



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

EXPLANATORY AND FINANCIAL MEMORANDUM

Background to and purpose of the Bill

The Bill provides for amendments to provisions across the range of civil and regulatory law. The main provisions of the Bill include:

- amendment of the Civil Legal Aid Act 1995 to allow the Legal Aid Board to give legal advice in relation to criminal matters to alleged victims of human trafficking (Part 2),
- to amend the law relating to civil liability for acts of good samaritans and volunteers (Part 3),
- strengthening of the provisions of the Private Security Services Act 2004 in regard to licensing, enforcement and the collection of fees (Part 4),
- support for codes of practice on the sale of alcohol (Part 5),
- amendments of the Equality Acts to improve, *inter-alia*, the procedures of the Equality Tribunal (Part 6),
- amendments to the Bankruptcy Act 1988 to allow for application for a reduction in the discharge period from bankruptcy from 12 years to 5 years and to provide for automatic discharge of bankruptcies existing for 12 years or more (Part 7),
- amendment of the Family Law (Maintenance of Spouses and Children) Act 1976 to strengthen the existing provisions for the enforcement of family law maintenance orders (Part 8),
- amendment of the Coroners Act 1962 to provide for the amalgamation of districts in Dublin and other administrative matters (Part 9),
- amendment to citizenship law (Part 10),
- amendments to immigration law (Part 11),

- amendments to the Land and Conveyancing Law Reform Act 2009 (Part 12),
- amendments to the Registration of Title Act 1964 (Part 13),
- amendments with regard to qualifications and appointment of Taxing-Masters (Part 14),
- miscellaneous amendments including amendment of the Domestic Violence Act 1996, the Personal Injuries Assessment Board Act 2003, the Official Languages Act 2003 and the Courts and Court Officers Act 1995 (Part 15).

Contents of Bill

The Bill contains 15 Parts. The following paragraphs contain a brief description and an outline of the principal reforms proposed in each Part.

Part 1

Preliminary and general

Section 1 (Short title, collective citations, construction and commencement) and *Section 2 (Interpretation)* are standard provisions regarding the interpretation and commencement of the Bill.

Part 2

Civil Legal Aid

This Part proposes important technical amendments to section 26 of the Civil Legal Aid Act 1995 to permit the Legal Aid Board provide legal advice in relation to criminal matters to victims or alleged victims of trafficking in respect of any matters that arise for the person under the Criminal Law (Human Trafficking) Act 2008 or in respect of offences under other legislation committed in the course of, or in connection with, the human trafficking offence, e.g. rape, false imprisonment, breaches of immigration law or of employment legislation.

Section 3 (Amendment of section 26 of Civil Legal Aid Act 1995).

Section 3(a) — Legal Advice — provides that the Legal Aid Board will grant legal advice to a person who is an alleged victim of a human trafficking offence in relation to—

- (i) any matter related to the commission of the human trafficking offence and
- (ii) any related offences committed in connection with the human trafficking offence and
- (iii) any matter related to the prosecution of these offences.

This section gives effect to the relevant provisions in relation to the provision of legal advice in the Council of Europe Convention on Action Against Trafficking in Human Beings, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime and the Directive of the European Parliament and of the Council on

preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA. It will support, on a legislative basis, Ireland's, ratification of the Council of Europe Convention and UN Protocol and the transposition of the EU Directive. The UN Protocol came into effect in Ireland on 16 July, 2010, the Council of Europe Convention came into effect on 1 November, 2010 and the EU Directive entered into force on 5 April, 2011.

Section 3(b) — Definition. “Human trafficking offence” is defined as the trafficking of a child or adult for the purposes of sexual or labour exploitation or for the removal of body organs or the selling or purchasing of a person or causing or attempting any of these actions, (Sections 2, 3, 4 of the Criminal Law (Human Trafficking) Act 2008 and Section 3 of the Child Trafficking and Pornography Act 1998). The definition also includes an offence of soliciting or importuning a trafficked person for the purposes of prostitution (Section 5 of the Criminal Law (Human Trafficking) Act 2008). A “human trafficking offence” may be committed by a body corporate (Section 6 of the Criminal Law (Human Trafficking) Act 2008) and is subject to extra territorial jurisdiction, (Section 7 of the Criminal Law (Human Trafficking) Act 2008). The “human trafficking offence” definition also covers provisions relating to the anonymity of victims of trafficking at Section 11 of the Criminal Law (Human Trafficking) Act 2008.

