



BILLE NA gCUIRTEANNA, 1971
COURTS BILL, 1971

Mar a leasaíodh i gCoiste
As amended in Committee

ARRANGEMENT OF SECTIONS

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[No. 21a of 1971]



BILLE NA gCUIRTEANNA, 1971
COURTS BILL, 1971

BILL

entitled

AN ACT TO AMEND AND EXTEND THE COURTS OF 5
JUSTICE ACTS, 1924 TO 1961, AND THE COURTS
(SUPPLEMENTAL PROVISIONS) ACTS, 1961 TO 1968,
AND TO PROVIDE FOR OTHER MATTERS RELATING
TO THE COURTS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:— 10

Definitions.

1.—In this Act—

1924, No. 10.

“the Act of 1924 ” means the Courts of Justice Act, 1924;

1936, No. 48.

“the Act of 1936 ” means the Courts of Justice Act, 1936;

1953, No. 32.

“the Act of 1953 ” means the Courts of Justice Act, 1953;

1961, No. 39.

“the Act of 1961 ” means the Courts (Supplemental Provisions) Act, 15
1961;

“the Minister ” means the Minister for Justice.

Extension of
jurisdiction of
Circuit Court.

2.—(1) The Third Schedule to the Act of 1961 is hereby amended—

(a) by the substitution of “£5,000 ” for “£2,000 ” in each place
in column (3) where it occurs, 20

(b) by the substitution of “£2,000 ” for “£600 ” and “£1,000 ”
in each place in the said column (3) where they occur,

(c) by the substitution of “£1,000 ” for “£300 ” in the said
column (3) at reference number 14, and

(d) by the substitution of “£100 ” for “£60 ” in each place in 25
the said column (3) where it occurs.

(2) The Fifth Schedule to the Act of 1961 is hereby amended by
the substitution of “two thousand pounds” for “six hundred
pounds” in column (3) opposite the mention of the Attorneys’ and
Solicitors’ Act, 1870, in column (2). 30

1870, c. 28.

(3) Section 22 (2) of the Act of 1961 is hereby amended by the
substitution of “five thousand pounds” for “two thousand pounds”
and of “three hundred pounds” for “one hundred pounds”.

(4) The Act of 1936 is hereby amended—

(a) by the substitution of “two thousand pounds” for “six 35
hundred pounds” (inserted by the Act of 1953) in
section 20, and

(b) by the substitution of “two thousand pounds” for “six
hundred pounds” (inserted by the Act of 1953) in
section 23. 40

- 3.—The jurisdiction in admiralty causes conferred on the Cork Local Admiralty Court by section 23 of the Act of 1961 shall be exercisable by that Court in any case where the claim does not exceed £2,000. Extension of jurisdiction of Cork Local Admiralty Court.
- 5 4.—Section 68 of the Lunacy Regulation (Ireland) Act, 1871, is hereby amended by the substitution of “five thousand pounds” for “two thousand pounds” and “three hundred pounds” for “one hundred pounds”. Extension of jurisdiction of High Court under Lunacy Regulation (Ireland) Act, 1871, c. 22.
- 10 5.—Section 12 of the Act of 1936 is hereby amended by the substitution of “one thousand pounds” for “two hundred pounds” (inserted by the Act of 1953) in each place where it occurs, “two thousand pounds” for “six hundred pounds” (inserted by the Act of 1953) in each place where it occurs and “two hundred and fifty pounds” for “fifty pounds” (inserted by the Act of 1953) in each place where it occurs. Limitation on amount of plaintiff's costs in certain High Court actions.
- 15 6.—Notwithstanding section 94 of the Act of 1924 or section 44 of the Succession Act, 1965, a civil action in the Circuit Court or a question of fact or an issue arising in the action or a question of fact arising in any proceedings in the Circuit Court under the Succession Act, 1965, shall not be tried by a jury. Abolition of juries in civil cases in Circuit Court.
1965, No. 27.
- 7.—Section 77 of the Act of 1924 is hereby amended— Extension of jurisdiction of District Court in certain cases.
- (a) by the substitution of the following clauses for clauses (i) to (iv) of paragraph A:
- 25 “(i) in contract, breach of contract, tort (except slander, libel, criminal conversation, seduction, slander of title, malicious prosecution and false imprisonment) and claims for damages unconnected with contract, where the claim does not exceed £250;
- 30 Provided that the decision of a justice of the District Court in a case in which a question of title to land is in issue shall not operate as an estoppel in or bar to a suit in any court in relation to such land;
- 35 (ii) in ejectment for non-payment of rent or overholding in any class of tenancy where the rent does not exceed such sum as amounts or might amount to £315 per annum;
- 40 (iii) in proceedings at the suit of the State or any Minister or Government Department or any officer thereof to recover any sum not exceeding £250 due to or recoverable by or on behalf of the State, whether by way of penalty, debt, or otherwise, and notwithstanding any enactment now in force requiring such sum to be sued for in the High Court or other superior court;”,
- 45 and
- (b) by the substitution of “£250” for “£50” in clause (v) (inserted by section 52 of the Act of 1936).
- 8.—Section 33 (3) of the Act of 1961 is hereby amended by the substitution of “£250” for “£50”. Extension of jurisdiction of District Court in cases of detainee.
- 50 9.—(1) Section 19 of the Hire-Purchase (Amendment) Act, 1960, is hereby amended by the substitution of “two hundred and fifty pounds” for “one hundred pounds” in subsections (1) and (2). Extension of jurisdiction of District Court under Hire-Purchase Acts, 1946 and 1960.
1960, No. 15.

