



Irish sources of law

Legal Information Management, 11 (2011), pp. 185–190
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doi:10.1017/S1472669611000600

Researching Irish law – A Guide to Legislation, Caselaw and Commentary Sources

Abstract: Sinéad Curtin and Alice Steen review sources of Irish legislation, caselaw and legal commentary. Their article also provides guidance on common research queries such as checking amendments to legislation.

Keywords: legal research; Ireland

Legislation

This is a review of online and print sources for Irish legal research. We have included free and subscription services.

Irish legislation is complex, as it is comprised of the acts of the Oireachtas (Irish Parliament) from 1922 onwards and

the statutes of any previous parliament that had jurisdiction in Ireland. Previous parliaments included the Parliament of Ireland prior to 1800, the Parliament of England so far as it applied individual statutes to Ireland from approximately 1600 to 1800 and the Parliament of the United Kingdom of Great Britain and Ireland from 1800 to 1922.

Sources of legislation

Almost all primary and secondary legislation from 1922 onwards is freely available online on the Irish statute book website (eISB)¹. It does not include bills or unpublished acts, and statutory instruments are usually published in hard copy some weeks before appearing online. Hard copies of legislation are available on subscription from Government Publications.

Bills are accessible on the Oireachtas website from 1997 onwards². *Iris Oifigiúil*³ is the official State gazette, which provides notification of new acts, bills and statutory instruments. It is freely available online, and also in hard copy on subscription. RSS feeds and services such as www.changedetection.com can also be used to monitor the passage of legislation on the Oireachtas website.

Justis⁴ also includes most primary and secondary legislation from 1999 as enacted, with some earlier legislation from 1922 to 1998 included. This is part of its First Law Irish service. The Justis UK Statutes service can be quite useful for Irish practitioners, as it is the only comprehensive online source of pre-1922 public statutes as enacted. The pre-1922 acts which are still in force in Ireland are usually not available on sources such as Lexis or Westlaw UK, as they are often not in force in the UK or if they are, have been amended significantly. Some pre-1922 acts as enacted are available on BAILII⁵. Acts of the Irish Parliament prior to 1800 are generally not available online, but have been published in a single volume, the *Irish Statutes revised 1310–1800*⁶. Pre-1922 local and personal acts applicable to Ireland are included in a subscription to the UK Local Acts on Justis. They are also held in hard copy in the larger law libraries.

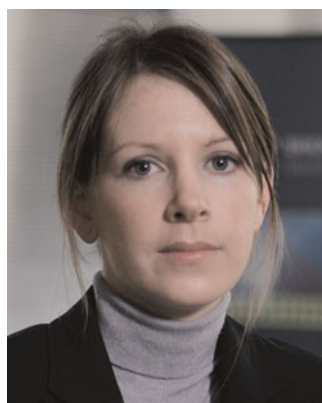
The *Constitution of Ireland* can be purchased from Government Publications and is also available online⁷.

Researching legislation

Having located the legislation, the next tasks for a researcher are usually to check whether the legislation has commenced or has been amended.



Sinéad Curtin



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Commencement

An act comes into force when signed by the President, unless there is a commencement provision to the contrary. The date of signature is found after the long title of the act, but commencement provisions may appear at the start, end or throughout the legislation in respect of various or all parts. Commencement orders can be found on the eISB website⁸ or the Law Society of Ireland's library catalogue, which is available to members only. Subscribers to Westlaw IE can also find commencement information in the *Legislation Fastcheck* section of the resource. This citator service is updated annually and is also available to purchase on CD. Another method is to search the *Iris Oifigiúil* online archive by the act title. The archive begins in 2002, but you may find this method useful to verify more recent SIs. It can take some weeks before an SI published in the *Iris* is actually available in hard copy or online.

The *Law Society of Ireland Gazette* includes overviews of primary and secondary legislation, including commencement provisions. While this can only be as up-to-date as the date of publication, it is a useful free online resource⁹. Setting up Google alerts for the titles of legislation you have an interest in is another way to obtain commentary and updates.