Part 3

Good Samaritans, etc.

This Part addresses recommendations of the Law Reform Commission to place the civil liability of “good samaritans”, volunteers and volunteer organisations on a statutory footing and to provide legal clarity for persons who assist in an accident or emergency and those who engage in voluntary work for the benefit of society.

Section 4 (Liability for negligence of good samaritans, volunteers and volunteer organisations) inserts a new Part IVA (sections 51A to 51G) into the Civil Liability Act 1961 to provide for the civil liability of good samaritans, volunteers and volunteer organisations.

Section 51A provides for the interpretation of key terms in this Part. Subsection (1) includes a definition of a “good samaritan”, as a person who provides assistance, advice or care to another person in an emergency and without expectation of payment or other reward. “Voluntary work” means work done for a charitable purpose; or for the purpose of providing assistance, advice or care during or in prevention of an emergency; or for the purpose of sport or recreation. A “volunteer” is a person who does work authorised by a volunteer organisation, with no expectation of payment other than reimbursement for expenses. A “volunteer organisation” is a body formed not for profit, whose purpose includes, but is not confined to, the doing of voluntary work. Subsection (2) provides a definition of “assistance, advice or care” which includes, but is not limited to, the administration of first-aid; the use of an automated external defibrillator (AED); and the transportation of persons from the scene of an emergency to a medical facility.

Section 51B provides that the provisions in this Part will apply only to causes of action accruing after the commencement of the Part.

Section 51C provides that the provisions in this Part are not applicable to the negligent use of a mechanically propelled vehicle

in a public place within the meaning of the Road Traffic Act 1961 to the effect that this liability will continue to be covered by motor insurance.

Section 51D provides for the protection of persons acting as good samaritans from personal liability for negligence in giving assistance, advice or care (subsection (1)). Persons who are the cause of an emergency may be considered good samaritans where they offer assistance, advice or care thereafter (subsection (2)). Persons who act in bad faith or with gross negligence, as well as persons with an existing duty of care, are excluded from legal protection from liability (subsection (3)).

Section 51E provides for the protection of persons carrying out voluntary work from personal liability for negligence (subsection (1)). Protection from liability is not available to those who act in bad faith or with gross negligence or to those who act outside the scope of the work authorised by the volunteer organisation or contrary to the instructions of the volunteer organisation concerned (subsection (2)). A volunteer organisation is prevented from gaining the protection of an indemnity given by a volunteer against a liability it might otherwise incur as a result of the negligent actions of its volunteers (subsection (3)).

Section 51F provides that the protections made available in this Bill are additional to any protections existing in common or statutory law.

Section 51G provides that while the Bill sets out an ordinary standard of care for volunteer organisations, the courts shall take into account the benefits accruing to society as a result of the organisation's work in determining whether it is just and reasonable to find that the organisation owes a duty of care.

Part 4

Private Security Services

This Part proposes a number of technical amendments to the Private Security Services Act 2004 which will improve certain financial, licensing and enforcement functions relating to the Private Security Authority.

Section 5 (Definition — Part 4) is a standard provision which states that the Act of 2004 in this Part refers to the Private Security Services Act 2004.

Section 6 (Amendment of section 2 of Act of 2004) amends the current definition of “installer of security equipment” given in section 2(1) of the Act of 2004 so as to encompass the area of access control within the definition and keep it in line with technological advances in the area.

Section 7 (Amendment of section 14 of Act of 2004) allows the Private Security Authority the ability to appoint persons, in addition to its own staff, to be an inspector and so gives the Authority the ability to contract in outside inspectors, if necessary.

Section 8 (Amendment of section 18 of the Act of 2004) amends section 18(1) so as to ensure that all persons appointed by the Private Security Authority, including an inspector who is not a member of

the Authority's own staff, will be subject to confidentiality requirements.

