



**BILLE NA gCÚIRTEANNA AGUS NA nOIFIGEACH CÚIRTE,
1994
COURTS AND COURT OFFICERS BILL, 1994**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY AND GENERAL

Section

1. Short title, commencement, collective citation and construction.
2. Repeals.

PART II

COURT OF APPEAL

3. Establishment of Court of Appeal.
4. Jurisdiction of Court of Appeal.
5. Appeals from decisions of Court of Appeal in civil cases.
6. Remuneration and pension of President of Court of Appeal.
7. Vacation of judicial office and filling of vacancies.
8. Precedence between judges.
9. Amendment of Courts of Justice Act, 1924.
10. Amendment of section 55 of Courts (Supplemental Provisions) Act, 1961.
11. Amendment of Courts (Supplemental Provisions) Act, 1961.
12. Amendment of section 17 of Court Officers Act, 1926.
13. Amendment of section 18 of Court Officers Act, 1926.
14. Office of Registrar of Court of Appeal.

Section

15. Construction of section 36 of Courts of Justice Act, 1924.
16. Reconstitution of Superior Courts Rules Committee.
17. Amendment of section 14 of Courts (Supplemental Provisions) Act, 1961.
18. Organisation of Court of Appeal.
19. Number of judges of High Court.
20. Amendment of section 5 of Courts (Supplemental Provisions) Act, 1961.
21. Transitional.

PART III

JUDICIAL APPOINTMENTS ADVISORY BOARD

22. Interpretation.
23. Judicial Appointments Advisory Board.
24. Committees of Board.
25. Submission of names.
26. Procedures of Board.
27. Staff of and assistance to Board.
28. Appointment of Chief Justice, etc.

PART IV

COURTS COMMISSION

29. Establishment of Courts Commission.
30. Expenses.

PART V

MISCELLANEOUS

31. Powers of Master of High Court.
32. Hearings by Master of High Court.
33. Sittings of Master of High Court.
34. Amendment of Eighth Schedule to Courts (Supplemental Provisions) Act, 1961.
35. Claims for debts and liquidated sums.
36. Additional powers of Taxing Master of High Court.

Section

37. Further powers of Superior Courts Rules Committee.
38. Amendment of section 14 of Courts of Justice Act, 1936.
39. Amendment of Courts (Supplemental Provisions) Act, 1961.
40. Amendment of section 2 of Courts Act, 1973.
41. Court costume.
42. Retirement age of judges.
43. Scales of costs.

PART VI

RULES OF COURT

ACTS REFERRED TO

Merchant Shipping Act, 1894	1894, Ch. 60
Courts of Justice Act, 1924	1924, No. 10
Court Officers Act, 1926	1926, No. 27
Courts of Justice Act, 1936	1936, No. 48
Offences Against the State Act, 1939	1939, No. 13
Courts of Justice (District Court) Act, 1949	1949, No. 8
Courts of Justice Act, 1953	1953, No. 32
Civil Liability Act, 1961	1961, No. 41
Courts (Establishment and Constitution) Act, 1961	1961, No. 38
Courts (Supplemental Provisions) Act, 1961	1961, No. 39
Prices Acts, 1958 to 1972	
Courts Act, 1973	1973, No. 26
Law Reform Commission Act, 1975	1975, No. 3
Local Government (Planning and Development) Act, 1976	1976, No. 20
Local Government (Water Pollution) Act, 1977	1977, No. 1
Consumer Information Act, 1978	1978, No. 1
Courts Act, 1981	1981, No. 11
Courts Act, 1988	1988, No. 14
Courts Act, 1991	1991, No. 20
Courts (Supplemental Provisions) (Amendment) Act, 1991	1991, No. 23
Jurisdiction of Courts and Enforcement of Judgments (European Communities) Act, 1988	1988, No. 3
Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act, 1983	1983, No. 32



**BILLE NA gCÚIRTEANNA AGUS NA nOIFIGEACH CÚIRTE,
1994
COURTS AND COURT OFFICERS BILL, 1994**

BILL

entitled

5

AN ACT TO ESTABLISH IN PURSUANCE OF ARTICLE 34
OF THE CONSTITUTION A COURT OF APPEAL, TO
PROVIDE FOR THE ESTABLISHMENT AND FUNC-
TIONS OF A JUDICIAL APPOINTMENTS ADVISORY
BOARD, TO PROVIDE FOR THE ESTABLISHMENT 10
AND FUNCTIONS OF A COURTS COMMISSION, TO
AMEND THE COURTS (SUPPLEMENTAL PROVISIONS)
ACT, 1961, TO AMEND AND EXTEND THE POWERS OF
THE TAXING MASTERS OF THE HIGH COURT, TO
CONFER FURTHER POWERS ON THE SUPERIOR 15
COURTS RULES COMMITTEE AND TO PROVIDE FOR
RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

20

Short title,
commencement,
collective citation
and construction.

1.—(1) This Act may be cited as the Courts and Court Officers
Act, 1994.

(2) *Section 2* and *Part II* of this Act shall come into operation on
such day as the Government may fix by order.

(3) The collective citation “the Courts (Supplemental Provisions) 25
Acts, 1961 to 1991”, shall be deemed to include the Courts Act, 1991
and the Courts (Supplemental Provisions) (Amendment) Act, 1991.

(4) This Act, in so far as it amends or extends the Courts
(Supplemental Provisions) Acts, 1961 to 1991, shall be construed as
one therewith and those Acts and this Act may be cited together as 30
the Courts (Supplemental Provisions) Acts, 1961 to 1994.

