

Chapter 5

The management and rationalisation of existing regulations

This chapter covers two areas of regulatory policy. The first is simplification of regulations. The large stock of regulations and administrative formalities accumulated over time needs regular review and updating to remove obsolete or inefficient material. Approaches vary from consolidation, codification, recasting, repeal, *ad hoc* reviews of the regulations covering specific sectors, and sun setting mechanisms for the automatic review or cancellation of regulations past a certain date.

The second area concerns the reduction of administrative burdens and has gained considerable momentum over the last few years. Government formalities are important tools to support public policies, and can help businesses by setting a level playing field for commercial activity. But they may also represent an administrative burden as well as an irritation factor for business and citizens, and one which tends to grow over time. Difficult areas include employment regulations, environmental standards, tax regulations, and planning regulations. Permits and licences can also be a major potential burden on businesses, especially SMEs. A lack of clear information about the sources of and extent of administrative burdens is the first issue for most countries. Burden measurement has been improved with the application by a growing number of countries of variants on the standard cost model (SCM) analysis to information obligations imposed by laws, which also helps to sustain political momentum for regulatory reform by quantifying the burden.¹

A number of governments have started to consider the issue of administrative burdens inside government, with the aim of improving the quality and efficiency of internal regulation in order to reduce costs and free up resources for improved public service delivery. Regulation inside government refers to the regulations imposed by the state on its own administrators and public service providers (for example government agencies or local government service providers). Fiscal restraints may preclude the allocation of increased resources to the bureaucracy, and a better approach is to improve the efficiency and effectiveness of the regulations imposed on administrators and public service providers.

The effective deployment of e-Government is of increasing importance as a tool for reducing the costs and burdens of regulation on businesses and citizens, as well as inside government.

Assessment and recommendations

Simplification of regulations

Ireland has a longstanding issue of needing to simplify a complex stock of legislation. Ireland is not the only country to face challenges in this regard. In the Irish case, however, the problems are somewhat specific. They stem from the historical development of the Irish Statute book (which includes pre independence legislation), as well as from the process for making regulations, under which acts and statutory instruments are usually amended by the enactment of new regulation which makes piecemeal changes. This means that simple, effective and transparent access to regulations does not exist in Ireland. There is a consensus (both within and outside the administration) over the fact that it is difficult to understand what regulations apply, and what is in the law (lawyers systematically need to be consulted, and even they have trouble). The National Competitiveness Council notes that legal fees are one of the important non pay costs for businesses.

Impressive efforts have been set up to address the challenge, and there has been progress since the 2001 OECD report. The Irish government fully acknowledges the importance of tackling the challenges, which are underlined in successive reports on Better Regulation. There is a three-pronged approach at work: statute law revision (abrogation); statute law restatement (an administrative form of consolidation); and consolidation. Different parts of the institutional structure are engaged, including the Attorney General's Office and the Law Reform Commission. Since the 2001 OECD report, significant progress has been made, particularly in the area of statute law revision. The Statute Law Revision Act 2005, Statute Law Revision Act 2007, and the Statute Law Revision Act 2009 together repealed over 4 500 spent or obsolete pre-1922 Acts.

But progress is slow, creating palpable frustration and incomprehension among many stakeholders. The OECD peer review team found a broad consensus (both within and outside the administration) over the need to move much faster. The regulatory framework remains difficult to understand. Many consolidation projects are moving slowly. Resources allocated do not seem to match the requirements for the work and do not reflect the importance given to the issue in the Better Regulation agenda. It is therefore not clear to what extent a real priority is being attached to this work and what political commitment it commands.

Recommendation 5.1. Reaffirm publicly that this work is a priority. Review resources for it, and increase as necessary, with a firm commitment to sustaining these for a reasonable time period such as five years.

Links are needed between simplification of the regulatory stock and the RIA process. As new regulations are produced, amendments continue to pile up, transforming restatement into an endless race against time. This issue needs to be tackled *ex ante* as well as *ex post*. Part of the RIA process should be to examine the nature of the proposals for new regulations in order to spot those which would lead to unnecessary further complication of the regulatory stock.

Recommendation 5.2. Encourage a dialogue between those engaged in the simplification work and those engaged in the processes for making regulations. Start, for example, with an *ad hoc* meeting, orchestrated by the BRU, of the officials involved in these initiatives as a starting point (RIA network, Attorney General's Office, and Law Reform Commission).

Communication of the benefits to be gained from the simplification work is not evident, but essential for stimulating interest and support. It is not clear how many (inside as well as outside the administration) are aware of the simplification work, its objectives and its importance. The 2008 report of the Law Reform Commission has a compelling section on the benefits of restatement for example, explaining its importance for increased transparency, the potential to enhance compliance, and accountability by government, as well the wider benefits for the economy (confidence for investors) and the cost for all users. The OECD peer review team considered that communication of this should be enhanced.

Recommendation 5.3. Establish a communications strategy in support of the simplification work.

Box 5.1. Simplification of regulation: Comments from the 2001 OECD Report

Enhance the current programme of restating existing laws and regulations with a target review programme based on pro-competition and regulatory high-quality criteria.

The enactment of the Statute Law (Restatement) Bill and its full application is an important step to enhance the Irish regulatory framework. Adding specific regulatory quality criteria to the review process would enhance this mechanism. For such reviews, the 1995 OECD regulatory quality checklist could be used as a reference to verify the continued necessity and appropriateness of the existing stock of regulations. To support the review, the parliament or government could directly or via an independent commission review the main areas of legislation and produce a rolling programme of reform spanning various years. As a prerequisite for such an endeavour, the government should provide enough human and technical resources to the unit in charge of the review. Such a unit could be merged with the enhanced RIA unit.

Background

Until the last two years Ireland did not have a comprehensive and explicit policy to deal with the stock of laws and regulations. Following the recommendations of the Report of the Review Group on the Law Offices of the State, a small unit was established in 1999 at the Office of the Attorney General. Based on that policy, in July 1999, the *Reducing Red Tape* Programme of Action required "that each department/office... list, by autumn 1999, the relevant legislation (both primary and secondary) and identify the scope which exists for its consolidation, revision and/or repeal". For example, the Department of Enterprise, Trade and Innovation set up in 1999 a Company Law Review and Consolidation working group with the double objective of modernising the statutes, procedures and supervision of companies and also consolidating all rules and regulations into a basic company law. As a first step, departments and offices have been required by the Department of the Prime Minister and the Statute Law Revision Unit to list by the spring of 2000 relevant legislation identifying the scope for consolidation, revision or repeal. The second stage, to be completed in the autumn of 2000, will consist in prioritising consolidation work. The initiative however, remains limited to clarity and transparency of the legal system. The review strategy did not encompass principles of good regulation (*i.e.* proportionality, impact assessment, choice of policy instruments), nor it is linked to broader structural review programmes based on the implementation of competition principles.

