

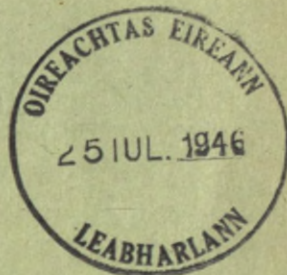
ÉIRE.

AN BILLE CUIRTEANNA BREITHIUNAIS (AN CHUIRT DUICHE), 1946.

COURTS OF JUSTICE (DISTRICT COURT) BILL, 1946.

Mar do ritheadh ag dhá Thigh an Oireachtais.

As passed by both Houses of the Oireachtas.



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SCHEDULE

ENACTMENTS REPEALED.

ÉIRE.

AN BILLE CUIRTEANNA BREITHIUNAIS (AN CHUIRT DUICHE), 1946. COURTS OF JUSTICE (DISTRICT COURT) BILL, 1946.

BILL

5

entitled

AN ACT TO AMEND CERTAIN PROVISIONS, RELATING
TO THE DISTRICT COURT, OF THE COURTS OF
JUSTICE ACTS, 1924 TO 1936, AND OTHER
ENACTMENTS.

10

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I.

PRELIMINARY AND GENERAL.

Short title and collective citation. 1.—(1) This Act may be cited as the Courts of Justice (District Court) Act, 1946. 15

(2) The Courts of Justice Acts, 1924 to 1936, and this Act may be cited together as the Courts of Justice Acts, 1924 to 1946.

Definitions. 2.—In this Act—

Act of 1928. the expression “ the Act of 1928 ” means the Courts of Justice Act, 1928 (No. 15 of 1928); 20

Act of 1936. the expression “ the Act of 1936 ” means the Courts of Justice Act, 1936 (No. 48 of 1936);

appointed (Part II) day. the expression “ the appointed (Part II) day ” means the day appointed to be the appointed day for the purposes of *Part II* of this Act by order of the Minister under *section 3* of this Act; 25

Division. the word “ Division ” means a division of the Dublin Metropolitan Justices established by *section 5* of this Act;

Dublin Metropolitan Justice. the expression “ Dublin Metropolitan Justice ” means a Justice permanently assigned to the Dublin Metropolitan District;

Justice. the expression “ Justice ” means a Justice of the District Court, but does not include a temporary Justice; 30

Minister. the expression “ the Minister ” means the Minister for Justice;

operative date. the expression “ the operative date ” means the date of the passing of this Act;

Principal Act. the expression “ the Principal Act ” means the Courts of Justice Act, 1924 (No. 10 of 1924); 35

temporary Justice. the expression “ temporary Justice ” means a person appointed under *section 51* of the Act of 1936 to act as a Justice.

Appointed day for purposes of Part II. 3.—The Minister may by order appoint a day to be the appointed day for the purposes of *Part II* of this Act. 40

Repeals. 4.—(1) The enactments set out in the second column of *Part I* of the Schedule to this Act are hereby repealed, as on and from the operative date, to the extent specified in the third column of *Part I* of the said Schedule.

(2) The enactments set out in the second column of Part II of the Schedule to this Act are hereby repealed, as on and from the appointed (Part II) day, to the extent specified in the third column of Part II of the said Schedule.

5

PART II.

PROVISIONS IN RELATION TO THE DUBLIN METROPOLITAN JUSTICES.

5.—(1) For the more convenient dispatch of the business of the District Court in the Dublin Metropolitan District, the Dublin Metropolitan Justices shall, on the appointed (Part II) day, stand, by virtue of this subsection, grouped into three Divisions, each of which shall be known by the name assigned to it by the Minister.

Divisions of
the Dublin
Metropolitan
Justices.

(2) Each Division shall consist of—

- (a) a Justice, to be known as the Principal Justice of that Division,
- 15 (b) such number (if any) of other Justices, to be known as ordinary Justices of that Division, as may from time to time be fixed by the Minister.

