



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

*Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas*

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BILL

5

entitled

AN ACT TO AMEND THE LAW RELATING TO CIVIL LIABILITY FOR ACTS OF GOOD SAMARITANS, VOLUNTEERS AND VOLUNTEER ORGANISATIONS; TO AMEND THE CIVIL LEGAL AID ACT 1995; TO AMEND THE PRIVATE SECURITY SERVICES ACT 2004; TO AMEND THE LAW RELATING TO THE SALE OF INTOXICATING LIQUOR; TO AMEND THE EMPLOYMENT EQUALITY ACT 1998; TO AMEND THE EQUAL STATUS ACT 2000; TO AMEND THE BANKRUPTCY ACT 1988; TO AMEND THE FAMILY LAW (MAINTENANCE OF SPOUSES AND CHILDREN) ACT 1976; TO AMEND THE CORONERS ACT 1962; TO AMEND THE LAND AND CONVEYANCING LAW REFORM ACT 2009; TO AMEND THE REGISTRATION OF TITLE ACT 1964; TO AMEND THE LAW RELATING TO TRIBUNALS OF INQUIRY; AND TO AMEND CERTAIN OTHER ENACTMENTS; AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

25

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Civil Law (Miscellaneous Provisions) Act 2011.

Short title,
collective citations,
construction and
commencement.

(2) The Private Security Services Act 2004 and *Part 4* may be cited together as the Private Security Services Acts 2004 and 2011.

30 (3) The Licensing Acts 1833 to 2010 and *section 17* may be cited together as the Licensing Acts 1833 to 2011 and shall be construed together as one.

35 (4) The Employment Equality Acts 1998 to 2008 and *sections 18 to 26* may be cited together as the Employment Equality Acts 1998 to 2011.

(5) The Equal Status Acts 2000 to 2008 and *section 21* insofar as it refers to section 21 of the Equal Status Act 2000 and *sections 27 to 29* may be cited together as the Equal Status Acts 2000 to 2011.

(6) The Bankruptcy Acts 1988 to 2001 and *Part 7* may be cited together as the Bankruptcy Acts 1988 to 2011. 5

(7) The Solicitors Acts 1954 to 2008 and *section 58* may be cited together as the Solicitors Acts 1954 to 2011.

(8) The Domestic Violence Acts 1996 and 2002 and *section 60* may be cited together as the Domestic Violence Acts 1996 to 2011.

(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. 10

(10) *Sections 6, 12 and 30(g)* and *sections 49 to 55* shall come into operation on such day or days as the Minister may by order appoint, either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions. 15

Definition.

2.—In this Act, unless the context otherwise requires “Minister” means the Minister for Justice and Equality.

PART 2 20

CIVIL LEGAL AID

Amendment of section 26 of Civil Legal Aid Act 1995.

3.—Section 26 of the Civil Legal Aid Act 1995 is amended—

(a) by the insertion of the following subsection after subsection (3A) (inserted by section 78(b) of the Civil Law (Miscellaneous Provisions) Act 2008): 25

“(3B) Notwithstanding any other provision of this Act, the Board shall grant legal advice to a person who is an alleged victim of a human trafficking offence in relation to—

(a) any matter connected with the commission of the human trafficking offence (whether or not a prosecution for that offence has been instituted), 30

(b) any matter connected with the commission of any other offence of which the person is alleged to be a victim, being an offence (whether or not a human trafficking offence) that is alleged to have been committed in the course of, or otherwise in connection with, the commission of the human trafficking offence, 35
or 40

(c) without prejudice to the generality of paragraph (a) or (b), the prosecution of the human trafficking offence or of the other offence referred to in paragraph (b).”, 45

and

(b) by the insertion of the following subsection after subsection (7):

“(8) In this section, ‘human trafficking offence’ means—

- (a) an offence under section 2, 4, 5, 6, 7 or 11 of the Criminal Law (Human Trafficking) Act 2008,
- (b) an offence under section 3 (other than subsections (2A) and (2B)) of the Child Trafficking and Pornography Act 1998.”.

PART 3

GOOD SAMARITANS, ETC.

4.—The Civil Liability Act 1961 is amended by the insertion of the following Part after Part IV:

Liability for negligence of good samaritans, volunteers and volunteer organisations.

“PART IVA

LIABILITY FOR NEGLIGENCE OF GOOD SAMARITANS, VOLUNTEERS AND VOLUNTEER ORGANISATIONS

Interpretation (Part IVA).

51A.—(1) In this Part—

‘emergency’ includes circumstances arising in connection with an actual or apprehended accident;

‘good samaritan’ means a person who, without expectation of payment or other reward, provides assistance, advice or care to another person in an emergency, but does not include a person who does so as a volunteer;

‘negligence’ does not include breach of statutory duty;

‘voluntary work’ means any work or other activity that is carried out for any of the following purposes:

- (a) a charitable purpose within the meaning of the Charities Act 2009;
- (b) without prejudice to the generality of paragraph (a), the purpose of providing assistance, advice or care in an emergency or so as to prevent an emergency;
- (c) the purpose of sport or recreation;

‘volunteer’ means a person who does voluntary work that is authorised by a volunteer organisation and does so without expectation of payment

(other than reasonable reimbursement for expenses) or other reward;

‘volunteer organisation’ means any body (whether or not incorporated) that is not formed for profit and that authorises the doing of voluntary work whether or not as the principal purpose of the organisation. 5

(2) A reference in this Part to the provision of assistance, advice or care to a person includes a reference to any of the following activities: 10

- (a) the administration of first-aid to the person;
- (b) the treatment of the person using an automated external defibrillator;
- (c) the transportation of the person from the scene of an emergency to a hospital or other place for the purposes of ensuring the person receives medical care. 15

(3) Nothing in subsection (2) shall operate to limit the nature of activities that may constitute assistance, advice or care for the purposes of this Part. 20

This Part not applicable to existing causes of action.

51B.—This Part shall not apply to any cause of action that accrued before the commencement of this Part. 25

This Part not applicable to motor accidents in public places.

51C.—(1) This Part shall not apply in relation to the negligent use of a mechanically propelled vehicle in a public place.

(2) In this section ‘mechanically propelled vehicle’ has the same meaning as it has in Part VI of the Road Traffic Act 1961. 30

Protection of good samaritans from liability for negligence.

51D.—(1) A good samaritan shall not be personally liable in negligence for any act done in an emergency when providing— 35

- (a) assistance, advice or care to a person who is—
 - (i) in serious and imminent danger, or apparently in serious and imminent danger, of being injured or further injured, 40
 - (ii) injured or apparently injured, or
 - (iii) suffering, or apparently suffering, from an illness,

or 45

(b) advice by telephone or by another means of communication to a person (whether or not the person is a person referred to in paragraph (a)) who is at the scene of the emergency.

5

(2) The protection from personal liability conferred on a good samaritan by subsection (1) applies even if the emergency is caused by an act of the good samaritan.

10

(3) The protection from personal liability conferred on a good samaritan by subsection (1) shall not apply to—

(a) any act done by the good samaritan in bad faith or with gross negligence, or

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(b) any act done by the good samaritan when providing assistance, advice or care in circumstances where the good samaritan has a duty (whether imposed by or under any enactment or any other rule of law) to provide such assistance, advice or care.

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Protection of
volunteers
from liability
for negligence.

51E.—(1) A volunteer shall not be personally liable in negligence for any act done when carrying out voluntary work.