Ireland has also relied on High-level advisory groups in key reform areas such as the *Competition and Mergers Review Group*, which examined competition policy and enforcement processes, and a series of *Company Law Review Groups*. A recent initiative, the *Statute Law (Restatement) Bill*, currently being discussed in parliament, will strengthen the review policy. It proposes that the Attorney General prepare and make available (in hard copy and electronic form) Acts that restate the statute law in any

given area in a more intelligible form without any change being made to that law except in its presentation. To speed the process, instead of proceeding through the parliament, it is proposed that restatements be certified by the Attorney-General. This policy will also be of particular benefit where a series of Acts has been consolidated and the consolidation has been superseded by an amending Act. Parliament has yet to develop a specific role in relation to this novel procedure.

The new Regulatory Reform programme requires through the Regulatory Quality Checklist that rule-makers verify if new laws and regulation can incorporate **automatic review mechanisms, such as sunseting**, a precise review date or mandatory substitution (adding a rule only when a corresponding reduction or repeal accompany it). Until now, application criteria or guidance has not supported these mechanisms. Systematic use of sunseting and mandatory periodic reviews places Ireland among a very small group of OECD Member countries.

Source : OECD (2001), OECD regulatory reform review of Ireland.

Administrative burden reduction for businesses

As in many other fields of Better Regulation, Ireland has strengthened its approach since the 2001 OECD report. The programmes that have been put into place are clear. There are two strands to the policy: a programme to reduce administrative burdens on business by 25% by the end of 2012, announced in March 2008; and the work of a High-level Group on five priority areas, based on the work of the Business Regulatory Forum and international experience, and identified through these processes the issues which were covered to be the most burdensome. Although there is no up to date figure, progress has already been made, with an estimated EUR 20 million savings (figure reported in 2008) and some significant ongoing projects such as: an XBRL project (extensible Business Reporting Language) including Revenue, CSO and CRO; ROS Signatures and eFiling with the CRO and revenue, and risk-based enforcement with participation of agencies across government.

The momentum, which seemed to have slowed, has been picking up speed. The DETI notes that the work programme is business driven. In other words it depends on the ideas, suggestions and issues put to it by business. Reporting is done periodically, not according to a fixed cycle. The problem of initial momentum may have its roots in the fact that the work is not perceived to be the most important issue for business competitiveness, and may have been “drowned out” by other measures to redress the economy in the wake of the financial crisis.

The initiatives are acquiring a stronger framework with regard to measurement and follow up, but specific targets and resources remain issues. With respect to the quantitative target, the DETI has defined the areas for reduction, has established a baseline measurement for itself, and is now encouraging other departments to follow suit. To encourage buy in and in line with best practice elsewhere in the EU, the target should be divided between ministries (which would put pressure on them to perform). It should also be a net target, as many rightly see RIA as key to reducing overall regulatory burdens. Adopting a quantitative approach requires strong incentives if not sanctions, as the Irish administrative culture is not particularly tuned in to measurements and data. Ireland could use the examples of relevant other countries and through discussion in the SPOC network to strengthen its approach on the ground. The project has also stumbled on a relative lack of resources (or a reluctance to allocate resources) within line ministries for taking forward the identification and measurement of burdens.

Recommendation 5.4. Take further measures to strengthen the practical approach, including delegated net targets. Establish a stronger link with the RIA process.

The institutional structure which appeared to make a slow start is now gathering pace. At the time of the OECD mission in late 2009, the framework structures for the programmes did not seem to command adequate attention. The HLG did not appear to be functioning effectively. The OECD team understand that this is now improving.

Recommendation 5.5. Monitor the performance of key institutional structures for delivery of the burden reduction programme (High-level Group and Inter-departmental Group). Consider whether it would be useful to rotate the chair of the HLG across key departments. Consider broadening the HLG mandate, for example by giving it an advisory role on important related processes such as RIA. Alternatively or in parallel, and taking account of resource constraints, consider whether a fully external (and independent) watchdog should be established, on the lines of those set up recently in some other EU countries such as the UK, Germany, Sweden. Task it initially to help shape a new strategy for the programme.

The initiatives do not seem to be backed up by a strong communication strategy. Public consultation and communication fall short of international best practice. Beyond the High-level Group standing dialogue with stakeholders, the initiative is with departments and attention will be needed to ensure that they follow up on the workshops anticipated after the measurements have been completed.

Recommendation 5.6. Clarify and monitor the requirements on departments with regard to consultation with stakeholders, and ensure that they have access to best practice examples (using international experiences) of how to go about it. Develop a communications strategy which clarifies the strategic objectives of the programme and why it is important to Ireland, as part of a broader communication strategy on Better Regulation proposed in recommendation 1.4. Consider committing to an annual report (following the example of several other EU countries) so that stakeholders can be regularly and clearly informed of how the programme is developing and results. This could be part of the broader reporting proposed in Better Regulation (recommendation 1.4), or standalone.

Overall, the policy may benefit from a review to draw out what really matters in the Irish context post crisis. There seems to be compelling evidence from some reports, echoed by comments to the OECD peer review team, that more should be done to support very small firms, in order to strengthen the domestic economy. Some of these actions may relate to administrative burdens. Some interviewees also pointed out the reluctance to address the “real” issues behind simplification, implying that the programme should go beyond administrative burdens. The 2007 ESRI survey commissioned by the BRU provided a very useful snapshot at the time of the issues judged important by business. Three years on, another survey would help to crystallise what the focus should be.

Recommendation 5.7. Commission a new survey of business views, and especially, of what matters to very small firms in terms of burdens. In the light of this, consider whether there is a need to adapt the strategy for administrative simplification.

Box 5.2. Administrative burden reduction: Comments from the 2001 OECD Report

An important focus of the current Irish policy is the control of administrative burdens. As such, it incorporates past initiatives, such as the mid-1990s recommendations of the Task Force on Small Business and Services. **Some evidence exists of significant results:** business licences and permits have been reduced and gradually improved in some areas. For instance, the recent efforts by the Revenue Commissioners have significantly streamlined and simplified the information requirements provided by firms. The registration of companies has also been simplified, permitting the registration of a company in one week. Ireland has also been praised by the implementation of a sophisticated and efficient environmental licensing system requiring integrated permits for medium to large industries covering air, water, noise and waste/soil. The setting up of a one-stop-shop by the Industrial Development Authority and simplified administrative procedures to help foreign investors have also been recognised as a significant factor in attracting foreign investment.