6.—(1) The following provisions shall apply in relation to the Principal Justice of a Division—

Provisions
in relation
to Principal
Justices.

- 20 (a) he shall be nominated by the Minister from amongst the Dublin Metropolitan Justices,
- (b) he shall not be transferred to another Division except with his own consent,
- 25 (c) he shall arrange for the distribution of the business of the said Division amongst the several Justices of the said Division.

(2) Whenever there is a vacancy in the office of the Principal Justice of a Division (in this subsection referred to as the said Division) or the Principal Justice of a Division (in this subsection also referred to as the said Division) is for any reason unable to act, the Minister may—

- (a) nominate the Principal Justice of another Division, with his consent, to act temporarily as Principal Justice of the said Division, in addition to his own Division, or
- 35 (b) nominate one of the Dublin Metropolitan Justices (being an ordinary Justice of a Division) to act temporarily as Principal Justice of the said Division, but without additional remuneration,

and a Justice so nominated shall act accordingly.

40 (3) The Minister shall nominate the Justice, who is, immediately before the appointed (Part II) day, the senior of the Dublin Metropolitan Justices, to be the Principal Justice of one of the Divisions.

7.—The following provisions shall apply in relation to an ordinary Justice of a Division—

Provisions
in relation
to ordinary
Justices of
Divisions.

- 45 (a) he shall be nominated by the Minister from amongst the Dublin Metropolitan Justices,
- (b) he may from time to time be transferred from his said Division by the Minister to another Division.

8.—(1) The Principal Justice of a Division shall receive a salary of one thousand two hundred pounds per annum.

Salaries of
Dublin
Metropolitan
Justices.

(2) Every Dublin Metropolitan Justice (other than the Principal Justice of a Division) shall receive a salary of one thousand one hundred pounds per annum.

(3) The salaries mentioned in *subsections* (1) and (2) of this section shall be charged on and payable out of the Central Fund 5 or the growing produce thereof.

(4) *Subsections* (1), (2) and (3) of this section shall come into operation on the appointed (Part II) day.

Nomination of additional Justices of Divisions.

9.—(1) The Minister may from time to time nominate a Justice, who is not permanently assigned to a particular district and who 10 is for the time being temporarily assigned to the Dublin Metropolitan District, to act as an additional Justice of a Division.

(2) The Minister may from time to time nominate a temporary Justice, who is for the time being temporarily assigned to the Dublin Metropolitan District, to act as an additional Justice of a 15 Division.

(3) A Justice or a temporary Justice who is nominated under this section to act as an additional Justice of a Division shall so act until the Minister terminates his nomination.

Distribution of business amongst Divisions.

10.—The business of the District Court to be transacted in the 20 Dublin Metropolitan District shall be distributed amongst the several Divisions in such manner as the Minister may from time to time direct.

Places, etc., at which business of Divisions is to be transacted.

11.—(1) The Minister may, in respect of each Division, from 25 time to time,—

(a) appoint the places in the Dublin Metropolitan District for the transaction of the business of such Division,

(b) determine the class or classes of the business of such Division to be transacted in each of the several places 30 so appointed,

(c) determine the days and hours at which the several classes of such business shall be respectively transacted in the several places so appointed.

(2) The Minister may authorise the Principal Justice of a Division to exercise, in respect of such Division, the powers exer- 35 cisable by the Minister under *paragraphs* (b) and (c) of *subsection* (1) of this section, and may determine any such authority.

Provisions for pending business.

12.—(1) All business of the District Court in the Dublin Metro- politan District, which is initiated before the appointed (Part II) day and is not completed before the appointed (Part II) day, shall 40 be continued and completed as if this Act had not been passed.

(2) For the purposes of this section, business of the District Court shall be regarded as being initiated on the day on which the summons, warrant, process or other originating document relating to it is issued. 45

Ex-officio members of the District Court Rules Committee.

