

POLICY AND LAW REFORM AGENDA

A PUBLIC INTEREST AGENDA FOR IRELAND

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FORTHCOMING STUDY ON DIVORCE AND JUDICIAL SEPARATION



The Society will publish a study of divorce and judicial separation proceedings shortly, together with a number of recommendations.

The data and observations undertaken across a number of provincial and city Circuit Courts will hopefully inform policy makers on the future conduct of such proceedings. The study arises in the context of the proposed Constitutional amendment on divorce, reducing the period required before initiating proceedings to two years.

We look forward to sharing our views with you, once published.



TRIAL AT TRIM COURTHOUSE

As part of the Society's Public Legal Education programmes, our Street Law initiative recently took to Trim Courthouse with the lawyers of Bohermeen National School. The programme helps to inform and educate young people on the legal system as well as their public speaking and critical thinking skills.

Local solicitor Gillian Brennan (Nathaniel Lacy and Partners) worked with teacher James Brennan to coach the children.



Read more on Public Legal Education Programmes at: www.lawsociety.ie/plc

FEATURED ARTICLES



Page 2:
Budget 2019



Page 3:
Policy in the *Gazette*



Page 4:
Legal Education Reform



Page 5:
Money Laundering bill



Page 6:
Recent submissions



BUDGET 2019 SUBMISSION

The Law Society's Pre-Budget Submission 2019 details pragmatic solutions in key areas that impact on the economic and social well-being of citizens.

Looking after those in need

The position of qualifying benefits of permanently disabled individuals no longer exempt from CAT should be reversed. The burden of medical expenses is causing undue hardship and anxiety for those affected, which could be alleviated by a favourable tax treatment of gifts or inheritances.

Since 2007, it has not been possible for a cohabitant who owns a house to place it in joint names of both cohabitants during their lifetime and claim Dwellinghouse Relief – they remain outside the definition of 'dependent relative'.

A higher taxation rate (Group C) is applied to qualified cohabitants on inheritances, than if provision in a Will is not made, where it will pass free from CAT on an application to court. This bizarrely encourages cohabitants not to make proper or any provision for a surviving qualified cohabitant, placing a strain on parties and the Courts system.

Pensions and Divorce

Revenue practice in respect of Pension Adjustment Orders disregards divorce and the court-ordered split of matrimonial pension assets when calculating tax. This practice discriminates against the second family and runs contrary to the Constitutional safeguards granted to divorce.

Fair Deal changes recommended

The Society recommends that where a house qualifies as a principal private residence, sales proceeds should be treated as if the house had not been sold and treated similarly i.e. a percentage of the proceeds to be taken into account for the first three years. We also recommend allowing the applicant to keep a personal allowance of 20% of the rental income from their principal private residence.

Keeping Ireland Competitive

Competition for entrepreneurial talent across the globe recognises their contribution to the modern economy. Ireland's Entrepreneurial Relief, while welcome, needs to keep pace with other territories.

The Society recommends that the conditions are reviewed, especially the requirement to work no less than 50% in the business in the 3 out of 5 years prior to disposal.

The lifetime threshold should be increased to €10m, in line with other jurisdictions.

Other changes recommended to ensure that Ireland's tax and enterprise policies continue to support companies and family businesses include:

- Abolition of stamping requirement for no or low value leases,
- The provisions for claiming CGT Retirement Relief should be amended to allow a spouse/civil partner to step into the shoes of the farming spouse in terms of satisfying the 10 year ownership and usage requirement,
- Review of stamp duty on marketable securities,
- Application of withholding tax to royalty payments to Irish companies.

The Law Society also recommends a formal technical consultation period before the Finance Bill is published in order to avoid unworkable legislative provisions that impact on citizens and companies.

The Law Society is available to Oireachtas Members and Government officials to discuss the submission and the key policy and technical proposals within it.



Read the Law Society's Pre-Budget Submission 2019 in full at: www.lawsociety.ie/submissions

BY THE NUMBERS

10,122



Solicitors with Irish practising certificates

€1.7bn



Estimated annual contribution of legal sector to Irish economy

20+



Submissions by the Law Society to Government in 2017

18,000+



Employed in the wider Irish legal sector

2,300



Law firms delivering legal services across Ireland

1,406



Admissions to the profession in 2016-17 – highest on record

ANNUAL FAMILY & CHILD LAW CONFERENCE 2018



The aim of this conference is to examine recent developments in core areas of family law and practice and childcare law practice. This conference has been designed by family and childcare law practitioners for legal and child care practitioners and related professionals who will find it essential to address new legislation and consequential changes.