Nonetheless, initiatives tend to be piecemeal and lack an overall and systematic approach. Anti-competitive and entry-controlling licensing schemes still govern activities such as utilities, public transport, banking, lotteries, places of public amusement, professions, housing, and policy areas such as environment and health. The extent and number of licences and permits is not known with certainty. Although the *Ad hoc* High-level Group on Administrative Simplification to be set up under the *Reducing Red Tape* Policy should address the issue, a particular concern is still the **lack of consistency across the administrations when establishing formalities and the duplication and lack of co-ordination of information required by departments and agencies.** One reason for this relates to the large discretion that departments, agencies, sectoral regulators, and local governments have in the design of their formalities without any central overview. **This has disproportionately higher impact on SMEs.**

Source: OECD (2001), OECD regulatory reform review of Ireland.

Administrative burden reduction for citizens and for the administration

A specific programme for citizens may be a step too far at this stage, especially given resources and the need to prioritise, but Ireland might usefully review the experiences of other countries such as the Netherlands and Portugal, with a view to putting this into its forward Better Regulation programme. There is also no clearly defined programme at this stage for burdens inside the administration. However the wide range of relevant initiatives which are already underway or planned under the banner of Transforming Public Services, could be identified to see whether there are any gaps.

Background

Simplification of regulations

General context

The historical development of the Irish legislative landscape and the methods of enacting legislation create specific challenges:

- **Historical development of the Irish Statute Book.** When the Irish state was established in 1922, all pre-1922 acts were carried over and continued to apply until replaced by legislation enacted by the *Oireachtas*.² As a consequence the Irish Statute Book was to encompass a varied selection of sources which reflected the political history of the country.³ Though the amount of pre-1922 legislation still in force has been much diminished and is continually being further reduced, some remains which can only be found in publications which are out of print and difficult to locate, and is often written in archaic language.

- **The process for making regulations.** Whilst most legislation is reasonably accessible, some research may be required to trace amendments, although mostly this can be done by reference to the publicly available legislation directory. The Statute Book is also publicly available on line. Acts and statutory instruments are usually amended by the enactment of new regulation which makes piecemeal changes. The result is a patchwork of regulation that can be challenging to assemble, read and understand. Further, amendment may be included in an act that deals with issues other than those with which the amended text is primarily concerned and whose title gives no indication of its relevance to the amended legislation in question.⁴ This is known as the “buried amendment phenomenon”.⁵

The government has stressed the importance of tackling these challenges and simplifying the existing stock of legislation to ensure its coherence and transparency. In 1999, a key recommendation of the report *Reducing Red Tape – An Action Programme of Regulatory Reform in Ireland* was to make legislation more coherent and more easily accessible. The 2001 OECD report advocated the establishment of a more coherent statute law reform and revision in Ireland. The 2004 White Paper on Better Regulation stated: “Legislation in linked or connected areas will be consistent, and kept up to date and accessible through processes of simplification, consolidation and restatement”. More generally, the Law Reform Commission (Box 5.3) was established in 1975 to keep the law under review and to make practical proposals for its reform. The government programmes and social partnership agreements have included commitments to review regulation.

Regulatory simplification has been carried out through:

- **Statute Law Revision (abrogation).** This requires legislation to be given effect, so needs parliamentary time and approval.
- **Statute Law Restatement.** This is an administrative form of consolidation. It can lay the groundwork for consolidation or reform of a given area of legislation.
- **Consolidation.** This requires legislation to be given effect, and may follow on from statute law restatement.

These projects have been closely linked to the initiatives to make legislation available on line (see Chapter 3). Since the 2001 OECD review, progress has been achieved in particular through the enactment of the Statute Law (Restatement) Act 2002, and of the Statute Law Revision Acts 2005, 2007 and 2009. The work is spread across a number of bodies, notably the Attorney General’s Office and the Law Reform Commission, with a co-ordinating role by the Department of the *Taoiseach*. Consolidation Bills are drafted by the OPC on the instructions of individual departments. The Irish government has also relied on High-level advisory groups in key reform areas, such as company law review.

Box 5.3. The Law Reform Commission

The Law Reform Commission is an independent statutory body whose main aim is to keep the law under review and to make practical proposals for its reform. It was established on 20 October 1975, pursuant to section 3 of the *Law Reform Commission Act 1975*. The 1975 Act defines law reform to include the development of law, its codification (including its simplification and modernisation) and the revision and consolidation of statute law.

The Law Reform Commission has three main areas of activities: conducting programmes of law reform, preparing statute law restatement, and updating the Legislation Directory.

Membership and staffing comprises a President, one full time Commissioner and 3 part time Commissioners, supported by 11 research staff and, a further seven administrative support staff. Two staff are allocated to Statute Law Restatement and two to the Legislation Directory.

Programmes of law reform

The Commission's law reform research work arises from two main sources: first, under a programme of law reform prepared by the Commission and agreed by the government, and laid before the Houses of the *Oireachtas* under the 1975 act; and second, in accordance with a request from the Attorney General under the 1975 act.

The Commission is conducting a third programme of law reform. The first two programmes took place between 1977 and 1999, and between 2000 and 2007. Each of them led to the publication of over 60 documents (consultation papers and reports). The Third Programme of Law Reform 2008-14 was prepared after a period of consultation in 2007. The Commission has recently published an Interim Report on Personal Debt (17 May 2010), a Consultation Paper on Jury Service (29 March 2010) and a Consultation Paper on Hearsay. A report on Alternative Dispute Resolution will be published in 2010 which will include a Draft Mediation and Consultation Bill. Other consultation paper or reports due for publication in Autumn 2010 include papers on Inchoate offences, legal aspects of carers, adverse possession, family relationships, personal debt management and search and bench warrants.

Restatement

The responsibility for conducting statute law restatement (administrative consolidation of acts) was transferred from the Attorney General Office to the Law Reform Commission in 2007. In 2008, the Commission published its Report on Statute Law Restatement, which contains the details of the commission's first programme of restatement for 2008-09. Work on the first programme is well advanced and material is being forwarded to the Office of the Attorney General. A second programme is scheduled to start in 2010 and development of the programme is in preparation.

Legislation Directory

Along with statute law restatement, the Law Reform Commission took over functional responsibility for updating the Legislation Directory (a searchable guide to amendments) in 2007. Updates to the Legislation Directory from 2006 to April 2010 were published in July 2010. The directory will be updated on a monthly basis from September 2010. The Commission is addressing a long-standing omission from the directory by adding information to the directory in respect of amendments to pre-1922 legislation effected by the pre-1922 legislation. The commission has also started preliminary work on the creation of a directory for secondary legislation.