(2) Section 33 (4) (a) of the Act of 1961 is hereby amended by the substitution of "two hundred and fifty pounds" for "one hundred pounds".

Extension of jurisdiction of District Court in interpleader by under-sheriffs. 1926, No. 18.

10.—Section 22 (1) of the Enforcement of Court Orders Act, 1926, is hereby amended by the substitution of "two hundred and fifty pounds" for "fifty pounds" (inserted by the Act of 1953).

Extension of jurisdiction of District Court under Rent Restrictions Act, 1960. 1960, No. 42.

11.—Section 50 (b) of the Rent Restrictions Act, 1960, is hereby amended—

(a) by the substitution of "£25" for "£10" in subparagraph (i), and

(b) by the substitution of "£315" for "£53" in subparagraph (ii).

Extension of jurisdiction of Circuit Court and District Court under Hotel Proprietors Act, 1963. 1963, No. 7.

12.—Section 10 of the Hotel Proprietors Act, 1963, is hereby amended—

(a) by the substitution of "£2,000" for "£1,000" in subsection (1), and

(b) the substitution of "£250" for "£100" in subsection (2).

District Court to be a court of record.

13.—The District Court shall be a court of record.

Evidence of decision in cases of summary jurisdiction.

14.—In any legal proceedings regard shall not be had to any record (other than an order which, when an order is required, shall be drawn up by the district court clerk and signed by a justice or a copy thereof certified in accordance with rules of court) relating to a decision of a justice of the District Court in any case of summary jurisdiction.

Power of justice to deal with urgent cases of summary jurisdiction in any part of his district.

15.—(1) Whenever the Minister is of opinion that early trial or disposal by the District Court of summary offences of any specified kind is desirable, he may by order so declare and the provisions of subsections (2) and (3) of this section shall have effect in relation to summary offences of any kind standing so specified in an order under this section.

(2) A justice of the District Court in whose district an offence of a kind standing specified in an order under this section is committed—

(a) shall have jurisdiction to deal with the case in any court area within his district, and

(b) may hold a sitting of the District Court within his district to deal with the offence at a place or time not standing appointed for the time being for the hearing of cases of summary jurisdiction.

(3) A summons issued in respect of an offence standing specified in an order under this section may direct the appearance of the person named in the summons at any sitting (including a sitting of the kind referred to in subsection (2) (b) of this section) of the District Court within the district court district in which the offence was committed and may be served at any time not less than two clear days before the sitting.

(4) The Minister may by order revoke or amend an order under this section including an order under this subsection.

Amendment of section 26 of Act of 1953.

16.—Section 26 of the Act of 1953 is hereby amended by the insertion in subsection (1) after paragraph (f) of the following paragraphs:

5 “(g) after consultation with the President of the District Court, appoint one or more convenient places in every district court area created or varied under this section or within one mile of the boundary of such area in which, and such and so many convenient days and hours at which, the District Court shall be held for the purpose of transacting for such area the business for which the area is delimited,

(h) assign a name to or change the name of any district court district or district court area,

10 (i) revoke or amend an order under this section.”.

17.—A solicitor who is acting for a party in an action, suit, matter or criminal proceedings in any court and a solicitor qualified to practise (within the meaning of the Solicitors Act, 1954) who is acting as his assistant shall have a right of audience in that court.

Right of audience of solicitors.

1954, No. 36.

