



SEANAD ÉIREANN

**AN BILLE UM AN DLÍ SIBHIALTA (FORÁLACHA
ILGHNÉITHEACHA), 2011
CIVIL LAW (MISCELLANEOUS PROVISIONS) BILL 2011**

**LEASUITHE A RINNE AN DÁIL
AMENDMENTS MADE BY THE DÁIL**

SEANAD ÉIREANN

AN BILLE UM AN DLÍ SIBHIALTA (FORÁLACHA ILGHNÉITHEACHA),
2011

[*BILLE SEANAID ARNA LEASÚ AG AN DÁIL*]

CIVIL LAW (MISCELLANEOUS PROVISIONS) BILL 2011

[*SEANAD BILL AMENDED BY THE DÁIL*]

Leasuithe a rinne an Dáil
Amendments made by the Dáil

*The page and line references in this list of amendments are to the
text of the Bill as passed by Seanad Éireann.*

TITLE

1. In page 5, line 19, after “1964;” the following inserted:

“TO AMEND THE LAW RELATING TO TRIBUNALS OF INQUIRY;”.

SECTION 1

2. In page 6, subsection (5), line 1, “*sections 25 to 27*” deleted and the following substituted:

“*section 21* insofar as it refers to section 21 of the Equal Status Act 2000 and *sections 25 to 27*”.

3. In page 6, subsection (8), line 7, “1996 to 2002” deleted and “1996 and 2002” substituted.

4. In page 6, between lines 8 and 9, the following subsection inserted:

“(9) The Tribunals of Inquiry (Evidence) Acts 1921 to 2004 and *Part 15** may be cited together as the Tribunals of Inquiry (Evidence) Acts 1921 to 2011.”.

[**Note: This is a reference to the Part inserted by amendment 15.*]

5. In page 6, subsection (9), lines 9 to 10, all words from and including “This” in line 9 down to and including “or” in 10 deleted and the following substituted:

“*Sections 6, 12 and 29(g)* and *sections 47** to *53*** shall come into operation on such day or”.

[**Note: This is a reference to the section inserted by amendment 20.*]

[***Note: This is a reference to the section inserted by amendment 26.*]

SECTION 16

6. In page 14, before section 16 but in Part 4, the following new section inserted:

“Amendment of
Schedule 2 to Act of
2004.

16.—The Schedule 2 to the Act of 2004 is amended—

(a) in paragraph 14(1)—

[SECTION 16]

- (i) by the substitution of “An applicant for a licence or the holder of a licence aggrieved by a decision of the Authority—” for “A person aggrieved by a decision of the Authority—”, and
 - (ii) in clause (d), by the substitution of “to which a licence relates,” for “to which a licence relates, or”, and
 - (iii) by the deletion of clause (e),
- (b) in paragraph 14, by the substitution of the following for subparagraph (4):
- “(4) An appeal shall be grounded on the record of the decision to which the appeal relates, on the grounds of appeal contained in the notice of appeal and on any observations of the Authority given at the request of the Appeal Board on any other matter arising on the decision.”,
- (c) in paragraph 14(5) by the substitution of the following for clause (b):
- “(b) by remitting the matter back to the Authority with a recommendation that—
- (i) the licence be granted, renewed or restored, as the case may be,
 - (ii) that the reprimand, warning, caution or an advice be withdrawn, or
 - (iii) that the variation sought be granted,
- and the Authority shall give effect to any such recommendation.”,
- (d) in paragraph 15(1)(d), by the substitution of “and the reasons on which they are based” for “and the reasons, considerations and arguments on which they are based”,
- (e) in paragraph 15, by the substitution of the following for subparagraph (4):
- “(4) The Appeal Board shall not consider any documents submitted by an appellant in relation to an appeal other than those which accompanied the notice of appeal or which were furnished by the appellant in response to a request by the Appeal Board.”,
- (f) in paragraph 16(2)(b), by the substitution of “any report prepared for or received by the Authority” for “any report prepared for the Authority”,
- (g) by the deletion of paragraph 18,
- (h) in paragraph 19—
- (i) by the substitution of the following for subparagraph (1):
- “(1) A person who is not a party to an appeal may make a submission or observations in writing to the Appeal Board in relation to the Appeal where invited by the Appeal Board to do so.”,

[SECTION 16]

(ii) by the substitution of the following for subparagraph (2):

“(2) Such submission or observations may be made within one month of the issue of the invitation to do so by the Appeal Board and any such submission or observations received by the Appeal Board after the expiration of that period shall not be considered by it.”,

(i) by the deletion of paragraph 20,

(j) in paragraph 21—

(i) by the substitution of the following for subparagraph (1):

“(1) Sittings of the Appeal Board shall normally be heard in private and shall be conducted with the minimum formality consistent with the carrying out by the Appeal Board of its functions.”,

(ii) in subparagraph (2) by the deletion of “of its own motion or”,

(iii) by the substitution of the following for subparagraph (3):

“(3) The Appeal Board in conducting an oral hearing may by notice in writing require any person to attend at such time and place as is specified in the notice to give evidence in relation to any matter in issue at the hearing or to produce any relevant documents in his or her possession or under his or her control.”,

(iv) in subparagraph (4), by the substitution of “subparagraph (3)” for “subparagraph (3)(b)”,

(v) in subparagraph (6), by the substitution of the following for clause (c):

“(c) where the request is by the Authority, shall be made within the period of one month referred to in paragraph 17(1).”,

and

(k) in paragraph 22, by the substitution of “paragraph 21(3)” for “paragraph 21(3)(b)”.