Statute law revision

The process of statute law revision is concerned with repealing legislation on the statute book, which is obsolete, spent or which have no continuing relevance. The main objective is to provide certainty to citizens and businesses as to what legislation from the period prior to the foundation of the Irish state in 1922 continue to apply. Another objective of the project is that the revision should ultimately lead to the codification of the Irish statute book. The Office of the Attorney General and the Department of the *Taoiseach* have engaged in a wide-ranging analysis of all legislation of the various Irish and United Kingdom parliaments which exercised authority over Ireland prior to Irish independence, as well as legislation passed since 1922. The project was taken forward within the Office of the Attorney General, initially by the Statute Law Revision Unit and subsequently by the Statute Law Revision Project Consultant and a number of legal researchers. The project is currently on hold pending the availability of resources.

The first phase of the project involved a review of public general acts (*i.e.* statutes with general application as opposed to private acts which have more limited application) enacted prior to Irish independence on 6th December 1922. This process led to the publication and enactment of the Statute Law Revision Act 2005 and the Statute Law Revision Act 2007. The 2005 act was the first step towards a major overhaul of pre-1922 legislation, and led to

the repeal of over 100 acts. The 2007 act had a much wider scope. Instead of listing what was to be repealed, the law listed what was to be retained from pre-1922 legislation. The act provided a “White List” of 1 364 statutes which were to remain in force after the enactment of the bill. The effect was that the act repealed over 3 200 statutes, making it the largest statute law revision measure ever to apply to Ireland. The number of remaining pre-1922 statutes has been further significantly reduced by the passage of various sector-specific acts since the 2007 Act (for example, the Land and Conveyancing Law Act 2009) that have repealed pre-1922 statutes.

The second phase of the project covered a number of local and personal acts and private acts. Private acts are those which are concerned with the affairs of a single individual or body while local and personal acts are concerned with matters affecting a very limited section of the community such as a single local authority or company. The Statute Law Revision Bill 2009, published in June 2009 and enacted as the Statute Law Revision Act 2009, deals with all private acts enacted up to and including 1750 and all local and personal acts up to and including 1850. It sets out two lists of such acts – those to be retained in force and those to be repealed. As for the first phase of the project, the Office of the Attorney General conducted public consultation on the draft bill.

Statute law restatement

Statute Law Restatement, as defined in the Statute Law (Restatement) Act 2002, is an administrative consolidation of an act, which incorporates all subsequent amendments and makes the consolidated text available in printed electronic form in a single text. Restatements may also simplify language and terminology. Restatement includes primary regulation (statutes or acts) and secondary regulation made by way of a statutory instrument (for definitions, see Chapter 4). This consolidation is certified by the Attorney General as an up-to-date statement of the act in question. The certified new versions, known as restatements, are placed before the Houses of the *Oireachtas* and made available electronically on the Attorney General’s website. They do not alter the substance of the law or have force of law and, therefore, do not require *Oireachtas* approval. Restatements can, however, be cited in court as *prima facie* evidence of the legislation set out in them.

In May 2006, the government charged the Law Reform Commission with undertaking a programme of statute law restatement. Prior to this decision, responsibility for the preparation of statute law restatements rested with the Statute Law Revision Unit in the Office of the Attorney General. The transfer of responsibilities was requested by the Attorney General, to reflect its priorities on the extensive legislative agenda. The Office of the Attorney General still has an active part in the process however, as the Attorney General continues to certify the texts of restatement prepared by the Law Reform Commission. This involves ongoing liaison between the Law Reform Commission and the Office of the Attorney General. The LRC has developed a methodology for carrying out restatement, building upon the guidance material that had been issued by the Statute Law Revision Unit.

In 2008, the LRC published its Report on Statute Law Restatement, which detailed its first programme of restatement for 2008-09. The programme covers 45 acts covering a range of departmental areas, including 6 suites of related legislation.⁶ It was adopted following a public consultation paper which outlined 60 candidate acts. The work is expected to be finished by the end of 2009. Restatements are being prepared and/or finalised on a number of pieces of legislation on an ongoing basis. The LRC plans to issue a second programme in consultation with government and external stakeholders, to start in 2010. A first stage was carried out in 2003 and 2004 when the Office of the Attorney

General produced four restatements. In practice, carrying out a restatement faces a number of challenges, as it includes the following steps: locating a copy of the principal act to be restated and affecting legislation; identifying the provisions which affect it; verifying the existing Legislation Directory for the act; inserting the amendments in the restatement; and establishing the commencement status of the affecting provisions. The restatement process is thus closely linked with the efforts to keep the Legislation Directory up to date. The LRC notes that international technological standards are used for this work.

Consolidation projects

A major tool for reforming law is consolidation, a process whereby the *Oireachtas* passes one, overall act into which all previous regulations relating to a topic are collected. The new act stands out as a comprehensive text which repeals and replaces all former acts on the subject. In some cases, consolidation has a broader scope, and includes adoption of new provisions which update and modernise legislation. As it goes through the *Oireachtas*, the draft bill can be subject to amendments. Consolidation projects are carried out by individual departments, which instruct the OPS to draft a consolidation bill. These projects are also done in co-operation with the Law Reform Commission. Work to date has focused on key economic areas such as company law, customs law and health and safety (see Box 5.4). Many of the projects are related to areas that the 2007 ESRI Business Regulation Survey identified as particularly burdensome.

Box 5.4. Consolidation: Flagship projects

Land law. The Land and Conveyancing Law Reform Act 2009 is the product of a joint project between the Department of Justice, Equality and Law Reform and the Law Reform Commission. It repeals over 150 pre-1922 statutes (thereby complementing the Statute Law Revision Act 2007) and replaces them with revised provisions. Irish land law and conveyancing law was a patchwork quilt of old statutory provisions and judge-made rules dating back to the 13th century. This had resulted in a complex code, much of which was difficult to apply in modern conditions.

Company law. A review group was set up in 2001, which prepared a bill to consolidate and modernise company law (scheduled to be published in 2012). The proposed bill consolidates the existing 15 companies acts, dating from 163 to 2006, as well as other regulations and common law provisions relating to the incorporation of companies, into a single act comprising over 1 300 sections. The bill also modernises company law to reflect modern business practice. It re-organises provisions law, to take account of the different company types and sets out clearly the corporate governance duties of directors, auditors, etc., brings together the provisions relating to compliance and enforcement, and defines the functions of the different authorities in charge of ensuring compliance (Companies Registration Office, Office the Director of Corporate Enforcement, and the Irish Auditing and Accounting Supervisory Authority).

Tax and Customs legislation. The Revenue Commissioners has been engaged in a programme for number of years to consolidate and modernise the body of older legislation governing the various taxes and duties. Much of this legislation pre-dates the foundation of the Irish State in 1922 and some dates back over 130 years to the Customs Consolidation Act 1876, with layers of non-textual amendments over the year and many archaic and overlapping regulations. In June 2010, the government approved the drafting of a Customs Bill for the consolidation of legislation on excises. The consolidation programme incorporates a review mechanism together with an assessment of whether certain regulations are obsolete. It has included Taxes Consolidation Act 1997, Stamp Duties Consolidation Act 1999, Capital Acquisitions Tax Consolidation Act 2003 (gift tax and inheritance tax), VAT Regulations 2006, Excises consolidated over a number of Finance Acts from 1999 to 2005 and an integrated collection and recovery regime which streamlines and simplifies provisions in various acts.