15 18.—(1) The weekly sum payable under paragraph (1) of section 1 of the Married Women (Maintenance in case of Desertion) Act, 1886, by a husband to his wife shall be such sum for her support as the court may consider to be in accordance with his means and with any means the wife may have together with such sum for the support of any child of the husband and wife who is wholly or partly supported and maintained by the wife until that child attains the age of 16 years as the court may consider to be in accordance with the means of the husband and the means (if any) of the child and the degree of support and maintenance the child is receiving from the wife.

Weekly payments under Married Women (Maintenance in case of Desertion) Act, 1886. 1886, c. 52.

25 (2) The power to vary a weekly sum payable under the said section 1 shall include a power to vary the sum —

(a) upon proof that the means of a child for whose support part of the sum is payable have been altered in amount since the original order determining it or any subsequent order varying it was made, and

30

(b) without the proof of alteration in means referred to in the said section 1 if the sum is payable under an order made before the passing of this Act.

35 (3) Paragraph (2) of the said section 1 shall not have effect in relation to any part of a weekly sum under the said section 1 which is or would be payable for the support of a child.

40 (4) (a) Subject to subsection (5) of this section, the High Court shall, concurrently with the District Court, have jurisdiction to hear and determine proceedings under sections 1 and 2 of the said Married Women (Maintenance in case of Desertion) Act, 1886.

(b) Rules of court shall provide for the conduct of proceedings in the High Court under the said sections 1 and 2 in a summary manner.

45 (c) The costs of proceedings in the High Court under the said sections 1 and 2 shall be at the discretion of the court.

50 (5) (a) The District Court shall not have jurisdiction to make an order under the said section 1 or 2 for the payment of a weekly sum of which more than £15 is for the support of a wife or of which more than £5 is for the support of a child.

55 (b) Nothing in this section shall be construed as conferring on the District Court jurisdiction to make an order under the said section 1 or 2 in any matter in relation to which the High Court has made an order under either of those sections.

Payments under
Illegitimate
Children
(Affiliation
Orders) Act,
1930.
1930, No. 17.

19.—(1) The Illegitimate Children (Affiliation Orders) Act, 1930, is hereby amended by—

(a) the substitution of “fifty pounds” for “five pounds” in section 3 (1) (a),

(b) the deletion of “not exceeding twenty shillings” in section 5 3 (1) (b), and

(c) the substitution of “fifty pounds” for “five pounds” in section 7.

(2) (a) Subject to subsection (3) of this section, the High Court shall, concurrently with the District Court, have jurisdiction 10 to hear and determine proceedings under the said Illegitimate Children (Affiliation Orders) Act, 1930, and the said Act shall apply, with any necessary modifications and adaptations, in relation to any such proceedings 15 in the High Court, or on appeal therefrom in the Supreme Court.

(b) Rules of court shall provide for the conduct of proceedings in the High Court under the said Act in a summary manner.

(3) (a) The District Court shall not have jurisdiction to make an 20 order under the said Act for the payment of a weekly sum exceeding £5 for the maintenance and education of a child.

(b) Nothing in this section shall be construed as conferring on the District Court jurisdiction to make an order under the 25 said Act in any matter in relation to which the High Court has made an order thereunder.

Amendment of
section 2 of
Legitimacy Act,
1931.
1931, No. 13.

20.—Section 2 of the Legitimacy Act, 1931, is hereby amended by the insertion after subsection (1) of the following subsections :

“(1A) A person claiming that a child of his is or was a legiti- 30 mated person may, whether the child is or is not domiciled in the State and whether the child is or is not a natural-born British subject within the meaning of the Legitimacy Declaration Act (Ireland), 1868, institute proceedings under that Act praying for a decree that the child is the legitimate child of his parents, and 35 that Act shall apply accordingly.

(1B) Proceedings instituted by virtue of this section shall be heard in chambers.”.

1868, c. 20.

Amendment
of section 22
of Courts
(Supplemental
Provisions)
Act, 1961.
1961, No. 39.

21.—Section 22 of the Courts (Supplemental Provisions) Act, 1961, is hereby amended by the substitution for subsection (8) of the following 40 subsection :

“(8) (a) Any interested party may at any time apply to the judge of the Circuit Court before whom an action commenced in that court or an appeal from the District Court is pending to have the action or appeal 45 forwarded to the High Court and thereupon, in case the action or appeal is one fit to be tried in the High Court and the High Court appears to be the more appropriate tribunal in the circumstances, the said judge may send forward the action or appeal to the 50 High Court upon such terms and subject to such conditions as to costs or otherwise as may appear to him to be just, and an appeal shall lie under section 38 of the Act of 1936, as applied by section 48 of this Act, from the decision of the judge granting or refusing 55 any such application.

