



BILLE NA gCÚIRTEANNA, 1986
COURTS BILL, 1986

Mar a ritheadh ag Dáil Éireann
As passed by Dáil Éireann

ARRANGEMENT OF SECTIONS

Section

1. Abolition of juries in certain actions in High Court.
2. Remittal or transfer of certain actions.
3. Amendment of Air Navigation and Transport Act, 1936.
4. Amendment of Civil Liability Act, 1961.
5. Regulation of number of counsel appearing in certain actions.
6. Short title, collective citation, construction and application.

ACTS REFERRED TO

Air Navigation and Transport Act, 1936	1936, No. 40
Air Navigation and Transport Act, 1965	1965, No. 6
Civil Liability Act, 1961	1961, No. 41
Courts of Justice Act, 1924	1924, No. 10
Courts (Supplemental Provisions) Acts, 1961 to 1986	



BILLE NA gCÚIRTEANNA, 1986
COURTS BILL, 1986

BILL

entitled

AN ACT TO PROVIDE THAT CERTAIN ACTIONS IN THE HIGH COURT SHALL NOT BE TRIED WITH A JURY AND TO PROVIDE FOR THE REGULATION OF THE NUMBER OF COUNSEL APPEARING IN CERTAIN ACTIONS AND FOR RELATED MATTERS. 5

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS: 10

Abolition of juries
in certain actions
in High Court.

1.—(1) Notwithstanding section 94 of the Courts of Justice Act, 1924, or any other provision made by or under statute, or any rule of law, an action in the High Court—

- (a) claiming damages in respect of personal injuries to a person caused by negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or a provision made by or under a statute or independently of any such contract or any such provision), 15
- (b) under section 48 of the Civil Liability Act, 1961, or
- (c) under section 18 (inserted by the Air Navigation and Transport Act, 1965) of the Air Navigation and Transport Act, 1936, 20

or a question of fact or an issue arising in such an action, shall not be tried with a jury.

(2) *Subsection (1)* of this section also applies in relation to— 25

- (a) an action in which damages are claimed both in respect of personal injuries to a person caused as specified in *subsection (1) (a)*, or the death of a person, and in respect of another matter, and
- (b) an action in which— 30
 - (i) the damages claimed consist only of damages in respect of a matter other than personal injuries to, or the death of, a person, and

- (ii) the claim arises directly or indirectly from an act or omission that has also resulted in personal injuries to, or the death of, a person,

and in relation to a question of fact or an issue arising in an action referred to in *paragraph (a)* or *(b)* of this subsection.

(3) *Subsection (1)* of this section does not apply in relation to—

(a) an action where the damages claimed consist only of damages for false imprisonment or intentional trespass to the person or both,

(b) an action where the damages claimed consist of damages for false imprisonment or intentional trespass to the person or both and damages (whether claimed in addition, or as an alternative, to the other damages claimed) for another cause of action in respect of the same act or omission, unless it appears to the court, on the application of any party, made not later than 7 days after the giving of notice of trial or at such later time as the court shall allow, or on its own motion at the trial, that, having regard to the evidence likely to be given at the trial in support of the claim, it is not reasonable to claim damages for false imprisonment or intentional trespass to the person or both, as the case may be, in respect of that act or omission, or

(c) a question of fact or an issue arising in an action referred to in *paragraph (a)* or *(b)* of this subsection other than an issue arising in an action referred to in the said *paragraph (b)* as to whether, having regard to the evidence likely to be given at the trial in support of the claim concerned, it is reasonable to claim damages for false imprisonment, intentional trespass to the person or both, as the case may be, in respect of the act or omission concerned.

(4) For the purpose of the application of *subsection (1)* of this section in relation to an action, or a question of fact or an issue arising in an action, any set-off or counterclaim, or any other claim by a party (other than a plaintiff) to the action, shall be disregarded.

(5) *Subsection (1)* of this section does not apply in relation to an action, or a question of fact or an issue arising in an action, if the trial thereof began before the commencement of this Act but does apply to the retrial of such an action, question of fact or issue if the retrial begins after such commencement.