Liquor licensing. The government legislative programme provides for the publication of the Sale of Alcohol Bill. The main objective of the proposed bill is to streamline and modernise liquor licensing law by repealing the licensing acts 1833 to 2008 and replacing them with updated provisions. Consolidation will also involve the repeal of licensing provisions that are currently spread across about 100 statutes

(about two-thirds of which are pre-1922).

Other examples of ongoing consolidation projects include: gaming and lotteries legislation, nurses and midwives regulation, sea-fisheries and aquaculture, national monuments, pharmacy. The Department of Social Protection has a policy of consolidating the social welfare acts roughly every ten years with the most recent consolidation in 2005.

Codification

As Ireland is a common law jurisdiction, codification means combining case law with existing legislation to form a legal code. To date, codification has been undertaken in the area of criminal law, which is housed in a multiplicity of statutes and court judgments. The project to establish a single crimes act dates back to the government programme for 2002-07. A major initial step was the establishment of the Criminal Law Codification Advisory Commission in February 2007, a statutory body responsible for overseeing the project. In 2008 the commission issued its first programme of work for 2008-09. The commission has used large areas of research work by the Law Reform Commission under its programmes of law reform.

Annulling statutory instruments

Most primary legislation which enables the making of regulations will provide for the relevant regulation to be laid before the Houses of the *Oireachtas*. It will usually provide that either House of the *Oireachtas* may pass a resolution annulling the regulation within 21 days, although without prejudice to the validity of anything done pursuant to regulation prior to the resolution being passed.

Motions annulling regulations are rarely used and on very few occasions has time been given over by the government to debate a Motion to Annul. There was some provision made to debate Motions to Annul various “Emergency Powers Orders” in the late 30’s/early 40’s during the outbreak of World War II but the majority of such motions to annul were defeated on division and a small number were withdrawn.

In theory, opposition parties can table a Motion to Annul and utilise their private members’ time to debate it but in practice this has rarely happened [twice – in 1937 and 1941]:

- Either house of the *Oireachtas* may, by resolution passed within 21 sitting days after the day on which an order was laid before it in accordance with section 13, annul the order.
- The annulment of such an order takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under the order before the passing of that resolution.

Either house may annul an order. This section is a standard legislative provision relating to the annulment of orders by either house of the *Oireachtas*.

Challenges

The OECD review found a broad consensus (both within and outside the administration) over the need to move much faster on law reform, consolidation and restatement, and significant frustration over the pace of progress. The regulatory framework remains difficult to understand, including for professional lawyers, and is unanimously considered a key issue.⁷ Simplification is important for businesses, for example on

employers' obligations, but as matters stand, recourse to a lawyer is needed and some cannot afford this. Several interlocutors outlined the progress achieved, particularly in setting a work methodology for simplification, but also underlined the slow pace of progress and projects being abandoned. A first key difficulty stems from the pace of regulatory production. As new regulations are produced, amendments continue to pile up, transforming restatement into an endless race against time. Some consolidation projects have also been delayed because consolidation requires revising legislation.

Some interviewees also said that the allocation of resources does not match the scope of the work that needs to be done, limiting the capacity to sustain momentum, and also losing the opportunity to do much with little. The OECD peer review team were told that relatively few resources were needed to ensure an effective follow through, but still, more than currently allocated, and with a commitment to sustaining the effort over a reasonable time horizon (five years for example) so that effort is not dissipated. Resources are however limited, and appear to have diminished over time. The failure to resource the work effectively is undermining morale. While in 2005 the Office of the Attorney General had six researchers on a contractual basis working on these projects, the LRC at the end of 2009 has one project manager and two researchers (with one person tracking the issues in the Office of the Attorney General). Departments also seem to have limited resources for consolidation projects.

Yet the LRC's 2008 progress report is clear about the benefits:

- Increased transparency of legislation, potential to enhance compliance, and accountability by government.
- Benefits to the economy through a clear, unambiguous and appropriate regulatory framework, supporting investor confidence.
- Reducing costs for all users. The current patchwork is costly and there are savings to be achieved from convenient restatements of widely used legislation.

Administrative burden reduction for businesses

Policy on administrative burden reduction for businesses

Since the mid-2000s the Irish government has developed a programme of actions to reduce administrative burdens on business, as part of the government's agenda to improve the regulatory environment. As noted in the 2001 OECD report, the government already took initiatives to simplify licensing, permits and information requirements provided by firms in the 1990s, but these actions tended to be piecemeal, and lacked an overall and systematic approach. Many consider that Ireland has a strong regulatory framework, often referring to international indicators such as the Global Competitiveness Report of the World Economic Forum and the OECD's Product Market Regulation indicators. Red tape only ranked fourth in a wide ranging business survey (Box 5.5), so it is important, but not apparently the most important issue for companies. However there are concerns – which the crisis has reinforced – that Ireland's major internationally trading sectors depend on a strong regulatory environment, and that more should be done to support SMEs, including through administrative simplification. At the same time, there has been recent High-level acknowledgment of the need to address business burdens. The "Smart Economy" strategy, published in December 2008, includes "smart regulation" among its five key action areas, and emphasises the need for quantification and performance measurement. Among the Better Regulation actions identified which are integral to economic recovery, is the need to

“accelerate the administrative burden reduction programme to reduce the volume and frequency of data required from the public”.

Box 5.5. The ESRI business survey

The report details the results of a study of business attitudes to regulation in Ireland conducted by the Economic and Social Research Council (ESRI). Key findings were that:

- Most firms consider that the overall amount of regulation is about right.
- Taxation regulation was most frequently mentioned as a heavy burden.
- Both the compliance burden and administrative burden of regulation are an issue but the compliance burden is somewhat more of a burden.
- Firms who used online forms found them effective. Smaller businesses were less likely to use online forms.
- Just over half of firms had been inspected or audited in the previous three years.
- Firms are generally positive about the regulator that they deal with most often. However, flexibility and consistency of enforcement could be improved as well as consultation on new regulations.

The report notes that these findings suggest a number of areas which the government could prioritise to improve the regulatory environment for business including a continued focus on reducing compliance costs; simplification in the area of income tax and VAT; ways to address the fact that regulation is more of a burden on smaller than larger firms; the need for systematic (including direct) consultation with business as part of the RIA process for new regulatory proposals; and the need for flexibility as well as consistency of enforcement, based on more transparent guidelines.

