



---

**AN BILLE UM DHLITEANAS SIBHIALTA AGUS  
CÚIRTEANNA 2004  
CIVIL LIABILITY AND COURTS BILL 2004**

---

*Mar a tionscnaíodh  
As initiated*

---

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title and commencement.
2. Interpretation.
3. Orders and regulations.
4. Expenses.

PART 2

CIVIL LIABILITY

5. Application of Part.
6. Amendments of Statute of Limitations (Amendment) Act 1991.
7. Letter of claim.
8. Rules of court.
9. Bringing of proceedings.
10. Request for further information.
11. Defence and counterclaim.
12. Pleadings generally.
13. Verifying affidavit.
14. Mediation conference.

[No. 6 of 2004]

Section

15. Report of chairperson of mediation conference.
16. Final offers.
17. Pre-trial hearings.
18. Evidence.
19. Expert evidence.
20. Intervention in a personal injuries action.
21. False evidence, etc.
22. Fraudulent actions.
23. Collateral benefits.
24. Income undeclared for tax purposes.
25. Offences.

PART 3

COURTS

Chapter 1

*Funds of Suitors*

26. Definition.
27. Realisation of investment of dormant accounts of funds of suitors.
28. Disposal of part of funds of suitors.
29. Deficiency in funds of suitors.

Chapter 2

*Miscellaneous Provisions*

30. Definitions.
31. Proceedings heard otherwise than in public.
32. Interest on costs, charges or expenses of certain judgments, orders or decrees.
33. Certain officers to act as registrar of Central Criminal Court.
34. Amendment of section 38 of Court Officers Act 1926.
35. Amendment of Courts (Supplemental Provisions) Act 1961.
36. Amendment of Registration of Title Act 1964.
37. Amendment of Succession Act 1965.

Section

38. Amendment of Act of 1976.
  39. Amendment of Act of 1989.
  40. Amendment of Act of 1995.
  41. Amendment of Act of 1996.
  42. Amendment of Planning and Development Act 2000.
-

ACTS REFERRED TO

Civil Liability (Amendment) Act 1964	1964, No. 17
Civil Liability Act 1961	1961, No. 41
Court Officers Act 1926	1926, No. 27
Courts Act 1971	1971, No. 36
Courts Act 1981	1981, No. 11
Courts Act 1991	1991, No. 20
Courts and Court Officers Act 2002	2002, No. 15
Courts Service Act 1998	1998, No. 8
Courts (Supplemental Provisions) Act 1961	1961, No. 39
Criminal Procedure Act 1967	1967, No. 12
Debtors (Ireland) Act 1840	3 & 4 Vict., c. 105
Domestic Violence Act 1996	1996, No. 1
Family Home Protection Act 1976	1976, No. 27
Family Law Act 1995	1995, No. 26
Family Law (Divorce) Act 1996	1996, No. 33
Family Law (Maintenance of Spouses and Children) Act 1976	1976, No. 11
Garda Síochána (Compensation) Acts 1941 and 1945	
Judicial Separation and Family Law Reform Act 1989	1989, No. 6
Legitimacy Act 1931	1931, No. 13
Planning and Development Act 2000	2000, No. 30
Registration of Title Act 1964	1964, No. 16
Social Welfare Act 1998	1998, No. 6
Social Welfare (Consolidation) Act 1993	1993, No. 27
Status of Children Act 1987	1987, No. 26
Statute of Limitations (Amendment) Act 1991	1991, No. 18
Succession Act 1965	1965, No. 27
Taxes Consolidation Act 1997	1997, No. 39



---

AN BILLE UM DHLITEANAS SIBHIALTA AGUS  
CÚIRTEANNA 2004  
CIVIL LIABILITY AND COURTS BILL 2004

---

# BILL

5

*entitled*

AN ACT TO PROVIDE FOR CERTAIN PROCEDURAL AND  
OTHER CHANGES IN ACTIONS TO RECOVER DAM-  
AGES FOR PERSONAL INJURIES; TO PROVIDE THAT  
AN ACTION FOR PERSONAL INJURIES SHALL NOT BE  
10 BROUGHT AFTER THE EXPIRATION OF ONE YEAR  
FROM THE DATE OF ACCRUAL OF THE CAUSE OF  
ACTION OR THE DATE OF KNOWLEDGE OF THE  
CAUSE OF ACTION WHICHEVER OCCURS LATER; TO  
PROVIDE THAT WHERE A PLAINTIFF IN A PERSONAL  
15 INJURIES ACTION GIVES FALSE EVIDENCE, THE  
COURT MAY DISMISS THE PLAINTIFF'S ACTION; TO  
MAKE PROVISION IN RELATION TO THE ASSESS-  
MENT OF DAMAGES IN A PERSONAL INJURIES  
ACTION; TO MAKE PROVISION IN RELATION TO THE  
20 JURISDICTION OF THE CIRCUIT COURT IN PRO-  
CEEDINGS RELATING TO LAND; TO PROVIDE FOR  
THE DISPOSAL OF PART OF THE FUNDS OF SUITORS  
VESTED IN THE ACCOUNTANT OF THE COURTS OF  
JUSTICE; TO MAKE PROVISION IN RELATION TO THE  
25 PUBLICATION OF REPORTS, AND PRODUCTION OF  
DOCUMENTS PREPARED FOR THE PURPOSES, OF  
PROCEEDINGS TO BE HEARD OTHERWISE THAN IN  
PUBLIC; AND, FOR THOSE PURPOSES, TO AMEND THE  
STATUTE OF LIMITATIONS (AMENDMENT) ACT 1991,  
30 THE CIVIL LIABILITY ACT 1961 AND CERTAIN OTHER  
ENACTMENTS; AND TO PROVIDE FOR RELATED  
MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

## PART 1

35

### PRELIMINARY AND GENERAL

**1.**—(1) This Act may be cited as the Civil Liability and Courts Act 2004. Short title and commencement.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with  
40 reference to any particular purpose or provision and different days  
may be so appointed for different purposes or provisions.