(6) Where, as respects an action in relation to which *subsection (1)* of this section applies, or a question of fact or an issue arising in such an action—

(a) a notice of trial containing a requirement to have the action, question or issue tried with a jury, or

(b) a notice signifying a desire to have the action, question or issue tried with a jury,

was served or given before the commencement of this Act, the requirement referred to in *paragraph (a)* of this subsection or, as the case may be, the notice referred to in *paragraph (b)* of this subsection shall be disregarded.

(7) In this section "personal injuries" includes any disease and any impairment of a person's physical or mental condition.

Remittal or transfer of certain actions

2.—The jurisdiction of the High Court under section 25 of the Courts of Justice Act, 1924, to remit or transfer actions may, on application to the High Court in that behalf by any party to an action in relation to which *section 1 (1)* of this Act applies, be exercised in relation to the action at any time before the commencement of the trial thereof. 5

Amendment of Air Navigation and Transport Act, 1936.

3.—Section 18 (2) (inserted by the Air Navigation and Transport Act, 1965) of the Air Navigation and Transport Act, 1936, is hereby amended by the deletion in paragraphs (f) and (k) of "the jury or" and ", as the case may be,". 10

Amendment of Civil Liability Act, 1961.

4.—Section 49 (1) (a) of the Civil Liability Act, 1961, is hereby amended by the deletion in subparagraph (i) of "the jury or" and ", as the case may be,". 15

Regulation of number of counsel appearing in certain actions.

5.—(1) Notwithstanding any provision made by or under statute, or any rule of law or practice, the Minister may specify by regulations the maximum number of counsel in respect of whom costs may be allowed, on taxation by a Taxing Master, for payment by another party or other parties to an action in relation to which *section 1 (1)* of this Act applies, or a question of fact or an issue arising in such an action, or an appeal from a decision in such an action or on such a question or issue. 20

(2) Regulations under this section may—

(a) specify different numbers of counsel (whether junior counsel or senior counsel or both) in relation to different classes (designated in such manner and by reference to such matters as the Minister considers appropriate) of such actions, questions, issues or appeals as aforesaid, 25

and

(b) provide for the allowance, on taxation by a Taxing Master, for payment by another party or other parties to such actions, questions, issues or appeals as aforesaid, of the costs in respect of different counsel or different numbers of counsel engaged in relation to different stages of such actions, questions, issues or appeals. 30 35

(3) Where it is proposed to make regulations under this section, a draft of the regulations shall be laid before each House of the Oireachtas and the regulations shall not be made unless a resolution approving of the draft is passed by each such House.

Short title, collective citation, construction and application.

6.—(1) This Act may be cited as the Courts Act, 1988. 40

(2) The Courts (Supplemental Provisions) Acts, 1961 to 1986, and this Act may be cited together as the Courts (Supplemental Provisions) Acts, 1961 to 1988, and shall be construed together as one.

(3) This Act shall come into operation on the 1st day of August, 1988. 45

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BILLE

dá ngairtear

Acht do dhéanamh socrú nach dtriailfear le giúiré caingne áirithe san Ard-Chúirt agus do dhéanamh socrú i dtaobh an líon abhcóidí a láithrionn i gcaingne áirithe a rialáil agus i dtaobh nithe gaolmhara.

An tAire Dlí agus Cirt a thólaic

*Ritheadh ag Dáil Éireann,
14 Meitheamh, 1988*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath
2, nó trí aon díoltóir leabhar.

Clóbhuailte ag CAHILL PRINTERS LIMITED.

60p

BILL

entitled

An Act to provide that certain actions in the High Court shall not be tried with a jury and to provide for the regulation of the number of counsel appearing in certain actions and for related matters.

Presented by the Minister for Justice

*Passed by Dáil Éireann,
14th June, 1988*

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE

To be purchased through any bookseller, or directly
from the Government Publications Sale Office,
Sun Alliance House, Molesworth Street, Dublin 2.

Printed by CAHILL PRINTERS LIMITED.

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