(5) This Act, in so far as it amends or extends the Court Officers
Acts, 1926 to 1991, shall be construed as one therewith and those
Acts and this Act may be cited together as the Court Officers Acts,
1926 to 1994. 35

(6) Except where the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended, adapted or applied by or under any other enactment, including this Act.

5 2.—(1) Section 3 of the Courts (Establishment and Constitution) Act, 1961, is hereby repealed. Repeals.

(2) Section 12 (1) of the Courts (Supplemental Provisions) Act, 1961, is hereby repealed.

(3) Section 17 of the Courts Act, 1991, is hereby repealed.

10

PART II

COURT OF APPEAL

3.— (1) On the commencement of this Part, a Court of Appeal Establishment of
Court of Appeal.
which shall be called An Chúirt Achomhairc (The Court of Appeal), shall stand established.

15 (2) The Court of Appeal shall be constituted of—

(a) a President who shall be an ordinary judge of the High Court designated by the Government to be President of the Court of Appeal and who shall be styled “Uachtarán na Cúirte Achomhairc” (“The President of the Court of Appeal”), and
20

(b) two ordinary judges of the High Court who shall be designated, from time to time, by the Chief Justice to be ordinary judges of the Court of Appeal each of whom shall be styled “Breitheamh den Chúirt Achomhairc” (“Judge of the Court of Appeal”).
25

(3) (a) The Chief Justice and the President of the High Court shall be *ex officio* judges of the Court of Appeal.

(b) The President of the Court of Appeal shall be *ex officio* a judge of the Supreme Court.

30 (4) Where, owing to the illness of a judge of the Court of Appeal or for any other reason, a sufficient number of judges of the Court of Appeal is not available for the transaction of the business of that Court, the Chief Justice, at the request of the President of the Court of Appeal, may request any ordinary judge or judges of the High
35 Court to sit on the hearing of any appeal or any other matter cognisable by the Court of Appeal, and any judge so requested shall sit on the hearing of such appeal or other matter and in so sitting shall be an additional judge of the Court of Appeal for such appeal or other matter.

40 4.—(1) An appeal shall lie to the Court of Appeal from a judgment or order of the High Court in relation to— Jurisdiction of
Court of Appeal.

(a) any High Court actions concerning personal injuries (within the meaning of section 1 of the Courts Act, 1988),

- (b) all motions and applications to the High Court in the said personal injuries actions,
- (c) actions under the Local Government (Planning and Development) Act, 1976, the Consumer Information Act, 1978, and the Local Government (Water Pollution) Act, 1977, 5
- (d) *ex parte* motions and other applications except in judicial review proceedings, and
- (e) any matter in which an appeal has been taken from a judgment or order of the Master of the High Court to the High Court (except for appeals against decisions authorising enforcement under the Brussels Convention as provided for in the Jurisdiction of Courts and Enforcement of Judgments (European Communities) Act, 1988), 10

not being an appeal which involves a question as to the validity of any law having regard to the provisions of the Constitution. 15

- (2) (a) There shall be vested in the Court of Appeal in relation to any appeal or other matter cognisable by that Court by virtue of *subsection (1)* of this section, all jurisdiction which was, immediately before the date of its establishment, vested in or capable of being exercised by the Supreme Court and all such cases pending before the Supreme Court on that date shall be cognisable by the Court of Appeal. 20
- (b) There shall be vested in the Court of Appeal all powers, jurisdiction or functions which, immediately before the date of its establishment, were vested in or capable of being exercised by the Court of Criminal Appeal and all cases pending before the Court of Criminal Appeal on that date shall be cognisable by the Court of Appeal. 25 30
- (3) With effect from the date of establishment of the Court of Appeal, the determination by that court of any appeal from a decision, judgment or order of the High Court in any proceedings to which *subsection (1)* of this section applies should be final and no appeal shall lie therefrom to the Supreme Court except where the High Court or, if the High Court refuses, the Supreme Court certifies that the case is one which involves a question as to the validity of any law having regard to the provisions of the Constitution, or a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be taken to the Supreme Court. 35 40
- (4) The Court of Appeal shall be a superior court of record and shall have full power to determine any question necessary to be determined for the purpose of doing justice in any appeal or other matter coming before it. 45
- (5) On, and with effect from, the coming into operation of this section, but subject to the provisions of this Act, references to the Court of Criminal Appeal in any statute or statutory instrument shall be construed as references to the Court of Appeal exercising its criminal jurisdiction. 50

(6) In subsection (2) of section 44 of the Offences Against the State Act, 1939, the reference to section 30 of the Courts of Justice Act, 1924, shall be construed as a reference to *subsection (4)* of this section.

- 5 5.—The determination by the Court of Appeal of any appeal or other matter which it has power to determine under *section 4 (2) (a)* of this Act shall be final and no appeal shall lie therefrom to the Supreme Court, unless the Court of Appeal or, if the Court of Appeal refuses, the Supreme Court shall certify that the appeal
10 involves a point of law of exceptional public importance, and that it is desirable in the public interest that the appeal should be taken to the Supreme Court, in which case the appeal may be brought to the Supreme Court, on that point of law only, and the decision of the Supreme Court shall be final and conclusive.

Appeals from decisions of Court of Appeal in civil cases.

- 15 6.—(1) Notwithstanding the judicial office of ordinary judge of the High Court held by him—

Remuneration and pension of President of Court of Appeal.

- 20 (a) there shall be paid to the President of the Court of Appeal, by way of total remuneration, the remuneration for the time being payable to an ordinary judge of the Supreme Court, which shall be charged on and payable out of the Central Fund and the growing produce thereof, and

- 25 (b) the amount of any pension and gratuity payable to, or in respect of, the President of the Court of Appeal shall be based on the level of remuneration payable to him under this section.