13.—The *ex-officio* members of the District Court Rules Com- mittee, established by section 71 of the Act of 1936, shall, as on and from the appointed (Part II) day, be—

(a) such one (being the Principal Justice of a Division) of the Justices as the Minister shall nominate in that behalf, 50 who shall be the chairman of the said Committee,

- (b) such one of the District Court clerks of the Dublin Metropolitan District as the Minister shall nominate in that behalf, who shall be the secretary of the said Committee.

PART III.

5 MISCELLANEOUS PROVISIONS IN RELATION TO THE DISTRICT COURT.

- 14.—A barrister or solicitor, who actually practised his profession for not less than six years, shall not be ineligible for appointment as a Justice by reason only of the fact that he is for the time being not practising his profession, if he holds for the time being an office in respect of which it was (at the time of his appointment thereto) required by statute that every person appointed thereto should be or should have been—
- 10

Qualification for appointment as Justice.

(a) a practising solicitor, or

(b) a practising barrister or a practising solicitor.

- 15 15.—(1) The age of retirement of a Justice shall be sixty-five years.

Age of retirement of Justices.

- (2) Notwithstanding anything contained in subsection (1) of this section, the age of retirement of a person, who is, immediately before the operative date, a Dublin Metropolitan Justice or a Justice permanently assigned to the district comprising or including the county borough of Cork, shall be seventy years.
- 20

- 16.—The number of Justices at any time shall not exceed forty.

Maximum number of Justices.

- 17.—(1) (a) Where a person is appointed a Justice, then, subject to paragraph (b) of this subsection, the Government, if they think fit, may, upon such appointment, assign him permanently to a particular district.
- 25

Assignment of Justices to districts

- (b) Where, at the time of the appointment of a person to be a Justice, there are four Justices not permanently assigned to particular districts, the Government shall assign such person permanently to a particular district.
- 30

- (c) Where a Justice is immediately before the operative date permanently assigned to a particular district he shall for the purposes of this section continue, subject to subsections (3) and (4) of this section, to be permanently assigned to that district.
- 35

- (2) Where a Justice is not upon appointment permanently assigned to a particular district, the Government may at any time assign him permanently to a particular district.
- 40

- (3) A Justice who is permanently assigned to a particular district may, but only if he so consents, be transferred by the Minister to another district and shall upon such transfer become and be permanently assigned to such other district in lieu of being permanently assigned to such first-mentioned district.
- 45

- (4) (a) Where a Justice is permanently assigned to a particular district, the Government, upon his request, may, if they think fit, terminate such permanent assignment.

- (b) Where the permanent appointment of a Justice to a particular District is terminated under paragraph (a) of this subsection, the Government may at any time thereafter assign him permanently to a particular district.
- 50

(5) A Justice who is not for the time being permanently assigned to a particular district may be assigned by the Minister from time to time to any district, and every such Justice shall, while so assigned to a district, have in relation to such district and concurrently with the Justice permanently assigned to such district all the privileges, powers and duties for the time being conferred or imposed by law on the Justice permanently assigned to such district. 5

(6) Nothing in this section shall apply to temporary Justices.

No further appointments of assistant Justices.

18.—No person shall, on or after the operative date, be appointed under section 13 of the Act of 1928, as an assistant Justice. 10

Pension rights of Justices.

19.—(1) Where—

(a) a Justice, after having completed ten years' service or more, vacates his office with the consent of the Government, and 15

(b) such Justice is not entitled, under or by virtue of the Courts of Justice Acts, 1924 to 1936, to a pension in respect of his service as a Justice,

he shall be entitled for his life to a pension calculated at the rate of one-sixth of his salary at the time he so vacates his office with the addition of one-fortieth of his said salary for every completed year of service in excess of ten such years. 20

(2) Any pension payable under *subsection (1)* of this section or any award under the Superannuation Acts, 1834 to 1942, granted by virtue of section 75 of the Principal Act, as continued by *subsection (3)* of section 48 of the Act of 1936, shall be charged on and payable out of the Central Fund or the growing produce thereof. 25

(3) Whenever a Justice is removed from office on account of incapacity, he shall be deemed for the purposes of pension to have vacated his office owing to permanent infirmity. 30

Tenure of office of Justices.