Chairperson:
Dr Geoffrey Shannon, Solicitor, State Special Rapporteur on Child Protection

Speakers
Judge Rosemary Horgan, President of the District Court
Dr. Niall Muldoon, Ombudsman for Children
Gerry Durcan, SC



RECENT POLICY FEATURES

A pick of recent articles from the *Law Society Gazette* (www.gazette.ie):

- On parole – Reform of the victims input has been proposed in the Parole Bill 2016. But what role, if any, should victims play in decisions relating to the parole or release of an offender? (April)

- Death knell for deference? – While the expertise of the Data Protection Commission in data protection is unquestionable, the office has no role in the wider issue of the maintenance of a transparent system of democracy. (May)
- Mediation in the mainstream? – It would be wrong to assume that a legislative push for mediation involves a zero-sum game for the legal profession. (May)
- Never the twain? The separation of law and politics should remain the highest concern of the Supreme Court. (May)
- Tales from the dark side. Human slavery is a largely invisible aspect of modern Irish society. Ireland is falling far short in terms of identifying, protecting, and compensating victims – and eradicating the problem. (May)
- Complaints against solicitors hit historic low. Client complaints against solicitors have fallen to just

a third of what they were 20 years ago (June)

- Impact of Brexit on Human Rights. Professor Fiona de Londras discusses the uncertainty of Brexit and its future challenges to Human Rights. (June)
- Bank robbery – varying of rates in consumer contracts. Banks’ attempts to reserve to themselves absolute discretion to vary interest rates in consumer loans have the potential to affect hundreds of thousands of consumers and be more costly to rectify than the tracker mortgage scandal. (June)
- Woman in the House. An interview with Josephine Madigan TD, the first female solicitor in cabinet, on her reform proposals and her legal background (July)
- The Rule of Law in a post-Soviet world. Ukraine-based Irish solicitor Lynn Sheehan has a unique perspective on the country’s battle to end endemic corruption. (July)

PROPOSAL FOR THE FUTURE OF PROFESSIONAL LEGAL EDUCATION AND PRACTICE



At the forefront of legal professional education, the Society is committed to increasing accessibility to the profession through continued innovations in the design and mode of our educational offering.

The Society's Future of Solicitor Education Review Group proposed 30 changes in its recent submission to the Legal Services Regulatory Authority on the future of legal education. These included:

- Providing proactive outreach programmes to

those seeking to become solicitors.

- Offering different methods of training contracts to improve diversity of the training contracts currently provided.
- Keeping the current reciprocal system for recognising non-EU lawyers
- Creating a dedicated Centre for Innovation, Education and Learning.



See the July Gazette for more details: www.gazette.ie

BUILDING IRELAND'S FUTURE – THE ROLE OF PROFESSIONS

The Law Society, along with a number of other professional bodies, recently published 'Building Ireland's Future – The Role of the Professions'.

Professional bodies are committed to serving the public good but are also deeply committed to supporting the State by engaging and working with the Government, the Oireachtas, State bodies and other stakeholders

The trust and confidence in Ireland's professional bodies is built on their ability to make extensive investments in world-class qualifications, regulatory regimes, independent complaints processes and CPD programmes.

Our tax system should work to promote the development of a skilled workforce. As such, professional body subscriptions – which are wholly, exclusive and necessary to the performance of functions - should qualify for Benefit in Kind exemption.



Read the report at www.lawsociety.ie/submissions



RTE SCOOPS TOP AWARD AT JUSTICE MEDIA AWARDS

The Law Society of Ireland's 27th annual Justice Media Awards took place on 21 June 2018.

The top prize was awarded to Paul Murphy and Doireann O'Hara of RTE Investigates Law and Disorder, for an exceptionally in-depth examination of the District Courts across Ireland.

The Disclosures Tribunal, Belfast rape trial and environmental compliance breaches were also among the key topics covered across a record-breaking 236 entries.

DRAFT HEADS OF BILL TO STRENGTHEN DECISION MAKING CAPACITY

The Law Society has welcomed the proposal for a legislative framework on Part 13 of the *Assisted Decision-Making (Capacity) Act 2015*.

The Society made submissions highlighting how the draft Heads of Bill could better meet the standards required.

The comprehensive submission provided pragmatic commentary and recommendations in the following areas:

- Due regard to the need to respect

the right of the relevant person to dignity.

- Right to liberty and security of person
- Support must be given to a person to maximise their decision making capacity
- Any intervention must be for the benefit of the relevant person
- Decision-Making Capacity is a legal test not a medical diagnosis
- Invoking the jurisdiction of the Court
- Equal recognition before the law – no disability tag



EUROPEAN CONVENTION ON THE PROFESSION OF LAWYER



The Parliamentary Assembly of the Council of Europe, in January 2018, adopted a Recommendation on the development of a European Convention on the Profession of the Lawyer, to reinforce the freedom of practise and access to justice for all citizens.

