



AN BILLE UM FHIANAISE CHOIRIÚIL, 1992
CRIMINAL EVIDENCE BILL, 1992

*Mar a leasaíodh i gCoiste
As amended in Committee*

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ACTS REFERRED TO

Children Act, 1908	1908, c. 67
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Criminal Law Amendment Act, 1885	1885, c. 69
Criminal Law Amendment Act, 1935	1935, No. 6
Criminal Law (Rape) (Amendment) Act, 1990	1990, No. 32
Criminal Procedure Act, 1967	1967, No. 12
Punishment of Incest Act, 1908	1908, c. 45



AN BILLE UM FHIANAISE CHOIRIÚIL, 1992
CRIMINAL EVIDENCE BILL, 1992

BILL

entitled

5 AN ACT TO AMEND THE LAW OF EVIDENCE IN RELATION
TO CRIMINAL PROCEEDINGS AND TO PROVIDE FOR
CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

10 PRELIMINARY

1.—(1) This Act may be cited as the Criminal Evidence Act, 1992. Short title and commencement.

(2) This Act (except *Part III* and *section 28*) shall come into operation three months after the date of its passing.

15 (3) *Part III* and *section 28* shall come into operation on such day or days as may be fixed therefor by order or orders of the Minister for Justice and different days may be so fixed for different purposes and different provisions; and, in particular, *sections 12 to 15* and *section 28* may be brought into operation on different days for different courts and for different circuits and district court districts.

20 (4) The provisions of this Act (other than *Part III* (except *sections 14, 15 (1) (b)* and *17*) and *section 28*) shall not apply to criminal proceedings instituted before the commencement of the provisions concerned.

2.—(1) In this Act—

Interpretation (general).

25 “the Act of 1935” means the Criminal Law Amendment Act, 1935;

“court” includes court-martial;

“criminal proceedings” includes proceedings before a court-martial and proceedings on appeal;

“document” includes—

30 (i) a map, plan, graph, drawing or photograph, or

- (ii) a reproduction in permanent legible form, by a computer or other means (including enlarging), of information in non-legible form;

“information” includes any representation of fact, whether in words or otherwise; 5

“information in non-legible form” includes information on microfilm, microfiche, magnetic tape or disk;

“sexual offence” means rape, buggery, sexual assault (within the meaning of section 2 of the Criminal Law (Rape) (Amendment) Act, 1990), aggravated sexual assault (within the meaning of section 3 of that Act), rape under section 4 of that Act or an offence under— 10

- (i) section 3 (as amended by section 8 of the Act of 1935), 6 (as amended by section 9 of that Act) or 11 of the Criminal Law Amendment Act, 1885,
- (ii) section 1 or 2 (as amended by section 12 of the Act of 1935) of the Punishment of Incest Act, 1908, 15
- (iii) section 17 (as amended by section 11 of the Act of 1935) of the Children Act, 1908, or
- (iv) section 1, 2 or 4 of the Act of 1935,

excluding an attempt to commit any such offence; 20

“videorecording” means any recording, on any medium, from which a moving image may by any means be produced and includes the accompanying soundtrack (if any), and cognate words shall be construed accordingly.

(2) Nothing in *Part II* or in *section 29* shall prejudice the admissibility in evidence in any criminal proceedings of information contained in a document that is otherwise so admissible. 25

(3) Where in any criminal proceedings the age of a person at any time is material for the purposes of any provision of this Act, his age at that time shall for the purposes of that provision be deemed, unless the contrary is proved, to be or to have been that which appears to the court to be or to have been his age at that time. 30

(4) In this Act—

(a) a reference to a Part or section is to a Part or section of this Act, unless it is indicated that reference to some other enactment is intended, 35

(b) a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended. 40

(5) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment (including this Act).

Repeals.

3.—The enactments specified in the *Schedule* to this Act are hereby repealed to the extent specified in *column (3)* thereof. 45

PART II

ADMISSIBILITY OF DOCUMENTARY EVIDENCE

5 4.—In this Part “business” includes any trade, profession or other occupation carried on, for reward or otherwise, either within or outside the State and includes also the performance of functions by or on behalf of— Definition (Part II).

