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**AN BILLE UM ATHCHÓIRIÚ AN DLÍ REACHTÚIL 2007**  
**STATUTE LAW REVISION BILL 2007**

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**EXPLANATORY MEMORANDUM**

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**Introduction**

The principal purpose of the Bill is to repeal all public general statutes enacted before 6th December 1922, with the exception of a “white list” of Acts that are specifically preserved.

The process leading to the Bill attached to this Memorandum involved a review by the Office of the Attorney General of a total of 26,370 public general statutes enacted before 1922. This was the first comprehensive examination of all statutes enacted before 1922 in the history of the State.

Of the 26,370 statutes examined in the Attorney General’s exercise, 9,277 were already wholly repealed prior to this Act, and 12,557 were not applicable to Ireland. This left 4,536 statutes still in force, of which 3,188 will be repealed by the Bill attached to this memorandum (these are listed in *Schedule 2*) and 1,348 will be retained for the time being (these are listed in *Schedule 1*) pending a more comprehensive exercise of statute law reform and consolidation.

Under the Bill, there will be publicly available, for the first time, a comprehensive and complete list of pre-1922 statutes that are retained as part of the law, as set out in *Schedule 1*.

The Bill is the largest single repealing statute in the history of the State. It repeals more public general Acts than have been enacted in the years since 1922.

**Provisions of the Bill**

**Section 1: Definition.**

*Section 1* defines “statute” so as to include Royal charters and similar documents that had statutory force before the modern development of the parliamentary system.

**Section 2: Statute law revision repeal and saver**

*Section 2* is the key provision of the Bill. It will provide for a fundamental clarification and simplification of the statute book by drawing a line at 6 December 1922 and repealing the majority of Acts passed prior to that date. The exceptions are specified in the section.

*Subsection (1)* repeals all statutes enacted before 6 December 1922 except for the exclusions specified in subsequent provisions.

The first exception in *subsection (2)(a)* is the Acts specifically saved, which are listed in Schedule 1.

The second exception in *subsection (2)(b)* is for Acts enacted as or published officially in any series of private, local or personal Acts (or other similar descriptions which combined these terms). Private, local and personal Acts are being retained in force pending a review of those Acts in due course. The reference to Acts “enacted as” private acts is intended to cover unpublished private Acts.

An example of a private Act preserved by the Bill is the Act of 1761 incorporating Wilson’s Hospital School in County Westmeath (2 Geo. 3 c. 2P) which will be retained, following the enactment of the Bill, by virtue of *section 2(2)(b)*.

*Subsection (2)(c)* makes clear that the Bill does not affect any saving or transitional provision made in respect of an Act already repealed.

*Subsection (3)* is a partial repeal of the Bill of Rights. While the main provisions of the Bill of Rights are proposed to be retained for the time being, a number of other provisions are obsolete and the opportunity is being taken to repeal these provisions, e.g. the provision that guarantees the right to bear arms to Protestants only.

### **Section 3: Specific repeals.**

*Section 3* sets out the Acts specifically repealed by the Bill.

*Subsection (1)* and *Schedule 2* list the specific Acts identified in the course of the review as being unnecessary or as having ceased to be in force. Acts which clearly never applied to Ireland are not included in this list. The section follows the terms of the Statute Law Revision (Pre-Union Irish Statutes) Act 1962 i.e. it is not phrased in terms of reference to Acts of particular parliaments.

*Subsection (2)* is designed to make clear that the omission of an Act from *Schedule 2* does not preserve the Act in force for any purpose except where, as provided in *section 2(2)(c)*, the Act is already repealed but saving or transitional or continuing provisions have been made in respect of the Act.

*Subsection (3)* is designed to make clear that the inclusion of an Act in *Schedule 2* is not to be taken to mean that it is of force and effect but for this Bill — some of the Acts in *Schedule 2*, while never repealed, may have been of questionable constitutionality or application to Ireland, for example. Nonetheless they are being included for the sake of legal certainty. It should be emphasised that the presumption of constitutionality does not apply to pre-1937 Acts and that by formally repealing any such Act the Bill is not seeking to confirm that the Act is at present in force. The long title makes clear that the Bill (like previous Statute Law Revision Acts) addresses itself to two categories of Acts, those that have ceased to have effect (but have never been formally repealed), and those that are unnecessary (although technically still in force). Many of the Acts listed in *Schedule 2* come within the first category, and are being formally repealed by the Bill for the purposes of certainty and clarity, even though they have ceased to have any, or any practical, effect.

#### **Section 4: Assignment of short titles.**

*Section 4* assigns short titles to all public general Acts that are not being repealed but that do not currently have a short title. The section is based on section 1(1) of the Short Titles Act 1962.