Amendments to primary legislation

Amendments to acts are listed in the legislation directory section of the eISB. This currently lists amendments made between 1922 and November 2010 to all Irish primary legislation, whenever enacted. Amendments to acts enacted between 1870 and 1922, which are still in force, are also included. Amendments made to pre-1870 legislation before 1922 can be confirmed by consulting the 1921 edition of the *Chronological table of the statutes*¹⁰.

To find amendments made since November 2010, a full text search of primary and secondary legislation on the eISB is required. The President's website lists all acts signed¹¹, but not all of these acts have been published. Don't presume that an act you cannot view is not law – it usually is! As explained, acts without a commencement provision become law when signed. Where a commencement order is required, it is not unusual for that statutory instrument to be issued before its parent act has been published. At the time of writing, we are still

awaiting the publication of Act 31 of 2010, which was signed (and commenced) in November 2010.

To search unpublished acts, you will need to view the corresponding bill on the Oireachtas website. For those unfamiliar with Irish legislation, it can be difficult to identify the relevant bill. Unhelpfully, the site does not indicate that a bill has been enacted until the corresponding act has been published.

Publication of primary legislation has been delayed in recent years because of the legal requirement to translate legislation into Irish before being made available in either Irish or English¹². This causes great difficulty for legal practitioners¹³. The BIALL Irish Group and others in the legal profession have been calling for this untenable situation to be remedied.

Amendments to secondary legislation

*Humphreys' index to Irish statutory instruments*¹⁴ lists amendments to all SIs up to 31 December 1986. Amendments made between 1993 and 2010 to all extant SIs (and acts) are listed in the *Legislation Fastcheck* service on Westlaw IE. The Law Society's library catalogue also details amendments to SIs from 1997 onwards. Another method is a full text search of the eISB. Some SIs may be missing from the website, so a similar search of alternative sources such as BAILII, Justis or Westlaw IE is advisable.

Amendments made by very recent SIs to primary or secondary legislation may not be included in any of these resources, so a search of recent issues of *Iris Oifigiúil* is also recommended. Finally, practitioners are advised to check that any amending legislation is actually in force, by using the methods suggested above under commencement.

Consolidated legislation

As you can see, tracing amendments is a rather arduous process. Thankfully, consolidated legislation is available.

The Law Reform Commission has been making great progress in producing restatements in significant subject areas. There are some certified official restatements (which can be relied on in court), dating from 2003 and 2004¹⁵. There is an ongoing programme of restatement and many more as yet uncertified restatements are available on the Law Reform Commission's website¹⁶. These are unofficial until certified by the Attorney General, but very useful nonetheless. Most of these uncertified restatements are up-to-date to various dates in 2010.

Also useful for research is the Law Reform Commission's classified list of legislation in Ireland¹⁷. This classifies extant post-1922 legislation under 36 subject headings. A recent Commission report on the legislation directory¹⁸ details the current position of the Irish statute book, restatement project and provides recommendations

for reform. This is invaluable reading for anyone interested in the Irish legal system and Irish legal resources.

Legislation is also consolidated on the subscription service, *BetterRegulation*¹⁹. Practice areas include banking and financial services, company law and pensions. An employment law module is under development. It consolidates primary and secondary legislation, but there are gaps in the coverage of secondary legislation. Not the most user-friendly of databases, though we are expecting a revamp of this service later in the year.

Court rules are consolidated on the Courts service website²⁰ and in Round Hall's consolidations of court rules, published in hard copy in looseleaf format and online on Westlaw IE. Practice directions can also be found on the Courts service website.

Numerous publications consolidate Irish legislation. The published consolidations offer added value over the free services, as many of them are annotated. For example, Round Hall's court rules provide case summaries and commentary for each order. Round Hall also publishes looseleaf consolidations of Irish criminal legislation, road traffic law, local government law and employment legislation, amongst others. These are also available online, as part of a subscription to Westlaw IE. Clarus Press publications include consolidated licensing legislation and consolidated landlord and tenant legislation.