- 30 (2) The provisions contained in section 46 (9) of the Courts (Supplemental Provisions) Act, 1961, and section 2 (7) (a) of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act, 1983, shall apply to the remuneration payable under this section.

- 35 7.—(1) The provisions of section 6 of the Courts (Establishment and Constitution) Act, 1961, shall apply to the office of the President of the Court of Appeal and to the office of an ordinary judge of the Court of Appeal and that section shall be construed as if the expression “judicial office” includes an office being the office of the President of the Court of Appeal or an ordinary judge of the Court of Appeal.

Vacation of judicial office and filling of vacancies.

- 40 (2) The Court of Appeal shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of President or any ordinary judge thereof.

- 8.—Section 9 of the Courts of Justice Act, 1924, is hereby amended by the substitution of the following section therefor:

Precedence between judges.

- 45 “9. The precedence between the judges shall be as follows: The Chief Justice shall rank first, and next after him the President of the High Court; then shall rank the ordinary judges of the Supreme Court according to priority of appointment; then shall rank the President of the Court of Appeal; then shall rank the ordinary judges of

the Court of Appeal, according to priority of appointment, and next the ordinary judges of the High Court, according to priority of appointment.”.

Amendment of
Courts of Justice
Act, 1924.

9.—The Courts of Justice Act, 1924, is hereby amended by the substitution for section 10 of the following section:

5

“Mode of address.

10. The judges of the Supreme Court, the Court of Appeal and the High Court shall be addressed in the manner to be determined by the rules to be made under this Part of this Act, and shall have in all respects, save as in this Act is otherwise expressly provided, equal power, authority and jurisdiction one with another.”.

10

Amendment of
section 55 of Courts
(Supplemental
Provisions) Act,
1961.

10.—Section 55 (1) of the Courts (Supplemental Provisions) Act, 1961, is hereby amended by the insertion after “High Court” of “, the Court of Appeal” and the subsection as so amended is set out in the Table to this section.

15

TABLE

(1) The provisions set out in the Eighth Schedule to this Act shall apply in relation to offices and officers to be attached to the High Court, the Court of Appeal, the Supreme Court and the President of the High Court respectively.

20

Amendment of
Courts
(Supplemental
Provisions) Act,
1961.

11.—The Eighth Schedule to the Courts (Supplemental Provisions) Act, 1961, is hereby amended by—

(a) the substitution of the following heading for the heading therein:

“PROVISIONS IN RELATION TO OFFICES AND OFFICERS TO BE ATTACHED TO THE HIGH COURT, THE COURT OF APPEAL, THE SUPREME COURT AND THE PRESIDENT OF THE HIGH COURT”,

25

(b) the substitution for paragraphs 2, 3 and 22 of the following paragraphs:

30

“2. There shall become and be attached to the High Court, the Court of Appeal, the Supreme Court and the President of the High Court respectively the following offices—

35

To the High Court,

The Central Office,
The Taxing-Masters’ Office,
The Probate Office,
The Office of the Official Assignee in
Bankruptcy,
Two Examiners’ Offices or the Examiner’s
Office,
The Accountant’s Office;

40

To the Court of Appeal,

The Office of the Registrar of the Court of
Appeal;

45

To the Supreme Court,

The Office of the Registrar of the Supreme
Court;

50

*To the President of the High Court,
The Office of Wards of Court.;*

5 3. There shall become and be attached to the High Court, the Court of Appeal, the Supreme Court and the President of the High Court respectively the following officers (each of whom shall be a principal officer within the meaning of Part I of the Act of 1926)—

10 *To the High Court,*
The Master of the High Court,
Two Taxing-Masters,
The Probate Officer,
The Official Assignee in Bankruptcy,
15 Two Examiners or the Examiner,
The Accountant;

To the Court of Appeal,
The Registrar of the Court of Appeal;

To the Supreme Court,
The Registrar of the Supreme Court;

20 *To the President of the High Court,*
The Registrar of Wards of Court.;

22. (1) In addition to the principal officers there shall be employed in the several offices mentioned in paragraph 2 of this Schedule such and so many officers, clerks, messengers, criers and
25 servants as the Minister shall from time to time determine with the sanction of the Minister for Finance and after consultation with the President of the High Court in the case of an office attached to the High Court or in the case of the Office of Wards of Court, with the President of the Court of Appeal in the case of the Office of the
30 Registrar of the Court of Appeal and with the Chief Justice in the case of the Office of the Registrar of the Supreme Court.

(2) All officers (other than the principal officers) clerks, messengers, criers and servants employed in any of the offices mentioned in paragraph 2 of this Schedule shall be interchangeable amongst such
35 offices and shall be liable to serve in any of those offices as the Minister shall from time to time direct after consultation with the President of the High Court in the case of an office attached to the High Court or in the case of the Office of Wards of Court, with the President of the Court of Appeal in the case of the Office of the
40 Registrar of the Court of Appeal and with the Chief Justice in the case of the Office of the Registrar of the Supreme Court.”.

12.—Section 17 of the Court Officers Act, 1926, is hereby amended by the deletion of “and also all the business of the Court of Criminal Appeal (except such business as is for the time being required by
45 law to be transacted by or before one or more of the judges of that Court)” and the section as so amended is set out in the Table to this section.

Amendment of
section 17 of Court
Officers Act, 1926.

TABLE

50 17. The Office of the Registrar of the Supreme Court shall be under the management of the Registrar of the Supreme Court and there shall be transacted in that office all the business of the Supreme Court (except such business as is for the time being required by law to be transacted by or before one or more of the judges of that Court).