SECTION 20

7. In page 17, line 12, “and” deleted.

8. In page 17, line 15 deleted and “a function under subsection (4)”, and” substituted.

9. In page 17, between lines 15 and 16, the following inserted:

“(c) in subsection (7), by the substitution of “under section 77 or 86, or under section 21 of the Equal Status Act 2000—” for “under section 77—”.

[SECTION 23]

SECTION 23

10. In page 18, line 20, “and” deleted.

11. In page 18, line 29, “the reference.” deleted and “the reference.”, and” substituted.

12. In page 18, between lines 29 and 30, the following inserted:

“(d) in subsection (6)(b), by the substitution of “subsection (3) or (3A)” for “subsection (3)”.”.

SECTION 25

13. In page 19, before section 25, the following new section inserted:

“Amendment of section 83 of Act of 1998.

25.—Section 83 of the Act of 1998 is amended, in subsection (5), by the substitution of “under section 79(3) or (3A)” for “under section 79(3)”.

SECTION 31

14. In page 31, lines 14 to 26, section 31 deleted, and the following new section substituted:

“Amendment of Irish Nationality and Citizenship Act 1956.

31.—The Irish Nationality and Citizenship Act 1956 is amended—

(a) in section 2, by the insertion of the following definition:

“ ‘civil partner’ means a civil partner within the meaning of section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;”

(b) in section 15 (amended by section 8 of the Irish Nationality and Citizenship Act 2004)—

(i) by the substitution of the following for subsection (1)(e):

“(e) has, before a judge of the District Court in open court, in a citizenship ceremony or in such manner as the Minister, for special reasons, allows—

(i) made a declaration, in the prescribed manner, of fidelity to the nation and loyalty to the State, and

(ii) undertaken to faithfully observe the laws of the State and to respect its democratic values.”

and

(ii) by the insertion of the following after subsection (3) (inserted by section 8 of the Irish Nationality and Citizenship Act 2004):

[SECTION 31]

“(4) In this section and section 15A, ‘citizenship ceremony’ means a ceremony, held before a judge, or a retired judge, of the District Court, Circuit Court, High Court or Supreme Court, or such other person as may be designated for that purpose by the Minister, at a place and in a form approved by the Minister, at which the applicant has made the declaration and undertaking referred to in subsection (1) (e) or section 15A(1)(h).”.

- (c) by the substitution of the following section for section 15A (amended by section 9 of the Irish Nationality and Citizenship Act 2004):

“15A.—(1) Notwithstanding the provisions of section 15, the Minister may, in his or her absolute discretion, grant an application for a certificate of naturalisation to the non-national spouse or civil partner of an Irish citizen if satisfied that the applicant—

- (a) is of full age,
- (b) is of good character,
- (c) and that citizen—
 - (i) are married to each other, have been married to each other for a period of not less than 3 years, and are living together, as attested to by affidavit submitted by the citizen to the Minister in the prescribed form, or
 - (ii) are civil partners of each other, have been civil partners of each other for a period of not less than 3 years, and are living together, as attested to by affidavit submitted by the citizen to the Minister in the prescribed form,
- (d) is, in the case of a spouse, in a marriage recognised under the laws of the State as subsisting,
- (e) had, immediately before the date of the application, a period of one year’s continuous residence in the island of Ireland,
- (f) had, during the 4 years immediately preceding that period, a total residence in the island of Ireland amounting to 2 years,
- (g) intends in good faith to continue to reside in the island of Ireland after naturalisation, and
- (h) has, before a judge of the District Court in open court, in a citizenship ceremony or in such manner as the Minister, for special reasons, allows—
 - (i) made a declaration, in the prescribed manner, of fidelity to the nation and loyalty to the State, and
 - (ii) undertaken to faithfully observe the laws of the State and to respect its democratic values.

[SECTION 31]

(2) The Minister may, in his or her absolute discretion, waive the conditions at paragraph (c), (e), (f) or (g) of subsection (1) or any of them if satisfied that the applicant would suffer serious consequences in respect of his or her bodily integrity or liberty if not granted Irish citizenship.

(3) Paragraph (g) of subsection (1) shall not apply to an applicant for a certificate of naturalisation to whom subsection (4) applies.