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(2) The protection from personal liability conferred on a volunteer by subsection (1) shall not apply to any act done by the volunteer if—

(a) the act was done by the volunteer in bad faith or with gross negligence, or

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(b) the volunteer knew or ought reasonably to have known that the act was—

(i) outside the scope of the voluntary work authorised by the volunteer organisation concerned, or

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(ii) contrary to the instructions of the volunteer organisation concerned.

(3) An agreement, undertaking or arrangement has no effect to the extent that it provides for a volunteer to give a volunteer organisation an indemnity against, or to make a contribution to a volunteer organisation in relation to, a liability that—

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(a) the volunteer would incur for his or her negligence but for the operation of subsection (1), and

45

(b) the volunteer organisation incurs as a result of its vicarious liability for that negligence.

Protection additional to any other protection under other law. 51F.—The protection from personal liability conferred on a good samaritan by section 51D or a volunteer by section 51E is in addition to any protection from personal liability conferred on the good samaritan or volunteer by or under any other enactment or rule of law. 5

Volunteer organisations and duty of care. 51G.—(1) This section applies to proceedings relating to the liability of a volunteer organisation for negligence arising from activities carried out by or on behalf of the organisation. 10

(2) In any proceedings to which this section applies, when determining whether the volunteer organisation owed a duty of care to the plaintiff or any other person, a court shall consider whether it would be just and reasonable to find that the organisation owed such a duty having regard to the social utility of the activities concerned. 15

(3) Nothing in this section shall operate to limit the matters that a court may consider, in proceedings to which this section applies, when determining whether a volunteer organisation owed a duty of care to a plaintiff or other person.”. 20

PART 4

PRIVATE SECURITY SERVICES

Definition (*Part 4*). 5.—In this Part “Act of 2004” means the Private Security Services Act 2004. 25

Amendment of section 2 of Act of 2004. 6.—Section 2(1) of the Act of 2004 is amended—

(a) by the substitution of the following for the definition of “installer of security equipment”:

“ ‘installer of security equipment’ means a person who— 30

(a) in the course of a business, trade or profession, installs, maintains, repairs or services electronic or other devices designed, constructed or adapted to give warning of, or monitor or record unauthorised entry or misconduct on or in the vicinity of premises, 35

(b) in the course of a business, trade or profession, installs, maintains, repairs or services electronic or other devices designed, constructed or adapted to control or record access by persons or vehicles to or within premises by means of— 40

(i) personal identity verification, including by means of biometrics,

(ii) vehicle identification, 45

(iii) numerical codes,

- (iv) alphabetical codes,
 - (v) access or other card management, or
 - (vi) electronic key management,
- or any combination of such means,

5 and includes a person who in connection with the provision of services referred to in paragraph (a) or (b) gives advice relating to the installation of such equipment or advice relating to the protection of such devices from damage or interference;”,

10 (b) in the definition of “private investigator” by the substitution of “in the course of a business, trade or profession,” for “for remuneration”,

15 (c) in the definition of “security consultant” by the substitution of “in the course of a business, trade or profession,” for “for remuneration”, and

(d) in the definition of “security service”, in paragraph (b) to substitute “installer” for “supplier or installer”.

7.—The Act of 2004 is amended, in section 14—

Amendment of section 14 of Act of 2004.

(a) by the substitution of the following for subsection (1):

20 “(1) For the purposes of this Act the Authority may appoint a person (including a member of the staff of the Authority) to be an inspector for such period and subject to such terms and conditions as the Authority may determine.”,

25 and

(b) by the insertion, after subsection (2), of the following subsection:

30 “(3) The Authority may designate a member of its staff, who has been appointed as an inspector pursuant to subsection (1), to be Chief Inspector.”.

8.—Section 18(1) of the Act of 2004 is amended by the substitution of “a consultant, an inspector or an adviser” for “a consultant or an adviser”.

Amendment of section 18 of Act of 2004.

9.—Section 21 of the Act of 2004 is amended—

Amendment of section 21 of Act of 2004.

35 (a) in subsection (3), by the insertion, after paragraph (a), of the following paragraph:

40 “(ab) require the applicant to furnish particulars of every person who, in a case in which the applicant is a company, is the beneficial owner of more than 5 per cent of the share capital of the company,”,

and

- (b) in subsection (4), by the substitution in paragraph (a) of “the shareholders to whom subsection (3)(ab) refers and the directors, and” for “the directors, and”.

Amendment of section 22 of Act of 2004.

10.—Section 22 of the Act of 2004 is amended by the substitution, in subsection (3)(b)(i), of “any director, shareholder to whom section 21(3)(ab) refers, manager,” for “any director, manager,”. 5

Amendment of section 23 of Act of 2004.

11.—Section 23 of the Act of 2004 is amended—

- (a) in subsection (1), by the deletion of “in the prescribed manner”,

- (b) by the substitution for subsection (2) of the following: 10

“(2) An application for the renewal of a licence shall be made in accordance with procedures specified by the Authority.”,

and

- (c) by the insertion, after subsection (3), of the following subsection: 15

“(3A) Where—

- (a) subsection (3) applies,
(b) the applicant has complied with the procedures specified pursuant to subsection (2), and 20
(c) a licence is renewed by the Authority,

the licence so renewed shall expire on the day on which it would have expired if it had been renewed with effect from the day next following the day on which the licence would have expired but for the operation of subsection (3).” 25

Temporary licence under Act of 2004.

12.—The Act of 2004 is amended by the insertion, after section 27, of the following section:

“Temporary licence.

27A.—(1) Where the Authority has received an application for a licence under section 21 and, having considered the application it is satisfied that— 30

- (a) the requirements of this Act and any regulations relating to licence applications made pursuant to section 51 have been complied with (otherwise than as respects the competence of the applicant to provide the security service to which the application relates), and 35 40

- (b) it is appropriate to grant a temporary licence to the applicant to enable the applicant to display the necessary competence to provide security services of

a type to which the application for a licence relates,

5 the Authority may grant a temporary licence for a period not exceeding 6 months to enable the applicant to satisfy the Authority that the applicant has the necessary competence to provide security services of a type to which the application relates.

10 (2) Where the Authority has granted a temporary licence under this section and the Authority is satisfied that exceptional circumstances exist, the Authority may extend the term of such licence by a period not exceeding 3 months.

15 (3) The Authority may, in respect of a particular licensee, exercise its power under subsection (2) once only.

(4) This section shall not apply in a case where the application relates to the renewal of a licence.

20 (5) Section 28 shall not apply to a temporary licence issued pursuant to this section.”.

25 **13.**—Section 37(1) of the Act of 2004 is amended by the substitution of “A person shall not provide a security service insofar as this Act has come into operation as respects the security service concerned and shall not hold himself or herself out” for “A private security employer or an individual referred to in any of the paragraphs of the definition of “security service” in section 2(1) shall not, on or after the commencement of the paragraph concerned, provide a security service or hold himself or herself out”.

Amendment of section 37 of Act of 2004.

30 **14.**—Section 48 of the Act of 2004 is amended by the insertion after subsection (5) of the following subsection:

Amendment of section 48 of Act of 2004.

35 “(6) Where a person is convicted of an offence under this Act, prosecuted by the Authority, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Authority the costs and expenses, measured by the court, incurred by the Authority in relation to the investigation, detection and prosecution of the offence.”.

40 **15.**—Section 51 of the Act of 2004 is amended—

Amendment of section 51 of Act of 2004.