13.—Section 18 (the Registrar of the Supreme Court) of the Court Officers Act, 1926, is hereby amended by

(a) the deletion in subsection (1) of “and the Court of Criminal Appeal respectively”, and the deletion of “those courts respectively” and the substitution therefor of “that court”, and 5

(b) the deletion in subsection (2) of “and also as Registrar to the Court of Criminal Appeal”, and the deletion of “those courts” and the substitution therefor of “that court”, 10

and the section as so amended is set out in the Table to this section:

TABLE

18. (1) The Registrar of the Supreme Court shall have the superintendence and control of the Office of the Registrar of the Supreme Court but shall in the exercise of such superintendence and control be subject to the general direction of the Minister in regard to all matters of general administration and to the directions of the Chief Justice in regard to all matters relating to the conduct of that part of the business of the Supreme Court which is for the time being required by law to be transacted by or before one or more of the judges of that court. 15

(2) In addition to the superintendence and control aforesaid the Registrar of the Supreme Court shall act as Registrar to that court and shall perform and fulfil in relation to that Court all such duties and functions as are usually performed and fulfilled by the Registrar of a court and shall also have and exercise such powers and authorities and perform and fulfil such duties and functions as shall from time to time be assigned to him by statute or rule of court. 20 25

14.—(1) The Office of the Registrar of the Court of Appeal shall be under the management of the Registrar of the Court of Appeal and there shall be transacted in that Office all the business of the Court of Appeal (except such business as is for the time being required by law to be transacted by or before one or more of the judges of that court). 30

(2) Section 28 of the Court Officers Act, 1926, and section 9 of the Court Officers Act, 1945, shall apply to the Office of the Registrar of the Court of Appeal.

(3) The Registrar of the Court of Appeal shall have the superintendence and control of the Office of the Registrar of the Court of Appeal but shall in the exercise of such superintendence and control be subject to the general direction of the Minister in regard to all matters of general administration and to the directions of the President of the Court of Appeal in regard to all matters relating to the conduct of that part of the business of the Court of Appeal which is for the time being required by law to be transacted by or before one or more of the judges of that Court. 35 40

(4) In addition to the superintendence and control referred to in subsection (3) of this section the Registrar of the Court of Appeal shall act as registrar to that Court and shall perform and fulfil in relation to that Court all such duties and functions as are usually performed and fulfilled by the registrar of a court and shall also have and exercise such powers and authorities and perform and fulfil such duties and functions as shall from time to time be assigned to him by statute or rule of court. 45 50

(5) The power conferred on the Minister by virtue of subsection (1) of section 9 of the Court Officers Act, 1945, shall, where the officer required to perform the duties of another office is attached to the Court of Appeal, be exercised only after consultation with the President of the Court of Appeal.

15 15.—For the purposes of section 36 of the Courts of Justice Act, 1924, the reference to Part I of that Act shall be construed as including a reference to *Part II* of this Act.

Construction of
section 36 of Courts
of Justice Act, 1924.

10 16.—(1) Subsections (1) and (2) of section 15 of the Courts of Justice Act, 1953, are hereby amended by the substitution therefor of the following subsections:

Reconstitution of
Superior Courts
Rules Committee.

“(1) The Superior Courts Rules Committee established by section 67 of the Act of 1936 shall hereafter consist of four *ex-officio* members and eight nominated members.

15 (2) The *ex-officio* members shall be—

(a) the Chief Justice, who shall be chairman of the Committee,

(b) the President of the High Court, who shall be vice-chairman of the Committee,

20 (c) the President of the Court of Appeal, and

(d) the Master of the High Court.”.

(2) The provisions of section 65 of the Courts of Justice Act, 1936, shall apply to the office of the Registrar of the Court of Appeal as though that office were established by the Court Officers Act, 1926.

25 17.—Section 14 of the Courts (Supplemental Provisions) Act, 1961, is hereby amended by the deletion of subsections (2) and (3) and the substitution therefor of the following subsections:

Amendment of
section 14 of Courts
(Supplemental
Provisions) Act,
1961.

30 “(2) The jurisdiction which is by virtue of this Act vested in or exercisable by the Supreme Court, the Court of Appeal, the Chief Justice, the President of the High Court, the President of the Court of Appeal, and the Central Criminal Court respectively shall be exercised so far as regards pleading, practice and procedure generally, including liability to costs, in the manner provided by rules of court and, where no provision is contained
35 in such rules and so long as there is no rule with reference thereto, it shall be exercised as nearly as possible in the same manner as it might have been exercised by the respective courts or judges by which or by whom such jurisdiction was, immediately before the date on which this section comes into operation,
40 respectively exercisable.

45 (3) Rules of court may, in relation to proceedings and matters (not being criminal proceedings or matters or matters relating to the liberty of the person) in the High Court, the Court of Appeal and Supreme Court, authorise the Master of the High Court and other principal officers within the meaning of the *Court Officers Acts, 1926 to 1994*, to exercise functions, powers

and jurisdiction in uncontested cases and to take accounts, conduct inquiries and make orders of an interlocutory nature.”.

Organisation of
Court of Appeal.

18.—(1) Section 28 of the Courts of Justice Act, 1924, and section 7 of the Courts of Justice Act, 1928, are hereby repealed.

(2) Subject to *subsection (4)* of this section, any matter cognisable by the Court of Appeal shall be heard and determined by three judges of the Court including judges who by virtue of *section 3 (4)* of this Act are additional judges of the Court of Appeal. 5

(3) Interlocutory applications to the Court of Appeal may be heard and determined by the President of that court or by any judge of that court nominated by the President for that purpose. 10

(4) It shall be the function of the President of the Court of Appeal or, where he is not available, the senior ordinary judge of the Court who is for the time being available, to arrange the distribution and allocation of the business of the Court of Appeal. 15

Number of judges
of High Court.

