An Introduction into the Irish Legal System

Pre-1922 the system of law that operated in Ireland was that of England. Since the 1800s the law was controlled by government in London acting their its agents in Dublin. The Anglo-Irish Treaty of 1921 formed the basis for the establishment of the Irish Free State in 1922. A Constitution for the Free State was approved as the first piece of legislation passed by Dail Eireann in 1922. Sadly as a result of bitter dispute and rift as to whether the Treaty should have been signed a new Constitution was drafted and put to the people in a 1937 referendum. That Constitution is the document which establishes Ireland as a legal entity. However, it was not possible at the time to start afresh and much of the “old laws” remained in place.

Prior to this, the old system of law in Ireland was that based on “Brehon Law”. With the Norman Invasion in 1066 came the introduction of the English system of law, namely, feudal law. It can be seen from English history that the judges were the first to apply rules of law within the kingdom. As time past and the English system of law developed, the judges came to have a central role in the development of new legal rules. These rules came known as “Common Law”.

Another element of law came from the development of “Equity”. The system which operated to bring a case to the king’s, common law, courts was that a document called a writ was filed with the king’s Lord Chancellor, who presided over his own department of State. The law had developed to such a stage that it was necessary to bring the case
within the format of the writ. The Lord Chancellor’s department was effectively a clearing house and, therefore, where a case did not come within the established forms the matter could not be litigated but might go by way of appeal to the king.

Another problem was that the main remedy of the common law courts was compensation. E.g. injunction.

The king could delegate the function of hearing appeals to the Chancellor, with full authority to decide the case according to the justice and equity of the matter. Therefore, the Chancellor could make a decision which was not bound by the rigidity of the common law system of writs.

As a result, the number of appeal cases heard by the Chancellor meant the development a Court of Chancery where the rules of equity were applied.

Sources of Irish Law

1937 Constitution – Bunreacht na hÉireann
Legislation
Common Law
Equity
Precedent
European Legislation

Adrienne Cawley
Personnel

Judges
Attorney General
Chief State Solicitors
Director of Public Prosecutor
Solicitors
Barristers
County Registrars

The Courts

The Courts were established by the Constitution 1937 – Articles 34-38

Small Claims Court
District Court [civil/criminal]
Circuit Court [civil/criminal]
High Court [civil/criminal]
Central Criminal Court
Special Criminal Court
Court of Criminal Appeal
Supreme Court
European Court of Justice [regulations-directly effective; directives-implentation left to member states; decisions]
Jurisdiction

District Court €6,348.69
Circuit Court €6,348.69 - €38,092.14 [r/v €254]
High Court [full original jurisdiction]
Supreme Court

www.oireachtas.ie
www.irishstatute.ie
www.lawireland-wordpress.com/irish-legal-system