(4) Any period of residence outside the island of Ireland, during which

—
(a) the applicant for a certificate of naturalisation to which this section applies was—

(i) married to and living with his or her spouse, or

(ii) in a civil partnership with and living with his or her civil partner,

and

(b) the applicant's spouse or, as the case may be, civil partner was in the public service,

shall be reckoned as a period of residence in the island of Ireland for the purposes of calculating—

(i) continuous residence under paragraph (e) of subsection (1), or

(ii) total residence under paragraph (f) of that subsection.”,

(d) in section 16 (amended by section 10 of the Irish Nationality and Citizenship Act 2004)—

(i) by the insertion in subsection (2)(a) of “, or is the civil partner of,” after “related by blood, affinity or adoption to”, and

(ii) by the insertion in subsection (2)(b) of “, or was the civil partner of,” after “related by blood, affinity or adoption to”,

(e) by the substitution of the following section for section 17 (amended by section 12 of the Irish Nationality and Citizenship Act 2004):

“17.—An application for a certificate of naturalisation shall be—

(a) in the prescribed form, and

(b) accompanied by—

(i) such fee (if any) as may be prescribed, and

(ii) such evidence (including statutory declarations) to vouch the application as the Minister may require.”,

(f) in section 19(1)(e), by the substitution for “act other than marriage” of “act, other than marriage or entry into a civil partnership,”,

(g) by the substitution of the following section for section 20:

[SECTION 31]

“Acquisition of citizenship by person who is married or a civil partner. 20.—Acquisition of Irish citizenship by a person shall not of itself confer Irish citizenship on his or her spouse or civil partner.”,

(h) by the substitution of the following section for section 22:

“Non-effect of death or loss of citizenship on person’s spouse, civil partner or children. 22.—(1) The death of an Irish citizen shall not affect the citizenship of his or her surviving spouse, civil partner or children.

(2) Loss of Irish citizenship by a person shall not of itself affect the citizenship of his or her spouse, civil partner or children.”,

and

(i) by the substitution of the following section for section 23 (amended by section 8 of the Irish Nationality and Citizenship Act 2001):

“Marriage or civil partnership not to effect loss of citizenship. 23.—A person who marries, or enters into a civil partnership with, a non-national shall not, merely by virtue of the marriage or civil partnership, cease to be an Irish citizen, whether or not he or she acquires the nationality of the non-national.”.

SECTION 42

15. In page 37, before section 42, the following new section inserted:

“PART 15*

TRIBUNALS OF INQUIRY

Interpretation (*Part 15**).

42.—In this Part—

“relevant material”, in relation to a tribunal, means all material which is evidence received by, or a document created by or for, the tribunal whatsoever (including any document which is incomplete or in draft form only);

“responsible Minister”, in relation to a tribunal, means the Minister of the Government to whom the appropriation-in-aid was granted out of which the expenses of the tribunal are paid;

“tribunal” means a tribunal to which the Tribunals of Inquiry (Evidence) Act 1921 is applied under section 1 of that Act.”.

[*Note: *The proposed new Part comprehended the inclusion of amendments 15 to 19.*]

16. In page 37, before section 42, the following new section inserted:

“Application of *Part 15**.

43.—This Part applies to a tribunal irrespective of whether the tribunal is appointed before, on or after the enactment of this Part.”.

[*Note: *This is a reference to the Part inserted by amendment 15.*]

[SECTION 42]

17. In page 37, before section 42, the following new section inserted:

“Deposition of relevant material following completion of inquiry, etc.

44.—(1) Where a tribunal has completed its inquiry or has indicated to the responsible Minister that it is about to complete its inquiry, the responsible Minister shall, as soon as it is practicable for him or her to do so and subject to the consent of the Minister for Finance, by notice in writing given to the chairman of the tribunal, require the chairman to deposit the relevant material—

(a) with such person who is, or at such place which is, specified in the notice, and

(b) within the period specified in the notice for the purpose.

(2) For the purposes of assisting the chairman of a tribunal to perform his or her functions under *subsection (4) or (5)* in a manner that is as efficient, effective and expeditious as is practicable, the responsible Minister may set out in a notice under *subsection (1)* guidelines in respect of the performance of those functions by the chairman.

(3) Subject to *subsection (5)*, the chairman of a tribunal shall comply with the requirements of a notice under *subsection (1)* (including any guidelines set out in the notice) given to the chairman in respect of the relevant material.

(4) The chairman of a tribunal may, in the course of complying with the requirements of a notice under *subsection (1)* given to the chairman in respect of the relevant material, and after having regard to *section 45**, cause that material to be accompanied by his or her—

(a) opinion in writing as to which parts of that material, if any, need, in particular, to be considered for the purposes of *section 45(2)**, and

(b) reasons in writing for holding the opinion referred to in *paragraph (a)*.

