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Extract from Brian Hunt, Murdoch's Dictionary of Irish Law (Dublin, Bloomsbury Professional 6th ed. forthcoming circa Spring 2016), citing Tillman & Tillman's A Fragment on Shall and May

Seth Barrett Tillman

Available at: https://works.bepress.com/seth_barrett_tillman/404/
shall.

A term which is frequently used in legislation so as to confirm the mandatory nature of that which is being stated. For example, “Every regulation made under this Act shall be laid ...” and “It shall be an offence for any person who ...”.

In contrast with the use of the term “may”, the term “shall” indicates that there is no associated discretion. In its Consultation Paper entitled “Statutory Drafting and Interpretation: Plain Language and the Law” (LRC CP-14-1999) at para. 2.20, the Law Reform Commission observed that “Excessively formal terms are often used in Irish legislation, where terms in more common usage would be equally appropriate. ‘Shall’ is almost always used instead of must or will; or where the use of the present tense of the verb would suffice.”. In UK legislation, the term “must” appears to be preferred over “shall”. See Tillman & Tillman, “A Fragment on Shall and May” 50 Am. J. Legal Hist. 453 (2010); Kendall Cooper, “Is There a case for the abolition of ‘Shall’ from EU Legislation?” Riga Graduate School of Law – Research Paper No. 1 (2011).