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**AN BILLE CRÓINÉIRÍ (LEASÚ) 2005  
CORONERS (AMENDMENT) BILL 2005**

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**EXPLANATORY MEMORANDUM**

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*Purpose of Bill*

The Coroners Act 1962 is acknowledged to be in need of substantial reform. A working group reported to the Department of Justice, Equality and Law Reform in October 2004 and made more than 100 recommendations. The report has been accepted by the Government and work is ongoing within the Department on a comprehensive replacement statutory code.

In the meanwhile, two critical issues will not be dealt with and will continue to impact adversely on the effectiveness of coroners' inquests. First, section 26 of the Act provides as follows.

“(1) A coroner may, at any time before the conclusion of an inquest held by him, cause a summons in the prescribed form to attend and give evidence at the inquest to be served on any person (including in particular any registered medical practitioner) whose evidence would, in the opinion of the coroner, be of assistance at the inquest.

(2) A coroner shall not exercise, in relation to the attendance at an inquest of a second registered medical practitioner, the power conferred on him by subsection (1) of this section unless—

- (a) a majority of the jurors at the inquest, it having appeared to them that the cause of death has not been satisfactorily explained by the medical practitioner giving evidence thereof at the inquest, have by a requisition in writing called upon the coroner to cause a summons under that subsection to be served on another registered medical practitioner, or
- (b) that practitioner had assisted at a post-mortem examination upon the person in relation to whose death the inquest is being held”.

The effect of the section is to limit the number of medical witnesses who can give evidence at an inquest to two. The restriction is universally accepted as unwarranted and unfair, particularly in cases where the adequacy or appropriateness of medical treatment given to the deceased may be the key issue at an inquest.

The second issue relates to the total inadequacy of the remedies available to a coroner where a person refuses to attend and give

evidence at an inquest. There is no power to seek a court order to enforce attendance and the penalty for non-attendance is five pounds.

The purpose of this Bill is to single out and address these two issues, in advance of the introduction and enactment of the eventual comprehensive legislation.

#### *Provisions of Bill*

*Section 1* sets out three amendments to the Coroners Act 1962. First, section 26(2), which limits the number of medical witnesses who can give evidence at an inquest, is repealed.

Second, section 37, which provides that a person who, having been duly served with a summons to attend an inquest as a juror or witness, fails to attend at the time and place specified in the summons is guilty of an offence and is liable on summary conviction to a fine not exceeding five pounds, is repealed.

Third, a new section is substituted for the existing section 38. The new section provides that a coroner may, for the purposes of his functions under the 1962 Act—

- summon witnesses to attend at an inquest,
- examine on oath (which the coroner is by this section authorised to administer) the witnesses attending at an inquest,
- require any such witness to produce to the inquest any document in his or her power or control.

It is provided that a witness appearing at an inquest is entitled to the same immunities and privileges as if he or she were a witness before the High Court. A summons must be signed by the coroner.

The section also provides that a person who—

- on being duly summoned to attend an inquest as a juror or a witness makes default in attending, or
- being in attendance as a witness refuses to take an oath legally required by the coroner to be taken, or to produce any document in his or her power or control legally required by the coroner to be produced by him or her, or to answer any question to which the coroner may legally require an answer, or
- does any other thing which, if the inquest were court proceedings and the coroner were a judge having power to commit for contempt of court, would be contempt of such court,

is guilty of an offence. The penalties are, on summary conviction, a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both and, on conviction on indictment, imprisonment for a term not exceeding two years or a fine (unlimited) or both.

*Section 2* provides a civil remedy as an alternative to criminal proceedings in cases where persons called to attend an inquest as witnesses refuse to do so. It provides that, where a person who—

- having been duly served with a summons to attend an inquest as a juror or witness, fails to attend at the time and place specified in the summons, or

- fails to comply with a requirement to produce a document or answer a question,

the High Court may, on application to it in a summary manner in that behalf by the coroner, order the person to comply with the summons or requirement and may make such other order as it considers necessary and just to enable the order to have full effect.

*Section 3* makes standard provision for the short title of the Bill and its collective citation and construction.

*An Teachta Pádraic Ó Coinín,  
Nollaig, 2005.*