(5) Subject to *subsection (6)*, the chairman of a tribunal to whom a notice under *subsection (1)* has been given in respect of the relevant material may, with the consent of the responsible Minister, return any part of that material to the person who gave the part concerned to the tribunal if—

(a) the chairman is satisfied that—

(i) the retention of the part concerned is not necessary in order to understand any of the following:

(I) any of the proceedings of the tribunal;

(II) any interim report of the tribunal;

(III) the final report of the tribunal;

and

(ii) the part has little, if any, historical worth or relevance to either—

(I) the matter that the tribunal was established to inquire into, or

(II) the findings of the tribunal,

and

[SECTION 42]

(b) the chairman—

- (i) has prepared a record which gives a general description of the part of the relevant material concerned, specifies the name and address of the person to whom the part is to be returned and specifies the basis or bases on which the chairman is, in respect of that part, satisfied as described in paragraph (a), and
- (ii) ensures that such record accompanies the relevant material which is not returned to any person pursuant to this subsection.

(6) Where the chairman of a tribunal would, pursuant to *subsection (5)*, return a part of the relevant material to the person who gave the part concerned to the tribunal but for the fact that—

- (a) the person has declined to accept the return of the part, or
- (b) the whereabouts of the person cannot be reasonably ascertained,

then—

- (i) the chairman may, with the consent of the responsible Minister, cause the part to be disposed of in such manner as the chairman thinks proper, and
- (ii) the chairman shall—
 - (I) prepare a record which gives a general description of the part, specifies the name and address of the person who has declined to accept the return of the part (if *paragraph (a)* is applicable), specifies the name of the person to whom it is sought to return the part but whose whereabouts cannot be reasonably ascertained (if *paragraph (b)* is applicable), specifies the basis or bases on which the chairman is, in respect of that part, satisfied as described in *paragraph (a)* of *subsection (5)* and specifies the manner of disposal of the part, and
 - (II) ensure that such record accompanies the relevant material which is not returned to any person pursuant to *subsection (5)* or otherwise disposed of pursuant to this subsection.

(7) Where a tribunal has ceased to be seized of the relevant material (whether pursuant to the provisions of this section or otherwise), nothing in this section shall be construed to prevent the responsible Minister, or another Minister of the Government for the time being responsible for the storage of the material, from causing the material to be deposited from time to time with such person, or at such place, as the responsible Minister, or that other Minister of the Government, as the case may be, thinks proper.”.

[*Note: This is a reference to the section inserted by amendment 18.]

18. In page 37, before section 42, the following new section inserted:

[SECTION 42]

“Availability of relevant material for inspection by public under National Archives Act 1986.

45.—(1) Any relevant material of a tribunal (other than any part of such relevant material which falls within *section 44(5)** or *(6)**) that constitutes Departmental records within the meaning of section 2(2) of the National Archives Act 1986 is, on the expiry of 30 years after the date of the dissolution of the tribunal, deemed to have been prescribed under section 8(11) of that Act as a class of records to which a certificate granted under section 8(4) of that Act may relate.

(2) As soon as is practicable after the date on which any relevant material of a tribunal is deemed to have been prescribed as described in *subsection (1)*, an officer of a Department of State authorised for the purposes of section 8(4) of the National Archives Act 1986 shall consider whether, after having regard to any opinion and reasons referred to in *section 44(4)** that the chairman of the tribunal caused to accompany the material and subject to any consent required under that section 8(4), the material, or specified parts of it, should be certified under that section 8(4).

(3) Subject to *subsections (1) and (2)*, the National Archives Act 1986 applies to any relevant material of a tribunal (other than any part of such relevant material which falls within *section 44(5)** or *(6)**) that constitutes Departmental records within the meaning of section 2(2) of that Act.”

[*Note: This is a reference to the section inserted by amendment 17.]

19. In page 37, before section 42, the following new section inserted:

“Restriction of Freedom of Information Acts 1997 and 2003.

46.—(1) The Freedom of Information Acts 1997 and 2003 do not apply to a record relating to the inquiry into any matter by a tribunal unless—

- (a) the record was created before the appointment of the tribunal, or
- (b) the record relates to the expenses of the tribunal or other matters concerning the general administration of the tribunal.

(2) *Subsection (1)* applies whether the record concerned is—

- (a) held by the tribunal, or
- (b) deposited with a person, or at a place, in compliance with the requirements of a notice under *section 44(1)** given to the chairman or former chairman, as the case may be, of the tribunal.

(3) In this section, “record” has the same meaning as in the Freedom of Information Acts 1997 and 2003.”

[*Note: This is a reference to the section inserted by amendment 17.]

20. In page 37, before section 42, the following new section inserted:

“PART 16*

FAMILY MEDIATION SERVICES

Definitions (*Part 16**).

47.—In this Part—

“Agency” means the Family Support Agency;

“Board” means the Legal Aid Board;

[SECTION 42]

“family mediation services” has the same meaning as it has in the Civil Legal Aid Act 1995 (inserted by section 52** of this Act).”.