2.—(1) In this Act, except where the context otherwise requires—

“act” has the same meaning as it has in the Act of 1961;

“Act of 1961” means the Civil Liability Act 1961;

“Act of 1993” means the Social Welfare (Consolidation) Act 1993;

“Act of 1998” means the Social Welfare Act 1998; 5

“Act of 2002” means the Courts and Court Officers Act 2002;

“court” means, in relation to a personal injuries action, the court in which that action has been brought, being the High Court, Circuit Court or District Court, as the case may be;

“date of knowledge” shall be construed in accordance with the 10  
Statute of Limitations (Amendment) Act 1991;

“defendant” has the same meaning as it has in the Act of 1961;

“expert evidence” means evidence of fact or opinion given by a person who would not be competent to give such evidence unless he or she had a special skill or expertise; 15

“further information” has the meaning assigned to it by *section 10*;

“mediation conference” has the meaning assigned to it by *section 14*;

“Minister” means the Minister for Justice, Equality and Law Reform;

“negligence” includes nuisance and breach of duty (whether the duty exists by virtue of a contract, a provision of a statute, an instrument under a statute, or otherwise); 20

“personal injuries action” means an action for the recovery of damages, in respect of a wrong, for—

(a) personal injuries, 25

(b) both such injuries and damage to property (but only if both have been caused by the same wrong), or

(c) under section 48 of the Act of 1961,

but shall not include an application for compensation under the Garda Síochána (Compensation) Acts 1941 and 1945, or an action 30  
where the damages claimed include damages for false imprisonment or trespass to the person;

“personal injuries summons” has the meaning assigned to it by *section 9*;

“personal injury” has the same meaning as it has in the Act of 1961; 35

“plaintiff” has the same meaning as it has in the Act of 1961;

“pleading” means, in relation to a personal injuries action, a personal injuries summons, a defence, a defence and counterclaim or any other document (other than an affidavit or a report prepared by a person who is not a party to that action) that, under rules of court, 40

is required to be, or may be, served (within such period as is prescribed by those rules) by a party to the action on another party to that action;

5 “settlement” includes, in relation to a personal injuries action, a settlement of the action in part only, and cognate words shall be construed accordingly;

“third party” has the same meaning as it has in the Act of 1961;

“wrong” has the same meaning as it has in the Act of 1961;

“wrongdoer” has the same meaning as it has in the Act of 1961.

10 (2) In this Act—

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

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

20 (c) a reference to any enactment is a reference to that enactment as amended, extended or adapted whether before or after the coming into operation of this Act, by or under any subsequent enactment.

25 3.—Every order (other than an order under *section 1(2)*) and regulation under this Act shall be laid by the Minister before both Houses of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder. Orders and regulations.

30 4.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. Expenses.

## PART 2

35 CIVIL LIABILITY

5.—Subject to *sections 13(8), 21(4), 22(4), 23(3) and 24(2)*, this Part applies to personal injuries actions brought after the date of its commencement. Application of Part.

40 6.—The Statute of Limitations (Amendment) Act 1991 is amended by— Amendments of Statute of Limitations (Amendment) Act 1991.

(a) the substitution in subsection (1) of section 3 of “one year” for “three years”,

(b) the substitution in subsection (1) of section 4 of “one year” for “three years”,

(c) the substitution in subsection (1) of section 5 of “one year” for “three years”, and

(d) the insertion of the following section: 5

“5A.—(1) Where a cause of action accrued before the commencement of *section 6* of the *Civil Liability and Courts Act 2004*, the action (being an action to which section 3(1), 4(1) or 5(1) of this Act applies) in respect thereof shall not be brought after the expiration of— 10

(a) one year from the said commencement, or

(b) 3 years from the relevant date,

whichever occurs first.

(2) In this section ‘relevant date’ means the date of accrual of the cause of action or the date of knowledge 15 of the person concerned as respects that cause of action whichever occurs later.”.

Letter of claim.

7.—(1) A person who intends to bring a personal injuries action shall, not later than 2 months after the date of accrual of the cause of action or the date of knowledge of the person as respects the 20 cause of action concerned (whichever occurs later), serve a notice in writing on the wrongdoer or alleged wrongdoer stating the nature of the wrong alleged to have been committed by him or her.

(2) Where a plaintiff in a personal injuries action has, without reasonable cause, failed to comply with *subsection (1)*, the court 25 hearing the action may, where the interests of justice so require—

(a) make no order as to the payment of costs to the plaintiff, or

(b) deduct such amount from any costs to be paid to the plaintiff as it considers appropriate.

(3) Where a plaintiff in a personal injuries action has, without 30 reasonable cause, failed to comply with *subsection (1)*, the court hearing the action may draw such inferences from the failure as appear proper.

Rules of court.

8.—(1) It shall be a function of the courts in personal injuries actions to ensure that parties to such actions comply with such rules 35 of court as apply in relation to personal injuries actions so that the trial of personal injuries actions within a reasonable period of their having been commenced is secured.

(2) Where rules of court prescribe a period of time for the service of a document, or the doing of any other thing, in relation to a personal injuries action, the period within which that document may be 40 served or thing may be done shall not be extended beyond the period so prescribed unless—

(a) the parties to the action agree to the period being extended, 45 or



(b) the court considers that—

- (i) in all the circumstances the extension of the period by such further period as it may direct is necessary or expedient to enable the action to be properly prosecuted or defended, and
- (ii) the interests of justice require the extension of the period by that further period.

5  
10 (3) For the purposes of ensuring compliance by a party to a personal injuries action with rules of court, a court may make such orders as to the payment of costs as it considers appropriate.

