on policies considered to have **significant costs or savings on business, charities and the social economy sector**. Please fill in the following grid in relation to the policy.

Prioritisation Factors	Significant Impact	Moderate Impact	Low Impact
Social Need			yes
Effect on people's daily lives			yes
Effect on economic, social and human rights			yes
Strategic significance			yes
Financial significance			yes

Please give details:

3.2 In view of the considerations in Section 1 and 2 do you consider that this policy should be subject to a full RIA? Please give reasons for your considerations. If you are unsure, please consult with affected groups and revisit the screening analysis accordingly.

We do not think that the land law reform proposals should be subject to an RIA. There is no evidence to suggest that businesses, charities and community bodies will be affected more than any other holder of land; the policy will have a low impact on the prioritisation factors listed in section 3.

3.1 If an RIA is considered necessary please comment on the priority and timing in light of the factors in table 3.1.

Not applicable

3.2 If an RIA is considered necessary is any data required to carry it out/ensure effective monitoring?

Not applicable

4 Endorsement

I can confirm that the proposed policy has been screened and an RIA will not be carried out.

Signed

Agency/Division:

Date:

Andreea Goldring
CEO NI Law Commission
23/9/09

PLEASE FORWARD A COPY OF THE COMPLETED FORM TO:

~~NI ODFP EQUALITY UNIT~~ **NI LC EQUALITY OFFICER**

QUERIES TO:

Ext.

Email:

ANNEX A

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. Conventions and Constitutional Documents
3. Documents of the Law Society of Northern Ireland
4. Final Report of the Land Law Working Group (1990), Office of Law Reform, Department of Finance and personnel, Belfast, Her Majesty's Stationary Office
5. Internet
6. Land and Conveyancing Law Reform Bill 2006, Republic of Ireland
7. Land Registers of Northern Ireland
8. Megarry and Wade, The Law of Real Property, 7th ed. by Harpum, Bridge and Dixon (2008) Sweet and Maxwell Ltd.
9. Moir, Land Registration Manual (2nd ed.) 2005, Belfast, The Law Society of Northern Ireland
10. 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
11. Pearce and Mee, Land Law, 2nd Edition (2000) Round Hall Sweet and Maxwell
12. Registration of Title to land in Northern Ireland, Report of the Committee on the Registration of Title to Land (1967), Belfast, Her Majesty's Stationary Office.
13. Report on the Reform and Modernisation of Land Law and Conveyancing Law, LRC 74-2005, Law Reform Commission, Republic of Ireland
14. 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)
15. 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 Stationary Office,
16. Wylie and Woods, Irish Conveyancing Law, 3rd ed. (2005) Tottel Publishing.
17. Wylie, Irish Land Law, 3rd ed. (1997) Butterworths.
18. 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

Stakeholders

1. Academics from Queen's University, Belfast (QUB) & University of Ulster, Jordanstown (UUJ)
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

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. Devereux and Dorsett "Towards a Reconsideration of the Doctrine of Estates and Tenure" (1996) 4 APLJ No 1
2. 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
3. Hepburn "Disinterested Truth: Legitimation of the Doctrine of Tenure Post-Mabo" [2005] MULR 1
4. Nugee "The feudal system and the Land Registration Acts 2002" (2008) 124 LQR 586
5. 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
6. Vance "The Quest for Tenure in the United States" (1924) 33 Yale LJ 248

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)

Articles

1. Clarke "The Enactment of Commonhold – Problems, Principles and Perspectives" [2002] Conv 349
2. Fetherstonhaugh "Slow on the Uptake" (2005) 35 EG 104
3. Harpum, "Easements and Centre Point: Old Problems Resolved in a Novel Setting" (1977) 41 Conv 415
4. Harpum, "Long v Gowlett: A Strong Fortress" [1979] Conv 113
5. Harvey, "Irish Rights of Residence – The Anatomy of a Hermaphrodite" (1970) 21 NILQ 389
6. Jack "Commonhold: the Fatal Flaw" (2003) NLJ 1907
7. Roberts "Two Cheers for Commonhold" (2002) NLJ 338
8. Smith, "Centre Point: Faulty Towers with Shaky Foundations" [1978] Conv 449
9. Tee "Metamorphoses and Section 62 of the Law of Property Act 1925" [1998] Conv 115
10. Wong "Potential Pitfalls in the Commonhold Community Statement and the Corporate Mechanisms of the Commonhold Association" [2006] Conv 4