In addition to developing principles, binding enforcement procedures are recommended to anchor lawyers' protections at an EU level, alongside the European Convention on Human Rights.

Issues of ongoing harassment, threats and attacks against lawyers, as well as pressure from the executive and legislative powers, reinforces the urgency of the Convention. When human rights' defenders themselves become targets of oppression, this sends a devastating message to those counting on their help. It is now up to the Committee of Ministers of the Council of Europe to implement the recommendation of the Parliamentary Assembly.

The Society contributes to the development of the Convention through our delegation to the Council of Bars and Law Societies of Europe (www.ccbe.eu).



For a more detailed consideration of this issue, see our latest Gazette article at www.gazette.ie

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

BUSINESS AND HUMAN RIGHTS: SOCIETY SUPPORTING THE CONVENTION

The European Programme for Human Rights Education for Legal Professionals (HELP) supports the Council of Europe member states in implementing the European Convention on Human Rights at the national level.

The Society recently launched the Business and Human Rights course - the first ever Council of Europe HELP course in Ireland.

See www.lawsociety.ie for further details



AMENDMENTS TO MONEY LAUNDERING BILL URGED

The Criminal Justice (Money Laundering) (Amendment) Bill 2018 has completed its Dáil stages and is soon to be considered by the Seanad.

The Society regrets the lack of notice and speed at which the Bill was advanced, owing to many of the technical issues that arise. Our submission to the Departments of Justice, Equality and Finance outlined 23 recommendations, which included

- Greater clarity on terminology within the Bill, and usability of the provisions of the Act,
- the broadening of the 'tipping off' offences to enable designated persons make necessary disclosures, and
- the introduction of greater internal governance and compliance procedures.

The Society – as the competent authority for monitoring solicitors for the purposes of compliance – has developed a suite of anti-money laundering resources and supports, as well as providing ongoing assistance to firms as issues arise.

Our recommendations, if adopted would support the objectives of the Bill, empower relevant parties to act pragmatically and efficiently, while minimising the administrative burden.

RECENT LAW SOCIETY SUBMISSIONS

Protecting and representing collective interests of consumers
The Law Society submitted its proposals to the Department of Business, Enterprise and Innovation regarding the Draft EU Directive on Representative Actions for the Protection of the Collective Interests of Consumers.

Legal protections applied to charities

The Society considered the lacuna that exists in charitable companies limited by guarantee (CLGs) when its directors cause the charity to act outside the objects in its memorandum of association, in the context of the Companies Act 2014 and the Charities Act 2009.

Draft Code on Equal Pay

A number of observations and comments were communicated to the Irish Human Rights and Equality Commission on its draft code of practice on equal pay.

Code of Conduct in Lobbying

The Society welcomed the Standards in Public Office Commission's draft Code of Conduct, and underlined the existing code of ethics and conduct that applies to solicitors in their interactions with clients, government and public bodies.

Enduring Power of Attorney and Co-Decision Making Agreements

A number of recommendations were made as to how regulations under the Assisted Decision Making Act 2015 could provide further clarity and certainty in this area of law and practice.



SEE OUR POLICY AND LAW REFORM WEBSITE SECTION – BREXIT, LAW REFORM AND USEFUL RESOURCES

A key strategic objective of the Society is to provide a strong voice in policy debate to inform decision makers on matters pertaining to the justice system and law reform.

Browse for helpful information and resources relating to Brexit, Society submissions to Government and other policy priorities.



Keep informed by signing up to our Newsletter at www.lawsociety.ie/policyandlawreform

OUR POLICY COMMITTEES

Expert opinion informing policy and law reform.

The Society believes in early engagement with representatives and officials during legislative processes as a means of identifying any key legal policy and public interest concerns.

The Society's dedicated policy committees comprise volunteer solicitors who help to shape the Society's law reform agenda by providing submissions to Government relating to the following areas:

- Alternative Dispute Resolution
- Business Law
- Conveyancing
- Criminal Law
- Employment & Equality Law
- EU & International Affairs
- Family & Child Law
- Human Rights
- Intellectual Property & Data Protection Law
- Litigation
- Probate, Administration & Trusts
- Taxation

LEGAL RESOURCES

The Law Society website has a range of publicly available legal resources which may assist your constituency work. The guides are not a substitute for professional legal advice, they include practical key information on various areas of law, including:

- Business law
- Consumer rights
- Criminal law
- Employment law
- Family law
- Legal Aid
- Property
- Wills and probate



Access the legal resources at www.lawsociety.ie/legalguides

CONTACT US

The Law Society welcomes the opportunity to meet with public representatives and their staff to discuss options for law reform, and provide views on the operation and implementation of existing initiatives.

Our main contacts for Policy and Public Affairs initiatives are:

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