15 (4) Nothing in this Act shall be construed as limiting or reducing the power of an authority, having (for the time being) power to make rules regulating the practice and procedure of a court, to make such rules in relation to proceedings or actions other than personal injuries actions.

9.—(1) Proceedings in the High Court, Circuit Court or District Court, in respect of a personal injuries action, shall be commenced by a summons to be known as and referred to in this Act as a “personal injuries summons”. Bringing of proceedings.

20 (2) A personal injuries summons shall specify—

- (a) the plaintiff’s name, the address at which he or she ordinarily resides and his or her occupation,
- (b) the personal public service number allocated and issued to the plaintiff under section 223 (inserted by section 14 of the Act of 1998) of the Act of 1993,
- (c) the defendant’s name, the address at which he or she ordinarily resides (if known to the plaintiff) and his or her occupation (if known to the plaintiff),
- (d) the injuries to the plaintiff alleged to have been occasioned by the wrong of the defendant,
- (e) full particulars of all items of special damage in respect of which the plaintiff is making a claim,
- (f) full particulars of the acts of the defendant constituting the said wrong and the circumstances relating to the commission of the said wrong,
- (g) full particulars of each instance of negligence by the defendant.

30  
35 (3) Where a plaintiff fails to comply with this section—

- (a) the court may—
  - (i) direct that the action shall not proceed any further until the plaintiff complies with such conditions as the court may specify, or
  - (ii) where it considers that the interests of justice so require, dismiss the plaintiff’s action,

and

- (b) the court shall take such failure into account when deciding whether to make an order as to the payment of the costs of the personal injuries action concerned, or the amount of such costs. 5

(4) Where a plaintiff fails to comply with this section, the court hearing the personal injuries action concerned may draw such inferences from the failure as appear proper.

Request for further information.

**10.—(1)** Upon the request of a defendant in a personal injuries action, the plaintiff shall provide the defendant with— 10

- (a) particulars of any personal injuries action brought by the plaintiff in which a court made an award of damages,
- (b) particulars of any personal injuries action brought by the plaintiff which was withdrawn or settled,
- (c) particulars of any injuries sustained or treatment administered to the plaintiff that would have a bearing on the personal injuries to which the personal injuries action relates, and 15
- (d) the name of any persons from whom the plaintiff received such medical treatment, 20

in this Act referred to as “further information”.

(2) Upon the request of a defendant in a personal injuries action, the plaintiff shall provide the defendant with documents, of such a class as may be prescribed from time to time by the Minister, from the Revenue Commissioners or the Minister for Social and Family Affairs, as may be appropriate, relating to any earnings or other income in respect of which the plaintiff is making a claim. 25

(3) Where a plaintiff fails to comply with a request under *subsection (1) or (2)*—

- (a) the court may— 30
  - (i) direct that the personal injuries action concerned shall not proceed any further until the plaintiff complies with such conditions as the court may specify, or
  - (ii) where it considers that the interests of justice so require, dismiss the plaintiff’s action, 35

and

- (b) the court shall, at the hearing of the action, take such failure into account when deciding whether to make any order as to the payment of the costs of the action, or the amount of such costs. 40

(4) Where, upon a request referred to in *subsection (1)*, a plaintiff fails to comply with that subsection, the court hearing the personal injuries action concerned may draw such inferences from the failure as appear proper.

5 (5) Where, for the purposes of complying with *subsection (2)*, a plaintiff requests the Revenue Commissioners or the Minister for Social and Family Affairs to furnish him or her with documents referred to in that paragraph, the Revenue Commissioners or the said Minister shall furnish him or her with such documents as are in their, or his or her, possession or procurement.

11.—(1) A defence to a personal injuries action shall specify— Defence and counterclaim.

10 (a) the allegations specified, or matters pleaded, in the personal injuries summons of which the defendant does not require proof,

(b) the allegations specified, or matters pleaded in the personal injuries summons of which he or she requires proof,

(c) the grounds upon which the defendant claims that he or she is not liable for any injuries suffered by the plaintiff, and

15 (d) where the defendant alleges that some or all of the personal injuries suffered by the plaintiff were occasioned in whole or in part by the plaintiff's own acts, the grounds upon which he or she so alleges.

(2) A counterclaim in a personal injuries action shall specify—

20 (a) the personal public service number allocated and issued to the defendant under section 223 (inserted by section 14 of the Act of 1998) of the Act of 1993,

(b) the injuries to the defendant alleged to have been occasioned by the wrong of the plaintiff,

25 (c) full particulars of all items of special damage in respect of which the defendant is making a claim,

(d) full particulars of the acts of the plaintiff constituting the said wrong and the circumstances relating to the commission of the said wrong,

30 (e) full particulars of each instance of negligence by the plaintiff.

(3) Where a defendant fails to comply with this section—

(a) the court may—

35 (i) direct that the action shall not proceed further until the plaintiff complies with such conditions as the court may specify, or

(ii) where it considers that the interests of justice so require, give judgment in favour of the plaintiff,

and

40 (b) the court shall take such failure or refusal into account when deciding whether to make any order as to the payment of the costs of the personal injuries action concerned, or the amount of such costs.

(4) Where a defendant fails to comply with this section, the court hearing the personal injuries action concerned may draw such inferences from the failure as appear proper.

Pleadings generally.

**12.—**(1) All pleadings in a personal injuries action shall—

(a) in the case of a pleading served by the plaintiff, contain full and detailed particulars of the claim of which the action consists and of each allegation, assertion or plea comprising that claim, or 5

(b) in the case of a pleading served by the defendant or a third party contain full and detailed particulars of each denial or traverse, and of each allegation, assertion or plea, comprising his or her defence. 10

(2) All pleadings shall, in the case of a personal injuries action brought in the High Court, be lodged in the Central Office of the High Court. 15

(3) All pleadings shall, in the case of a personal injuries action brought in the Circuit Court, be lodged in the Circuit Court Office for the county in which the action is brought.