(b) Any interested party may at any time apply to a justice of the District Court before whom an action commenced in that court is pending to have the action forwarded to the Circuit Court or the High Court and thereupon, in case the action is one fit to be tried in the Circuit Court or the High Court, as the case may be, and the Circuit Court or the High Court, as the case may be, appears to be the more appropriate tribunal in the circumstances, the said justice may send forward the action to the Circuit Court or the High Court, as the case may be, upon such terms and subject to such conditions as to costs or otherwise as may appear to him to be just, and an appeal shall lie under section 84 of the Act of 1924, as applied by section 48 of this Act, from the decision of the justice granting or refusing any such application."

22.—(1) Section 7 of the Courts Act, 1964, is hereby amended—

Service by post of Circuit Court and District Court documents.

(a) by the deletion of "or proceedings under the School Attendance Acts, 1926 and 1936" and the substitution of "any other document relating to such proceedings which is a notice, order or witness summons" for "a witness summons relating to such proceedings" in subsection (1), and

1964, No. 11.

(b) by the substitution for subsection (2) of the following subsection:

"(2) This section shall apply in relation to the service of any Circuit Court document or any District Court document in any area whenever and so long as no summons server stands assigned to that area for the service of that document by the County Registrar for the county in which the area is situated."

(2) Section 44 of the Court Officers Act, 1926, is hereby amended by the substitution of the following subsection for subsection (4):

1926, No. 27.

"(4) Every such summons server shall be assigned by the County Registrar to such area served by the circuit court office to which the summons server is attached and in respect of such documents as may be specified by the County Registrar and every summons server so assigned shall be competent to serve within the area to which he is so assigned any document specified as aforesaid."

23.—(1) Service of a superior court document may be effected by leaving the document or a copy thereof (as may be appropriate) at, or sending the document or a copy thereof (as may be appropriate) by registered prepaid post to, the residence or place of business in the State of the person to be served or the place of business in the State of the solicitor (if any) acting for him in the proceedings to which the document relates.

Service by post of superior court documents.

(2) In this section "superior court document" means any document for or in relation to the service of which provision is made in any rules made by the Superior Courts Rules Committee but for which personal service is not required.

24.—The first proviso to section 70 and section 72 of the Dublin Police Act, 1842, paragraph (a) of section 7 of the Enforcement of Court Orders Act, 1940, section 21 of the Criminal Justice Act, 1951, section 65 of the Solicitors Act, 1954, "by virtue of this Act" in section 14 (2) and section 60 of the Act of 1961, are hereby repealed.

Repeals.
1842, c. 24.
1940, No. 23.
1951, No. 2.

Short title,
collective citation,
construction and
commencement.

25.—(1) This Act may be cited as the Courts Act, 1971.

(2) The Courts (Supplemental Provisions) Acts, 1961 to 1968, and this Act may be cited together as the Courts (Supplemental Provisions) Acts, 1961 to 1971.

(3) The Courts (Supplemental Provisions) Acts, 1961 to 1968, and 5 this Act shall be construed together as one Act.

(4) Sections 2 to 12 of this Act shall come into operation on the 1st day of March, 1972, but shall not apply in relation to proceedings in any court instituted before that day.

(5) Section 14 of this Act shall come into operation on the 1st 10 day of March, 1972.

BILLE

(mar a leasaíodh i gCoiste)

dá ngairtear

Acht do leasú agus do leathnú na nAchtanna Cúirteanna Breithiúnais, 1924 go 1961, agus Achtanna na gCúirteanna (Forálacha Forlíontacha), 1961 go 1968, agus do dhéanamh socrú i dtaobh nithe eile a bhaineann leis na cúirteanna.

An Seanadóir Tomás Ó Maoláin a thug isteach

Ordaíodh ag Seanad Éireann a chlóbhualadh,
27 Deireadh Fómhair, 1971

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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BILL

(as amended in Committee)

entitled

An Act to amend and extend the Courts of Justice Acts, 1924 to 1961, and the Courts (Supplemental Provisions) Acts, 1961 to 1968, and to provide for other matters relating to the courts.

Introduced by Senator Tomás Ó Maoláin

Ordered by Seanad Éireann to be printed,
27th October, 1971

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE

To be purchased through any bookseller, or direct
from the Government Publications Sale Office,
G.P.O. Arcade, Dublin.

Printed by CAHILL & Co., LTD.

4p