(a) in subsection (2), by the substitution of the following for paragraph (g):

“(g) the fees to be charged by the Authority in respect of applications for licences and other services provided by the Authority.”,

and

45 (b) by the insertion, after subsection (2), of the following subsections:

“(2A) In making regulations pursuant to subsection
(2)(g) the Authority may—

- (a) prescribe different fees in respect of different circumstances or classes of circumstances, or in relation to different classes of licences and in relation to different classes of cases, 5
- (b) provide for the waiving, remitting or refunding of fees (in whole or in part) in different circumstances or classes of circumstances or in relation to different classes of licences and in relation to different classes of cases, 10
- (c) provide for exemption from payment of fees in circumstances specified in the regulations.

(2B) In making regulations pursuant to subsection
(2)(g) the Authority may have regard to— 15

- (a) the expenses incurred by the Authority, or
- (b) the expenses which it is anticipated will be incurred by the Authority,

in performing its functions under this Act, so that so much of those expenses as the Authority considers appropriate are recovered from fees to be charged pursuant to such regulations.”. 20

Amendment of
Schedule 2 to Act
of 2004.

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

(a) in paragraph 14(1)—

- (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 25
- (ii) in clause (d), by the substitution of “to which a licence relates,” for “to which a licence relates, or”, and 30
- (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.”. 35

(c) in paragraph 14(5) by the substitution of the following for clause (b): 40

“(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, 45

(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.”,

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(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”,

10

(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.”,

15

(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”,

20

(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.”,

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(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.”,

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35

(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.”,

45

(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)”.

PART 5

INTOXICATING LIQUOR 25

Codes of practice. **17.—(1)** In this section—

“Act of 1986” means the Courts (No. 2) Act 1986;

“code of practice” includes part of a code of practice;

“licence” means a licence for the sale of intoxicating liquor, whether granted on production or without production of a certificate of the Circuit Court or the District Court;

“licensee” means the holder of a licence;

“licensed premises” means premises in respect of which a licence is in force and, in relation to a licensee, means the licensed premises of the licensee;

“Minister” means the Minister for Justice and Equality.

(2) Subject to *subsection (3)*, the Minister may—

(a) prepare and publish a code of practice, or

(b) approve of a code of practice drawn up by any other body,

for the purpose of setting standards for the display, sale, supply, advertising, promotion or marketing of intoxicating liquor and such code may apply as respects—

(i) a class or classes of intoxicating liquor,

5 (ii) a class or classes of licensed premises, or

(iii) a type of licence.

(3) Before publishing or approving of a code of practice under this section, the Minister—

10 (a) may make available in such manner as he or she considers appropriate a draft of the code and allow persons such period as the Minister determines, being not less than 30 days from the date of making such draft available, within which to make representations in writing to him or her in relation to it, and

15 (b) having considered the representations (if any) received, consent to its publication or approval, with or without modifications.

(4) Where the Minister publishes or approves of a code of practice under this section, he or she shall cause a notice to that effect to
20 be published in *Iris Oifigiúil* and such notice shall specify—

(a) the class or classes of intoxicating liquor in respect of which the code is so published or approved, as the case may be,

25 (b) the class or classes of licensed premises to which the code relates,

(c) the type of licence to which the code relates,

(d) the date from which the code has effect, and

(e) the place where a copy of the code may be viewed, inspected or purchased.

30 (5) Subject to *subsection (6)*, the Minister may—

(a) amend or revoke a code of practice published under this section, or

(b) withdraw approval of any code of practice approved of under this section.

35 (6) *Subsection (3)* shall, with all necessary modifications, apply to a code of practice that the Minister intends to amend or revoke, or withdraw his or her approval of, under *subsection (5)* as *subsection (3)* applies to a code of practice that the Minister proposes to publish or approve of under this section.

40 (7) Where the Minister amends or revokes, or withdraws his or her approval of, a code of practice published or approved of under this section, the Minister shall cause a notice to that effect to be published in *Iris Oifigiúil* specifying—

- (a) the code to which the amendment, revocation or withdrawal of approval, as the case may be, relates and, if applicable, particulars of the amendment,
- (b) the class or classes of intoxicating liquor, the class or classes of licensed premises or the type of licence, in respect of which the code is so amended, revoked or approval is withdrawn, as the case may be, and
- (c) the date from which the amendment, revocation or withdrawal of approval, as the case may be, shall have effect.

(8) A document bearing the seal of the Minister and purporting to be a code of practice published or approved of under this section or, where such a code has been amended under this section, the code so amended shall be admissible in any proceedings relating to the renewal under the Act of 1986 of a licence.

(9) A failure on the part of a licensee to observe any provision of a code of practice published or approved of under this section (including such a code as amended from time to time under this section) shall not of itself render the licensee liable to any civil or criminal proceedings but such failure shall be considered as relating to the good character of the licensee for the purposes of the renewal under the Act of 1986 of the licence in respect of the licensed premises concerned.

(10) In publishing or approving of a code of practice under this section, the Minister shall have regard to the need to reduce the incidence of the excessive consumption of intoxicating liquor and, without prejudice to the generality of that need, in particular have regard to—

- (a) the need to reduce the risk of a threat to public order arising from the excessive consumption of intoxicating liquor,
- (b) the health-related risks arising from the consumption of alcohol to an excessive extent,
- (c) in the case of advertising, promotion or marketing of intoxicating liquor referred to in *subsection (2)*, whether or not or to what extent such advertising, promotion or marketing is intended or likely to encourage the consumption of intoxicating liquor to an excessive extent.

(11) In having regard to the matters referred to in *subsection (10)(c)* the Minister may have regard to the medium used or the nature of the activities associated with or involved with such advertising, promotion or marketing.

PART 6

EQUALITY

Definitions (*Part 6*). **18.**—In this Part—

“Act of 1998” means the Employment Equality Act 1998;

“Act of 2000” means the Equal Status Act 2000.

19.—Section 2 of the Act of 1998 is amended, in subsection (1), by the substitution of the following definition for the definition of “discrimination”:

Amendment of section 2 of Act of 1998.

5 “‘discrimination’ includes the issue of an instruction to discriminate and, in Part V and VI, includes prohibited conduct within the meaning of the Equal Status Act 2000, and cognate words shall be construed accordingly;”.

20.—Section 5 of the Act of 1998 is amended, by the deletion of subsection (2).

Amendment of section 5 of Act of 1998.

10 21.—Section 75 of the Act of 1998 is amended—

Amendment of section 75 of Act of 1998.

(a) by the substitution of the following subsection for subsection (4A):

15 “(4A) Other persons with relevant qualifications or experience may, with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform, be appointed to be equality officers or equality mediation officers on such terms and conditions as may be so approved.”,

20 (b) in subsection (6), by the substitution of “the delegation of a function under subsection (4B)” for “the delegation of a function under subsection (4)”, and

(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—”.

25 22.—Section 77 of the Act of 1998 is amended, in subsection (12), by the substitution of the following paragraph for paragraph (a):

Amendment of section 77 of Act of 1998.

30 “(a) Not later than 42 days from the date of a decision of the Director on an application by a complainant for an extension of time under subsection (5), the complainant or respondent may appeal against the decision to the Labour Court on notice to the Director specifying the grounds of the appeal.”.

23.—Section 78(7)(b) of the Act of 1998 is amended by the substitution of “42 days” for “28 days”.

Amendment of section 78(7)(b) of Act of 1998.

35 24.—Section 79 of the Act of 1998 is amended—

Amendment of section 79 of Act of 1998.