[*Note: The proposed new Part comprehended the inclusion of amendments 47 to 51.]

[**Note: This is a reference to the section inserted by amendment x.]

21. In page 37, before section 42, the following new section inserted:

“Transfer of functions relating to family mediation services from Agency to Board.

48.—On the coming into operation of this section the functions of the Agency relating to family mediation services shall be transferred to and be a function of the Board.”.

22. In page 37, before section 42, the following new section inserted:

“Transfer of certain property.

49.—(1) The Agency shall, as soon as practicable following receipt by it of a direction from the Minister for Children and Youth Affairs in that regard, transfer such land as may be specified in that direction to the Board.

(2) A direction referred to in subsection (1) shall be made with the consent of the Minister and the Minister for Public Expenditure and Reform.”.

23. In page 37, before section 42, the following new section inserted:

“Transfer of certain rights and liabilities.

50.—(1) The Agency shall, as soon as practicable following receipt by it of a direction from the Minister for Children and Youth Affairs in that regard, transfer such rights and liabilities as may be specified in that direction to the Board.

(2) A direction referred to in subsection (1) may be made by reference to a class or classes of rights or liabilities.

(3) A direction referred to in subsection (1) shall be made with the consent of the Minister and the Minister for Public Expenditure and Reform.

(4) In the event of any doubt arising as to whether a right or obligation stands transferred to the Board in accordance with this section, the Minister for Public Expenditure and Reform may issue a determination as respects any such right or liability and such determination shall be admissible as evidence in any proceedings relating to the right or liability concerned.

(5) Every right or liability transferred to the Board pursuant to this section may, on and after such transfer, be sued on, recovered or enforced by or against the Board in its own name.”.

24. In page 37, before section 42, the following new section inserted:

“Transfer of officers and staff.

51.—(1) Subject to the provisions of this section, such officers and members of the staff of the Agency who are designated by the Minister for the purposes of this section shall stand transferred to the Board on such day as may be specified for the purpose by the Minister.

(2) The designation of staff and the specifying of a day in accordance with subsection (1) shall be made with the consent of the Minister for Children and Youth Affairs and the Minister for Public Expenditure and Reform.

[SECTION 42]

(3) (a) Subject to paragraph (b) every person who, immediately before he or she was transferred to the Board in accordance with *subsection (1)*, was an officer of the Agency shall, on such transfer, be an officer of the Board and hold an unestablished position in the Civil Service.

(b) Every person who, immediately before he or she was transferred to the Board in accordance with *subsection (1)*, was a fixed-term employee of the Agency shall, on such transfer, hold an unestablished position as a fixed-term employee of the Board for the unexpired duration of his or her contract of employment.

(4) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person referred to in *subsection (1)* shall not, on being transferred to the Board, be made subject to less beneficial terms and conditions of service (including those relating to tenure of office) or of remuneration than the terms and conditions of service (including those relating to tenure of office) or of remuneration to which he or she was subject immediately before that transfer.

(5) The previous service of a person transferred under *subsection (1)* shall be reckonable for the purposes of, but subject to the exceptions or exclusions in, the following:

- (a) the Redundancy Payments Acts 1967 to 2007;
- (b) the Protection of Employees (Part-Time Work) Act 2001;
- (c) the Protection of Employees (Fixed-Term Work) Act 2003;
- (d) the Organisation of Working Time Act 1997;
- (e) the Terms of Employment (Information) Acts 1994 and 2001;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- (g) the Unfair Dismissals Acts 1977 to 2007;
- (h) the Maternity Protection Acts 1994 and 2004;
- (i) the Parental Leave Acts 1998 and 2006;
- (j) the Adoptive Leave Acts 1995 and 2005;
- (k) the Carer's Leave Act 2001.

(6) Any superannuation benefits awarded to or in respect of a person transferred under *subsection (1)*, and the terms and conditions relating to those benefits, shall be no less favourable than those applicable to or in respect of the person immediately before the transfer.

(7) In this section—

“Civil Service” has the same meaning as in the Civil Service Regulations Act 1956;

“recognised trade union or staff association” means a trade union or staff association recognised by the Agency or the Board for the purposes of negotiations which are concerned with the remuneration, conditions of employment or working conditions of the persons concerned.”

[SECTION 42]

25. In page 37, before section 42, the following new section inserted:

“Amendment of Civil Legal Aid Act 1995. 52.—With effect from the coming into operation of *section 48** of the *Civil Law (Miscellaneous Provisions) Act 2011*, the Civil Legal Aid Act 1995 is amended:

(a) in section 1, by the insertion of the following definition:

“ ‘family mediation services’ means services designed to assist persons involved in the process of seeking—

- (i) a separation,
- (ii) a divorce,
- (iii) a dissolution of a civil partnership,
- (iv) payment of maintenance,
- (v) an order of a court or an agreement relating to guardianship or custody of a child, or to parental access to a child,

to reach agreement relating to some or all of such matters as relate to the persons concerned;”

(b) in section 5, by the substitution of the following for subsection (1):

“(1) The principal functions of the Board shall be:

- (a) to provide, within the Board’s resources and subject to the other provisions of this Act—
 - (i) legal aid and advice in civil cases to persons who satisfy the requirements of this Act, and
 - (ii) a family mediation service;
- (b) where the Board considers it necessary or expedient to do so to make arrangements for the provision of—
 - (i) family mediation services on its behalf by the engagement of persons appointed by it for that purpose, and
 - (ii) training in family mediation, either by itself or by persons appointed by it for that purpose.”