Case law

1. Goldberg v Edwards [1950] Ch 247
2. Graham v Philcox [1984] QB 747
3. Jones v Jones [2001] NI 244
4. Listowel Livestock Mart Ltd. v William Bird & Sons Ltd. [2007] IEHC 360
5. London & Blenheim Estates Ltd. v Ladbrooke Retail Parks Ltd. [1992] 1 WLR 1278; Batchelor v Marlow [2003] 1 WLR 764; Moncrieff v Jamieson [2007] 1 WLR 2620
6. Maurice E Taylor (Merchants) Ltd. v Commissioner of Valuation [1981] NI 236
7. McCall and Keenan as Personal Representatives of Eileen McClean v HMRC [2009] NICA 12
8. National Bank v Keegan [1931] IR 344
9. Re Walker's Application for Judicial Review [1999] NI 84
10. Sovmots Investments Ltd. v Secretary of State for the Environment [1979] AC 144
11. Tulk v Moxhay (1848) 2 Ph 774
12. Wheeldon v Burrows (1879) 12 ChD 31
13. Wright v Macadam [1949] 2 KB 744

Statutes

1. Access to Neighbouring Land Act 1992 (c. 23)
2. Commonhold and Leasehold Reform Act 2002 (c. 15)
3. Commonhold and Leasehold Reform Act 2002 (Commencement No. 4) Order 2004 (SI/1832)
4. Conveyancing Act 1881 (44 & 45 Vict.) (c. 41)
5. Irish Church Act 1869 (32 & 33 Vict.) (c. 42)
6. Land Purchase Acts 1869 - 1935
7. Land Registration Act (Northern Ireland) 1970 (c.18)
8. Law of Property Act 1925 (16 &17 Geo. 5) (c. 20)
9. Limitation (Northern Ireland) Order 1989 (No. 1339 N.I. 11)
10. London Buildings Acts (Amendment) Act 1939 (c. xcvi)
11. Party Wall etc. Act 1996 (c. 40)
12. Prescription (Ireland) Act 1858 (21 & 22 Vict.) (c. 42)
13. Prescription Act 1832 (2 & 3 Will. 4) (c. 71)
14. Property (Northern Ireland) Order 1978 (No. 459 N.I. 4)
15. Property (Northern Ireland) Order 1997 (No. 1179 N.I. 8)
16. Rights of Light Act (Northern Ireland) 1961 (c. 18)
17. Round Rents Act (Northern Ireland) 2001 (c. 5)
18. Settled Land Acts 1882 – 1890
19. Treasure Act 1996 (c. 24)

• **Future Interests**

Books

1. Pearce and Mee, Land Law, 2nd Edition (2000) Round Hall Sweet and Maxwell
2. Wylie, Irish Land Law, 3rd ed. (1997) Butterworths

2. Report: *Trusts of Land* (1989) Law Com No. 181, Law Commission, England and Wales

Statutes

1. Land and Conveyancing Law Reform Bill 2006, Republic of Ireland
2. Law of Property Act 1925 (16 & 17 Geo. 5) (c. 20)
3. Settled Land Act 1925 (15 & 16 Geo. 5) (c. 18)
4. Settled Land Acts 1882 - 1890
5. Trusts of Land and Appointment of Trustees Act 1996 (c. 47)