Section 9 (Amendment of section 21 of Act of 2004) provides that, in the case of an applicant who is a company, the Private Security Authority may require the applicant to furnish particulars of every person who is the beneficial owner of more than 5% of the share capital of the company.

Section 10 (Amendment of section 22 of Act of 2004) amends section 22(3)(b)(i) so that its provisions also apply to any person referred to in Section 9, i.e. the beneficial owner of more than 5% of the share capital of the company.

Section 11 (Amendment of section 23 of Act of 2004) amends the renewal provisions of the Act so that an application for a renewal of a licence shall be made in accordance with procedures specified by the Private Security Authority. It also provides that licences issued by way of a renewal come into force from the expiry date of the previous licence, thereby providing continuity of the licence.

Section 12 (Temporary licence under Act of 2004) inserts a new section into the Act of 2004 to enable the Private Security Authority to issue a temporary licence to an applicant, who is a new entrant to the industry, for a period not exceeding 6 months, during which the applicant can prove s/he has the necessary competence to perform the security services in question. The Authority may, in exceptional circumstances, extend the temporary licence for a further 3 month period, if necessary.

Section 13 (Amendment of section 51 of Act of 2004) allows the Private Security Authority to recover, through the fees charged, as much of the expenses incurred in running the Authority, as it considers appropriate.

Part 5

Intoxicating Liquor

Section 14 (Codes of practice) provides for statutory support of Codes of Practice in relation to licensing matters with a view to promoting and supporting compliance by licensees. Such a Code may be prepared following appropriate consultation and published by the Minister or, if the Code has been drawn up by some other body, be approved of and published by the Minister. Failure to comply with the provisions of such a Code by a licensee will constitute a ground on which an objection to renewal of the licence in question may be lodged. The proposal forms part of the Government's strategy to promote compliance with licensing law and to combat alcohol-related harm.

Part 6

Equality

This Part (*sections 15 to 19*) proposes a small number of amendments to the Employment Equality Act 1998 (as amended) and the Equal Status Act 2000 (as amended). These amendments which are largely technical in nature, take into account decisions at both national and EU level and in some cases are designed to align the text of national law more closely with EU Equality Directives.

They include amendments intended to improve the efficiency and user-friendliness of the Equality Tribunal in handling complaints.

Section 15 (Definition (Part 6)) is self-explanatory and is inserted for the purposes of this Part of the Bill.

Section 16 (Amendment of section 78(7)(b) of Act of 1998) provides for the extension of the deadline for application for resumption of the hearing in situations where mediation has failed.

Section 17(a) and (b) (Amendment of section 79 of Act of 1998) and *Section 19 (Amendment of section 25 of Equal Status Act 2000)* provide that the Equality Tribunal may, where appropriate and where the parties do not object, deal with cases on the basis of written submissions only.

Section 17(c) permits the Equality Tribunal to state a case to the High Court and avoid further litigation by way of appeal.

Section 18 (Amendment of section 82 of Act of 1998) adjusts the maximum amount that may be awarded by the Equality Tribunal in Employment Equality cases to 2 years' remuneration or €40,000, whichever is greater, to provide for greater redress in situations of low-paid employment. This is in line with the EU Equality Directives which require sanctions, which may comprise the payment of compensation to the victim, to be effective, proportionate and dissuasive.

Part 7

Bankruptcy

This Part, in *section 20*, proposes to amend the Bankruptcy Act 1988 to provide, subject to conditions, for the reduction of the application period to the court for discharge from bankruptcy from 12 years to 5 years and to provide for the automatic discharge of bankruptcies on the 12th anniversary of the adjudication order. A number of technical amendments relating to costs and certain administrative matters are made to improve the operation of the Official Assignee in Bankruptcy.

The amendment of Section 11 of the Act of 1988 provides that petitions must now be presented within 3 years rather than 1 year.

The amendment of Section 18 of the Act of 1988 provides a basis for the Revenue Commissioners to furnish certain information on a person adjudicated bankrupt to the Official Assignee on his request in relation to the carrying on of any trade or profession or relating to any matter in respect of which a return is required to be made to the Revenue Commissioners and to which the bankrupt is or was a party. The information to be provided to the Official Assignee shall also be provided to a trustee appointed under Part V of the Act.