- (a) any person or body remunerated or financed wholly or partly out of moneys provided by the Oireachtas,
- (b) any institution of the European Communities,
- 10 (c) any national or local authority in a jurisdiction outside the State, or
- (d) any international organisation.

15 5.—(1) Subject to this Part, information contained in a document shall be admissible in any criminal proceedings as evidence of any fact therein of which direct oral evidence would be admissible if the information— Admissibility of documentary evidence.

- (a) was compiled in the ordinary course of a business,
 - (b) was supplied by a person (whether or not he so compiled it and is identifiable) who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with, and
 - 20 (c) in the case of information in non-legible form that has been reproduced in permanent legible form, was reproduced in the course of the normal operation of the reproduction system concerned.
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(2) *Subsection (1)* shall apply whether the information was supplied directly or indirectly but, if it was supplied indirectly, only if each person (whether or not he is identifiable) through whom it was supplied received it in the ordinary course of a business.

30 (3) *Subsection (1)* shall not apply to—

- (a) information that is privileged from disclosure in criminal proceedings,
- (b) information supplied by a person who would not be compellable to give evidence at the instance of the party wishing to give the information in evidence by virtue of this section, or
- 35 (c) subject to *subsection (4)*, information compiled for the purposes or in contemplation of any—
 - (i) criminal investigation,
 - 40 (ii) investigation or inquiry carried out pursuant to or under any enactment,
 - (iii) civil or criminal proceedings, or
 - (iv) proceedings of a disciplinary nature.

(4) *Subsection (3) (c)* shall not apply where—

(a) (i) the information contained in the document was compiled in the presence of a judge of the District Court and supplied on oath by a person in respect of whom an offence was alleged to have been committed and who is ordinarily resident outside the State, 5

(ii) either section 14 (which deals with the taking of a deposition in the presence of such a judge and the accused) of the Criminal Procedure Act, 1967, could not be invoked or it was not practicable to do so, and 10

(iii) the person in respect of whom the offence was alleged to have been committed either has died or is outside the State and it is not reasonably practicable to secure his attendance at the criminal proceedings concerned,

or 15

(b) the document containing the information is—

(i) a map, plan, drawing or photograph (including any explanatory material in or accompanying the document concerned),

(ii) a record of a direction given by a member of the Garda Síochána pursuant to any enactment, 20

(iii) a record of the receipt, handling, transmission or examination of any thing by any person acting on behalf of any party to the proceedings, or

(iv) a record by a registered medical practitioner of an examination of a living or dead person. 25

(5) Where information is admissible in evidence by virtue of this section but is expressed in terms that are not intelligible to the average person without explanation, an explanation of the information shall also be admissible in evidence if either— 30

(a) it is given orally by a person who is competent to do so, or

(b) it is contained in a document and the document purports to be signed by such a person.

Evidence of
admissibility.

6.—(1) In relation to information contained in a document which a party to criminal proceedings wishes to give in evidence by virtue of *section 5*, a certificate— 35

(a) stating that the information was compiled in the ordinary course of a specified business,

(b) stating that the information is not of a kind mentioned in *paragraph (a) or (b) of section 5 (3)*, 40

(c) either stating that the information was not compiled for the purposes or in contemplation of any investigation, inquiry or proceedings referred to in *section 5 (3) (c)* or, as the case may be, specifying which of the provisions of *section*

5 (4) applies in relation to the document containing the information,

- 5 (d) stating that the information was supplied, either directly or, as the case may be, indirectly through an intermediary or intermediaries (who, or each of whom, received it in the ordinary course of a specified business), by a person who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with in the information and, where the intermediary, intermediaries or person can be identified, specifying them,
- 10 (e) in case the information is information in non-legible form that has been reproduced in permanent legible form, stating that the reproduction was effected in the course of the normal operation of a specified system,
- 15 (f) where appropriate, stating that the person who supplied the information cannot reasonably be expected to have any, or any adequate, recollection of the matters dealt with in the information, having regard to the time that has elapsed since he supplied it or to any other specified circumstances,
- 20 (g) unless the date on which the information was compiled is already shown on the document, specifying the date (or, if that date is not known, the approximate date) on which it was compiled,
- 25 (h) stating any other matter that is relevant to the admissibility in evidence of the information and is required by rules of court to be certified for the purposes of this subsection,

and purporting to be signed by a person who occupies a position in relation to the management of the business in the course of which the information was compiled or who is otherwise in a position to give the certificate shall be evidence of any matter stated or specified therein.