(c) by the insertion, after section 11, of the following section:

“Appointment of persons to provide family mediation services or training in relation to such services. 11A.—(1) The Board may appoint persons who it considers to be qualified by reason of training and experience, to provide family mediation services on its behalf or to provide training in family mediation.

(2) A person appointed pursuant to subsection (1) shall not be an officer or member of the staff of the Board.

(3) A person appointed by the Board pursuant to subsection (1) shall be appointed subject to such terms and conditions as may be determined by the Minister and the Minister for Public Expenditure and Reform.

(4) Subsection (2) shall not be construed as preventing the Board appointing a person as an officer or member of the staff of the Board in relation to the provision of a family mediation service by the Board.”,

(d) by the insertion, after section 36, of the following sections:

“Confidentiality of information disclosed in course of family mediation.

36A.—(1) Any communication (including any record of such communication) between any of the parties to a family mediation provided by the Board or provided by other persons appointed for that purpose by the Board under this Act, and a third party, including a mediator, for the purposes of attempting to reach agreement relating to such of the following matters as relate to the parties to the mediation—

- (a) a separation,
- (b) a divorce,
- (c) a dissolution of a civil partnership,
- (d) payment of maintenance,
- (e) an order of a court or an agreement relating to guardianship or custody of a child, or to parental access to a child,

shall not be disclosed and shall not be admissible as evidence in any court.

(2) Subsection (1) is in addition to and not in substitution for any other statutory provision.

(3) Nothing in this section shall prevent a party who is engaged in or who engaged in a family mediation communicating the progress made in that mediation to his or her solicitor and obtaining legal advice in relation to the matters the subject of the mediation.

Guidelines relating to confidentiality of family mediation.

36B.—(1) The Board shall, with the consent of the Minister, make guidelines with the objective of preventing the disclosure of communications referred to in section 36A.

(2) Guidelines made under subsection (1) shall include provisions relating to—

- (a) the utilisation of premises for the purposes of family mediation services other than the premises where the solicitor of the Board is usually located who is acting for a person who has been issued with a legal aid certificate under section 29 and who is a party to a family mediation provided by the Board or a person appointed by it, and

[SECTION 42]

(b) the regular training of staff and officers of the Board and of persons appointed by the Board to provide family mediation services regarding the need to maintain confidentiality of communications made in connection with a family mediation.”,

and

(e) in section 37—

(i) by the insertion in subsection (2), after paragraph (f), of the following paragraphs:

“(fa) make provision as to the conditions relating to the provision of family mediation services by the Board;

(fb) prescribe fees or charges which may be charged by the Board in relation to the provision of family mediation services, which regulations may prescribe different fees or charges in relation to different classes of persons or different classes of cases;”

and

(ii) by the insertion after subsection (2) of the following subsection:

“(3) Regulations made pursuant to subsection (2)(fb) shall not prescribe fees or charges in relation to the provision of family mediation services where the parties to the mediation had agreed to enter such mediation before the coming into operation of *section 48** of the *Civil Law (Miscellaneous Provisions) Act 2011*.”.

[*Note: This is a reference to the section inserted by amendment 21.]

26. In page 37, before section 42, the following new section inserted:

“Amendment of
Family Support
Agency Act 2001.

53.—Section 4 of the Family Support Agency Act 2001 is amended—

(a) in subsection (1), by the deletion of paragraphs (a) and (b), and

(b) in subsection (2), by the deletion of paragraph (a).”.

SECTION 42

27. In page 38, line 8 deleted and the following substituted:

“(f) Regulation (EC) No. 392/2009;

(g) Part III of the Merchant Shipping (Liability of Shipowners and Others) Act 1996;

insofar as those statutory provisions are in force and insofar as those conventions and regulations are applicable to or in the State.”.

[SECTION 43]

SECTION 43

28. In page 39, before section 43, the following new section inserted:

“Amendment of section 40 of Commissions of Investigation Act 2004.

43.—Section 40 of the Commissions of Investigation Act 2004 is amended—

- (a) in subsection (1) by the substitution of “and 2003” for “to 2003”, and
- (b) in subsection (3) by the substitution of “and 2003” for “to 2003”.”.