The amendment of Section 57 of the Act of 1988 provides in regard to the avoidance of fraudulent preference for a period of 1 year after the date of the making of the adjudication order in bankruptcy rather than six months.

The amendment of Section 58 of the Act of 1988 provides in regard to the avoidance of certain transactions which might reduce the assets of a debtor available for creditors for a relevant period of 1 year rather than three months.

The amendment of section 61(3)(h) of Bankruptcy Act 1988 — Section 61(3)(h) of the Bankruptcy Act, as amended by section 34 of the Courts and Court Officers Act 2002, provides that the Official

Assignee in Bankruptcy has the power to agree a sum of costs where the Court so directs or where the Assignee considers that the amount which would be allowed on taxation would not exceed €7,000. The amendment provided in this section proposes to increase the limit concerned to €12,000.

The amendment of Section 75 of the Act of 1988, in regard to the debts provable in bankruptcy and arrangements, provides for a new subsection 75(2) to the effect that where interest or any pecuniary consideration in lieu of interest is reserved or agreed for on a debt which is overdue at the date of adjudication or order for protection, the creditor shall be entitled to prove or to be admitted as a creditor for such interest or consideration up to the date of adjudication or order for protection.

The amendment of Section 85 (Discharge and Annulment) of the Act of 1988 by the substitution of a new text.

Subsection (1) provides for the automatic discharge of bankruptcies on the 12th anniversary of the adjudication order in bankruptcy.

Subsection (2) provides that where a bankruptcy is discharged by virtue of subsection (1) any property of the bankrupt which remains vested in the Official Assignee in Bankruptcy shall be returned to the bankrupt and re-vested in him or her subject to provision having first being made for the payment of expenses, fees and costs of the bankruptcy and any preferential payments.

Subsection (3) is a restatement of the existing law in subsection (3) of the 1988 Act which provides that a bankrupt will be entitled to a discharge when provision has been made for the payment of the expenses, fees, and costs in the bankruptcy as well as the preferential debts and he or she has paid one euro in the euro with such interest as the Court may allow or has obtained the consent of all the creditors. In the case of a composition after bankruptcy, he or she will be entitled to a discharge when, pursuant to section 41 of the 1988 Act, he or she has lodged with the Official Assignee cash or securities sufficient to meet the composition.

Subsection (4) clarifies the existing law in subsection (3) of the 1988 Act in regard to obtaining the consent of creditors.

Subsection (5) restates the existing subsection (4) of the 1988 Act which provides that a bankrupt will be entitled to a discharge when provision has been made for the payment of the expenses, fees, and costs in the bankruptcy as well as the preferential debts and he or she has paid 50 cent in the euro to creditors and where the Court is satisfied that the estate of the bankrupt has been fully realised.

Subsection (6) amends the existing subsection (4) of the 1988 Act by reducing the period for application to the court for discharge from bankruptcy by a person whose estate has, in the opinion of the Court been fully realised, from 12 years to 5 years. The same conditions that currently attach would continue to attach to the new 5 year period. In this context, should bankrupt persons be able to pay the expenses of the Official Assignee, costs of the Petitioning Creditor and preferential payments (if any) owed, they could be discharged from bankruptcy and freed from all other bankruptcy debts and from all the restrictions that apply to bankrupt persons.

Subsection (7) clarifies the existing law in the 1988 Act and provides that where a bankruptcy has been discharged pursuant to subsection (6) and sufficient funds remain available to pay a dividend

to the creditors of the bankrupt such funds shall remain vested in the Official Assignee for the benefit of such creditors.

Subsection (8) is a restatement of the law in subsection (5) of the 1988 Act which entitles a bankrupt to an annulment of the adjudication where he or she has shown cause under section 16 of the Act of 1988 or in any other case where, in the opinion of the Court, he ought not to have been adjudicated bankrupt.

Subsections (9), (10) and (11) are restatements of the subsections (6), (7) and (8) of section 85 of the 1988 Act.

