



**AN BILLE UM DHLITEANAS SIBHIALTA (LEASÚ), 1996
CIVIL LIABILITY (AMENDMENT) BILL, 1996**

EXPLANATORY AND FINANCIAL MEMORANDUM

General

1. The Bill increases the maximum amount payable by way of compensation for mental distress in fatal injuries actions brought by persons under the Civil Liability Act, 1961 and it extends to cohabitants and to persons whose foreign divorce is entitled to recognition in the State, the right to claim certain damages under the 1961 Act.

Present Law

2. Part IV of the Civil Liability Act, 1961 gives to dependants of a deceased a right to claim damages as compensation for loss of pecuniary benefits, for mental distress and for funeral expenses, where the death is caused by the wrongful act of another. The right of action is confined to family relatives. It does not extend to former spouses or cohabitants.

3. The maximum amount of compensation under the 1961 Act for mental distress is £7,500. The amount awarded by the courts under that heading is divided among each person who is joined to the action for damages.

Provisions of the Bill

4. *Section 1* amends the definition of "dependant" in section 47 of the 1961 Act to include persons whose foreign decree of divorce is entitled to recognition in the State and cohabitants who have been living together for at least three years immediately before the death of the other cohabitant. The effect is to allow those persons to claim certain heads of damage under the 1961 Act. Divorced persons will be able to claim damages for loss of pecuniary benefits and for funeral expenses where the death of the former spouse is caused by the wrongful act of another. A new section 49A of the 1961 Act (as inserted by *section 3* of the Bill) makes clear that a divorced person may not claim damages for mental distress. A cohabitant will be able to claim damages for loss of pecuniary benefits, for funeral expenses and for mental distress. A new subsection (5) in section 49 of the 1961 Act (as inserted by *section 2* of the Bill) makes clear that where a cohabitant claims damages for loss of pecuniary benefits the court in making any award, must take into account that he or she had no enforceable right to financial maintenance by the deceased.

Section 2 amends section 49 of the 1961 Act so as to increase from £7,500 to £15,000 the maximum amount payable by way of compensation for mental distress in fatal injuries cases under the 1961 Act. Any future increases in the upper limit on damages for mental distress can, on the basis of provision in *section 2*, be by way of orders made by the Minister for Equality and Law Reform.

Section 4 amends section 18 of the Air Navigation and Transport Act, 1936 (as amended) which has provisions corresponding to those in Part IV of the Civil Liability Act, 1961. The amendments to section 18 of the 1936 Act correspond to those being made to Part IV of the 1961 Act.

The amendments in the Bill will not, by virtue of provisions in sections 1, 2, 3, 4 and 5, have effect in relation to a cause of action that accrued before commencement of those sections.

Section 5 provides for the short title of the Bill.

Implications for women

5. The Bill applies equally to men and women and it is drafted in gender neutral terms.

Financial and Staffing implications

6. There are no staffing implications. The financial implications are insignificant.

*An Roinn Comhionannais agus Athchóirithe Dlí,
Meitheamh, 1996.*