19.—(1) The number of ordinary judges of the High Court shall be not more than 19 of whom 3 shall be designated in accordance with *section 3* of this Act to be judges of the Court of Appeal.

(2) The following paragraph shall be substituted for paragraph (b) (inserted by the Courts Act, 1991) of section 14 (1) of the Law Reform Commission Act, 1975: 20

“(b) in case on being so appointed he is the President of the High Court or President of the Court of Appeal or an ordinary judge of the High Court, then for so long as he continues to hold the judicial office held by him on so being appointed— 25

(i) the number of ordinary judges of the High Court shall not be more than 20, and

(ii) the reference in *section 19 (1)* of the *Courts and Court Officers Act, 1994*, to 19 shall be construed as a reference to 20, and”. 30

Amendment of
section 5 of Courts
(Supplemental
Provisions) Act,
1961.

20.—Section 5 of the Courts (Supplemental Provisions) Act, 1961, is hereby amended by—

(a) the insertion of the following paragraph in subsection (2):

“(c) For the purposes of paragraph (a) of this subsection, service as a judge of the European Court of Justice or the Court of First Instance or the Court of Appeal shall be deemed to be practice at the Bar.”; 35

(b) the deletion of subsection (5) and the insertion of the following subsection: 40

“(5) An ordinary judge of the High Court (including a judge who has been designated for the purposes of *section 3* of the *Courts and Court Officers Act, 1994*, as the President of or a member of the Court of Appeal) shall be qualified for appointment as an ordinary judge of the Supreme Court or as President of the High Court or as Chief Justice.”. 45

21.—(1) With effect from the date of establishment of the Court of Appeal, the provisions of *section 4 (3)* of this Act shall apply to all appeals pending before the Supreme Court on that date and the provisions of *section 31* of the Courts of Justice Act, 1924, shall apply to all appeals pending before the Court of Criminal Appeal on such date.

Transitional.

(2) The Chief Justice or an ordinary judge of the Supreme Court nominated by the Chief Justice to do so may, within one month of the date of establishment of the Court of Appeal, determine which appeals pending before the Supreme Court on such date should be transferred for hearing by the Court of Appeal in accordance with *subsection (1)* of this section.

PART III

JUDICIAL APPOINTMENTS ADVISORY BOARD

22.—In this Part—

Interpretation.

“committee” means a committee of the Board;

“the Board” means the Board established under *section 23* of this Act;

“judicial office” means an office being the office of ordinary judge of the Supreme Court, ordinary judge of the Court of Appeal, ordinary judge of the High Court, ordinary judge of the Circuit Court or ordinary judge of the District Court;

“the Minister” means the Minister for Justice.

23.—There shall be established a body to be known as the Judicial Appointments Advisory Board which is in this Part referred to as “the Board” consisting of—

Judicial
Appointments
Advisory Board.

(a) the Chief Justice,

(b) the President of the High Court,

(c) the President of the Court of Appeal,

(d) the President of the Circuit Court,

(e) the President of the District Court,

(f) the President of the Law Reform Commission,

(g) the Chairman of the Council of the Bar of Ireland, and

(h) the President of the Incorporated Law Society of Ireland.

24.—(1) The Board shall perform its functions through committees which shall be established by the Board in accordance with this section.

Committees of
Board.

(2) For the purpose of identifying and informing the Government of the names of persons it considers to be suitable for appointment

as an ordinary judge of the Supreme Court, or as an ordinary judge of the Court of Appeal, or an ordinary judge of the High Court, a committee shall be established consisting of—

- (a) the Chief Justice,
- (b) the President of the High Court,
- (c) the President of the Court of Appeal,
- (d) the President of the Law Reform Commission,
- (e) the Chairman of the Council of the Bar of Ireland, and
- (f) the President of the Incorporated Law Society of Ireland.

5

(3) For the purpose of identifying and informing the Government of the names of persons it considers to be suitable for appointment as an ordinary judge of the Circuit Court, a committee shall be established consisting of—

- (a) the President of the High Court,
- (b) the President of the Circuit Court,
- (c) the Chairman of the Council of the Bar of Ireland, and
- (d) the President of the Incorporated Law Society of Ireland.

15

(4) For the purpose of identifying and informing the Government of the names of persons it considers to be suitable for appointment as an ordinary judge of the District Court, a committee shall be established consisting of—

- (a) the President of the District Court,
- (b) the Chairman of the Council of the Bar of Ireland, and
- (c) the President of the Incorporated Law Society of Ireland.

(5) On the death or retirement of the Chief Justice the senior judge of the Supreme Court shall be a member of the committee until the appointment of a new Chief Justice.

25

(6) On the death or retirement of the President of the High Court the senior judge of the High Court shall be a member of the committee until the appointment of a new President of the High Court.

30

(7) On the death or retirement of the President of the Circuit Court the senior judge of the Circuit Court shall be a member of the committee until the appointment of a new President of the Circuit Court.

(8) On the death or retirement of the President of the District Court the senior judge of the District Court shall be a member of the committee until the appointment of a new President of the District Court.

35

25.—(1) Where a judicial office stands vacant the Minister shall request the relevant committee to submit, as soon as practicable, to the Minister the names of not less than three and not more than five persons who in the opinion of the committee would be suitable for appointment to that office and the reasons for that opinion.

Submission of names.

(2) In advising the President on the appointment of ordinary judges of the Supreme Court, the Court of Appeal, the High Court, the Circuit Court and the District Court, the Government shall first have regard to the qualifications and suitability of those persons whose names have been submitted to the Minister in accordance with subsection (1) of this section.

(3) A committee may consult the Attorney General for his opinion as to the suitability of a person to hold a judicial office.