Part 8

Amendment of Family Law (Maintenance of Spouses and Children) Act 1976

Section 21 (Amendment of Family Law (Maintenance of Spouses and Children) Act 1976) provides for the insertion of new sections 9A and 9B to Part III of the Act. These sections set out procedures to be followed in the District Court regarding arrears of maintenance payments. The section grants the court the power to regard as contempt of court failure by a maintenance debtor to comply with a previous court order and to deal with such a breach accordingly, including by means of imprisonment.

Part 9

Coroners

This Part, in *Section 22*, proposes to amend the Coroners Act 1962 to provide for the amalgamation as follows of the current Dublin coronial districts into a single district and to make certain administrative changes to the current law.

Section 22(a) (Coroner's district of Dublin) inserts a new section 6A into the Act of 1962 to provide for the amalgamation of the existing coroner districts of the county of Dublin and the city of Dublin into one district to be known as the coroner district of Dublin. Henceforth section 6 of the Act of 1962 shall cease to apply to the coroner district of Dublin. The existing coroners and deputy coroners in both districts will continue to hold those positions in the coroner district of Dublin. The administrative arrangements provided for in section 23 of the Local Government (Dublin) Act 1993 shall continue to operate until the Minister specifies new arrangements. Where a vacancy for the office of coroner occurs in respect of the coroner district of Dublin, the Minister shall make arrangements to fill the vacancy. Where more than one person holds an appointment as a coroner for the coroner district of Dublin, the Minister shall designate one of those persons to be the senior coroner of that district who shall order the work of the district.

Section 22(b) (Amendment of section 7 of the Act of 1962) substitutes the existing section 7 (Amalgamation of districts) with new text. Subsection (1) provides that where a vacancy arises in the office of coroner in a district which is one of a number of districts of a single local authority (county) area, the Minister following consultation with the local authority concerned may direct that a coroner for a district within that local authority area to also be the coroner for the vacant district. On the direction of the Minister coming into effect, the districts shall stand amalgamated. Subsection (2) provides that the Minister shall obtain the consent of the coroner prior to issuing such a direction.

Section 22(c) (Amendment of section 8 of the Act of 1962) substitutes the existing subsection 8(2) with new text. Subsection 8(2) now provides that subject to section 7 and subsection (2)A, the coroner for a coroner's district shall be appointed by the local authority in whose area the district is situated. Section 8(2)A provides that notwithstanding the provisions of section 8, a coroner for the coroner district of Dublin shall be appointed by the Minister.

Section 22(d) (Amendment of section 11 of the Act of 1962) inserts a new subsection 11(3) to provide that where a coroner intends to resign or will vacate the office on attainment of the age of seventy years he or she shall formally notify the Minister of that intention or attainment as soon as practicable but no later than three months in advance of the date.

Section 22(e) (Temporary coroner) inserts a new section 11A into the Act of 1962. Subsection 1 provides that a person who stands appointed as a coroner or deputy coroner in respect of a coroner's district may, with the consent of that person be assigned by the Minister to act temporarily as a coroner in respect of a different district in which the coroner appointed to that district is temporarily absent or in respect of which the office of coroner is vacant. Subsection (2) provides that a person assigned to act as a coroner under subsection (1) shall on being so assigned have all the powers of a coroner in relation to the coroner's district concerned to which he or she is temporarily assigned. Subsection (3) provides that an assignment made under subsection (1) may be revoked by the Minister at any time. Subsection (4) provides that section 7 shall not apply where a person is appointed to act temporarily as a coroner under this section.

Section 22(f) (Amendment of section 13 of the Act of 1962) inserts new text to provide for a number of technical amendments concerning deputy coroners. Subsection (1A) provides that no person shall be appointed as a deputy coroner without the prior approval of the Minister. Subsection 13(9) provides that where a deputy coroner intends to resign or will vacate the office on attainment of the age of seventy years he or she shall formally notify the coroner for the district and the Minister of that intention or attainment as soon as practicable but no later than three months in advance of the date.