SECTION 46

29. In page 40, before section 46, the following new section inserted:

“Amendment of Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

46.—The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 is amended—

- (a) in section 34(3) by the substitution of “a class D fine” for “a fine not exceeding €127”,
- (b) in section 39(2)(a) by the substitution of “a class C fine” for “a fine not exceeding €254”,
- (c) in section 63—
 - (i) in subsection (2) by the substitution of “a class C fine” for “a fine not exceeding €254”, and
 - (ii) in subsection (3) by the substitution of “a class E fine” for “a fine not exceeding €63”,
- (d) in section 186—
 - (i) in subsection (2) by the substitution of “a class C fine” for “a fine not exceeding €254”, and
 - (ii) in subsection (3) by the substitution of “a class E fine” for “a fine not exceeding €63”,and
- (e) in section 197 by the substitution of “a class C fine” for “a fine not exceeding €254”.”.

SECTION 47

30. In page 40, before section 47, the following new section inserted:

“Amendment of section 8 of Enforcement of Court Orders Act 1940.

47.—The Enforcement of Court Orders Act 1940 is amended by the substitution of the following for section 8:

[SECTION 47]

“Enforcement of certain orders for periodical payments.

8.—(1) Where a monetary amount payable by virtue of an antecedent order within the meaning of the Family Law (Maintenance of Spouses and Children) Act 1976 is not duly paid, the person entitled to the payments (in this section referred to as the applicant) may apply to the relevant District Court clerk for the issue of a summons directed to the person by whom such amounts are payable (in this section referred to as the defaulter) requiring the defaulter to attend before the District Court at a time and date specified in the summons for the purpose of giving evidence to the court as to his or her means and assets and on the hearing of such summons such person may be examined on oath by or on behalf of the applicant.

(2) Having heard evidence as to the amount outstanding on foot of such order and having heard evidence as to the means and assets of the defaulter, the District Court Judge may make such order as to the payment, collection or recovery of the amounts outstanding under such order as to the Judge seems fair and reasonable including one or more than one of the following:

- (a) where the Judge is satisfied that there are monies due and owing by any other person to the defaulter, an order directing such other person to pay the monies concerned to the relevant District Court clerk to the extent of the amount outstanding to the applicant on foot of the order referred to in subsection (1) and which is specified in the order together with the costs of the application under this section,
- (b) where the Judge is satisfied that there are monies which will become due or may become due by any other person to the defaulter, an order directing such other person to pay any such monies to the relevant District Court clerk to the extent of the amount outstanding to the applicant on foot of the order referred to in subsection (1) and which is specified in the order together with the costs of the application under this section,
- (c) where the Judge is satisfied that it would be effective to do so, an order that the amounts outstanding to the applicant referred to in subsection (1) be levied by distress against the goods of the defaulter and the sale of such goods and for the transmission to the relevant District Court clerk of the proceeds of sale after payment of all costs and expenses properly arising in connection with the levying of distress and the sale of the goods.

(3) Every distress and sale made in pursuance of an order of the District Court Judge under this section shall be carried out by the appropriate under-sheriff.

(4) All moneys received by the relevant District Court clerk shall be paid as soon as practicable after receipt to the applicant.

[SECTION 47]

(5) In this section “relevant District Court clerk” means the District Court clerk for the District Court area in which the defaulter resides or carries on any profession, business or occupation, unless by virtue of any other enactment relating to the antecedent order concerned any other District Court clerk is the relevant District Court clerk as respects that antecedent order.”.

31. In page 40, before section 47, the following new section inserted:

“Amendment of
Courts of Justice
Act 1936.

48.—The Courts of Justice Act 1936 is amended—

(a) by the substitution of the following for section 32:

“Appeal Towns. 32.—Each city and town specified in the Second Schedule to this Act shall be an appeal town for the purposes of this Part of this Act.”.

(b) by the substitution of the following for section 34:

“The High
Court on
Circuit.

34.—(1) Subject to subsections (6), (7) and (8), the High Court shall, not less than once in every year, at such times as shall be determined by the President of the High Court, sit in the appeal towns referred to in subsection (2) for the purposes mentioned in that subsection and to transact such other business as shall lawfully be brought before it.

(2) Subject to subsections (6), (7) and (8) the President of the High Court shall designate the appeal towns in which the High Court shall sit in accordance with subsection (1) to hear appeals from the Circuit Court.

(3) For the purposes of this section, one or more judges of the High Court shall hold sittings of the High Court in the appeal towns referred to in subsection (2) where their attendance is required as determined by the President of the High Court.

(4) The High Court when sitting in an appeal town in accordance with this section shall be known and is in this Act referred to as the High Court on Circuit, and the sittings of the High Court in any such appeal town in accordance with this section shall be known and are in this Act referred to as sittings of the High Court on Circuit.

(5) The President of the High Court shall determine, in respect of each sitting of the High Court on Circuit, the number of judges who shall sit for the purposes of the High Court on Circuit and the day and hour at which such sittings shall commence in an appeal town on each such Circuit.