(2) For the purposes of *subsection (1)* it shall be sufficient for a matter to be stated or specified to the best of the knowledge and belief of the person stating or specifying it.

35 (3) Notwithstanding that a certificate may have been given pursuant to *subsection (1)*, the court—

- (a) shall, where a notice has been served pursuant to *section 7 (2)* objecting to the admissibility in evidence of the whole or any specified part of the information concerned, and
- 40 (b) may, in any other case,

require oral evidence to be given of any matter stated or specified in the certificate.

45 (4) If any person in a certificate given in evidence in any proceedings by virtue of *subsection (1)* makes a statement material in those proceedings which he knows to be false or does not believe to be true, he shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding £500 or imprisonment for a term not exceeding 6 months or both, or

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years or both.

Notice of documentary evidence.

7.—(1) Information in a document shall not, without the leave of the court, be admissible in evidence by virtue of *section 5* at a trial on indictment unless—

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(a) a copy of the document and, where appropriate, of a certificate pursuant to *section 6 (1)* has been served on the accused pursuant to *section 6 (1)* of the Criminal Procedure Act, 1967, or

(b) not later than 21 days before the commencement of the trial, a notice of intention so to give the information in evidence, together with a copy of the document and, where appropriate, of the certificate, is served by or on behalf of the party proposing to give it in evidence on each of the other parties to the proceedings.

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(2) A party to the proceedings on whom a notice has been served pursuant to *subsection (1)* shall not, without the leave of the court, object to the admissibility in evidence of the whole or any specified part of the information concerned unless, not later than 7 days before the commencement of the trial, a notice objecting to its admissibility is served by or on behalf of that party on each of the other parties to the proceedings.

20

(3) A document required by this section to be served on any person may, subject to *subsection (4)*, be served—

(a) by delivering it to him or to his solicitor,

25

(b) by addressing it to him and leaving it at his usual or last known residence or place of business or by addressing it to his solicitor and leaving it at the solicitor's office,

(c) by sending it by registered post to him at his usual or last known residence or place of business or to his solicitor at the solicitor's office, or

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(d) in the case of a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office or sending it by registered post to the secretary or clerk of that body at that office.

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(4) A document required by this section to be served on an accused shall be served personally on him if he is not represented by a solicitor.

Admission and weight of documentary evidence.

8.—(1) In any criminal proceedings information or any part thereof that is admissible in evidence by virtue of *section 5* shall not be admitted if the court is of opinion that in the interests of justice the information or that part ought not to be admitted.

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(2) In considering whether in the interests of justice all or any part of such information ought not to be admitted in evidence the court shall have regard to all the circumstances, including—

(a) whether or not, having regard to the contents and source of the information and the circumstances in which it was compiled, it is a reasonable inference that the information is reliable,

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5 (b) whether or not, having regard to the nature and source of the document containing the information and to any other circumstances that appear to the court to be relevant, it is a reasonable inference that the document is authentic, and

10 (c) any risk, having regard in particular to whether it is likely to be possible to controvert the information where the person who supplied it does not attend to give oral evidence in the proceedings, that its admission or exclusion will result in unfairness to the accused or, if there is more than one, to any of them.

15 (3) In estimating the weight, if any, to be attached to information given in evidence by virtue of this Part, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to its accuracy or otherwise.

9.—Where information is given in evidence by virtue of this Part—

Evidence as to credibility of supplier of information.

20 (a) any evidence which, if the person who originally supplied the information had been called as a witness, would have been admissible as relevant to his credibility as a witness shall be admissible for that purpose,

25 (b) evidence may, with the leave of the court, be given of any matter which, if that person had been called as a witness, could have been put to him in cross-examination as relevant to his credibility as a witness but of which evidence could not have been adduced by the cross-examining party, and

30 (c) evidence tending to prove that that person, whether before or after supplying the information, made (whether orally or not) a statement which is inconsistent with it shall, if not already admissible by virtue of *section 5*, be admissible for the purpose of showing that he has contradicted himself.