(4) All pleadings shall, in the case of a personal injuries action brought in the District Court, be lodged in the District Court Office for the district court district in which the action is brought. 20

Verifying affidavit.

**13.—**(1) Where the plaintiff in a personal injuries action—

(a) serves on the defendant any pleading containing assertions or allegations, or

(b) provides further information to the defendant, 25

the plaintiff (or in the case of a personal injuries action brought on behalf of an infant or person of unsound mind by a next friend or a committee of the infant or person, the next friend or committee) shall swear an affidavit verifying those assertions or allegations, or that further information. 30

(2) Where the defendant or a third party in a personal injuries action serves on another party to the action any pleading containing assertions or allegations, the defendant or third party, as the case may be, shall swear an affidavit verifying those assertions or allegations. 35

(3) Where a personal injuries action is brought on behalf of an infant or a person of unsound mind by a next friend or a committee of the infant or person, an affidavit to which *subsection (1)* applies sworn by the next friend or committee concerned shall, in respect of assertions, allegations or further information, of which he or she does not have personal knowledge, state that he or she honestly believes the assertions, allegations or further information, to be true. 40

(4) An affidavit under this section shall be lodged in court not later than—

(a) 7 days after the service of the pleading concerned or such longer period as the court may direct or the parties may agree, or 45

(b) in the case of a requirement to which *subsection (7)(b)* applies, 7 days before the date fixed for the trial of the personal injuries action concerned.

5 (5) If a person makes a statement in an affidavit under this section—

(a) that is false or misleading in any material respect, and

(b) that he or she knows to be false or misleading,

he or she shall be guilty of an offence.

(6) The reference to court in *subsection (4)* shall—

10 (a) in the case of a personal injuries action brought in the High Court, include a reference to the Master of the High Court, and

15 (b) in the case of a personal injuries action brought in the Circuit Court, include a reference to the county registrar for the county in which the proceedings concerned were issued.

20 (7) An affidavit sworn under this section shall include a statement by the deponent that he or she is aware that the making of a statement by him or her in the affidavit that is false or misleading in any material respect and that he or she knows to be false or misleading is an offence.

(8) This section applies to personal injuries actions brought—

(a) on or after the commencement of this section, and

25 (b) before such commencement, where a party to the action requires (not later than 21 days before the date fixed for the trial of the action) another party to the action to swear an affidavit in accordance with this section.

**14.—(1)** Upon the request of any party to a personal injuries action, the court may— Mediation conference.

30 (a) at any time before the trial of such action, and

(b) if it considers that the holding of a meeting pursuant to a direction under this subsection would assist in reaching a settlement in the action,

35 direct that the parties to the action meet to discuss and attempt to settle the action, and a meeting held pursuant to a direction under this subsection is in this Act referred to as a “mediation conference”.

(2) Where the court gives a direction under *subsection (1)*, each party to the personal injuries action concerned shall comply with that direction.

40 (3) A mediation conference shall take place—

(a) at a time and place agreed by the parties to the personal injuries action concerned, or

(b) where the parties do not agree a time and place, at a time and place specified by the court.

(4) There shall be a chairperson of a mediation conference who shall—

(a) be a person appointed by agreement of all the parties to the personal injuries action concerned, or 5

(b) where no such agreement is reached—

(i) be a person appointed by the court, and

(ii) (I) be a practising barrister or practising solicitor of not less than 5 years standing, or 10

(II) a person nominated by a body prescribed, for the purpose of this section, by order of the Minister.

(5) The notes of the chairperson of a mediation conference and all communications during a mediation conference shall be confidential and shall not be used in evidence in any proceedings whether civil or criminal. 15

(6) The costs incurred in the holding and conducting of a mediation conference shall be paid by such party to the personal injuries action concerned as the court hearing the action shall direct.

Report of  
chairperson of  
mediation  
conference.

**15.—**(1) A person appointed under *section 14(4)* to be the chairperson of a mediation conference shall prepare and submit to the court, hearing the personal injuries action concerned, a report, which shall include— 20

(a) where the mediation conference did not take place, a statement of the reasons as to why it did not take place, or 25

(b) where the mediation conference did take place—

(i) a statement as to whether or not a settlement has been reached in the personal injuries action concerned, and

(ii) where a settlement has been entered into, a statement of the terms of the settlement signed by the parties thereto. 30

(2) At the conclusion of a personal injuries action, the court may—

(a) after hearing submissions by or on behalf of the parties to the action, and 35

(b) if satisfied that a party to the action failed to comply with a direction under *section 14(1)*,

make an order directing that party to pay the costs of the action, or such part of the costs of the action as the court directs, incurred after the giving of the direction under *section 14(1)*. 40

16.—(1) The plaintiff in a personal injuries action shall, after the prescribed date, serve a notice in writing of an offer of terms of settlement on the defendant. Final offers.

5 (2) The defendant in a personal injuries action shall, after the prescribed date, serve a notice in writing on the plaintiff—

(a) of an offer of terms of settlement, or

(b) stating that he or she is not prepared to pay any sum of money to the plaintiff in settlement of the action.

10 (3) A copy of a final offer shall, after the expiration of the prescribed period be lodged in court by, or on behalf of, the plaintiff or defendant, as the case may be.

(4) The terms of a final offer shall not be communicated to the judge in the trial of a personal injuries action until after he or she has delivered judgment in the action.

15 (5) The court shall, when considering the making of an order as to the payment of the costs in a personal injuries action—

(a) have regard to the terms of a final offer, and

(b) the reasonableness of the conduct of the parties in making their final offers.