(a) by the substitution of the following for subsection (1):

“(1) Where a case which has been referred to the Director under section 77—

40 (a) does not fall to be dealt with by way of mediation under section 78, or

(b) falls to be dealt with under this section by virtue of section 78(7),

the Director shall investigate the case and may, as part of that investigation and if the Director considers it appropriate, hear persons appearing to the Director to be interested.”,

(b) by the insertion of the following subsection after subsection (2): 5

“(2A) (a) Where the Director considers that the case may be dealt with on the basis of written submissions only, the Director shall notify the parties in writing of his or her proposal to do so. 10

(b) A notification under paragraph (a) shall inform the parties of the right to make representations to the Director in accordance with paragraph (c).

(c) A person who receives a notification under paragraph (a) may, within 28 days from the issue of the notification, make representations to the Director as to why the case should not be dealt with on the basis of written submissions only. 15
20

(d) Where, in representations made pursuant to paragraph (c), objection is made to the Director dealing with the matter on the basis of written submissions only, the Director shall not determine the matter in that manner.”, 25

(c) by the insertion of the following subsection after subsection (5):

“(5A) In the course of an investigation under this section the Director may—

(a) refer to the High Court a point of law arising in the investigation, and 30

(b) adjourn the investigation (if he or she thinks it appropriate to do so) pending the outcome of the reference.”, and

(d) in subsection (6)(b), by the substitution of “subsection (3) or (3A)” for “subsection (3)”. 35

Amendment of section 82 of Act of 1998.

25.—(1) Section 82 of the Act of 1998 is amended by the substitution of the following for subsection (4):

“(4) The maximum amount which may be ordered by the Director by way of compensation under subsection (1)(c) or (1)(f) shall be— 40

(a) in any case where the complainant was in receipt of remuneration at the date of the reference of the case, or if it was earlier, the date of dismissal, an amount equal to the greatest of— 45

(i) 104 times the amount of that remuneration, determined on a weekly basis,

(ii) 104 times the amount, determined on a weekly basis, which the complainant would have received at that date but for the act of discrimination or victimisation concerned, or

5 (iii) €40,000,

or

(b) in any other case, €13,000.”.

(2) Subsection (1) applies as respects a claim under section 77(1) where the act or omission the subject of the claim occurs after the coming into operation of subsection (1).
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26.—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)”.
Amendment of section 83 of Act of 1998.

27.—Section 21 of the Act of 2000 is amended by the substitution of the following paragraph for paragraph (a) of subsection (7A):
15 Amendment of section 21 of Act of 2000.

“(a) Not later than 42 days from the date of a decision of the Director on an application by a complainant for an extension of time under subsection (3) or (6), the complainant or respondent may appeal against the decision to the Circuit Court on notice to the Director specifying the grounds of the appeal.”.
20

28.—Section 25 of the Act of 2000 is amended—
Amendment of section 25 of Act of 2000.

(a) by the substitution of the following for subsection (1):

“(1) Where a case which has been referred to the Director under section 21—
25

(a) does not fall to be dealt with by way of mediation under section 24, or

(b) falls to be dealt with under this section by virtue of section 24(6),

30 the Director shall investigate the case and may, as part of that investigation and if the Director considers it appropriate, hear persons appearing to the Director to be interested.”,

and

35 (b) by the insertion of the following subsection after subsection (2):

“(2A) (a) Where the Director considers that the case may be dealt with on the basis of written submissions only, the Director shall notify the parties in writing of his or her proposal to do so.
40

(b) A notification under paragraph (a) shall inform the parties of the right to make representations

to the Director in accordance with paragraph (c).

(c) A person who receives a notification under paragraph (a) may, within 28 days from the issue of the notification, make representations to the Director as to why the case should not be dealt with on the basis of written submissions only. 5

(d) Where, in representations made pursuant to paragraph (c), objection is made to the Director dealing with the matter on the basis of written submissions only, the Director shall not determine the matter in that manner.”. 10

Amendment of section 39 of Act of 2000. 29.—Section 39 of the Act of 2000 is amended by the substitution of the following paragraph for paragraph (b): 15

“(b) to promote equality of opportunity in relation to the matters to which this Act applies; and”.

PART 7

BANKRUPTCY

Amendment of Bankruptcy Act 1988. 30.—The Bankruptcy Act 1988 is amended— 20

(a) in section 11, by the substitution in subsection (1)(d) of “within 3 years” for “within a year”,

(b) by the insertion after section 18 of the following new section:

“Revenue Commissioners to furnish certain information to Official Assignee. 18A.—(1) Where a person has been adjudicated bankrupt the Revenue Commissioners shall, where requested to do so by the Official Assignee, furnish to the Official Assignee such information as has been requested held by them 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. 25 30 35

(2) The information to be provided under subsection (1) shall also be provided to a trustee in bankruptcy other than the Official Assignee appointed under Part V.”.

(c) in section 57, by the substitution in subsection (1) of “if the person making, incurring, taking or suffering the same is adjudicated bankrupt within 1 year after the date of the making” for “if the person making, incurring, taking or suffering the same is adjudicated bankrupt within six months after the date of the making”, 40 45

(d) in section 58, by the substitution in subsection (1) of “If within 1 year” for “If within three months”,

(e) in section 61(3)(h) (amended by section 34 of the Courts and Court Officers Act 2002) by the substitution of “€12,000” for “€7,000”,

5

(f) in section 75, by the substitution of the following for subsection (2):

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“(2) 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.”,

and

(g) by the substitution of the following for section 85:

15

“Discharge and annulment.

85.—(1) Every bankruptcy shall, on the 12th anniversary of the date of the making of the adjudication order in respect of that bankruptcy, unless prior to that date the bankruptcy has been discharged or annulled, stand discharged.

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(2) Where a bankruptcy is discharged by virtue of subsection (1) any property of the bankrupt which remains vested in the Official Assignee shall, after provision has been made for the payment of—

25

(a) the expenses, fees, costs of the bankruptcy, and

(b) preferential payments,

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be returned to the bankrupt and shall be deemed to be re-vested in him on and from the date on which the bankruptcy stands discharged.

35

(3) A bankrupt shall be entitled to an order discharging him from bankruptcy where provision has been made for the payment of the expenses, fees and costs of the bankruptcy, and the preferential payments, and—

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(a) he has paid one euro in the euro, with such interest as the Court may allow, or

45

(b) he has obtained the consent in writing of all of his creditors whose debts have been proved and admitted in the bankruptcy, or

(c) section 41 (discharge of adjudication order) applies.

(4) The giving of consent by a creditor under subsection (3) constitutes a waiver by

that creditor of the right to recover the amount concerned proved and admitted in bankruptcy.

(5) A bankrupt whose estate has, in the opinion of the Court, been fully realised, shall be entitled to an order discharging him from bankruptcy where provision has been made for the payment of the expenses, fees and costs of the bankruptcy, and the preferential payments, and—

(a) his creditors have received 50 cent or more in the euro, or

(b) he or his friends have paid to his creditors such additional sums as will together with the dividend paid make up 50 cent in the euro.

(6) Where a bankruptcy has subsisted for at least 5 years a bankrupt may apply to the Court for an order discharging him from bankruptcy where provision has been made for the payment of the expenses, fees and costs of the bankruptcy, and the preferential payments, and where the Court is satisfied that—

(a) the estate of the bankrupt has been fully realised,

(b) all after acquired property has been disclosed, and

(c) it is reasonable and proper to grant the application,

the Court shall make an order discharging the bankruptcy.