(4) A committee shall not submit to the Minister the name of any person under subsection (1) of this section unless that person has attended a course of education or training prescribed by regulations made by the Minister after consultation with the Board.

(5) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(6) A person who wishes to have a particular name (including that person's own name) considered by a committee for appointment to a judicial office may inform the Board in writing of that fact.

(7) A committee shall not submit the name of a person to the Minister under subsection (1) of this section unless the person has satisfied all the relevant statutory requirements for eligibility as regards the proposed appointment, and unless, in the opinion of the committee, the person—

(a) has displayed in that person's practice as a barrister or solicitor, as the case may be, a degree of competence and probity consistent with the appointment to be made,

(b) is suitable on grounds of character and temperament, and

(c) is suitable in all other respects.

26.—(1) The Board or a committee thereof may adopt such procedures as it thinks fit to discharge its functions under this Act.

Procedures of Board.

(2) The Board or a committee may act notwithstanding a vacancy in its membership.

27.—The Minister shall make available to the Board or a committee thereof such services, including staff, as it may reasonably require.

Staff of and assistance to Board.

28.—Where the Government propose to advise the President on an appointment to the office of Chief Justice, President of the High Court, President of the Court of Appeal, President of the Circuit

Appointment of Chief Justice, etc.

Court or President of the District Court they shall first have regard to the qualifications and suitability of persons who are serving at that time as judges in courts established in pursuance of Article 34 of the Constitution.

PART IV

5

COURTS COMMISSION

Establishment of
Courts Commission.

29.—(1) The Minister for Justice may establish a judicial commission to be known as “the Courts Commission”.

(2) The Courts Commission shall have the function of advising the Government and the Minister for Justice on the organisation and management of the courts and court service and on such matters as in the opinion of the Minister or the Commission have a bearing on the capacity of the courts to discharge their functions. 10

Expenses.

30.—The expenses incurred by the Courts Commission and by the Minister in the administration of *Parts III* and *IV* of this Act shall be paid out of moneys provided by the Oireachtas. 15

PART V

MISCELLANEOUS

Powers of Master of
High Court.

31.—(1) The Master of the High Court is hereby authorised by law to exercise limited functions and powers of a judicial nature within the scope of Article 37 of the Constitution. 20

(2) To exercise the functions and powers he is authorised by this section to exercise, the Master of the High Court shall be sworn into office as if he were a person appointed a judge under Article 34.5.1° of the Constitution. 25

Hearings by Master
of High Court.

32.—(1) Subject to *subsection (2)* of this section and *section 33* of this Act, the Master of the High Court may, in all such applications made *ex parte* or by motion on notice whether interlocutory or otherwise and in all such applications for judgment by consent or in default of appearance or defence as may from time to time be allocated for hearing by him by the President of the High Court, exercise all the functions, powers and jurisdiction which a judge of the High Court exercises from time to time. 30

(2) The Master of the High Court shall not exercise any function, power or jurisdiction in respect of any of the following matters: 35

(a) matters relating to criminal proceedings;

(b) matters concerning the liberty of the person, including attachment;

(c) the granting of injunctions;

(d) bail; 40

(e) the trial of any issue before the trial of an action;

- (f) conditional or other orders in State Side matters, or any other form of application for judicial review, save orders for enlargement or abridgement of time;
- (g) any cause or matter concerning a Ward of Court;
- 5 (h) any matter relating to custody of children;
- (i) approval of settlements in cases in which damages are claimed on behalf of infants;
- (j) applications under section 63 of the Civil Liability Act, 1961.

10 (3) All the functions, powers and jurisdiction exercised by the Master of the High Court immediately before the passing of this Act by virtue of any statute or rule of court may continue to be exercised by him save in so far as the same are inconsistent with the exceptions mentioned in *subsection (2)* of this section.

15 (4) The Master of the High Court may exercise such further or other functions, powers and jurisdiction as may from time to time be conferred on him by rules of court as if the same had been conferred by statute, provided always that such functions, powers and jurisdiction as shall be or as has or have been conferred by rules of court may be varied, rescinded or amended by subsequent rules of court
20 and that if and when that is done it shall have the like effect as if enacted by statute.

(5) All orders of the Master of the High Court shall be subject to appeal to the High Court.

25 (6) Rules of court may be made by the Superior Courts Rules Committee, with the concurrence of the Minister in relation to any function, power or jurisdiction conferred on the Master of the High Court under this section.

30 **33.**—It shall be the function of the President of the High Court, or where he is not available the senior ordinary judge of the High Court who is for the time being available, to arrange the sittings of the Master of the High Court and the allocation of business of the High Court to him for the purposes of *section 32* of this Act.

Sittings of Master of High Court.

34.—Paragraph 4 of the Eighth Schedule to the Courts (Supplemental Provisions) Act, 1961, is hereby repealed.

Amendment of Eighth Schedule to Courts (Supplemental Provisions) Act, 1961.

35 **35.**—(1) Where, in the case of a claim in the High Court for a debt or a liquidated sum, an application is made for judgment in default of defence, the Master of the High Court may exercise the discretion to award interest conferred on a judge by section 22 of the Courts Act, 1981.

Claims for debts and liquidated sums.

40 (2) Where, in the case of a claim in the High Court for a debt or a liquidated sum, an application is made for judgment in default of appearance, the Registrar of the Central Office may exercise the discretion to award interest conferred on a judge by section 22 of the Courts Act, 1981.

(3) Where, in the case of a claim in the Circuit Court for a debt or a liquidated sum, an application is made for judgment in default of appearance or defence, the County Registrar may exercise the discretion to award interest conferred on a judge by section 22 of the Courts Act, 1981.

5

(4) A decision under *subsection (1)* or *subsection (2)* of this section may be appealed to a judge of the High Court.