Section 22(g) (Amendment of section 14 of the Act of 1962) substitutes the existing section 14 (Restriction on appointment as coroner or deputy coroner) with new text. Essentially, a person shall not be appointed to be a coroner or a deputy coroner unless he or she is a barrister, solicitor or registered medical practitioner who has practised for not less than 5 years. A number of conditions are set out with regard to the reckoning of the qualifying periods of time to be taken into account. Subsection (7) provides that service by a barrister or solicitor as a coroner shall be reckoned for the purposes of determining eligibility for appointment as a judge.

Part 10

Citizenship

This Part *section 23* amends section 17 of the Irish Nationality and Citizenship Acts 1954 to 2004 to provide a power to the Minister to prescribe fees for citizenship applications.

Part 11

Immigration

This Part *section 24* makes provision for amendments to the Immigration Act 2004. Sections 11 and 12 of that Act are being replaced in response to the High Court ruling on 25 March, 2011 in the case of *Ebere Dokie v. DPP, HRC, Ireland and the Attorney General (792JR/2008)*, that section 12 is inconsistent with the Constitution (in particular Article 38.1 which provides that no person shall be tried on a criminal charge save in due course of law and with the guarantee in Article 40.4.1 that no person shall be deprived of his liberty save in accordance with law).

Paragraph (a) inserts a new section 11 into the Immigration Act 2004 requiring (*subsection (1)*) a non-national to be in possession of a valid passport or other equivalent document when landing in the State. By *subsection (2)*, a non-national is required to present the passport or other equivalent document, and any other information reasonably required, when requested to do so by an immigration officer. *Subsection (3)* creates an offence for failure to comply with the requirements of the section. *Subsection (4)* makes provision for the Common Travel Arrangements that allow for free movement of Irish and UK citizens between the State and the United Kingdom. *Subsection (5)* defines “non-national” such that the term excludes Irish citizens and persons exercising EU Treaty rights of free movement.

Paragraph (b) inserts a new section 12 into the Immigration Act 2004 requiring (*subsection (1)*) a non-national to produce on demand (defined at *subsection (3)*) a valid passport or other equivalent document establishing his or her identity. Failure to comply with this requirement is an offence (*subsection (2)*).

Paragraph (c) inserts a new section 19 into the Immigration Act 2004 to provide for a flexible system of fees for certain immigration services. *Subsection (1)* identifies the services in respect of which fees can be levied. *Subsection (2)* allows the Minister to refuse to provide these services if the appropriate fee has not been paid. *Subsection (3)* allows a registration officer to refuse to issue a registration certificate if the appropriate fee has not been paid. *Subsection (4)* is a technical provision. *Subsection (5)* is the power for the Minister to make regulations to prescribe different fees to be paid in different circumstances or in respect of different permissions. *Subsection (6)* allows the Minister to prescribe the circumstances whereby fees can be waived. *Subsection (7)* defines the term “travel document”.

Part 12

Land and Conveyancing Law Reform Act 2009

Part 13

Registration of Title Act 1964

Parts 12 and *13* provide for amendments to the Land and Conveyancing Law Reform Act 2009 and the Registration of Title Act 1964 respectively.

Section 26 provides for a technical amendment to section 27(1) of the Land and Conveyancing Law Reform Act 2009 to correct an error in the text.

Section 27 amends section 35 of the 2009 Act in order to permit the Property Registration Authority to operate a registration scheme

for uncontested easements and *profits à prendre*. This amendment, together with the amendments to the Registration of Title Act 1964 in *section 31* and *section 32*, will allow a land owner to apply directly to the Property Registration Authority to register an easement such as a right of way and permit the Authority to do so where the claim has been substantiated to its satisfaction. The existing requirement that a court order be obtained by the land owner concerned will no longer apply in such cases. *Section 29* is a consequential provision.

The 2009 Act contains transitional provisions which apply to claims to easements made after 1 December, 2009 in respect of a user period which commenced under the law applicable prior to that date. *Section 28* provides for an extension of the existing 3 year transitional period to 12 years which will ensure that the user period which had accrued before 1 December, 2009 will be taken fully into account in calculating the required user period under the law applicable prior to the 2009 Act.