(7) 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.

(8) A person shall be entitled to an annulment of his adjudication—

(a) where he has shown cause pursuant to section 16, or

(b) in any other case where, in the opinion of the Court, he ought not to have been adjudicated bankrupt.

(9) Subject to subsection (7), an order of discharge or annulment shall provide that

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any property of the bankrupt then vested in the Official Assignee shall be re-vested in or returned to the bankrupt, and that order shall for all purposes be deemed to be a conveyance, assignment or transfer of that property to the bankrupt and, where appropriate, may be registered accordingly.

10

(10) A person whose bankruptcy has been discharged or annulled may on application obtain a certificate of discharge or annulment, as the case may be, under the seal of the Court.

(11) In this section 'bankrupt' includes personal representatives and assigns."

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PART 8

AMENDMENT OF FAMILY LAW (MAINTENANCE OF SPOUSES AND CHILDREN) ACT 1976

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31.—The Family Law (Maintenance of Spouses and Children) Act 1976 is amended by the insertion, after section 9, but in Part III, of the following new sections:

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

"Failure to make payments to be contempt of court.

9A.—(1) Subject to this section it shall be contempt of court for a maintenance debtor to fail to make a payment due under an antecedent order.

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(2) As respects a contempt of court arising pursuant to this section, a judge of the District Court shall, subject to this section, have such powers, including the power to impose a sanction, as are exercisable by a judge of the High Court in relation to contempt of court in proceedings before the High Court.

30

(3) Where a payment under an antecedent order made by the District Court has not been made, the maintenance creditor may apply to the District Court clerk concerned for the issue of a summons directing the maintenance debtor to appear before the District Court.

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(4) A summons referred to in subsection (3) shall—

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(a) be issued by the District Court clerk concerned,

45

(b) contain a statement that failure to make a payment in accordance with the order concerned constitutes a contempt of court and giving details of the consequences of the court finding that a contempt of court has taken place including in particular the possibility of imprisonment,

(c) state that the maintenance debtor may be arrested if he or she fails to appear before the District Court as directed in the summons, and

(d) be served on the maintenance debtor personally, or in such other manner authorised by a judge of the District Court. 5

(5) If the maintenance debtor fails, without reasonable excuse, to appear before the court in answer to the summons, the judge of the District Court, on the application of the maintenance creditor, shall, if satisfied that the debtor was served with the summons, issue a warrant for the arrest of the maintenance debtor. 10 15

(6) A maintenance debtor arrested pursuant to a warrant issued under subsection (5) shall be brought as soon as practicable before the District Court.

(7) Where a maintenance debtor is arrested and brought before the District Court under subsection (6), the judge shall fix a new date for the hearing of the summons and direct that the creditor be informed by the District Court by notice in writing of the date so fixed, and shall explain to the debtor in ordinary language— 20 25

(a) that he or she is required to attend before the court at the date next fixed for the hearing of the summons,

(b) that failure to attend may in itself constitute a contempt of court and the consequences of such contempt, including in particular the possibility of imprisonment, and that such contempt and the consequences which may follow are in addition to the consequences arising by reason of failure to make a payment under the antecedent order, and 30 35

(c) that he or she is entitled to apply for legal advice and legal aid under the Civil Legal Aid Act 1995. 40

(8) At the hearing of the summons, before hearing evidence from any party the judge shall explain to the debtor in ordinary language— 45

(a) the consequences, and in particular the possibility of imprisonment, which may follow a failure to make a payment in accordance with an antecedent order, and 50

(b) unless the maintenance debtor has already been so informed under subsection (7), that he or she is entitled to

apply for legal advice and legal aid under the Civil Legal Aid Act 1995.

5 (9) On the hearing of the summons, having given to the maintenance debtor the explanations referred to in subsection (8), having given the maintenance debtor an opportunity to apply for legal advice and legal aid, and having heard such evidence as may be adduced by the maintenance creditor and the maintenance debtor, if the judge is satisfied that the payment concerned has not been made, and—

10 (a) that the failure to make the payment concerned is due to—

15 (i) the inability of the maintenance debtor to make the payment concerned by reason of a change in his or her financial circumstances which occurred since the antecedent order or an order varying that order was last made (whichever is the later), or

20 (ii) some other reason not attributable to any act or omission of the maintenance debtor,

25 the judge may, where he or she believes that to do so would improve the likelihood of the payment concerned being made within a reasonable period, adjourn the hearing—

30 (I) to enable the outstanding payment to be made, or

(II) to enable an application to be made for an attachment of earnings order under section 10,

35 (b) that the failure to make the payment concerned is due to the inability of the maintenance debtor to make the payment concerned by reason of a change in his or her financial circumstances which occurred since the antecedent order or an order varying that order was last made (whichever is the later) the judge may, where the antecedent order was made by the District Court, treat the hearing as an application to vary the antecedent order, and having heard evidence as to the financial circumstances of both the maintenance debtor and the maintenance creditor, make an order varying the antecedent order.

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45
50 (10) Where on the hearing of the summons, having given to the maintenance debtor the explanations referred to in subsection (8), having given

the maintenance debtor an opportunity to apply for legal advice and legal aid, and having heard such evidence as may be adduced by the maintenance creditor and the maintenance debtor, the judge is satisfied that the payment concerned has not been made and that the failure to make the payment concerned is not due to— 5

- (a) the inability of the maintenance debtor to make the payment concerned by reason of a change in his or her financial circumstances which occurred since the antecedent order or an order varying that order was last made (whichever is the later), or 10
- (b) some other reason not attributable to any act or omission of the maintenance debtor, 15

the judge may treat the failure by the maintenance debtor to make the payment concerned as constituting contempt of court and the judge may deal with the matter accordingly. 20

(11) Where a maintenance debtor to whom subsection (7) applies does not attend court on the date fixed for the hearing of the summons the judge may treat such failure to attend court as constituting contempt of court and the judge may deal with the matter accordingly. 25

(12) In this section ‘financial circumstances’ means, in relation to a person—

- (a) the amount of the person’s annual income, 30
- (b) the aggregate value of all property (real and personal) belonging to the person,
- (c) the aggregate of all liabilities of the person including any duty (moral or legal) to provide financially for members of his or her family or other persons, 35
- (d) the aggregate of all monies owing to the person, the dates upon which they fall due to be paid and the likelihood of their being paid, and 40
- (e) such other circumstances as the court considers appropriate.

(13) This section does not apply unless the antecedent order concerned was actually made by the District Court. 45

Certificate of outstanding payments.

9B.—Where, pursuant to section 9, a court has made a maintenance order, a variation order or an interim order and directed that payments under the order be made to the District Court clerk, in any proceedings under this Act or under the 50

Enforcement of Court Orders Acts 1926 to 2009, a certificate purporting to be signed by the relevant District Court clerk as to the amount of monies outstanding on foot of such order shall, until the contrary is shown, be evidence of the matters stated in the certificate.”.

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PART 9

CORONERS

32.—The Coroners Act 1962 is amended—

Amendment of
Coroners Act 1962.

10 (a) by the insertion, after section 6 of the following new section:

“Coroner’s
district of
Dublin.

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6A.—(1) The coroners’ districts of the county of Dublin and the city of Dublin existing immediately before the coming into operation of this section shall as and on the coming into operation of this section be amalgamated into one district and shall be known as the coroner’s district of Dublin.