• **Concurrent ownership of land**

Books

1. Conway, *Co-ownership of Land* Butterworths (2000)
2. Grattan, *Succession Law in Northern Ireland* (1996 SLS Legal Publication (Northern Ireland) paras. 7.36 – 7.37
3. Leitch, *A Handbook on the Administration of Estates Act (Northern Ireland) 1955* (1956 ILSNI) Chapter 1
4. Mee, *The Property Rights of Cohabitees* Hart Publishing (1999)
5. Megarry and Wade, *The Law of Real Property*, 7th ed. by Harpum, Bridge and Dixon (2008) Sweet and Maxwell Ltd.
6. Pearce and Mee, *Land Law*, 2nd Edition (2000) Round Hall Sweet and Maxwell
7. Wallace, *Land Registry Practice in Northern Ireland* (2nd edition 1987 SLS Legal Publications (Northern Ireland)) pp 16 - 24
8. Wylie, *Irish Land Law*, 3rd ed. (1997) Butterworths

Reports and Consultations from other jurisdictions

1. Consultation Paper on Reform and Modernisation of Land Law and Conveyancing Law (LRC CP 34–2004) para. 6.03, Law Reform Commission, Republic of Ireland
2. Consultation Paper on Rights and Duties of Cohabitees (LRC CP 32-2004)) Law Reform Commission, Republic of Ireland
3. Discussion Paper No. 5 *Matrimonial Property* (1999); and Report No. 10 *Matrimonial Property* (LRAC No. 8, 2000) Law Reform Advisory Committee for Northern Ireland
4. Report on Land Law and Conveyancing Law: (7) Positive Covenants over Freehold Land and other Proposals (LRC 70-2003) Chapter 5, Law Reform Commission, Republic of Ireland
5. Report on the Effects of Cohabitation in Private Law (Scot Law Com No. 86 1990), Scottish Law Commission
6. *Sharing Homes: A Discussion Paper* (Law Com No. 278 2002); *Cohabitation: The Financial Consequences of Relationship Breakdown: A Consultation Paper* (No. 179 2007), Law Commission, England and Wales

Articles

1. Conway, "Leaving Nothing to Chance?: Joint Tenancies, the 'Right' of Survivorship and Unilateral Severance" (2008) *OUCLJ* 45
2. Fox "Property Rights of Cohabitees: The Limits of Legislative Reform" (2005) *IJFL* 2;
3. Mee, "The Land and Conveyancing Law Reform Bill 2006: Observations on the Law Reform Process and a Critique of Selected Provisions – Part II" (2006) 11(4) *CPLJ* 91 at 15 – 97;
4. Palley, "Husbands, Wives and Creditors" (1969) 20 *NILQ* 132 at 139
5. Woods "Property Disputes between Co-owning Cohabitees – Ireland and England Compared" (2006) 35 *CLWR* 297
6. Woods, "Unilateral Severance of Joint Tenancies – The Case for Abolition" (2007) 12(2) *CPLJ* 47

Case law

1. *Re Rooney* [2008] *NICH* 22

Statutes

1. Administration of Estates Act (Northern Ireland) 1955 (c. 24)
2. Birkenhead legislation 1925
3. Civil Law (Miscellaneous Provisions) Act 2008 (Ireland)
4. Departments (Northern Ireland) Order 1982 (SR 1999 No. 481)

• **Contracts for the sale of land**

Books

1. Farrell, Irish Law of Specific Performance Butterworths (1996) Chapter 3
2. Megarry and Wade, The Law of Real Property, 7th ed. by Harpum, Bridge and Dixon (2008) Sweet and Maxwell Ltd
3. Wylie and Woods, Irish Conveyancing Law, 3rd ed. (2005) Tottel Publishing.

Reports and Consultations from other jurisdictions

1. Report LRAC No. 12 Formalities for Contracts relating to the Sale of Land or Interests in Land 2003, Law Reform Advisory Committee for Northern Ireland
2. Consultation Paper on Reform and Modernisation of Land Law and Conveyancing Law (LRC CP 34-2004), Law Reform Commission, Republic of Ireland
3. Discussion Paper No. 8 Formalities for Contracts relating to the sale of Land or Interests in Land and the Rule in *Bain v Fothergill*, Law Reform Advisory Committee for Northern Ireland
4. Report of the Auctioneering/Estate Agency Review Group published in July 2005 by the Department of Justice, Equality and Law Reform, Republic of Ireland
5. Report on Gazumping (LRC 59-1999), Law Reform Commission, Republic of Ireland
6. Transfer of Land: Formalities for Contracts for Sale etc of Land (1985) Consultation Paper No. 92 and Report (1987) Law Com No. 164, Law Commission, England and Wales
7. Law Society of Northern Ireland's standard contract form General Conditions of Sale