20 (6) This section is in addition to and not in substitution for any rule of court providing for the payment into court of a sum of money in satisfaction of a cause of action.

(7) In this section—

25 “final offer” means an offer under *subsection (1)* or *(2)(a)*, or a statement under *subsection (2)(b)*;

“prescribed date” means such date before the date of the commencement of the trial of the personal injuries action concerned as is prescribed by order of the Minister;

30 “prescribed period” means such period commencing on the prescribed date as is prescribed by order of the Minister.

17.—(1) Where, in a personal injuries action, the court considers it appropriate, it shall direct that a hearing be held before the trial of the action for the purposes of determining what matters relating to the action are in dispute. Pre-trial hearings.

35 (2) All parties to a personal injuries action shall be entitled to be heard at a hearing held pursuant to a direction under *subsection (1)*.

(3) A hearing held pursuant to a direction under *subsection (1)* shall be presided over by—

40 (a) in the case of a personal injuries action brought in the High Court, a judge of the High Court, the Master of the High Court, a Deputy Master of the High Court or an officer nominated under paragraph 6(1) of the Eighth Schedule to the Courts (Supplemental Provisions) Act 1961, as the President of the High Court may direct,

(b) in the case of a personal injuries action brought in the Circuit Court, a judge of the Circuit Court, the county registrar for the county in which the action was brought or a member of the staff of the Circuit Court Office in the county in which the action was brought, as the President of the Circuit Court may direct, 5

(c) in the case of a personal injuries action brought in the District Court, a judge of the District Court.

(4) This section is in addition to and not in substitution for any power of a court to give directions in relation to any matter in a personal injuries action. 10

Evidence.

**18.—**(1) In a personal injuries action evidence as to any matter shall, where the court so directs, be given by affidavit.

(2) This section shall not operate to deny a party in a personal injuries action the right to cross-examine a witness who has given evidence by affidavit in accordance with a direction under *subsection (1)*. 15

Expert evidence.

**19.—**(1) In a personal injuries action, the court may appoint such approved persons as it considers appropriate to carry out investigations into, and give expert evidence in relation to, such matters as the court directs. 20

(2) A party in a personal injuries action shall cooperate with a person appointed under this section and shall, in particular, provide the person with—

(a) (i) any report or other document prepared by the party, or 25

(ii) any report or other document prepared on behalf of the party concerned, for the purposes of or in contemplation of the personal injuries action,

and

(b) any document or information used or referred to for the purpose of preparing the report. 30

(3) The costs incurred in the appointment of, and carrying out of an investigation by, a person appointed under this section shall be paid by such party to the personal injuries action concerned as the court hearing the action shall direct. 35

(4) A party in a personal injuries action shall be entitled to cross-examine a person appointed under this section in relation to any matter that he or she was appointed to investigate and give expert evidence on.

(5) The President of the High Court in consultation with the President of the Circuit Court and the President of the District Court shall approve such persons as he or she considers appropriate for the purposes of this section, and a person so approved is in this section referred to as an “approved person”. 40



**20.**—(1) The Supreme Court may, upon an appeal to it in a personal injuries action, invite such persons as it considers appropriate to make submissions to the court—

Intervention in a personal injuries action.

5 (a) in relation to any matter concerning either liability or damages that it considers to be of exceptional public importance, and

(b) if the action belongs to a class of causes of action in which the same or a similar matter arises.

10 (2) The Supreme Court may perform functions under *subsection (1)*, either—

(a) upon receiving a request in that behalf from a party to the personal injuries action concerned, or from a person who is not such a party, or

(b) where no such request is made.

15 (3) Where a person declines an invitation to make submissions under this section he or she shall inform the court in writing stating his or her reason for so declining.

**21.**—(1) If, after the commencement of this section, a person gives or dishonestly causes to be given, or adduces or dishonestly causes to be adduced, evidence in a personal injuries action that—

False evidence, etc.

20 (a) is false or misleading in any material respect, and

(b) he or she knows to be false or misleading,

he or she shall be guilty of an offence.

25 (2) If, after the commencement of this section, a person gives, or dishonestly causes to be given, an instruction or information, in relation to a personal injuries action, to a solicitor, or person acting on behalf of a solicitor, or an expert, that—

(a) is false or misleading in any material respect, and

(b) he or she knows to be false or misleading,

30 he or she shall be guilty of an offence.

(3) For the purposes of this section, an act is done dishonestly by a person if he or she does the act with the intention of misleading the court.

(4) This section applies to personal injuries actions—

35 (a) brought on or after the commencement of this section, and

(b) pending on the date of such commencement.

(5) In this section “expert” means a person who has a special skill or expertise and who—

40 (a) has been engaged by or on behalf of a plaintiff or defendant in a personal injuries action to give expert evidence in that action, or

- (b) for the purposes of or in contemplation of a personal injuries action has been requested to carry out an examination or investigation in relation to any matter for which such special skill or expertise is necessary.

Fraudulent actions.

**22.—**(1) If, after the commencement of this section, a plaintiff in a personal injuries action gives or adduces, or dishonestly causes to be given or adduced, evidence that— 5

- (a) is false or misleading, in any material respect, and

- (b) he or she knows to be false or misleading,

the court shall dismiss the plaintiff's action unless, for reasons that the court shall state in its decision, the dismissal of the action would result in injustice being done. 10

(2) The court in a personal injuries action shall, if satisfied that a person has sworn an affidavit under *section 13* that—

- (a) is false or misleading in any material respect, and 15

- (b) that he or she knew to be false or misleading when swearing the affidavit,

dismiss the plaintiff's action unless, for reasons that the court shall state in its decision, the dismissal of the action would result in injustice being done. 20

(3) For the purposes of this section, an act is done dishonestly by a person if he or she does the act with the intention of misleading the court.