10.—The Criminal Procedure Act, 1967, is hereby amended—

Amendment of Criminal Procedure Act, 1967.

35 (a) by the substitution, for paragraphs (d) and (e) of section 6 (1) of that Act (which provides for the service of documents on an accused), of the following paragraphs:

“(d) a statement of the evidence that is to be given by each of them,

40 (e) a copy of any document containing information which it is proposed to give in evidence by virtue of *Part II* of the *Criminal Evidence Act, 1992*,

(f) where appropriate, a copy of a certificate pursuant to *section 6 (1)* of that Act, and

45 (g) a list of exhibits (if any)”,

and

(b) by the substitution, for section 11 of that Act (which provides

for service of additional documents on an accused after he has been sent forward for trial), of the following section:

“Additional documents.

11. (1) Where the accused has been sent forward for trial the Director of Public Prosecutions shall cause to be served on him a list of any further witnesses whom he proposes to call at the trial, with a statement of the evidence that is to be given by each of them, a list of any further exhibits, a statement of any further evidence that is to be given by any witness whose name appears on the list of witnesses already supplied, any notice of intention to give information contained in a document in evidence pursuant to section 7 (1) (b) of the *Criminal Evidence Act, 1992*, together with a copy of the document and any certificate pursuant to section 6 (1) of that Act, and copies of any statement recorded under section 7 and any deposition taken under that section or under section 14.

(2) Copies of the documents shall also be furnished to the trial court.”.

PART III

EVIDENCE IN CERTAIN PROCEEDINGS

Offences to which Part III applies.

11.—This Part applies to—

- (a) a sexual offence,
- (b) an offence involving violence or the threat of violence to a person, or
- (c) an offence consisting of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence mentioned in *paragraph (a) or (b)*.

Evidence through television link by persons under 17 years.

12.—(1) In any criminal proceedings, unless the court sees good reason to the contrary, a person other than the accused may give evidence, whether from within or outside the State, through a live television link if the person is under 17 years of age and the offence or one of the offences charged is an offence to which this Part applies.

(2) Evidence given under *subsection (1)* shall be videorecorded.

(3) While evidence is being given through a live television link pursuant to *subsection (1)*, neither the judge, nor the barrister or solicitor concerned in the examination of the witness, shall wear a wig or gown.

Evidence through intermediary.

13.—(1) Where—

- (a) a person is accused of an offence to which this Part applies, and

(b) a person under 17 years of age is giving, or is to give, evidence through a live television link,

5 the court may, on the application of the prosecution or the accused, if satisfied that, having regard to the age or mental condition of the witness, the interests of justice require that his examination-in-chief, cross-examination or re-examination, or any part thereof, be conducted through an intermediary, direct that any such examination be so conducted.

10 (2) An intermediary referred to in subsection (1) shall be appointed by the court and shall be a person who, in its opinion, is competent to act as such.

14.—(1) Where—

Procedure in District Court in relation to certain offences.

(a) a person is before the District Court charged with an offence to which this Part applies,

15 (b) the person in respect of whom the offence is alleged to have been committed is a person under 17 years of age,

(c) the offence is not being tried summarily or is not being dealt with on a plea of guilty, and

20 (d) it is proposed to give evidence at the trial by means of a videorecording as mentioned in section 15 (1) (b),

the prosecution shall, in addition to causing the documents mentioned in section 6 (1) of the Criminal Procedure Act, 1967, to be served on the accused—

(i) notify him that it is proposed so to give evidence, and

25 (ii) give him an opportunity of seeing the videorecording in advance of the preliminary examination.

30 (2) If at a preliminary examination of an offence to which this Part applies the person in respect of whom the offence is alleged to have been committed is available for cross-examination, any statement made by him on a videorecording mentioned in section 15 (1) (b) may be considered by the judge of the District Court conducting the preliminary examination.