20.—Justices shall hold office by the same tenure as the Judges of the Supreme Court and the High Court.

Judicial inquiry into health or conduct of Justices.

21.—Whenever the Minister requests the Chief Justice to appoint a Judge to— 35

(a) investigate the condition of health, either physical or mental, of a Justice, or

(b) to inquire into the conduct (whether in the execution of his office or otherwise) of a Justice, either generally or on a particular occasion, 40

and, in either case, with particular reference to such matters as may be mentioned in the request, the following provisions shall have effect, that is to say—

(i) the Chief Justice shall appoint either a Judge of the Supreme Court or, with the consent of the President of the High Court, a Judge of the High Court to conduct the investigation or inquiry; 45

(ii) the Judge so appointed may conduct the investigation or inquiry in such manner as he thinks proper, whether by examination of witnesses or otherwise, and in particular may conduct any proceedings *in camera*, and for this purpose shall have all such powers, rights and privileges as are vested in a Judge of the High Court on the occasion of an action; 50

(iii) upon conclusion of the investigation or inquiry, the said Judge shall report the result thereof to the Minister. 55

22.—Whenever a Justice (other than the Principal Justice of a Division), who is permanently assigned to a particular district, dies, vacates his office or is absent from such district, the Minister may temporarily assign to such district any other Justice (subject, in the case of a Justice permanently assigned to a district, to his consent) or any temporary Justice, and any Justice or temporary Justice so temporarily assigned shall be competent to exercise jurisdiction in such first-named district until his temporary assignment is terminated by the Minister, and notwithstanding, in case he is a Justice permanently assigned to another district, such permanent assignment.

Temporary arrangements for dispatch of business owing to death, etc., of Justice permanently assigned to a district.

23.—Where an appeal from the District Court in any matter is determined (whether before or after the passing of this Act) by the Circuit Court, then, unless the Circuit Court has issued the instrument necessary to enforce its decision, the District Court shall issue the said instrument.

Enforcement of decision on appeal from District Court.

SCHEDULE.

Section 4

ENACTMENTS REPEALED.

PART I.

20 *Enactments Repealed as from the date of the passing of this Act.*

Number and Year	Short Title	Extent of Repeal
No. 10 of 1924	Courts of Justice Act, 1924	The proviso to Section 68 ; section 72.
No. 48 of 1936	Courts of Justice Act, 1936	Sections 46 and 49.

PART II.

Enactments Repealed as on and from the appointed (Part II) day.

Number and Year	Short Title	Extent of Repeal
No. 10 of 1924	Courts of Justice Act, 1924	Section 74, in so far as it relates to Dublin Metropolitan Justices ; In section 80 the word "Dublin."
No. 48 of 1936	Courts of Justice Act, 1936	Subsection (3) of section 71.
No. 21 of 1937	Court Officers (Amendment) Act, 1937.	Section 5.

Éire

AN BILLE CUIRTEANNA BREITHJUNAIS
(AN CHUIRT DUICHE), 1946.

BILLE

dá ngairmtear

Acht do leasú forál áirithe, a bhaineas leis an gCúirt Dúiche, de na hAchta Cúirteanna Breithiúnais, 1924 go 1936, agus achtacháin eile.

*Rite ag dhá Thigh an Oireachtais,
23ú Iúl, 1946.*

BAILE ATHA CLIATH
FOILLSITHE AG OIFIG AN TSOLATHAIR.

Le seannach trí aon díoltóir leabhar, no díreach
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Éire

COURTS OF JUSTICE (DISTRICT COURT)
BILL, 1946.

BILL

entitled

An Act to amend certain provisions, relating to
the District Court, of the Courts of Justice
Acts, 1924 to 1936, and other enactments.

*Passed by both Houses of the Oireachtas,
23rd July, 1946.*

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