(4) This section applies to personal injuries actions—

- (a) brought on or after the commencement of this section, and 25

- (b) pending on the date of such commencement.

Collateral benefits.

**23.—**(1) The Act of 1961 is amended by the insertion, in section 50, of the following subsection:

“(2) In assessing damages under this Part, account shall not be taken of any charitable gift (whether in the form of money or other property) made to the plaintiff in consequence of the death of the deceased unless— 30

- (a) the defendant is the donor of the gift, and

- (b) at the time of the making of the gift he or she informs the plaintiff in writing that, should the plaintiff recover damages in an action under this Part, the defendant will apply to the court for the damages to be reduced by an amount equal to the amount of the gift or the value of the gift, as may be appropriate.”, 35

and the said section 50 as it stood immediately before the commencement of this subsection shall be referred to as subsection (1) of section 50. 40

(2) The Civil Liability (Amendment) Act 1964 is amended by the insertion, in section 2, of the following subsection:

5 “(2) In assessing damages in an action to recover damages in respect of a wrong resulting in personal injury not causing death, account shall not be taken of any charitable gift (whether in the form of money or other property) made to the plaintiff in respect of those injuries unless—

(a) the defendant is the donor of the gift, and

10 (b) (i) at the time of the making of the gift he or she informs the plaintiff in writing that, should the plaintiff recover damages in such an action, the defendant will apply to the court for the damages to be reduced by an amount equal to the amount of the gift or the value of the gift, as may be appropriate, or

15 (ii) in the case of a plaintiff who is employed by the defendant, the gift consists of a series of payments that resemble, in amount and frequency, the normal remuneration that the plaintiff would be entitled to receive from the defendant in the course of his or her employment.”,

20 and the said section 2 as it stood immediately before the commencement of this subsection shall be referred to as subsection (1) of section 2.

25 (3) The amendments to—

(a) section 50 of the Act of 1961, and

(b) section 2 of the Civil Liability (Amendment) Act 1964,

effected by this section do not apply to causes of action accruing before the commencement of this section.

30 **24.—(1)** In a personal injuries action (other than an action under section 48 of the Act of 1961), any income, profit or gain in respect of which— Income undeclared for tax purposes.

(a) the plaintiff is making a claim, and

35 (b) (i) a return has not been made before the hearing of the action in accordance with the Taxes Consolidation Act 1997, or

(ii) the plaintiff has not otherwise notified the Revenue Commissioners,

40 shall, for the purposes of assessing damages, be disregarded by the court, unless the court considers that in all the circumstances it would be unjust to disregard such income, profit or gain.

(2) This section does not apply to causes of action accruing before the commencement of this section.

**25.—**(1) A person guilty of an offence under this Part shall be liable, upon conviction on indictment, to a fine not exceeding €100,000, or imprisonment for a term not exceeding 10 years, or to both.

(2) The District Court may try summarily a person charged with an offence under this Part if— 5

- (a) the court is of the opinion that the facts proved or alleged constitute a minor offence fit to be tried summarily,
- (b) the person, upon being informed by the court of his or her right to be tried with a jury, does not object to being tried summarily, and 10
- (c) the Director of Public Prosecutions consents to the person being tried summarily for the offence.

(3) A person who is tried under and in accordance with *subsection (2)* shall be liable, upon conviction, to a fine not exceeding €3,000, or imprisonment for a term not exceeding 12 months, or to both. 15

(4) Section 13 of the Criminal Procedure Act 1967 shall apply in relation to an offence under this Part as if, in lieu of the penalties specified in *subsection (3)(a)* of that section, there were specified therein the penalties provided for in *subsection (3)*, and the reference in *subsection (2)(a)* of the said section 13 to the penalties provided for by *subsection (3)* shall be construed and have effect accordingly. 20

PART 3

COURTS

CHAPTER 1 25

*Funds of Suitors*

**26.—**In this Chapter—

“accounts” means the general cash account of the funds of suitors held with the Bank of Ireland in the name of the Accountant;

“Accountant” means the Accountant of the Courts of Justice as provided for in section 16 of the Court Officers Act 1926; 30

“dormant account of the funds of suitors of the High Court” means the general ledger account for dormant balance maintained in accordance with Order 77 of the Rules of the Superior Courts, containing the balances of funds standing to the credit of ledger accounts carried over to the said ledger account by the Accountant together with the interest and dividends accruing thereon; 35

“ledger account” means an account opened in the name of the Accountant under—

- (a) an order of the High Court or Supreme Court, or 40
- (b) an Act of the Oireachtas,

into which any funds of suitors have been paid;

“small balances” means such moneys as, in accordance with rule 88 of Order 77 of the Rules of the Superior Courts, are carried over to the special account for small balances;

5 “special account for small balances” means the special account for small balances maintained for the purposes of the said rule 88.

10 **27.—**(1) As soon as may be after the passing of this Act, the Chief Justice shall order the Accountant to realise all of the investments of the dormant account of the funds of suitors of the High Court and of the special account for small balances, save such part thereof as represents 2.5 per cent of the value of those investments. Realisation of investment of dormant accounts of funds of suitors.

(2) The Accountant shall comply with an order of the Chief Justice under this section.

(3) In this section “investments” means, in relation to the dormant account of the funds of suitors, assets other than cash.

15 **28.—**(1) The Bank of Ireland shall, where the Chief Justice so orders, pay out of the account to the Exchequer such sums, not exceeding the aggregate of the amounts in the form of cash standing in the dormant account of the funds of suitors of the High Court and the special account for small balances, as may from time to time, be Disposal of part of funds of suitors.

20 (2) The sums paid to the Exchequer pursuant to an order under *subsection (1)* may be applied from time to time, by the Minister, with the consent of the Minister for Finance, for the purposes of defraying the costs of providing, managing and maintaining court buildings under section 5(d) of the Courts Service Act 1998.

