



**AN BILLE UM CHEARTAS COIRIUIL (CUNAMH DLITHIUIL),  
1961**

**CRIMINAL JUSTICE (LEGAL AID) BILL, 1961**

**EXPLANATORY MEMORANDUM**

1. The purpose of this Bill is to provide for the granting of free legal aid, in certain cases, for the defence of poor persons in criminal proceedings. At present the only cases in which such aid is provided are murder cases and this is done not by virtue of any special legislation but as a practice of long standing under which the judge assigns a solicitor and counsel for the defence of the accused, the cost being borne by the State.

2. *Section 1* is the definitions section.

3. *Section 2* of the Bill provides that in criminal proceedings in the District Court free legal aid will be provided for accused persons of insufficient means if the Court considers that such aid is essential in the interests of justice by reason of the gravity of the charge or of exceptional circumstances.

4. *Section 3* provides that in the case of a person returned for trial for an indictable offence free legal aid in the preparation and conduct of a defence at his trial will be granted if the person's means are insufficient to enable him to afford legal aid and if it appears to the District Court, when returning him for trial, or to the court before which he is to be tried that, having regard to all the circumstances of the case, it is essential in the interests of justice that such aid should be provided. In murder cases an accused person of insufficient means will be entitled to free legal aid as of right.

5. *Sections 4, 5 and 6* provide for the grant of free legal aid, in appropriate cases, where appeals are taken in criminal proceedings (whether by way of case stated or otherwise).

6. In every case in which free legal aid is granted a solicitor will be assigned to the accused person. In addition, counsel will be assigned in indictable cases in the Circuit Court as well as in proceedings before the High Court (including the Central Criminal Court), the Court of Criminal Appeal and the Supreme Court. In the case of the preliminary investigation of a murder charge in the District Court counsel may be assigned where the Court thinks fit.

7. *Section 7* provides for the payment of the expenses of legal aid out of moneys provided by the Oireachtas.

8. *Section 8* provides for the case where, say, the Court of Criminal Appeal reverses a conviction or orders a retrial. It is proposed that in such a case the Court should not have jurisdiction to award costs to the accused person if he has been granted free legal aid. The purpose of this provision is to obviate double payment of costs by the State.

9. *Section 9* authorises the Minister for Justice, with the consent of the Minister for Finance, to make regulations prescribing the form of legal aid certificates to be granted by the courts, the scales of fees to be paid to solicitors and counsel and other matters connected with the operation of the proposed scheme.

10. *Section 10* provides that a person who makes a false statement or gives misleading information for the purpose of obtaining free legal aid shall be guilty of an offence. Upon conviction, such a person, in addition to incurring the penalties prescribed by the section, may be ordered by the court to repay to the Minister the whole or portion of any sums paid in respect of free legal aid granted to him.

11. *Section 11* provides that the proposed Act shall come into operation on the 1st April, 1962. It is necessary to allow an interval of a few months to elapse before bringing the Act into operation so that regulations may be made under *section 9* and other necessary arrangements completed for the operation of the scheme.

12. *Sections 12* and *13*, which provide, respectively, for administration expenses and for the short title, do not call for any comment.

**Roinn Dlí agus Cirt,  
Samhain, 1961.**