(3) The Criminal Justice (Legal Aid) Act, 1962, is hereby amended—

35 (a) by the insertion after section 2 of the following section:

“2A. (1) Where—

(a) a person is before the District Court charged with an offence to which Part III of the Criminal Evidence Act, 1992, applies, and

40 (b) it is proposed that at the preliminary examination of the offence evidence will be given through a live television link pursuant to section 12 of that Act, and

45 (c) a certificate for free legal aid (in this Act referred to as a “legal aid (preliminary examination) certificate”) is granted in respect of him by the District Court,

the person shall be entitled to free legal aid at the preliminary examination pursuant to a legal aid (preliminary examination) certificate and to have a solicitor and counsel assigned to him for that purpose in such manner as may be prescribed by regulations under section 10 of this Act. 5

(2) A legal aid (preliminary examination) certificate shall be granted in respect of a person if (but only if)—

(a) application is made therefor,

(b) it appears to the District Court—

(i) that his means are insufficient to enable him to obtain legal aid, and 10

(ii) that, having regard to all the circumstances of the case (including the nature of such defence (if any) as may have been set up), it is essential in the interests of justice that he should have legal aid at the preliminary examination.”, 15

and

(b) by the insertion in section 9 (2), after “legal aid (District Court) certificate,” of “a legal aid (preliminary examination) certificate,”. 20

Videorecording as evidence at trial.

15.—(1) Subject to *subsection (2)*—

(a) a videorecording of any evidence given by a person under 17 years of age through a live television link at the preliminary examination of an offence to which this Part applies, and

(b) a videorecording of any statement made by a person under 14 years of age (being a person in respect of whom such an offence is alleged to have been committed) during an interview with persons who are in the opinion of the court appropriately qualified for the purpose, 25

shall be admissible at the trial of the offence as evidence of any fact stated therein of which direct oral evidence by him would be admissible: 30

Provided that, in the case of a videorecording mentioned in *paragraph (b)*, either—

(i) it has been considered in accordance with *section 14 (2)* by the judge of the District Court conducting the preliminary examination of the offence, or 35

(ii) the person whose statement was videorecorded is available at the trial for cross-examination.

(2) Any such videorecording or any part thereof shall not be admitted in evidence as aforesaid if the court is of opinion, having regard to all the circumstances, that in the interests of justice the videorecording concerned or that part ought not to be so admitted. 40

(3) In estimating the weight, if any, to be attached to any statement

contained in such a videorecording regard shall be had to all the circumstances from which any inference can reasonably be drawn as to its accuracy or otherwise.

5 (4) In this section "statement" includes any representation of fact, whether in words or otherwise.

10 16.—In any proceedings for an offence to which this Part applies in any circuit or district court district in relation to which *sections 12 to 15* or *section 28* are not in operation the court concerned may, if in its opinion it is desirable that evidence be given in the proceedings through a live television link or by means of a videorecording, by order transfer the proceedings to a circuit or district court district in relation to which those provisions are in operation and, where such an order is made, the jurisdiction of the court to which the proceedings have been transferred may be exercised—

Transfer of proceedings.

15 (a) in the case of the Circuit Court, by the judge of the circuit concerned, and

(b) in the case of the District Court, by the judge of that court for the time being assigned to the district court district concerned.

20 17.—Where, at the trial of a person for an offence to which this Part applies—

Identification evidence.

(a) the person in respect of whom the offence is alleged to have been committed is under 17 years of age,

(b) evidence is given—

25 (i) that the accused was known to that person before the date on which the offence was alleged to have been committed, or

30 (ii) that the accused has been identified by that person or another person under that age as being the offender at an identification parade or through another identification procedure,

that person or that other person shall not be required to so identify the accused at the trial, unless the court in the interests of justice orders otherwise.

35 18.—The references in *sections 12 (1), 13 (1) (b), 14 (1) (b), 15 (1) (a) and 17 (1) (b)* to a person under 17 years of age and the reference in *section 15 (1) (b)* to a person under 14 years of age shall include references to a person with mental handicap who has reached the age concerned.

Application of Part III to persons with mental handicap.

PART IV

COMPETENCE AND COMPELLABILITY OF SPOUSES AND FORMER SPOUSES TO GIVE EVIDENCE

Definitions (Part IV).

19.—In this Part—

“decree of judicial separation” includes a decree of divorce *a mensa et thoro* or any decree made by a court outside the State and recognised in the State as having the like effect; 5

“former spouse” includes a person who has been granted a decree of judicial separation in respect of his marriage to an accused.