(5) A decision under *subsection (3)* of this section may be appealed to a Circuit Court judge.

(6) Interest on costs awarded to a party in any action in the Circuit Court, or in the High Court, shall be payable only from the date of furnishing of the certificate of taxation to the party who is liable for the costs, or from the date on which the costs are agreed between the parties without taxation whichever is the earlier.

Additional powers
of Taxing Master of
High Court.

36.—(1) On a taxation of costs as between party and party by a Taxing Master of the High Court, or by a County Registrar exercising the powers of a Taxing Master of the High Court, or on a taxation of costs as between solicitor and client by a Taxing Master of the High Court, the Taxing Master (or County Registrar as the case may be) shall have power to examine the nature and quality of any work done, or services rendered or provided by counsel (whether senior or junior), or by a solicitor, or by an expert or professional witness appearing in the case, and may tax, assess and determine the value of such work done or service rendered or provided in connection with the measurement, allowance or disallowance of any costs, charges, fees or expenses included in a bill of costs.

(2) On a taxation of costs as between party and party by a Taxing Master of the High Court, or by a County Registrar exercising the powers of a Taxing Master of the High Court, or on a taxation of costs as between solicitor and client by a Taxing Master of the High Court, the Taxing Master (or County Registrar as the case may be) shall have power on such taxation to allow in whole or in part, any costs, charges, fees or expenses included in a bill of costs in respect of counsel (whether senior or junior) or in respect of a solicitor or an expert or professional witness appearing in a case, as he considers in his discretion to be fair and reasonable in the circumstances of the case, and he shall have power in the exercise of that discretion to disallow any such costs, charges, fees or expenses in whole or in part.

(3) The High Court may review a decision of a Taxing Master of the High Court or a County Registrar exercising the powers of a Taxing Master of the High Court made in the exercise of his powers under this section, to allow or disallow any costs, charges, fees or expenses provided only that the Court is satisfied that the Taxing Master (or County Registrar as the case may be) has erred on the application of a principle of a law or as to the amount of the allowance or disallowance so that the decision of the Taxing Master (or the County Registrar as the case may be) is manifestly unjust.

(4) No standby or retainer fee shall be payable to any solicitor, counsel (whether senior or junior) or to any witness whether professional or otherwise, on a taxation of costs as between party and party, nor on a taxation of a solicitor and client bill of costs where the Taxing Master (or County Registrar as the case may be) deems the payment of such fee to be unreasonable in the circumstances of the case.

(5) On a taxation of costs as between solicitor and client it shall not be necessary to produce vouchers or receipts for the payment of any disbursements (including counsel's fees), but on the completion of the taxation no Certificate of Taxation shall issue unless and until proper vouchers or receipts for disbursements have first been produced and vouched, and accepted by the Taxing Master.

(6) Without prejudice to the provisions of Order 99, rule 29 (12) and (14) of the Rules of the Superior Courts, 1986, on the taxation of a bill of costs (whether on a solicitor and client or party and party basis) no solicitor or legal cost accountant or other cost drawer shall be entitled to any fees, disbursements, charges or expenses in relation to the taxation of costs as against the opposing party, but save as against the party who incurred such fees, disbursements, charges or expenses.

(7) On a review of taxation (whether on a solicitor and client or party and party basis) by the High Court, no solicitor or legal cost accountant or other cost drawer shall be entitled to be paid any fees, disbursements, charges or expenses for his attendance in Court to give evidence in support of the bill of costs, as against the opposing party, but save as against the party who incurred such fees, disbursements, charges or expenses.

(8) On the taxation of a party and party bill of costs before a Taxing Master (or County Registrar as the case may be) the costs of taxation and the court fees on the bill of costs and the Certificate of Taxation shall be disallowed where one sixth of the bill or a greater proportion is taxed off, unless the Taxing Master (or County Registrar as the case may be) shall allow in his discretion the items on special grounds to be stated in his order.

(9) The Taxing Master may, at the request of the parties involved in any taxation of costs, tax part of a bill of costs, where that part of the bill of costs only is in dispute including any item or items of cost which are in dispute between the parties.

(10) Where a Taxing Master undertakes a partial taxation of costs under *subsection (9)* of this section, he shall be empowered to request any party to the taxation to provide such information or further information as the Taxing Master may require in connection with the taxation, and to submit any documents or papers relating to the cause or matter that are in the possession of any such party, to him for consideration in connection with the taxation.

(11) Where part of a bill of costs has been taxed, the costs of taxation, including any duty payable, shall be based on such item or items in the bill of costs as were taxed.

(12) Legal costs arising from Formal Investigations under section 466 of the Merchant Shipping Act, 1894, may be taxed by the Taxing Master of the High Court, or a County Registrar.

37.—(1) Notwithstanding any enactment or rule of law by virtue of which documents prepared for the purpose of pending or contemplated civil proceedings (or in connection with the obtaining or giving of legal advice) are in certain circumstances privileged from disclosure, the Superior Courts Rules Committee may, with the concurrence of the Minister make rules—

Further powers of
Superior Courts
Rules Committee.