30 **29.—**Where, by virtue of the compliance by the Bank of Ireland with an order under *section 28*, the funds of suitors are not sufficient to enable suitors to be fully indemnified, the Minister for Finance shall, for the purposes of enabling them to be so indemnified, advance out of the Central Fund or the growing produce thereof such sum as he or she considers necessary not exceeding the aggregate of any sums paid to the Exchequer pursuant to an order under that section. Deficiency in funds of suitors.

## Chapter 2

### 35 *Miscellaneous Provisions*

**30.—**In this Chapter—

Definitions.

“Act of 1976” means the Family Home Protection Act 1976;

“Act of 1981” means the Courts Act 1981;

40 “Act of 1989” means the Judicial Separation and Family Law Reform Act 1989;

“Act of 1991” means the Courts Act 1991;

“Act of 1995” means the Family Law Act 1995;

“Act of 1996” means the Family Law (Divorce) Act 1996.

**31.—**(1) For the purposes of this section each of the following shall be a “relevant enactment”—

- (a) section 2(1B) (inserted by section 20 of the Courts Act 1971) of the Legitimacy Act 1931;
- (b) section 45 of the Courts (Supplemental Provisions) Act 1961 (in so far as it relates to matrimonial causes or matters, or minor matters); 5
- (c) section 25 of the Family Law (Maintenance of Spouses and Children) Act 1976;
- (d) section 10 of the Act of 1976; 10
- (e) section 36 of the Status of Children Act 1987;
- (f) section 34 of the Act of 1989;
- (g) section 33 of the Act of 1995;
- (h) section 38 of the Act of 1995;
- (i) section 38 of the Act of 1996; 15
- (j) section 16 of the Domestic Violence Act 1996.

(2) Nothing contained in a relevant enactment shall operate to prohibit—

- (a) the preparation and publication of a report of proceedings to which the relevant enactment relates, or 20
- (b) the publication of the decision of the court in such proceedings,

provided that the report or judgment does not contain any information which would enable the parties to the proceedings or any child to which the proceedings relate to be identified. 25

(3) Nothing contained in an enactment that prohibits proceedings to which the enactment relates from being heard in public shall operate to prohibit the production of a document prepared for the purposes or in contemplation of such proceedings or given in evidence in such proceedings, to— 30

- (a) a body or other person when it, or he or she, is performing functions under any enactment consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter, or
- (b) such body or other person as may be prescribed by order made by the Minister, when the body or person concerned is performing functions consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter as may be so prescribed. 35  
40

(4) Nothing contained in an enactment that prohibits proceedings to which the enactment relates from being heard in public shall operate to prohibit the giving of information or evidence given in such proceedings to—

(a) a body or other person when it, or he or she, is performing functions under any enactment consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter, or

5 (b) such body or other person as may be prescribed by order made by the Minister, when the body or person concerned is performing functions consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter as may be so  
10 prescribed.

(5) A hearing, inquiry or investigation referred to in *subsection (3)* or *(4)* shall, in so far as it relates to a document referred to in *subsection (3)* or information or evidence referred to in *subsection (4)*, be conducted otherwise than in public and no such document,  
15 information or evidence shall be published.

**32.—(1)** Section 30 of the Act of 2002 is amended by the substitution of the following subsection for subsection (1):

Interest on costs, charges or expenses of certain judgments, orders or decrees.

“**(1)** Subject to section 23 of the Act of 1981, interest on the amount of costs, charges or expenses awarded to a party in proceedings in a court, to which section 27 of the Debtors (Ireland) Act 1840 applies, pursuant to a judgment, order or decree of the court, shall—  
20

(a) not be payable until—

25 (i) if the amount aforesaid is agreed by the parties to the proceedings, the date of such agreement, or

(ii) in default of agreement—

30 (I) the date on which a certificate of taxation (which expression includes an interim certificate of taxation) in respect of the amount aforesaid is issued by a taxing master of the High Court or by a county registrar exercising the powers of such a taxing master, as may be appropriate, or

35 (II) if appropriate, in the case of proceedings in the Circuit Court, the date on which a county registrar measures the amount aforesaid in accordance with rules of court,

and

40 (b) be payable at the rate for the time being standing specified in section 26 of the Debtors (Ireland) Act 1840, from the appropriate date aforesaid until that amount is paid.”.

(2) Subsections (3) and (4) of section 30 of the Act of 2002 are  
45 repealed.

(3) The amendments to section 30 of the Act of 2002 effected by this section apply to—

(a) actions brought on or after the commencement of this section, and

(b) actions pending on the date of such commencement. 5

Certain officers to act as registrar of Central Criminal Court.

**33.**—The Eighth Schedule to the Courts (Supplemental Provisions) Act 1961 is amended by the insertion, in paragraph 6, of the following subparagraph:

“(1A) Each officer nominated under subparagraph (1) of this paragraph who stands directed to act as registrar to the High Court under that subparagraph shall (in addition to any other duties which may be assigned to him or her by the officer for the time being managing the Central Office) act as registrar to the Central Criminal Court as and when directed to so act by the officer for the time being managing the Central Office.”. 10 15

Amendment of section 38 of Court Officers Act 1926.

**34.**—Section 38 of the Court Officers Act 1926 is amended by the substitution of the following subsections for subsection (3):

“(3) The county registrar of the county, county borough or other area (other than the county or county borough of Dublin) in which the Central Criminal Court is, for the time being, sitting shall perform the following functions, that is to say: 20

(a) the function of acting as registrar to that court, and

(b) the function of performing such powers and carrying out of such duties in relation to that court as are assigned to the registrar of the Central Criminal Court by rules of court, 25

when requested to so do by the officer for the time being managing the Central Office of the High Court.