#### **Section 5: Amendment of Short Titles Act 1896.**

*Section 5* amends the Short Titles Act 1896. The Short Titles Act 1896 provided Short Titles for a large number of English, British and United Kingdom statutes. The section will correct two unconventional short titles which were conferred by that Act.

#### **Section 6: Amendment of Short Titles Act 1962.**

*Section 6* amends the Short Titles Act 1962. The Short Titles Act 1962 provided short titles for certain pre-union Irish statutes in the First Schedule and certain pre-union English and British statutes in the Second and Third Schedule. The Act — particularly the Second and Third Schedules — has become unsatisfactory for a number of reasons. Firstly the statutes are not arranged in chronological order and so are inconvenient in terms of acting as a reference source. Secondly the Acts listed in the Schedules to the 1962 Act have largely been superseded and many of the Acts in the Schedules have been repealed since 1962. Thirdly, the list in the Schedules of the 1962 Act was not comprehensive, and many Acts which are currently in force were not included in those Schedules. Fourthly, in certain areas, the precise citations used in the 1962 Act did not correspond with the more generally used citations in the *Statutes of the Realm* and other HMSO publications.

The opportunity is being taken in the context of a comprehensive “white list” of Acts being retained in force to assign short titles to all outstanding Acts, and the amendment of the 1962 Act and the 1896 Act is designed to facilitate this. Any citation incompatibilities are being addressed so that the 1962 Act and the 1896 Act as amended, other Acts conferring short titles and this Bill will provide a coherent whole providing short titles for all surviving legislation for the period in question.

#### **Section 7: Miscellaneous amendments to post-1800 short titles.**

*Section 7* corrects a number of unconventional short titles conferred by statutes other than the Short Titles Acts of 1896 and 1962. The Leasing Powers Act for Religious Worship in (Ireland) 1855 is an ungrammatical short title and this is changed in the Table, and the Drainage and Improvements of Lands Supplemental Act (Ireland) 1867 is a case where two Acts have the same short title. The first was 30 & 31 Vict. c. 139, the second was 31 Vict. c. 3. The short title of the second needs to be amended to add “No. 2”. The other amendments relate to inserting a year in the short title of the Act.

#### **Section 8: Evidence of certain early statutes.**

*Section 8* formally enables certain early statutes to be proved in court and other legal proceedings by production of a copy of it as reproduced in certain official publications or by production of a copy taken from such a publication and certified by the National Library of Ireland or such other libraries or archives as may be designated. The Historic and Municipal Documents of Ireland (HMDI), Calendar of Documents relating to Ireland (CDI) and Public Record Office (PRO) volumes are included in the section. Such volumes,

while officially published, were not all published by HMSO or the Stationery Office and, accordingly, the various Documentary Evidence Acts passed between 1845 and 1925 do not appear to apply to those volumes. The originals of many of these early statutes are either in London or were lost with the destruction in 1922 of the Public Record Office in Dublin. *Subsection (1)(b)* and *(2)* allows a procedure for proof of copy extracts from such volumes and *subsection (3)* permits specified institutions to impose a charge for providing such copy extracts.

### **Section 9: Savings.**

*Section 9* provides for savings. The section is based on section 2 of the Statute Law Revision (Pre-Union) Act 2005 and its provisions are largely in standard form in Bills of this nature. For clarity, reference has also been inserted to the “application” of statutes to the State, in order to ensure that the saver clause is wide enough to preserve statutes which have been applied to Ireland by statutes repealed by this Bill. Specific additional provisions are also included to deal with issues that arose during the drafting process, particularly the question of preserving any extant orders under the Government of Ireland Act 1920 and the Irish Free State (Agreement) Act 1922.

### **Section 10: Short title and collective citation.**

*Section 10* provides a short title and a collective citation for the Short Titles Acts.

### **Schedule 1**

*Schedule 1* as stated above lists the Acts retained. Each part of Schedule 1 lists the Acts which it is considered are not appropriate for repeal at this stage and are being retained in force specifically. The format of the Schedule is based on the Schedules to the Short Titles Act 1962 with the addition of a new column to set out the existing short title for information. Each Act in column 1 will have an entry for information in column 2 and will also have a short title specified in either column 3 or 4 but not both. Column 3 will reflect any amendments to existing short titles made by the Bill.

### **Schedule 2**

*Schedule 2* lists the specific Acts identified in the course of the review as appropriate for repeal at this stage because they have ceased to be in force or have become unnecessary. These Acts are not saved by the Bill and thus will be formally repealed following enactment of this Act.

### **Financial Implications**

There are no Exchequer costs, staffing or other implications flowing from the enactment of the Bill, and the enactment of the Bill would produce savings in legal and business costs overall.

*Roinn an Taoisigh,  
Eanáir, 2007.*