Another recommended text is the consolidation of company legislation from Bloomsbury Professional²¹. Tax legislation is consolidated in their tax annuals series and they are launching an online version of this and some of their other Irish titles later this year²². Their Irish tax publications are also available online on the Lexis Irish tax service. The Irish Taxation Institute publishes its own tax annuals in hard copy and online on TaxFind²³.

Caselaw

Sources of reported and unreported judgments

Currently, there are four active series of law reports, the most important being the general series, the *Irish Reports* and *Irish Law Reports Monthly* (ILRM). The *Irish Reports* are published by the Incorporated Council of Law Reporting for Ireland and the ILRMs are published by Round Hall. The two specialist series are the *Employment law reports*, also published by Round Hall and the *Irish tax reports*, published by Bloomsbury. There is online access to all of these law reports. Westlaw IE includes the ILRMs and *Employment law reports*. Another significant series on Westlaw IE, although ceased, is the *Irish Law Times Reports*. The *Irish Reports* are available online on Justis from 1838. Lexis holds the *Irish Reports* from 1919 and the *Irish tax reports*.

Unreported judgments are freely available on the Courts service website and BAILII. Coverage on the

Courts website begins in 2001 and on BAILII from 1996. The Supreme Court website also includes judgments from 2001²⁴. There are some older unreported judgments from 1933 onwards on all of the sites, except the Courts website. None of these services provides comprehensive coverage of unreported judgments before the mid-2000s. Older unreported judgments, if published, are often only available in hard copy. It's also worth noting that a copy of the signed unreported judgment is still the optimum version for inclusion in a book of authorities in Irish courts. The Law Society of Ireland library can supply such copies to members.

The family law reporting project was a pilot programme to report family law cases in the District, Circuit and High Courts. These cases were published in *Family law matters* between 2007 and 2009²⁵. For criminal law practitioners, the Irish sentencing website²⁶ provides further case information on sentencing in all Irish courts.

The subscription services offer a wider range of unreported judgments. Lexis includes unreported judgments from 1985 and Justis provides access from 1998, with some older judgments included on both services. Westlaw IE includes unreported judgments from 2002. All of these holdings are incomplete and the free services are updated more frequently.

Unfortunately, none of the subscription or free services offer comprehensive coverage of unreported or reported judgments. However, all services are continually expanding and their coverage is much improved in the last five years.

While a Google search will retrieve a judgment available on the Courts website or BAILII, what cannot be done by solely relying on the free sources is a comprehensive search by subject matter. The IRLII²⁷ website does provide classified lists of leading cases, but they are not complete. For those without access to the subscription services, it helpfully includes the citation for reported cases and links to the unreported version of all cases on BAILII. The Irish digests, abstracting all reported cases, are available in hard copy from the Irish Council of Law Reporting, but the most recent one was published in 2000. The Irish digests are also included in a subscription to the Irish Reports on Justis. JustCite, the citator service from Justis, indexes most Irish reported cases from 1919 and unreported judgments from 1998 onwards, but does not include the ILRMs between 2000 and 2006.

Monitoring caselaw can be done by RSS feeds on IRLII and BAILII²⁸, but the other free sites do not include such a facility at present. However, services like change-detection.com can save time spent repeatedly checking the sites to see if new cases have been added.

Murdoch's Irish legal companion²⁹ is an online version of Murdoch's indispensable *Dictionary of Irish law*³⁰. This was last published in 2009, but the online version is more up-to-date. The service is a useful collation of the free services for Irish caselaw and legislation mentioned in this article.

Tribunals and other determinations³¹

BAILII provides access to decisions of the Information Commissioner, the Competition Authority and the Data Protection Commissioner. Appeal Commissioners' decisions are published by First Law and are available online on TaxFind.

The Employment Appeals Tribunal website³² includes determinations from mid-2007 and practitioners can be notified by email when new decisions are published. Equality Tribunal decisions can be found online³³ and the Labour Court website³⁴ provides access to its rulings.

For intellectual property lawyers, the Irish Patent Office website is a very useful resource. It includes decisions from 2003³⁵.