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(2) On the coming into operation of this section, section 6 shall cease to apply to the coroner’s district of Dublin.

25

(3) The persons who immediately before the coming into operation of this section held the offices of coroner and deputy coroner in the districts referred to in subsection (1) shall from that day hold such respective offices in the coroner’s district of Dublin.

30

(4) Notwithstanding the provisions of subsection (1), the financial arrangements referred to in section 23(4) of the Local Government (Dublin) Act 1993 shall continue to operate until the Minister specifies arrangements pursuant to subsection (5).

35

(5) The Minister may specify administrative arrangements in respect of the coroner’s district of Dublin and such arrangements shall be operated by the local authorities to which they relate.

40

(6) Where a vacancy occurs in respect of the coroner’s district of Dublin, the Minister shall make arrangements to fill the vacancy.

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(7) Where more than one person stands duly appointed to be a coroner in respect of the coroner’s district of Dublin, the Minister shall designate one of those persons to be the senior coroner of that district, but any such designation shall not affect the

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independence of any other coroner of the district in the performance of his or her functions as a coroner.

(8) The person designated under subsection (7) to be senior coroner in respect of the coroner's district of Dublin shall order the work of that district.”, 5

(b) by the substitution of the following section for section 7:

“Amalgamation of districts. 7.—(1) Where a vacancy arises in the office of coroner in respect of a coroner's district, and that district is within the area of a local authority in which there is more than one coroner's district, the Minister, following consultation with the local authority concerned, may direct that a coroner holding office in respect of another coroner's district within the area of that local authority shall also hold office as coroner in respect of the district in which the vacancy arose, and on the direction of the Minister coming into effect, the coroner's districts shall stand amalgamated. 10 15 20

(2) The Minister shall not issue a direction under subsection (1) unless the coroner concerned consents to act as coroner in respect of the amalgamated district.”, 25

(c) in section 8 by the substitution of the following for subsection (2):

“(2) Subject to section 7 and subsection (2A), the coroner for a coroner's district shall be appointed by the local authority in whose area the district is situate. 30

(2A) The coroner for the coroner's district of Dublin shall be appointed by the Minister.”,

(d) in section 11 by the insertion of the following subsection after subsection (2): 35

“(3) Where a coroner intends to resign or will vacate the office on attaining the age of 70 years, he or she shall give not less than 3 months notice of such intention or attainment to the Minister.”,

(e) by the insertion, after section 11, of the following section: 40

“Temporary coroner. 11A.—(1) 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 coroner's district in which the coroner appointed to that district is temporarily absent or in respect of which the office of coroner is vacant. 45

(2) A person assigned to act as a temporary coroner under subsection (1) shall 50

on being so assigned have all the powers of a coroner in relation to the coroner's district concerned.

5 (3) An assignment made under subsection (1) may be revoked by the Minister at any time.

(4) Section 7 shall not apply where a person is appointed to act temporarily as a coroner under this section.”,

10 (f) in section 13—

(i) by the substitution in subsection (1) of “Subject to subsection (1A), every coroner” for “Every coroner”,

15 (ii) by the insertion of the following subsection after subsection (1):

“(1A) A person shall not be appointed as a deputy coroner without the prior approval of the Minister.”, and

20 (iii) by the insertion of the following subsection after subsection (8):

“(9) Where a deputy coroner intends to resign or will vacate the office on attaining the age of 70 years, he or she shall give notice of not less than 3 months of such intention or attainment to the coroner for the coroner's district concerned and to the Minister.”,

25

and

(g) by the substitution of the following for section 14:

30 “Qualification for appointment as coroner or deputy coroner. 14.—(1) A person shall not be appointed to be a coroner or a deputy coroner under this Act unless he or she is—

(a) a barrister who has practised as a barrister for not less than 5 years,

35 (b) a solicitor who has practised as a solicitor for not less than 5 years, or

(c) a registered medical practitioner who has practised as a medical practitioner for not less than 5 years.

40

(2) For the purposes of subsection (1), in reckoning the period of time a person has practised as a barrister, any period during which that person practised as a solicitor shall be taken into account.

45

(3) For the purposes of subsection (1), in reckoning the period of time that a person has practised as a solicitor, any period during which that person practised as a barrister shall be taken into account. 5

(4) For the purposes of subsection (1), where a person who is a solicitor or a barrister has served in a position—

(a) as an officer in the civil service of the State, 10

(b) as an officer in the civil service of the Government, or

(c) as a member of the staff or as an officer of a body established by or under statute, 15

and it was a condition of eligibility for appointment to such position that the person be enrolled as a solicitor in the State or have been called to the Bar of Ireland, service in such position shall be reckoned as practice as a solicitor or barrister, as the case may be. 20

(5) Where a person has been appointed as a coroner or deputy coroner, the fact that such person ceases to practice as a barrister, solicitor or registered medical practitioner shall not affect the entitlement of that person to continue in office as a coroner or deputy coroner. 25

(6) Subsection (5) does not apply where the person concerned ceased to practice by reason of— 30

(a) in the case of a barrister, having being disbarred,

(b) in the case of a solicitor, having been struck off the roll of solicitors, or 35

(c) in the case of a medical practitioner, his or her registration in the Register of Medical Practitioners having been cancelled or suspended under the Medical Practitioners Act 2007, 40

otherwise than at the request of the person concerned. 45

(7) For the purposes of determining eligibility for appointment as a judge of any court established by the Courts (Establishment and Constitution) Act 1961— 50

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(a) in the case of a person who, is a barrister who but for this subsection would not be considered to be in practice as a barrister as respects a particular period, service as a coroner for that period shall be reckoned as practice as a barrister,

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(b) in the case of a person who is a solicitor who, but for this subsection, would not be considered to be in practice as a solicitor as respects a particular period, service as a coroner for that period shall be reckoned as practice as a solicitor.

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(8) Subsection (7) shall not apply where—

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(a) in the case of a barrister, that person has been disbarred,

(b) in the case of a solicitor, that person has been struck off the roll of solicitors,

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otherwise than at the request of the person concerned.”.

PART 10

AMENDMENT OF IRISH NATIONALITY AND CITIZENSHIP ACT 1956

33.—The Irish Nationality and Citizenship Act 1956 is amended— Amendment of Irish Nationality and Citizenship Act 1956.

30

(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)—

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(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—

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

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(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):

“(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.

(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 5

(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 10 civil partnership.”,

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

“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 15 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. 20

(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 25 (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 30 or civil partnership, cease to be an Irish citizen, whether or not he or she acquires the nationality of the non-national.”.

PART 11

IMMIGRATION 35

Amendment of Immigration Act 2004.

34.—The Immigration Act 2004 is amended—

(a) by the substitution of the following section for section 11:

“Requirements as to documents of identity and supply of information. 11.—(1) Every person (other than a person under the age of 16 years) landing in the State shall be in possession of a valid 40 passport or other equivalent document, issued by or on behalf of an authority recognised by the Government, which

establishes his or her identity and nationality.

5 (2) Every person landing in or embarking from the State shall furnish to an immigration officer, when requested to do so by that officer—

(a) the passport or other equivalent document referred to in subsection (1), and

10 (b) such information in such manner as the immigration officer may reasonably require for the purposes of the performance of his or her functions.

15 (3) (a) A person who contravenes this section shall be guilty of an offence.

20 (b) In proceedings brought against a person for an offence under this section, it shall be a defence for the person to prove that, at the time of the alleged offence, he or she had reasonable cause for not complying with the requirements of this section to which the offence relates.

