

TEACHER'S NOTE: ORIGIN OF LAWS

The Constitution of Ireland

Ireland has a written constitution, the Constitution of Ireland, which was enacted in 1937. The Constitution is the fundamental law of the State. It provides an umbrella under which the State functions and under which justice is administered by the courts. It provides protection for the fundamental rights of the citizen and the relationship between the different branches of Government. All laws made in Ireland must conform to the Constitution, and are interpreted in light of the Constitution. For example, the Constitution guarantees the right to life, the right to travel, the right to a fair trial and the right to the trial of serious offences by a jury.

Statute Law

These are bills which have been passed by the Oireachtas and signed into law by the President. All laws must observe the provisions of the Irish Constitution. Laws can be challenged in the courts on the grounds that they are in breach of the Constitution.

Statute law (called 'Acts of the Oireachtas') start as Bills, which are proposals for legislation. They generally represent government policy but can also be suggested by opposition parties.

A Bill passes five stages before it becomes an Act. Once it has passed all stages in the Dáil, the Bill goes to the second stage in the Seanad. When it has been passed in both Houses a copy is presented to the President of Ireland for signature. The signed text is enrolled for registration with the Supreme Court. The Bill has now become law and applies to every person in Ireland.

See the section on 'How Laws are made' on the [Oireachtas website](#) for more information.

Common Law

Common law is often referred to as 'judge-made' law. It is based on decisions of judges. In the past it was often based on tradition and custom. Today it is law which comes about following decisions of the courts. These decisions establish the principles other judges follow in other cases.

Decisions of the courts have given substance to many rights, especially constitutional rights. For example the courts have held that people have a duty to protect others who are likely to be affected by their actions - a builder has a duty not to build a house that will collapse and injure the people inside. Motorists have a duty not to injure other road users.

European Law

There are three types of EU law:

- **Primary Legislation** - the treaties. For example, free movement of goods within the European Union.

- **Secondary Legislation** - regulations, directives, decisions, recommendations and opinions made by the Union's institutions in accordance with the treaties.
- **Decisions** of the European Court of Justice and the Court of First Instance.

Some EU Law takes effect immediately. This means that it takes priority over Irish national law.

International Law

These are laws based on international treaties and agreements between different countries. For example, the Kyoto protocol on climate change.

International law has no formal standing in Ireland unless incorporated into Irish law.