There have been three major milestones in the formulation of a wide-scope policy for burden reduction:

- The establishment of the Business Regulation Forum (BRF) at the end of 2005, which included government and business representatives, laid the ground for a more comprehensive approach. Its report, released in April 2007, recommended that the government establish a formal programme, setting a reduction target of 25%, which would result in annual savings of EUR 500 million (0.3% of GNI) according to its estimate. The BRF also identified five priority areas of regulation where the burden reduction policy should concentrate on (taxation, environment, health and safety, statistics, and employment and company law).
- As a response to the BRF report, the government set up the High-level Group on Business Regulation in 2007. The primary role of the High-level Group, which works as forum for dialogue between government departments, the business community and trade unions, is to identify opportunities for administrative simplification in the five priority areas identified by the BRF. The Department of Enterprise, Trade and Innovation acts as a co-ordinator and leader, but simplification projects are conducted by individual departmental bodies (many of which are within the DETI).
- In March 2008, the Irish government took a further step forward when it set a 25% reduction target by 2012. The programme is co-ordinated by the DETI, and covers all departments. Baseline measurements have now been made. Setting a

quantitative target was (as in many other EU states) mainly a response to the European Council's invitation to set a target and the Lisbon Agenda. The programme is being taken forward on the basis of prioritisation as this is considered the most efficient approach, based on international experience that suggest most burdens arise from a small percentage of information obligations.

Institutional framework, guidance and support

The Minister for Enterprise, Trade and Innovation is leading the government programme to reduce administrative burdens on business. A specific unit, the Business Regulation Unit, was set up within the DETI to carry out work in this area. It is responsible for developing the methodology for the 25% target reduction programme, and for reporting to government on progress. Co-ordination with other departments is done through an inter-departmental group of representatives (IDG) from each department and agency which manages the cross-departmental 25% reduction process.

The HLG was set up in July 2007 to progress specific business issues and ideas for red tape reduction. It acts as a fast-track "action group", pinpointing and seeking solutions to key business irritants. The IDG was set up later (in 2008) following the decision to have a 25% target. The IDG co-ordinate the departments involved in the 25% measurement and reduction process. The High-level Group's terms of reference are set by the group itself. The items to be tackled by the group are proposed by the business members and progress is co-monitored by the group. Since September 2008, the role of the group has been expanding to include the validation of the prioritisation and measurement work carried out by the IDG. The business members of the HLG play a significant and expanding role in the measurement process, acting as a conduit between departments and agencies and the relevant business sectors. The HLG meets around 4-5 times a year.

The Business Regulation Unit serves as secretariat to the HLG and is the main interlocutor on burden reduction within DETI. Consequently it plays an important role in ensuring coherence between the 25% target programme and the work of the HLG. The DETI also oversees the IDG, on which all departments were initially represented. Six departments, however, are considered to have little or no regulation affecting business. Today seven departments and two agencies (Revenue and CSO) participate.⁸

The Business Regulation Unit has started to work on a methodology in co-operation with other departments, and taken action to inform other departments on the programme. The Business Regulation Unit provided SCM training during both 2008 and 2009, to all relevant departments. The Irish SCM Handbook was circulated in 2009. Detailed project plans, templates, timetables, charts, etc. have been circulated to all inter-departmental group members. Meetings of the IDG have been monthly for most of 2010. Additionally, the Business Regulation Unit has visited each participating department at least once since January 2010. Resources have however been very limited as the Business Regulation Unit includes one and a third (full-time equivalent) senior staff and one and a half junior staff.

The two groups will interact increasingly as measurement and reduction progresses:

1. HLG members already participate in stakeholder groups, checking and validating the prioritisation of Information Obligations (IOs), and the measurement results, as they are produced.
2. HLG members are invited to simplification workshops; and are invited to invite or nominate their own relevant business members to assist in identifying simplification ideas.

3. Draft simplification plans will be presented to the HLG for inputs and comments.

As a result of these interactions, the HLG will become, in practice, if not officially, an important part of the reporting structure for progress against the 25% target.

Methodology and process

There are two strands to the burden reduction policy: the 25% reduction target for 2012, and the work of the High-level Group on the five priority areas. Overall, recent measurement work suggests that the total administrative burdens on business in Ireland is of the order of EUR 2 billion.

The DETI has recently completed the measurement of administrative burdens in their regulations, which are estimated to account for about half of all burdens (with the help of consultants). This was based on thirty-one Information Obligations, and the results were validated by the High Level Group on Business Regulation. Business workshops were subsequently set up to look for the best ideas for simplifying the measured burdens. Workshops dealing with Company Law and Employment Law were held on 11th May and 1st June 2010, with a Health & Safety workshop to follow shortly. Simplification plans are to be drafted by the relevant legislative areas following the workshops, and are to be presented to the High Level Group in autumn 2010.

The DETI is also currently leading and co-ordinating a cross-Government measurement project involving seven further Departments and Revenue (the tax authority), these being the Departments with regulations that impact significantly on business. Informal agreement has been reached that a centralised measurement project will be carried out, to begin shortly, and culminating in mid 2011. Approximately 150-200 prioritised Information Obligations (IOs) are to be measured, again representing 90% of the burdens across these areas. The prioritised lists of IOs are currently being checked and validated by the business members of the HLG. It is envisaged that simplification workshops will also be carried out following this project.

For now, there are no specific requirements on individual departments (as there are no sub-targets detailing out the overall 25% target), apart from a general requirement that departments ensure that sufficient proposals are identified to meet the target. Ireland also notes that it does not intend to duplicate the work of the European Commission, but to focus on regulations where Ireland itself has scope to make simplifications. However the intention is to combine the results of both the national and the Commission programmes to reach an overall figure for burden reduction, if possible.

The initial approach of the High-level Group on Business Regulation was to examine specific issues under the five priority areas identified by the Business Regulation Forum as the most onerous, burdensome or irritating. It revisited the submissions received by the Business Regulation Forum. In addition it organised workshops with businesses. In its 2008 report the Group identified a number of short-term and longer-term actions. The High-level Group undertook some measurements, some of which fall under the national programme for the reduction of administrative burdens. It used a SCM-based methodology and surveyed a small number of representative businesses to collect information regarding the time taken when responding to an information obligation. These measurements have primarily been aimed at assessing the impact of burden reduction measures (and not at estimating the amount of burdens on business). In 2008 it had identified more than EUR 20 million of red tape reductions, and its 2009 programme contains almost 70 actions, of which nearly half have been processed.