Competence of spouses and former spouses to give evidence.

20.—In any criminal proceedings the spouse or a former spouse of an accused shall be competent to give evidence at the instance— 10

- (a) subject to *section 24*, of the prosecution, and
- (b) of the accused or any person charged with him in the same proceedings.

Compellability to give evidence at instance of prosecution.

21.—(1) In any criminal proceedings the spouse of an accused shall, subject to *section 24*, be compellable to give evidence at the instance of the prosecution only in the case of an offence which— 15

- (a) involves violence, or the threat of violence, to—
 - (i) the spouse,
 - (ii) a child of the spouse or of the accused, or 20
 - (iii) any person who was at the material time under the age of 17 years,

(b) is a sexual offence alleged to have been committed in relation to a person referred to in *subparagraph (ii)* or *(iii)* of *paragraph (a)*, or 25

(c) consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within *paragraph (a)* or *(b)*.

(2) In any criminal proceedings a former spouse of an accused shall, subject to *section 24*, be compellable to give evidence at the instance of the prosecution unless— 30

(a) the offence charged is alleged to have been committed at a time when the marriage was subsisting and no decree of judicial separation was in force, and

(b) it is not an offence mentioned in *subsection (1)*. 35

(3) The reference in *subsection (1)* to a child of the spouse or the accused shall include a reference to—

(a) a child who has been adopted by the spouse or the accused under the Adoption Acts, 1952 to 1991, or, in the case of a child whose adoption by the spouse or the accused has been effected outside the State, whose adoption is recognised in the State by virtue of those Acts, and 40

(b) a person in relation to whom the spouse or the accused is *in loco parentis*.

22.—Subject to *section 24*, in any criminal proceedings the spouse or a former spouse of an accused shall be compellable to give evidence at the instance of the accused. Compellability to give evidence at instance of accused.

23.—(1) Subject to *section 24*, in any criminal proceedings— Compellability to give evidence at instance of co-accused.

(a) the spouse of an accused shall be compellable to give evidence at the instance of any person charged with the accused in the same proceedings only in the case of an offence mentioned in *section 21 (1)*,

(b) a former spouse of an accused shall be compellable to give evidence at the instance of any person charged with the accused in the same proceedings unless—

(i) the offence charged is alleged to have been committed at a time when the marriage was subsisting and no decree of judicial separation was in force, and

(ii) it is not an offence mentioned in *section 21 (1)*.

(2) *Subsection (1)* is without prejudice to the power of a court to order separate trials of persons charged in the same proceedings if it appears to it to be desirable in the interests of justice to do so.

24.—Where persons (being either a husband and wife or persons who were formerly husband and wife) are charged in the same proceedings, neither shall at the trial be competent by virtue of *section 20 (a)* to give evidence at the instance of the prosecution, or be compellable by virtue of *section 21, 22 or 23* to give evidence, unless the person concerned is not, or is no longer, liable to be convicted at the trial as a result of pleading guilty or for any other reason. Saving.

25.—Nothing in this Part shall affect any right of a spouse or former spouse in respect of marital privacy. Right to marital privacy.

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PART V

MISCELLANEOUS

26.—(1) Notwithstanding any enactment, in any criminal proceedings the evidence of a person under 14 years of age may be received otherwise than on oath or affirmation if the court is satisfied that he is capable of giving an intelligible account of events which he has observed. Oath or affirmation not necessary for child etc., witness.

(2) If any person whose evidence is received as aforesaid makes a statement material in the proceedings concerned which he knows to be false or does not believe to be true, he shall be guilty of an offence and on conviction shall be liable to be dealt with as if he had been guilty of perjury.

(3) *Subsection (1)* shall apply to a person with mental handicap who has reached the age of 14 years as it applies to a person under that age.

Abolition of requirement of corroboration for unsworn evidence of child, etc.

27.—(1) The requirement in section 30 of the Children Act, 1908, of corroboration of unsworn evidence of a child given under that section is hereby abolished.