Commentary

Articles

Westlaw IE contains the full text of most journals published by Round Hall, such as the *Irish law times* and the *Commercial law practitioner*. It provides an email alert service which monitors journal articles in many Irish and UK publications. For those without a subscription to Westlaw IE, it's worth noting that Westlaw UK indexes all of these journals. The IRLII website also indexes Irish journals, including some not covered by Westlaw UK. Another publisher to consider is First Law. A subscription to its journals includes online access. Practice areas covered include arbitration, tax and road traffic law.

For those with an employment law practice, a subscription to *Industrial relations news*³⁶ or *Health and safety review*³⁷ may be worthwhile. Both journals are a good source of news in these areas. Similarly, Legal Island provides regular email updates on employment law to subscribers³⁸.

The *Irish Times* newspaper publishes a weekly law matters column, including case reports, on Mondays during court term time and this is freely available on its website³⁹. The *Sunday Business Post* newspaper also has a regular legal column⁴⁰. The *Law Society of Ireland Gazette* provides topical articles and summaries of recent cases. The legal update section of the *Bar Review*⁴¹ abstracts journal articles and caselaw, classifying them by practice area. It also lists new books, acts and SIs, along with a list of bills in progress.

Useful blogs analysing decisions of the superior courts are *Ex Tempore*⁴² and *Stare Decisis Hibernia*⁴³. RSS feeds are available for both.

Books

Following consolidation in the Irish publishing market, the main Irish book publishers are now Round Hall, Bloomsbury Professional and Clarus Press. Bloomsbury's Irish land law and Irish tax collections are available online

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on the Lexis Irish property and Lexis Irish tax services respectively.

If you would like to develop an Irish law library collection, here are some of the titles we would recommend:

*Murdoch's dictionary of Irish law*⁴⁴

*Byrne & McCutcheon on the Irish legal system*⁴⁵

*Kelly on the Irish Constitution*⁴⁶

*Clark on contract*⁴⁷

*McMahon & Binchy on the law of torts*⁴⁸

*Charleton on criminal law*⁴⁹

*MacCann, Companies Acts 1963–2009*⁵⁰

*Courtney, The law of private companies*⁵¹

*Breslin on banking law*⁵²

*Delany & McGrath, Civil procedure in the superior courts*⁵³

*Wylie's Irish land law*⁵⁴

*Delany, Equity and law of trusts in Ireland*⁵⁵

For a more comprehensive search of Irish publications, consult the websites of the publishers mentioned

or that of LawBooks Ireland⁵⁶. Some historical titles are freely available through Google books.

Conclusion

Although the development of many free and subscription services in the last ten years have been of great assistance to anyone researching Irish law, we hope we have made clear that none of the resources described above offer comprehensive collections. Caution is advised in the use of all these resources, paying particular attention to the date range of material included. You will usually find that is necessary to use a combination of the sources mentioned to provide definitive answers. We hope that this article has helped to direct you towards the appropriate resources and that those resources will continue to improve.

Footnotes

¹<http://www.irishstatutebook.ie/>

²<http://www.oireachtas.ie/parliament/>

³<http://www.irisoifigiuil.ie>

⁴<http://www.justis.com>

⁵<http://www.bailii.org>

⁶Osborough, WN. (1995) *The Irish Statutes revised 1310–1800*. Dublin, Roundhall.

⁷(2010) *Constitution of Ireland*. Dublin, Government Publications. http://www.taoiseach.gov.ie/eng/Youth_Zone/About_the_Constitution,_Flag,_Anthem_Harp/Constitution_of_Ireland_March_2010.pdf

⁸<http://www.irishstatutebook.ie/isbc/commence.html> lists commencement orders to November 2010. A full text search of eISB is required to find more recent SIs.

⁹<http://www.lawsociety.ie/gazette/>

¹⁰(1921) *Chronological table and index of the statutes*. 37th ed. London, HMSO.