Public consultation and communication

The DETI has made extensive use of public consultation and involvement of external stakeholders in the process of developing the policy for burden reduction. Both the Business Regulation Forum and the High-level Group include government department representatives and business representatives. The High-level Group membership has been extended to trade unions.⁹ Besides the initial impetus for public consultation when the work started, and the fact that the High-level Group represents a “standing dialogue” with stakeholders, stakeholder groups are involved in validating measurements as they are produced. It is left to departments to follow through, as part of the requirement on them to come up with contributions to the overall burden reduction.

The High-level Group released its first progress report in July 2008 and its second report in July 2010, both of which are available on line. The HLG has not committed to report annually, but does so periodically when outputs and delivered actions dictate. The DETI has also released the measurement report on Company Law, Employment Law and Health and Safety Law, which is available on line.

Achievements so far

Ireland notes that even in the absence of completed baseline measurements, proposals are “proceeding”, and a number of departments have launched projects. The 2008 report of the High-level Group presented eight simplification projects undertaken over the past years. The group estimated that the measures have resulted in an annual administrative saving of nearly EUR 20 million.

Table 5.1. Administrative savings resulting from simplification projects

Simplification project	Lead department/agency	Annual administrative savings (million EUR)
Redundancy payments	Department of Enterprise, Trade and Innovation	1.200
Audit exemption threshold	Department of Enterprise, Trade and Innovation	3.735
Tax clearance certificates	Revenue Commissioners	0.300
Companies Registration Office annual return	Companies Registration Office	10.000
VAT registration	Department of Finance	5.400

Source: DETI (2008) High-level Group report, July 2008.

Table 5.2. Administrative costs¹⁰

	Annual administrative costs (EUR million)
Department of Environment, Heritage and Local Governments	8.000
Road Safety Authority	0.247
Department of Enterprise, Trade and Innovation	0.650
Total	29.532

Source: DETI (2008) High-level Group report, July 2008.

The High-level Group report presented other larger projects, which span over a longer period. These projects are still underway. They include:

- Simplification of processes to return data to the Revenue Commissioners, the Company Registration Office and the Central Statistical Office (to avoid any overlap in returns of similar data to different offices in different formats).
- Establishment of single window for importing and exporting, through which a business can fulfil all or many of the requirements related to import and export regulations (*e.g.* customs clearance, food safety approval).
- Establishment of a unique business identifier and an associated register system to provide all agencies with a uniform means of identifying business entities. The government agreed to the establishment of a cross-departmental group in December 2006, to examine the feasibility. The project has not led to concrete steps yet. In its 2008 report, the High-level Group called for quicker action, a message which was also conveyed during the OECD mission.
- Request on each department to draw up a data strategy. The National Statistical Boards published guidelines to assist departments with the process of preparing the strategy.

The Companies Registration Office (CRO) provides a positive example of what has been achieved in terms of simplification in a particular area. The CRO is a party to a number of projects recommended by the High Level Group on Business Regulation such as:

- The introduction of a facility to file accounts electronically, which will enable the sharing of this data with other public bodies, thereby reducing their need to gather this data and the amount of re-casting of information by businesses. More than 80% of the forms being filed in the CRO can be filed electronically. 56% of annual returns are filed electronically and approximately 70% of the 3 next most prevalent forms.
- The addition of the Revenue Online Services digital signature capability to CRO online forms, thereby simplifying procedures by use of a common signature for Revenue and CRO filings.
- The sharing of data with other public bodies, which has reduced the administrative burden of companies by reducing the amount of data they are required to submit, in particular, to the Central Statistics Office.

The High-level Group 2009 report set out the top 15 achievements so far (Box 5.6).

Box 5.6. The 2009 High-level Group Report

1. Revenue has introduced less frequent VAT3 returns for small traders; additionally, approximately 65% of traders are currently accounting for VAT on the cash basis, rather than the invoice basis, thus improving their cash-flow position.

2. Revenue launched a new version of their website, in December 2008, to make accessing information and services as easy and intuitive as possible, gathering them in logical clusters under primary headings.

3. Revenue's Online Service (ROS) offers business and individuals a quick, secure and cost effective method to manage their tax affairs online. Following a detailed and wide-ranging consultation process with tax practitioners, industry representative bodies, software providers and customers, Revenue introduced Phase 1 of mandatory e-filing and e-paying for large companies and Government Departments with effect from 1 January 2009. Phase 2 of mandatory e-filing commenced in January 2010 and will apply to other large companies, other public bodies and Local Authorities.

4. The Central Statistics Office — Following agreement on a Common Business Identifier, the CSO and Revenue are collaborating to match their databases, allowing the CSO to receive relevant business registration data from Revenue. As a result of obtaining this data, the CSO has been able to discontinue its annual Business Register Inquiry to businesses. (The sample size for this survey was 51,400 businesses in 2007.)

5. From reference year 2010, the CSO also plans to incorporate Corporation Tax and Income Tax returns in the processing of surveys conducted under the Structural Business Statistics Regulation; it is envisaged that this will lead to a reduction of 80%-90% in the number of businesses, with less than 10 persons employed that are sampled.

6. The CSO has also reduced the sample size of its Quarterly Earnings Survey, thereby reducing the overall burden on business.

7. In June 2009, the CSO published its second comprehensive response burden report (in respect of 2008). It found that 67% of enterprises in Ireland did not receive any CSO questionnaires in 2008. The CSO is continuing to make efforts to reduce burdens where possible.

8. The Department of Enterprise, Trade and Innovation — Responding to a request from the High Level Group, a facility to allow the direct payment of redundancy rebates to Revenue has been put in place to ease the burden on those businesses with outstanding tax obligations who are awaiting receipt of a redundancy payment.

9. Substantial progress was also made during 2009 in streamlining the application process for employment permits. The design of a new back-office IT system has been completed and work has commenced on the build phase.

10. The Health & Safety Authority has produced a number of Guides to help, in particular, small business, to comply with Health and Safety Legislation.

11. In addition to these initiatives, it is often the case that simple guidance and straightforward information notes can help businesses to understand their legal responsibilities more readily, and thus make it easier for them to comply with regulations. For example, the CRO recently produced an information note to guide companies wishing to change their Annual Return Date so that it will coincide with their Revenue filing date. This simple initiative will allow an increasing number of companies to reduce the duplicated effort that may previously have resulted from filing similar information on two different dates.

12. The Department of the Environment, Heritage and Local Government has introduced simplified procedures in relation to waste collection permits. The ten separate permits necessary to operate nationally were reduced to one, the cost of these permits was reduced from 12,000 to 5,000, and the duration of the permit was increased to 5 years from 2 years.

13. Also, the variety of charging structures in relation to trans-frontier shipments of waste was simplified to one, and a single Competent Authority replaced the 34 that had existed previously. A similar reduction from 34 authorities to one is expected in early 2011 in the area of internal movements of hazardous waste.