(2) (a) Any requirement that at a trial on indictment the jury be given a warning by the judge about convicting the accused on the uncorroborated evidence of a child is also hereby abolished in relation to cases where such a warning is required by reason only that the evidence is the evidence of a child and it shall be for the judge to decide, in his discretion, having regard to all the evidence given, whether the jury should be given the warning.

(b) If a judge decides, in his discretion, to give such a warning as aforesaid, it shall not be necessary to use any particular form of words to do so.

(3) Unsworn evidence received by virtue of section 26 may corroborate evidence (sworn or unsworn) given by any other person.

Evidence through television link by persons outside State.

28.—(1) Without prejudice to section 12 (1), in any criminal proceedings a person other than the accused who is outside the State may, with the leave of the court, give evidence through a live television link.

(2) Evidence given under subsection (1) shall be videorecorded.

(3) Any person who while giving evidence pursuant to subsection (1) makes a statement material in the proceedings which he knows to be false or does not believe to be true shall, whatever his nationality, be guilty of perjury.

(4) Proceedings for an offence under subsection (3) may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the State.

Copies of documents in evidence.

29.—(1) Where information contained in a document is admissible in evidence in criminal proceedings, the information may be given in evidence, whether or not the document is still in existence, by producing a copy of the document, or of the material part of it, authenticated in such manner as the court may approve.

(2) It is immaterial for the purposes of subsection (1) how many removes there are between the copy and the original, or by what means (which may include facsimile transmission) the copy produced or any intermediate copy was made.

(3) In subsection (1) "document" includes a film, sound recording or videorecording.

ENACTMENTS REPEALED

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
16 & 17 Vict., c. 83	Evidence Amendment Act, 1853	Section 3
35 & 36 Vict., c. 94	Licensing Act, 1872	In paragraph 4 of section 51, the words "and in all cases of summary proceedings under this Act, the defendant and his wife shall be competent to give evidence"
38 & 39 Vict., c. 63	Sale of Food and Drugs Act, 1875	In section 21, the words "and the defendant may, if he think fit, tender himself and his wife to be examined on his behalf, and he or she shall, if he so desires, be examined accordingly"
38 & 39 Vict., c. 86	Conspiracy, and Protection of Property Act, 1875	Section 11
40 & 41 Vict., c. 14	Evidence Act, 1877	The whole Act
46 & 47 Vict., c. 3	Explosive Substances Act, 1883	Section 4 (2)
46 & 47 Vict., c. 51	Corrupt and Illegal Practices Prevention Act, 1883	Section 53 (2)
48 & 49 Vict., c. 69	Criminal Law Amendment Act, 1885	Section 20
50 & 51 Vict., c. 28	Merchandise Marks Act, 1887	Paragraph (1) of section 10
55 & 56 Vict., c. 4	Betting and Loans (Infants) Act, 1892	Section 6
60 & 61 Vict., c. 60	Chaff-Cutting Machines (Accidents) Act, 1897	Section 5
8 Edw. 7, c. 24	Summary Jurisdiction (Ireland) Act, 1908	Section 12
8 Edw. 7, c. 67	Children Act, 1908	Sections 30 and 133 (28)
2 & 3 Geo. 5, c. 20	Criminal Law Amendment Act, 1912	Section 7 (6)
4 & 5 Geo. 5, c. 58	Criminal Justice Administration Act, 1914	Section 28 (2)
No. 37 of 1924	Criminal Justice (Evidence) Act, 1924	In section 1, the words "and the wife or husband, as the case may be, of the person so charged," where they first occur, and paragraphs (c) and (d) of the proviso Section 4 (1) Schedule Section 9 (4)
No. 5 of 1957	Married Women's Status Act, 1957	Section 9 (4)
No. 7 of 1988	Social Welfare Act, 1988	Section 20 (7)

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(mar a leasaíodh i gCoiste)

dá ngairtear

Acht do leasú dhlí na fianaise i ndáil le himeachtaí coiriúla agus do dhéanamh socrú i dtaobh nithe comhghaolmhara.

An tAire Dlí agus Cirt a thólaic

*Ordaíodh ag Dáil Éireann a chlóbhualadh,
27 Bealtaine, 1992*

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(as amended in Committee)

entitled

An Act to amend the law of evidence in relation to criminal proceedings and to provide for connected matters.

Presented by the Minister for Justice

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