25 (4) This section does not apply to any person (other than a non-national) coming from, or embarking for, a place in the State, Great Britain or Northern Ireland.

30 (5) In this section and section 12, 'non-national' means a person who is neither—

(a) an Irish citizen, nor

35 (b) a person who has established a right to enter and be present in the State under the European Communities (Aliens) Regulations 1977 (S.I. No. 393 of 1977), the European Communities (Right of Residence for Non-Economically Active Persons) Regulations 1997 (S.I. No. 57 of 1997) or the European Communities (Free Movement of Persons) Regulations 2006 and 2008.”,

(b) by the substitution of the following section for section 12:

50 “Requirements as to production of documents.

12.—(1) Every non-national present in the State (other than a non-national under the age of 16 years) shall produce on demand—

(a) a valid passport or other equivalent document, issued by or on behalf of an authority recognised by the Government, which establishes his or her identity and nationality, and 5

(b) in case he or she is registered or deemed to be registered under this Act, his or her registration certificate. 10

(2) (a) A non-national who contravenes this section shall be guilty of an offence.

(b) In proceedings brought against a person for an offence under this section, it shall be a defence for the person to prove that, at the time of the alleged offence, he or she had reasonable cause for not complying with the requirements of this section to which the offence relates. 15
20

(3) In this section ‘on demand’ means on demand made at any time by the Minister, any immigration officer or a member of the Garda Síochána, for the purposes of establishing that the presence in the State of the non-national concerned is not in contravention of section 5.”, 25

and 30

(c) by the substitution of the following section for section 19:

“Fees. 19.—(1) (a) There shall be paid to the Minister by the non-national concerned in respect of the making of an application for, or the giving of, a permission, or both, such fee (if any) as may be prescribed with the consent of the Minister for Public Expenditure and Reform. 35
40

(b) There shall be paid to the registration officer concerned by the non-national concerned in respect of the issue of a registration certificate such fee (if any) as may be prescribed with the consent of the Minister for Public Expenditure and Reform. 45

(c) There shall be paid to the Minister by the non-national concerned in respect of the issue of a travel document such fee (if any) as may be prescribed with 50

the consent of the Minister
for Public Expenditure and
Reform.

(2) The Minister may refuse to—

- (a) consider an application for a permission,
- (b) give a permission, or
- (c) issue a travel document,

if the appropriate fee, prescribed under paragraph (a) or (c) of subsection (1), has not been paid.

(3) The registration officer concerned may refuse to issue a registration certificate if the appropriate fee, prescribed under subsection (1)(b), has not been paid.

(4) A fee payable under this section may be recovered by the person to whom it is payable from the person by whom it is payable as a simple contract debt in any court of competent jurisdiction.

(5) Regulations under subsection (1)(a) may prescribe different fees to be paid in different circumstances or in respect of different permissions (including permissions to which different conditions are attached under section 4(6)).

(6) Regulations under this section may provide for the waiver in specified circumstances of any prescribed fees, including fees payable by—

- (a) adult persons unable without undue hardship to arrange for their payment for themselves and their dependants,
- (b) applicants within the meaning of the Act of 1996, and
- (c) persons in respect of whom a declaration (within the meaning of that Act) is in force.

(7) In this section, ‘travel document’ means a document (other than a document to which section 4(1) of the Refugee Act 1996 refers) issued solely for the purpose of providing the holder with a document which can serve in lieu of a national passport.”.

PART 12

AMENDMENT OF LAND AND CONVEYANCING LAW REFORM ACT 2009

Definition (Part 12). **35.**—In this Part “Act of 2009” means the Land and Conveyancing Law Reform Act 2009.

Amendment of section 27(1) of Act of 2009. **36.**—Section 27(1) of the Act of 2009 is amended by the substitution of “may release or contract not to exercise the power by deed or in any other way in which the power can be released” for “may release or contract not to exercise the power by deed or in any other way in which the power could be created”. 5

Amendment of section 35 of Act of 2009. **37.**—Section 35 of the Act of 2009 is amended by the substitution of the following subsection for subsection (1): 10

“(1) An easement or *profit à prendre* may be acquired at law by prescription—

(a) on registration of a court order under this section, or

(b) in accordance with section 49A of the Act of 1964.”. 15

Amendment of section 38 of Act of 2009. **38.**—Section 38 of the Act of 2009 is amended, in paragraph (b), by the substitution of “within 12 years” for “within 3 years”.

Amendment of section 39 of Act of 2009. **39.**—Section 39 of the Act of 2009 is amended by the insertion, after subsection (1), of the following new subsection:

“(1A) Subsection (1) does not affect the exercise by the Property Registration Authority of the power to modify or cancel any entry in accordance with section 69(4) of the Act of 1964.”. 20

PART 13

AMENDMENT OF REGISTRATION OF TITLE ACT 1964 25

Definition (Part 13). **40.**—In this Part “Act of 1964” means the Registration of Title Act 1964.

Amendment of Act of 1964 (insertion of section 49A). **41.**—The Act of 1964 is amended by the insertion, after section 49, of the following new section:

“Registration of easements and *profits à prendre* in certain cases. 49A.—(1) Where any person claims to be entitled to an easement or *profit à prendre* and the relevant requirements set out in sections 33 to 38 of the Land and Conveyancing Law Reform Act 2009 have been met, that person may apply to the Authority and the Authority, if satisfied that there is such an entitlement to the easement or *profit à prendre* concerned, may cause it, as appropriate, to be— 30 35

(a) registered as a burden under section 69(1)(jj), 40

(b) entered in the register pursuant to section 82 or, in the case of a *profit à prendre* in gross, in the register of ownership maintained under section 8(b)(i).

(2) Subsection (1) applies only in relation to claims in respect of which—

(a) the land benefited by the easement or *profit à prendre*, to which other land is subject, is registered land, or

(b) the claim is made as part of an application for first registration of that land.”.

15 **42.**—Section 69(1) of the Act of 1964 is amended by the insertion of the following paragraph after paragraph (j): Amendment of section 69 of Act of 1964.

“(jj) any easement or *profit à prendre* where the Authority is satisfied, pursuant to section 49A, that there is an entitlement to such an easement or *profit à prendre*.”.

20 PART 14

TAXING-MASTERS

43.—(1) The Eighth Schedule to the Courts (Supplemental Provisions) Act 1961 is amended by the substitution of the following for paragraph 8: Appointment of Taxing-Masters.

25 “8. The Taxing-Masters’ Office shall be under the management of such Taxing-Master as the Government may designate, and there shall be transacted in that Office the business of the Taxing-Masters other than such business as is required by law to be transacted by a Taxing-Master in person.”.

(2) The Eighth Schedule to the Courts (Supplemental Provisions) Act 1961 is amended by the substitution of the following for paragraph 18:

35 “18. (1) No person shall be appointed to be a Taxing-Master unless at the time of his or her appointment that person—

(a) has practised as a solicitor for a period of not less than 10 years,

40 (b) has practised as a barrister for a period of not less than 10 years, or

(c) has practised as a legal costs accountant for a period of not less than 10 years.

45 (2) In subparagraph (1), legal costs accountant means a person who has regularly participated in the preparation and presentation of bills of

costs of solicitors for taxation and has regularly attended before a Taxing-Master on the taxation of such bills of costs.