Articles

1. Dixon, "Invalid Contracts, Estoppel and Constructive Trusts" [2005] Conv 207
2. McFarlane, "Proprietary Estoppel and Failed Contractual Negotiations" [2005] Conv 501
3. Swann, "Part Performance: Back from the Dead?" (1997) Conv 293
4. Wallace, "Part Performance Re-examined" (1974) 25 NILQ 453

Case law

1. *Bain v Fothergill* (1874) LR 7 HL 158
2. *Commission for the New Towns v Cooper (Great Britain) Ltd.* [1995] 2 All ER 929
3. *Dimmock v Hallett* (1866) 2 Ch App 21
4. *Firstpost Homes Ltd. v Johnson* [1995] 4 All ER 355
5. *Lowry v Reid* [1927] NI 142
6. *Mackie v Wilde* [1998] 2 IR 578
7. *McCausland v Duncan Lawrie Ltd.* [1997] 1 WLR 38
8. *McDermott & Another v McDermott* [2008] NICH 5
9. *Murphy v Murphy & Another* [2007] NICH 5
10. *Omar v El-Wakil* [2002] 2 P & CR 3; *Aribisala v St. James Homes (Grosvenor Dock Ltd.)* [2008] 3 All ER 762
11. *Pitt v PHH Asset Management Ltd.* [1994] 1 WLR 327
12. *Re Scott and Alvarez's Contract* [1895] 2 Ch 603
13. *Record v Bell* [1991] 1 WLR 853
14. *Scott v Scott* [2007] NIFam 2
15. *Spiro v Glencrown Properties Ltd.* [1991] Ch 537
16. *Steadman v Steadman* [1976] AC 536
17. *United Bank of Kuwait v Sahib & Others* [1997] 1 Ch 107
18. *White v Spendlove* [1942] IR 224 and *Re Flynn and Newman's Contract* [1948] IR 104
19. *Yaxley v Gotts* [2000] Ch 162
20. *Yeoman's Row Management Ltd. & Another v Cobbe* [2008] UKHL 55

Statutes

1. Land and Conveyancing Law Reform Bill 2006, Republic of Ireland
2. Landlord and Tenant Law Amendment (Ireland) Act 1860 (23 & 24 Vict.) (c. 154) (Deasy's Act)
3. Law of Property (Miscellaneous Provisions) Act 1989 (c. 34)
4. Law of Property Act 1925 (16 & 17 Geo. 5) (c. 20)
5. Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 (No. 1452 N.I. 7)
6. Sale of Land by Auctions Act 1867 (30 & 31 Vict.) (c. 48)

20. Registration (Land and Deeds) (Northern Ireland) Order 1992 (No. 811 N.I. 7)
21. Registration of Deeds (Amendment) Act (Northern Ireland) 1967 (c. 30)
22. Sales of Reversions Act 1867 (30 & 31 Vict.) (c. 4)
23. Statute of Uses (Ireland) 1634 (10 Chas. 1 sess. 2) (c. 1)
24. Statute of Uses 1535 (27 Hen. 8) (c. 10)
25. Vendor and Purchaser Act 1874 (37 & 38 Vict.) (c. 78)
26. Voluntary Conveyances Act 1893 (56 & 57 Vict) (c. 21)

- **Legislation**

Reports and Consultations from other jurisdictions

1. Consultation Paper Reform and Modernisation of Land Law and Conveyancing Law (LRC CP 34-2004) pp 2 – 3, Law Reform Commission, Republic of Ireland
2. Interim Report on Ground Rents and other Periodic Payments (1983) paras. 6.3 – 6.4, Land Law Working Group, Northern Ireland