(6) Where in respect of any sitting of the High Court on Circuit, the judge (or if more than one judge shall be sitting, the senior of the judges) who shall be sitting ascertains that there is no business to be transacted at such sittings in any particular appeal town, that judge may direct in writing that it shall not be obligatory to hold such sitting in that appeal town.

[SECTION 47]

(7) Where the President of the High Court determines that the effective discharge of the business of the High Court so requires, he or she may direct that no sitting of the High Court on Circuit shall be held in a particular appeal town in a particular year.

(8) Where the President of the High Court gives a direction in accordance with subsection (7), appeals from the Circuit Court which would, but for such direction, be due for hearing in the appeal town concerned, shall be heard at—

(a) a sitting of the High Court on Circuit in such other appeal town as the President of the High Court may designate, or

(b) the High Court sitting in Dublin,

as the President of the High Court may direct.

(9) Where the President of the High Court gives a direction under this section he or she shall make arrangements for the direction to be sent to the county registrar for the county in which any appeal town so affected is situate.”

(c) by the substitution of the following for section 35:

“The judges of the High Court on Circuit.

35.—(1) The President of the High Court shall, if and when he or she thinks proper, travel and sit as a judge of the High Court on Circuit, and every other judge of the High Court shall travel and sit as a judge of the High Court when requested by the President of the High Court to do so.

(2) The Chief Justice shall, if and when he or she thinks proper, travel and sit as a judge of the High Court on Circuit, and every other judge of the Supreme Court shall travel and sit as a judge of the High Court on Circuit when requested by the Chief Justice to do so, and every such other judge when so travelling and sitting shall be an additional judge of the High Court.

(3) The President of the High Court after such consultations as he or she thinks proper with the judges concerned, shall determine, in respect of every sitting of the High Court on Circuit, the several judges of the High Court who shall be requested to travel and sit for the purposes of such sittings and the particular judge or judges who shall so travel and sit on each High Court Circuit, and the President of the High Court may alter or vary any such determination.

(4) The Chief Justice after such consultations as he or she thinks proper with the judges concerned, shall determine, in respect of every sitting of the High Court on Circuit, the several judges of the Supreme Court who shall be requested to travel and sit for the purposes of such sittings and the particular judge or judges who shall so travel and sit on each High Court Circuit, and the Chief Justice may alter or vary any such determination.”

[SECTION 47]

(d) by the repeal of section 36,

(e) in section 38 by the substitution of the following for paragraph (b) of subsection (1):

“(b) in every other case—

(i) subject to subparagraph (ii), to the High Court on Circuit sitting in the appeal town designated for the appeal in accordance with section 34(2),

(ii) where a direction has been given pursuant to section 34(7) in respect of the appeal town in which the appeal, but for such direction, would have been heard, to the High Court on Circuit sitting in such other appeal town, or to the High Court sitting in Dublin, as the case may be, as directed in accordance with section 34(8),

(iii) in subsection (4) by the substitution of “to any other appeal town or to Dublin” for “or to any other appeal town on the same circuit or to Dublin”, and

(iv) in subsection (5)(a) by the substitution of “in another appeal town” for “in another appeal town in the same circuit”,

(f) by the substitution of the matter in the Schedule to this Act for the Second Schedule to that Act. ”.

NEW SECTIONS

32. In page 41, after line 25, the following new section inserted:

“Amendment of section 65 of Courts of Justice Act 1936.

48.—Section 65 (as amended by section 9 of the Civil Law (Miscellaneous Provisions) Act 2008) of the Courts of Justice Act 1936 is amended by the insertion of the following subsections after subsection (1):

“(1A) In prescribing fees under paragraph (a) of subsection (1) the Minister may—

(a) prescribe different fees in respect of different offices referred to in that paragraph and in respect of different services provided by those offices, and

(b) have regard to all or any of the expenditure referred to in subsection (1B) so that so much of that expenditure as the Minister considers reasonable is recovered from those fees.

(1B) The expenditure referred to in subsection (1A)(b) is the expenditure incurred or, as the case may be, reasonably anticipated to be incurred, by the offices referred to in subsection (1)(a) or the Courts Service in the:

(a) establishment, maintenance and operation of those offices or courts;

(b) transaction by those offices, or the courts to which they relate, of the business they are required to transact;

[*NEW SECTIONS*]

(c) provision of services and facilities to users of those offices or courts.”.”.

SCHEDULE

33. In page 41, after line 25, the following new schedule inserted:

Section 56.

“SCHEDULE

“SECOND SCHEDULE

Appeal Towns

Carlow
Carrick-on-Shannon
Castlebar
Cavan
Clonmel
Cork
Dundalk
Ennis
Galway
Kilkenny
Letterkenny
Limerick
Longford
Monaghan
Mullingar
Naas
Nenagh
Portlaoise
Roscommon
Sligo
Tralee
Trim
Tullamore
Waterford

[*SCHEDULE*]

Wexford

Wicklow

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