(4) The functions performable by a county registrar pursuant to a request under subsection (3) shall be performed by a member of the staff of the Circuit Court Office in the county concerned to whom those functions have, with the concurrence of the officer for the time being managing the Central Office of the High Court, been delegated by that county registrar.”. 30

Amendment of Courts (Supplemental Provisions) Act 1961.

**35.**—(1) Section 2 of the Courts (Supplemental Provisions) Act 1961 is amended by the insertion, in subsection (1), of the following definition: 35

“‘market value’ means, in relation to land, the price that would have been obtained in respect of the unencumbered fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.”. 40 45



(2) The Third Schedule to the Courts (Supplemental Provisions) Act 1961 is amended, in column (3), by the substitution of—

5 (a) “market value” for “rateable valuation” in each place that it occurs, and

(b) “€3,000,000” for “£200” (inserted by section 2(1)(d) of the Act of 1981) in each place that it occurs.

36.—Section 18 of the Registration of Title Act 1964 is amended by— Amendment of  
Registration of Title  
Act 1964.

10 (a) the substitution, in subsection (2) (amended by section 3 of the Act of 1991), of—

(i) “market value” for “rateable valuation”, and

(ii) “€3,000,000” for “£200”,

and

15 (b) the insertion of the following subsection:

20 “(4) In this section ‘market value’ means, in relation to land, the price that would have been obtained in respect of the unencumbered fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.”.

25 37.—Section 6 of the Succession Act 1965 is amended by— Amendment of  
Succession Act  
1965.

(a) the substitution, in subsection (3) (inserted by section 4 of the Act of 1981), of—

(i) “market value” for “rateable valuation”, and

(ii) “€3,000,000” for “£200”,

30 and

(b) the insertion of the following subsection:

35 “(5) In this section ‘market value’ means, in relation to land, the price that would have been obtained in respect of the unencumbered fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.”.

40

**38.**—Section 10 of the Act of 1976 is amended by—

- (a) the substitution, in subsection (4) (inserted by section 13 of the Act of 1981), of—
- (i) “market value” for “rateable valuation”, and
  - (ii) “€3,000,000” for “£200”, 5
- and
- (b) (i) the repeal of paragraphs (a) and (c) of subsection (5), and
- (ii) the deletion, in paragraph (b) of subsection (5), of the words “or where such chattels are or immediately before such disposal or removal, were in a family home the rateable valuation of which does not exceed £20”. 10
- (c) the insertion of the following subsection:
- “(8) In this section ‘market value’ means, in relation to land, the price that would have been obtained in respect of the unencumbered fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.”. 15  
20

**39.**—Section 31 of the Act of 1989 is amended by—

- (a) the substitution, in subsection (3), of— 25
- (i) “market value” for “rateable valuation”, and
  - (ii) “€3,000,000” for “£200”,
- and
- (b) the insertion of the following subsection:
- “(6) In this section ‘market value’ means, in relation to land, the price that would have been obtained in respect of the unencumbered fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.”. 30  
35

**40.**—Section 38 of the Act of 1995 is amended by—

- (a) the substitution, in subsection (3), of— 40
- (i) “market value” for “rateable valuation”, and
  - (ii) “€3,000,000” for “£200”,

(b) the repeal of subsection (5), and

(c) the insertion of the following subsection:

5 “(9) In this section ‘market value’ means, in  
relation to land, the price that would have been  
obtained in respect of the unencumbered fee  
simple were the land to have been sold on the open  
market, in the year immediately preceding the bring-  
ing of the proceedings concerned, in such manner  
and subject to such conditions as might reasonably  
10 be calculated to have resulted in the vendor  
obtaining the best price for the land.”.

41.—Section 38 of the Act of 1996 is amended by—

Amendment of Act  
of 1996.

(a) the substitution in subsection (2) of—

(i) “market value” for “rateable valuation”, and

15 (ii) “€3,000,000” for “£200”,

(b) the repeal of subsection (4), and

(c) the insertion of the following subsection:

20 “(8) In this section ‘market value’ means, in  
relation to land, the price that would have been  
obtained in respect of the unencumbered fee sim-  
ple were the land to have been sold on the open  
market, in the year immediately preceding the bring-  
ing of the proceedings concerned, in such manner  
and subject to such conditions as might reasonably  
25 be calculated to have resulted in the vendor  
obtaining the best price for the land.”.

42.—(1) Section 90 of the Act of 2000 is amended, in subsec-  
tion (5), by—

Amendment of  
Planning and  
Development Act  
2000.

(a) the substitution of—

30 (i) “market value” for “rateable valuation” in each  
place that it occurs, and

(ii) “€3,000,000” for “£200” in each place that it  
occurs,

and

35 (b) the insertion of the following paragraph:

40 “(d) In this subsection ‘market value’ means, in  
relation to land, the price that would have  
been obtained in respect of the unencum-  
bered fee simple were the land to have  
been sold on the open market, in the year  
immediately preceding the bringing of the  
proceedings concerned, in such manner and  
subject to such conditions as might reasonably  
45 be calculated to have resulted in the vendor  
obtaining the best price for the land.”.

(2) Section 160 of the Act of 2000 is amended, in subsection (5), by—

(a) the substitution of—

(i) “market value” for “rateable valuation” in each place that it occurs, and 5

(ii) “€3,000,000” for “£200” in each place that it occurs,

and

(b) the insertion of the following paragraph:

“(e) In this subsection ‘market value’ means, in 10  
relation to land, the price that would have  
been obtained in respect of the unencum-  
branced fee simple were the land to have  
been sold on the open market, in the year  
immediately preceding the bringing of the 15  
proceedings concerned, in such manner and  
subject to such conditions as might reasonably  
be calculated to have resulted in the vendor  
obtaining the best price for the land.”.

(3) In this section “Act of 2000” means the Planning and 20  
Development Act 2000.