¹¹<http://www.president.ie/index.php?section=24&lang=eng>

¹²Official Languages Act 2003, s7

¹³See the Circuit Brief blog entry of 25 October 2010 at <http://thecircuitbrief.blogspot.com/2010/10/law-what-law-where.html>

¹⁴Humphreys, Richard. (1988) *Index to Irish statutory instruments*. Dublin, Butterworths.

¹⁵<http://www.attorneygeneral.ie/slru/restatements.html>

¹⁶<http://www.lawreform.ie/restatement/pre-certified-restatements.335.html>

¹⁷http://www.lawreform.ie/_fileupload/misc/CLegIReFeb11.pdf

¹⁸http://www.lawreform.ie/_fileupload/Reports/LRC%20LEGISLATION%20FULL.pdf

¹⁹<http://www.betterregulation.com>

²⁰<http://www.courts.ie>

²¹MacCann, Lyndon. (2010) *Companies Acts 1963–2009*. Dublin, Bloomsbury.

²²See <http://www.bloomsburyireland.com> for further details.

²³<http://www.taxireland.ie/events/612.aspx>

²⁴<http://www.supremecourt.ie>

²⁵<http://www.courts.ie/courts.ie/library3.nsf/pagecurrent/DBF7DEC660A62D3880256DA60052BC9D?opendocument&l=en>

²⁶<http://www.irishsentencing.ie/>

²⁷<http://www.irlii.org>

²⁸<http://feeds.feedburner.com/BAILII-Recent-Ireland>

²⁹<http://milcnet.lendac.ie>

³⁰Murdoch, Henry. (2009) *Murdoch's dictionary of Irish law*. 5th ed. Dublin, Tottel.

³¹<http://www.eatribunal.ie/en/Determinations.aspx>

³²<http://www.eatribunal.ie/en/Determinations.aspx>

³³<http://www.equalitytribunal.ie/Database-of-Decisions>

³⁴<http://www.labourcourt.ie/labour/labour.nsf/LookupPageLink/HomeRecommendations>

³⁵http://www.patentsoffice.ie/en/publications_written.aspx

³⁶<http://www.irn.ie>

³⁷<http://www.healthandsafetyreview.ie>

³⁸<http://www.legal-island.ie/>

³⁹<http://www.irishtimes.com>. Articles older than 12 months require a subscription.

⁴⁰<http://www.sbpost.ie>

⁴¹Published bi-monthly for the Bar Council by Round Hall, but not available on Westlaw IE.

⁴²<http://www.extempore.ie>

⁴³<http://staredecisishibernia.com>

⁴⁴Murdoch, Henry. (2009) *Murdoch's dictionary of Irish law*. 5th ed. Dublin, Tottel.

⁴⁵Byrne, Raymond. (2009) *Byrne and McCutcheon on the Irish legal system*. 5th ed. Dublin, Bloomsbury.

⁴⁶Hogan, Gerard. (2003) *The Irish Constitution*. 4th ed. Dublin, Butterworths.

⁴⁷Clark, Robert. (2008) *Contract law in Ireland*. 6th ed. Dublin, Round Hall.

⁴⁸McMahon, Bryan. (2000) *Law of torts*. 3rd ed. Dublin, Butterworths.

⁴⁹Charleton, Peter. (1999) *Criminal law*. Dublin, Butterworths. 2nd edition forthcoming in 2011.

⁵⁰McCann, Lyndon. (2010) *Companies Acts 1963–2009*. Dublin, Bloomsbury.

⁵¹Courtney, Thomas. (2002) *Law of private companies*. 2nd ed. Dublin, Butterworths.

⁵²Breslin, John. (2007) *Banking law*. 2nd ed. Dublin, Round Hall.

⁵³Delany, Hilary. (2005) *Civil procedure in the superior courts*. 2nd ed. Dublin, Round Hall.

⁵⁴Wylie, JCW. (2010) *Irish land law*. 4th ed. Dublin, Bloomsbury.

⁵⁵Delany, Hilary. (2011) *Equity and the law of trusts in Ireland*. 5th ed. Dublin, Round Hall.

⁵⁶<http://www.lawbooks.ie>

Biographies

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