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1. 1925 Birkenhead Legislation
2. Accumulations Act 1800 (39 & 40 Geo. 3) (c. 98)
3. Accumulations Act 1892 (55 & 56 Vict.) (c. 58)
4. Bodies Corporate (Joint Tenancy) Act 1899 (62 & 63 Vict.) (c. 20)
5. Building Societies Act (Northern Ireland) 1967 (c. 31)
6. Clandestine Mortgages Act (Ireland) 1697 (9 Will 3) (c. 11)
7. Commission on Disposal of Lands (Northern Ireland) Order 1986 (No. 767 N.I. 5)
8. Commission on Sales of Land Act (Northern Ireland) 1972 (c. 12)
9. Contingent Remainders Act 1877 (40 & 41 Vict.) (c. 33)
10. Conveyancing Act (Ireland) 1634 (10 Chas. 1 sess. 2) (c. 3)
11. Conveyancing Act 1881 (44 & 45 Vict.) (c. 41)
12. Conveyancing Acts 1881 – 1911
13. Fines and Recoveries (Ireland) Act 1834 (4 & 5 Will. 4) (c. 92)
14. Forfeiture Act (Ireland) 1639 (15 Chas. 1 sess. 2) (c. 3)
15. Ground Rents Act (Northern Ireland) 2001 (N.I. 5)
16. Judgments (Ireland) Act 1844 (7 & 8 Vict.) (c. 90)
17. Judicature (Northern Ireland) Order 1978 (c. 23)
18. Landed Estates Court (Ireland) 1858 (21 & 22 Vict.) (c. 72)
19. Law of Property Amendment Act 1860 (23 & 24 Vict.) (c. 38)
20. Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 (No. 1452 N.I. 7)
21. Mortgagees Legal Costs Act 1895 (58 & 59 Vict.) (c. 25)
22. Partition Act 1868 (31 & 32 Vict.) (c. 40)
23. Partition Act 1876 (39 & 40 Vict.) (c. 17)
24. Perpetuities Act (Northern Ireland) 1966 (Chapter 2)
25. Prescription (Ireland) Act 1858 (21 & 22 Vict.) (c. 42)
26. Prescription Act 1832 (2 & 3 Will. 4) (c. 71)
27. Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983 (No. 766 N.I. 9)
28. Property (Northern Ireland) Orders 1978 (No. 459 N.I. 4)
29. Property (Northern Ireland) Orders 1997 (No. 1179 N.I. 8)
30. Real Property Act 1845 (8 & 9 Vict.) (c. 106)
31. Registration (Land and Deeds) (Northern Ireland) Order 1992 (No. 811 N.I. 7)
32. Registration of Deeds Act (Ireland) Act 1707 (c. 2)
33. Sales of Reversions Act 1867 (31 & 32 Vict.) (c. 4)
34. Satisfied Terms Act 1845 (8 & 9 Vict.) (c. 112)
35. Settled Estates Act 1877 (40 & 41 Vict.) (c. 18)
36. Settled Land (Ireland) Act 1847 (10 & 11 Vict.) (c. 46)
37. Settled Land Acts 1882 – 1890
38. Statute Law Revision Acts (1875 (c. 66), 1892 (c.19), 1893 (c. 54), 1953 (c.5) and 1963 (c. 30)
39. Statute of Frauds (Ireland) 1695 (7 Will. 3) (c. 12)
40. Statute of Uses (Ireland) 1634 (10 Chas. 1 sess. 2) (c. 1)
41. Statute of Westminster the Second 1285 (*De Donis Conditionalibus*) (13 Edw. I) (c. 1)
42. Statutes of Westminster the Third 1289 – 1290 (*Quia Emptores*) (18 Edw. I) (cc. 1, 2, 3)

Annex B**Main Groups Relevant to the Section 75 Categories**

Category	Main Groups
Religious belief	Protestants; Catholics; people of non-Christian faiths; people of no religious belief
Political opinion	Unionists generally; Nationalist generally; members/supporters of any political party
Racial Group	White people; Chinese; Travellers; Indians; Pakistanis; Black people
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	Children under 16; people of working age (16/65); people over 65
"Persons with a disability"	Persons with a physical, sensory or learning disability 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	Heterosexual people; homosexual people; bisexual people