14. Two key initiatives aimed at improving the communication between business and local authorities are the establishment of a Business Support Unit (or similar arrangement) in each county to

act as a point of contact for businesses to ensure co-ordinated response (e.g. planning, water and roads), and the intended set up of Business Users Fora to improve consultation / responsiveness by local authorities to local businesses including in respect of regulatory requirements.

15. The Department of Transport introduced new regulations during 2009 to streamline the permit system for wide and long vehicles on major interurban routes. A single permit is now required to transport such loads along designated national routes between major cities and ports. The Department, in conjunction with the Road Safety Authority, is expanding the number of designated routes, where feasible.

At the time of the OECD peer review team's visit in November 2009, the programme for the reduction of administrative burdens appeared to have lost momentum. Meetings of the High-level Group had become less frequent, and the group has not released a progress report since July 2008. Several interviewees commented on a loss of momentum and the lack of a clear vision. The programme had been given no public visibility (as reflected by the lack of any mention at that time on the website of the DETI or on the website of the Better Regulation Unit). Since the mission it appears that the situation has improved (for example with clear progress on measurements). Several interviewees suggested that support both at administrative and political levels was insufficient to sustain momentum. Effective *ex ante* impact assessment was considered by some to be the bigger priority. Many consider that red tape is not a key issue in Ireland. However another view that emerged quite strongly from interviews was that action was important, but needed to be more targeted at SMEs, especially micro firms, to strengthen the domestic economy, and reduce reliance on large FDI related firms. The environment for SMEs remained difficult, and they had problems making their voice heard (not for example forming part of the social partnership). Some others suggested that the focus on information obligations was too narrow (although whatever was put in place should not be too resource intensive to implement).

Other simplification measures for businesses

One-stop shops have been developed at the local level in partnership with the central government. The EU Services Directive is being implemented on an ongoing basis, to make the National Point of Single contact as useful and transparent as possible for service providers and service recipients. Overall, there does not appear to be a clear strategy on the ground, with local authorities, for example, setting up their own systems but only with reference to their own services. Clarity of purpose and momentum appear to be lacking. On licensing, a number of initiatives have been taken by individual administrations. Overall, although this was not an area which the OECD peer review team was able to examine very far, the approach seems fragmented and without any overall guiding principles to ensure that there is coherent and effective coverage.

Administrative burden reduction for citizens

The Programme "Transformation of Public Services" and e-Government initiatives are generally relevant, as they seek to put the focus on users (see Chapter 2). The programmes led by the DETI and the High-level Group focus on businesses. Citizens are being addressed through specific initiatives (in particular in the tax area), but burdens on citizens are not integrated in the approach. However, ICT is used to support the simplification of all aspects of business or citizen interaction with public authorities. This includes the provision of a large number of online information and transaction services, downloadable forms, multi-channel access to services and electronic backend system integration and data sharing (in particular in the area of taxation).

Administrative burden reduction for the administration

The Irish government has not launched any specific initiatives on the reduction of administrative burdens inside government. The report of the task force on the public service, *Transforming Public Services* (TPS), however, outlines the need to streamline processes and internal reporting requirements so as to reduce the administrative burdens for organisations and to facilitate greater efficiency in processes and in the delivery of services. The report states that the compliance burdens arising from any new systems or the generation of new data and performance reporting must be minimised. TPS also refers to the value of ICT in reducing administrative burdens. One example of this is the Department of the *Taoiseach*'s eCabinet system, which has removed the requirement for duplication of paperwork. Also arising from TPS, a number of working groups have been established to recommend increased and improved sharing of services in the Public Service. Issues being addressed through these groups include human resources, payroll, financial management, pensions administration, means information and a single point of contact for the public service. In addition, the revised guidelines on RIA (2009) include information on the calculation of Public Service Implementation costs.

Notes

1. Programmes to reduce administrative burdens may include the review and simplification of whole regulatory frameworks or laws, so there can be some overlap with policies aimed at simplification *via* consolidation etc. There may also be some overlap with the previous chapter on the development of new regulations, as administrative burden reduction programmes are often conducted on a net basis, that is, taking account of the impact of new regulations in meeting target reductions.
2. Article 73 of the 1922 Constitution provided as follows: “Subject to this Constitution and to the extent to which they are not inconsistent therewith, the laws in force in the Irish Free State (*Saorstát Eireann*) at the date of the coming into operation of this Constitution shall continue to be of full force and effect until the same or any of them shall have been repealed or amended by enactment of the *Oireachtas*”.
3. The stock of legislation in force in Ireland at the time of independence in 1922 included pre-Union Irish statutes passed by various parliaments sitting in Ireland between 1169 (Anglo-Norman invasion) and the Act of Union 1800; (ii) pre-Union statutes enacted by the English Parliaments between the Norman invasion of 1066 and the Union of England and Scotland in 1707 which were applied to Ireland by virtue of Poyning’s Law 1495; (iii) statutes of the Kingdom of Great Britain passed by the Parliament of Great-Britain at Westminster after the Union of England and Scotland in 1707 but before the Union of Great-Britain and Ireland in 1800 and which were applied to Ireland; and (iv) statutes of the United Kingdom of Great Britain and Ireland passed after the Act of Union 1800 but before the establishment of the Irish Free State in 1922 and which were applied to Ireland.
4. It should be noted that while primary legislation may amend other primary legislation, secondary legislation cannot amend primary legislation (save in rare circumstances,

mostly related to EU law, or else with amending schedules to Acts to enable their application to other bodies).

5. Law Reform Commission (2008), Report – Statute Law Restatement.
6. Among the acts in the programme are the *Criminal Procedure Act 1967*, the *Data Protection Acts 1988 and 2003* and the *Freedom of Information Act 1997*. The 6 suites of related legislation are: Civil Liability and Statute of Limitations legislation (13 Acts), Employment Leave legislation (7 Acts), Equality legislation (3 Acts), Ethics in Public Office legislation (3 Acts), Firearms legislation (8 Acts) and Proceeds of Crime legislation (3 Acts).
7. The OECD peer review team heard from one stakeholder that it is «a nightmare for anyone to find out what the position is».
8. Agriculture; fisheries and food; communications; energy and natural resources; environment; heritage and local government; finance; health and children; social protection; transport; and revenue.
9. Membership comprises representatives of: Department of Enterprise, Trade and Innovation ; Irish Congress of Trade Unions ; Small Firms Association ; Irish Business and Employers’ Confederation ; Kinsale Capital ; Irish Banking Federation ; Irish Small and Medium Enterprises ; Revenue Commissioners ; Department of the Taoiseach ; Department of Law, University College Dublin ; Central Statistics Office ; Department of Finance ; Department of the Environment, Heritage and Local Government.
10. Work already done to simplify, but resulting savings have not been measured.



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