- (a) requiring any party to a High Court personal injuries action to disclose to the other party or parties, without the necessity of any application to court by either party to allow such disclosure, by such time or date as may be specified in the rules the following information, namely— 5
- (i) any report or statement from any expert intended to be called to give evidence of medical or paramedical opinion in relation to an issue in the case,
 - (ii) any report or statement from any other expert of the evidence intended to be given by him in relation to an issue in the case, 10
 - (iii) the names and addresses of all witnesses intended to be called to give evidence as to facts in the case,
 - (iv) a full statement of all items of special damage together with appropriate vouchers, or statements from witnesses by whose evidence such loss would be proved in the action, 15
 - (v) a written statement from the Department of Social Welfare showing all payments made to a plaintiff subsequent to an accident or an authorisation from the plaintiff to the defendant to apply for such information, 20
 - (vi) such other relevant information or documentation (as may be provided for by rules of court) so as to facilitate the trial of such personal injuries actions; 25
- (b) providing for the imposition by the High Court of a sanction for non-compliance with a requirement under *paragraph (a)* of this subsection including termination of an action, prohibition on a party from adducing such evidence as has not been disclosed without leave of the court, and penalties as to award of costs. 30

(2) Rules of court made in pursuance of this section may make different provisions for different classes of cases, for expert reports dealing with different matters, and for other different circumstances.

(3) References in this section to an expert report or to a report of statements from an expert are references to evidence in whatever form or a written report by a person dealing wholly or mainly with matters on which he is qualified to give expert evidence. 35

(4) Notwithstanding the rule of law against the admission of hearsay evidence and the privilege attached to documents prepared for the purpose of pending or contemplated civil proceedings, the Superior Courts Rules Committee may, with the concurrence of the Minister, make rules allowing for the admission in evidence in personal injuries actions in the High Court of information, documentation, reports or statements disclosed pursuant to *subsection (1)* of this section, subject to such conditions and procedures as may be necessary to protect the interests of the parties. 40 45

(5) For the purpose of this section, "a High Court personal injuries action" shall be defined as an action in the High Court to which section 1 of the Courts Act, 1988, applies. 50

38.—Section 14 (1) of the Courts of Justice Act, 1936, is hereby amended by the insertion of “or practising solicitors” after “barristers”. Amendment of section 14 of Courts of Justice Act, 1936.

5 39.—The Courts (Supplemental Provisions) Act, 1961, is hereby amended by— Amendment of Courts (Supplemental Provisions) Act, 1961.

(a) the insertion in section 17 (2) (a) of “or practising solicitor” after “barrister”, and

(b) the insertion in section 17 (2) of the following paragraph:

10 “(c) For the purposes of paragraph (a) of this subsection, service, in the case of a solicitor, as a judge of the District Court shall be deemed to be practice as a solicitor.”.

40.—Section 2 of the Courts Act, 1973, is hereby amended by the insertion of “or practice as a solicitor” after “Bar”. Amendment of section 2 of Courts Act, 1973.

15 41.—A barrister or a solicitor shall not wear in any court established under the Constitution a wig of the kind heretofore worn. Court costume.

20 42.—(1) Subject to subsections (2) and (3) of this section, the age of retirement of all judges of the Supreme Court, the Court of Appeal, the High Court, the Circuit Court and the District Court shall be 65 years. Retirement age of judges.

(2) Subsection (1) of this section shall not apply to judges of the Supreme Court, the Court of Appeal, the High Court, the Circuit Court and the District Court who hold office at the time of the coming into operation of this Part.

25 (3) Section 2 of the Courts of Justice (District Court) Act, 1949, shall not apply to a judge of the District Court appointed after the coming into operation of this Part.

43.—(1) Where—

Scales of costs.

30 (a) a rules-making authority is requested by the Minister to submit for the concurrence of the Minister rules governing questions of costs including scales of solicitors' costs and counsels' fees, and

(b) either—

35 (i) the rules-making authority fails to submit such rules within 3 months of the request, or

40 (ii) such rules as have been submitted contain scales of either solicitors' costs or counsels' fees or both which are, in the Minister's opinion, excessive, the Minister may, by regulation, prescribe appropriate scales of solicitors' costs and counsels' fees.

(2) The consent of the Minister for Enterprise and Employment will be required under the provisions of the Prices Acts, 1958 to 1972,

for the exercise by the Minister of the power of the Minister under *subsection (1)* of this section.

(3) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 5

(4) "Rules-making authority" means the Superior Courts Rules Committee, the Circuit Court Rules Committee or the District Court Rules Committee. 10



THE UNIVERSITY OF CHICAGO PRESS
5 E. JACKSON BLVD. CHICAGO, ILL. 60604-6188
TEL: (312) 837-0700 FAX: (312) 837-0701

1118

1118

BILLE NA gCÚIRTEANNA AGUS NA
nOIFIGEACH CÚIRTE, 1994

BILLE

(*mar a tionscnaíodh*)

dá ngairtear

Acht do bhunú Cúirte Achomhairc de bhun Airteagal 34 den Bhunreacht, do dhéanamh socrú le haghaidh bunú agus feidhmeanna Boird Chomhairligh um Cheapacháin Bhreithiúnacha, do dhéanamh socrú le haghaidh bunú agus feidhmeanna Coimisiúin Cúirte, do leasú Acht na gCúirteanna (Forálacha Forlíontacha), 1961, do leasú agus do leathnú cumhachtaí Mháistrí Fómhais na hArd-Chúirte, do thabhairt cumhachtaí breise do Choiste Rialacha na nUaschúirteanna agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*An tAire Dlí agus Cirt a thíolaic,
20 Deireadh Fómhair, 1994*

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.

£2.40

COURTS AND COURT OFFICERS BILL,
1994

BILL

(*as initiated*)

entitled

An Act to establish in pursuance of Article 34 of the Constitution a Court of Appeal, to provide for the establishment and functions of a Judicial Appointments Advisory Board, to provide for the establishment and functions of a Courts Commission, to amend the Courts (Supplemental Provisions) Act, 1961, to amend and extend the powers of the Taxing Masters of the High Court, to confer further powers on the Superior Courts Rules Committee and to provide for related matters.

*Presented by the Minister for Justice,
20th October, 1994*

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.

£2.40