Part 14

Taxing-Masters

This Part, in *section 33*, makes provision for amendments to the law (in particular the Eighth Schedule to the Courts (Supplemental Provisions) Act 1961) to modernise the modalities of appointment and qualifications of Taxing-Masters. *Section 33(1)* amends the Eighth Schedule to provide for day to day management of the Office of Taxing-Master by such Taxing-Masters as the Government may designate. *Section 33(2)* extends eligibility for appointment as Taxing-Master, currently confined to solicitors of ten years' practice, to barristers or persons with appropriate experience in legal costs taxation/accountancy of similar duration. *Section 33(7)* reduces the current retirement age of a Taxing-Master under the Court Officers Act 1926 of 70 years to 65 and sets the period of holding office.

Part 15

Miscellaneous

This Part provides for a number of minor technical amendments.

Section 34 (Amendment of Personal Injuries Assessment Board Act 2003).

Section 50 of the PIAB Act (which provides that the limitation period be stayed for the purposes of the Statute of Limitations 1957 or the Statute of Limitations (Amendment) Act 1991) is amended so that it applies to any applicable limitation period including the limitation periods set under the Civil Liability Act 1961. The amendment will also provide that the PIAB Act shall not apply to a civil action involving personal injuries sustained by a passenger on board a vessel at sea, or on board an aircraft operated by or on behalf of an air carrier.

Section 35 (Amendment of section 2(2) of Solicitors (Amendment) Act 1994) corrects a cross-referencing error in the Civil Law (Miscellaneous Provisions) Act 2008.

Section 6 (Amendment of section 1 of Statutory Declarations Act 1938) will allow District Court Judges to take and receive a statutory declaration which will, in particular, facilitate the service of the Book of Evidence by allowing the Judge to take and receive the statutory declaration in Court as to service and, also, by allowing a Judge to take and receive the statutory declaration as to service of a notice of appeal on the prosecution where a person convicted in the District Court wishes to appeal and is in a position to do so in Court.

Section 37 (Amendment of Domestic Violence Act 1996) will allow a person to apply for a safety order or a barring order against a person with whom he or she is living, or has lived, in an intimate and committed same-sex or opposite-sex relationship. It will also allow a person to apply for a safety order against a person with whom he or she had a child in common, including where the couple concerned do not live together or have never lived together.

Section 38 (Amendment of section 7 of the Official Languages Act 2003). Section 7 of the Official Languages Act 2003 (which came into effect in July, 2006), provides for the printing and publication of Acts of the Oireachtas in both official languages simultaneously. This amendment, which is technical in nature, will allow the publication in electronic format of Acts of the Oireachtas in advance of their printing and publication in both Official Languages. This will ensure that a version of the Act is available to the public pending the official translation which may take a few weeks and sometimes longer. It will help avoid the risk of a constitutional challenge from somebody whose rights are affected by a piece of legislation which is not readily accessible. It will not affect the constitutional obligation to publish in both languages or expose the proposed amendment to constitutional challenge in that regard.

Section 39 (Amendment of Second Schedule to Courts and Court Officers Act 1995) makes provision for limited additional quasi-judicial functions to be undertaken by County Registrars in non-contentious matters with a view to optimising resources and value for money by capitalising on the registrars' skills, qualifications and experience. A number of small enabling amendments are provided to empower registrars waive notice periods for intention to marry or enter a civil partnership; appoint a care representative, for persons lacking mental capacity, under section 21 of the Nursing Home Support Scheme Act 2009, where there is no objection by a notice party; provide registrars with the power, subject to any other statutory provisions, to enlarge or abridge the time for service of documents or doing any act; and to empower a registrar to make an order enabling the title to land pass from a deceased owner to a successor in title.

Financial implications

The proposals contained in the Bill are not expected to give rise to any significant costs to the Exchequer.

The proposals in relation to the Coroners Act 1962 should give rise to cost savings and efficiencies following the amalgamation of the separate coroner districts in Dublin.

The proposals in relation to the Private Security Services Act 2004 are not expected to give rise to additional costs to the Exchequer. The Exchequer will also continue to benefit from improved compliance in the areas of taxation and welfare payments as a result of the Private Security Authority's licensing programme and data sharing with other statutory bodies in accordance with Data Protection legislation.

*Department of Justice and Equality,
June, 2011.*