- (3) In computing the periods referred to in subparagraph (1)— 5
- (a) in the case of a solicitor, periods during which that person has practised as a barrister or a legal costs accountant may be aggregated with that person’s practice as a solicitor, 10
- (b) in the case of a barrister, periods during which that person has practised as a solicitor or a legal costs accountant may be aggregated with that person’s practice as a barrister, 15
- (c) in the case of a legal costs accountant, periods during which that person has practised as a solicitor or barrister may be aggregated with that person’s practice as a legal costs accountant. 20
- (4) In applying subparagraph (3) no period of time may, as respects any person, be counted more than once.
- (5) A person appointed to be a Taxing-Master shall be appointed by the Government on the nomination of the Minister. 25
- (6) Notwithstanding any other enactment, a person appointed pursuant to this paragraph—
- (a) shall, subject to clauses (b) and (c), hold office for a period not exceeding 5 years, 30
- (b) shall be required to retire on attaining the age of 70 years,
- (c) shall not be eligible for re-appointment or to have the term of appointment extended.”.
- (3) Subsection (2) applies only as respects the appointment of a Taxing-Master made after the coming into operation of this section. 35

PART 15

TRIBUNALS OF INQUIRY

Interpretation (*Part 15*). 44.—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); 40

“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;

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

45.—This Part applies to a tribunal irrespective of whether the tribunal is appointed before, on or after the enactment of this Part. Application of Part 15.

10 46.—(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— Deposition of relevant material following completion of inquiry, etc.

15 (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.

20 (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.

25 (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.

30 (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 47*, 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 47(2)*, and

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

40 (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;

45 (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 5

(II) the findings of the tribunal,

and

(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 15

(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— 20

(a) the person has declined to accept the return of the part, or

(b) the whereabouts of the person cannot be reasonably ascertained,

then—

25

(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 30 35 40

(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. 45

(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.

10 47.—(1) Any relevant material of a tribunal (other than any part of such relevant material which falls within *section 46(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.

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

20 (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 46(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).

25 (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 46(5) or (6)*) that constitutes Departmental records within the meaning of section 2(2) of that Act.

30 48.—(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—

Restriction of Freedom of Information Acts 1997 and 2003.

(a) the record was created before the appointment of the tribunal, or

35 (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

40 (b) deposited with a person, or at a place, in compliance with the requirements of a notice under *section 46(1)* given to the chairman or former chairman, as the case may be, of the tribunal.

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

PART 16

FAMILY MEDIATION SERVICES

Definitions (*Part 16*).

49.—In this Part—

“Agency” means the Family Support Agency;

“Board” means the Legal Aid Board; 5

“family mediation services” has the same meaning as it has in the Civil Legal Aid Act 1995 (inserted by *section 54* of this Act).

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

50.—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. 10

Transfer of certain property.

51.—(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. 15

Transfer of certain rights and liabilities.

52.—(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. 20

(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. 25

(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. 30

(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. 35

Transfer of officers and staff.

53.—(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. 40

(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.

5 (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.

10 (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.

15 (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.

20 (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;

25 (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;

30 (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;

35 (j) the Adoptive Leave Acts 1995 and 2005;

(k) the Carer's Leave Act 2001.

40 (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. 5

Amendment of
Civil Legal Aid Act
1995.

54.—With effect from the coming into operation of *section 50* of the *Civil Law (Miscellaneous Provisions) Act 2011*, the Civil Legal Aid Act 1995 is amended: 10

(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, 15

(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, 20

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): 25

“(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, 30
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— 35

(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.”, 40

(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. 5

(2) Guidelines made under subsection (1) shall include provisions relating to— 10

(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 15 20

(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.”, 25 30

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; 35

(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;” 40

and 45

(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 50

mediation before the coming into operation of *section 50 of the Civil Law (Miscellaneous Provisions) Act 2011.*”.

5 **55.**—Section 4 of the Family Support Agency Act 2001 is amended— Amendment of
Family Support
Agency Act 2001.

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

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

PART 17

10 MISCELLANEOUS

56.—(1) The Personal Injuries Assessment Board Act 2003 is amended— Amendment of
Personal Injuries
Assessment Board
Act 2003.

(a) by the insertion, after section 3 of the following section:

15 “Civil actions to which Act does not apply. 3A.—Notwithstanding section 3, this Act does not apply to a civil action to which any of the following applies:

- (a) the Warsaw Convention;
- (b) the Montreal Convention;
- 20 (c) Council Regulation (EC) No. 2027/97;
- (d) section 46(2) of the Civil Liability Act 1961;
- (e) the Athens Convention;
- (f) Regulation (EC) No. 392/2009;
- 25 (g) Part III of the Merchant Shipping (Liability of Shipowners and Others) Act 1996;

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

(b) in section 4(1), by the insertion of the following:

35 “ ‘Athens Convention’ means the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended by the Protocol of 2002 (the Athens Convention) and as amended from time to time;

‘Council Regulation (EC) No. 2027/97’ means Council Regulation (EC) No. 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by

air, as amended by Regulation (EC) No. 889/2002¹ and as amended from time to time;

‘Montreal Convention’ means the Convention for the Unification of Certain Rules for International Carriage by Air, signed at Montreal on 28 May 1999 and as amended from time to time; 5

‘Regulation (EC) No. 392/2009²’ means Regulation (EC) No. 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents, as amended from time to time; 10

‘Warsaw Convention’ means the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929, or the Warsaw Convention as amended— 15

(a) at The Hague on 28 September 1955,

(b) by the Convention supplementary to the Warsaw Convention done at Guadalajara on 18 September 1961, and

(c) as amended from time to time;”, 20

(c) in section 12, by the substitution for subsection (5) of the following:

“(5) The issuing of a notice of motion or the moving of a motion for the purposes of an application referred to in subsection (4) shall not be regarded as the commencement of proceedings in respect of the relevant claim for the purposes of any applicable limitation period in relation to such claim (including any limitation period under the Statute of Limitations 1957, section 9(2) of the Civil Liability Act 1961, the Statute of Limitations (Amendment) Act 1991 and an international agreement or convention by which the State is bound).”, 25 30

and

(d) by the substitution of the following for section 50:

“Reckoning of 50.—In reckoning any period of time for 35
time for
purpose of
Statute of
Limitations,
etc. the purpose of any applicable limitation
period in relation to a relevant claim
(including any limitation period under the
Statute of Limitations 1957, section 9(2) of
the Civil Liability Act 1961, the Statute of 40
Limitations (Amendment) Act 1991 and an
international agreement or convention by
which the State is bound), the period begin-
ning on the making of an application under 45
section 11 in relation to the claim and end-
ing 6 months from the date of issue of an
authorisation under, as appropriate, section
14, 17, 32, or 36, rules under section 46(3)
or section 49 shall be disregarded.”.

¹OJ No. L 140, 30.05.2002, p2-5.

²OJ No. L 131, 28.05.2009, p24-46.

(2) The amendment effected by paragraph (d) of subsection (1) shall apply as respects applications made under section 11 after the coming into operation of this section.

5 **57.**—Section 40 of the Commissions of Investigation Act 2004 is amended—
Amendment of section 40 of Commissions of Investigation Act 2004.

(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”.

10 **58.**—Section 2(2) of the Solicitors (Amendment) Act 1994 is amended by the substitution of “to any complaints made to the Society by the registrar under section 14C of this Act” for “to any complaints made to the Society by the registrar under section 14B of this Act”.
Amendment of section 2(2) of Solicitors (Amendment) Act 1994.

15 **59.**—Section 1(1) of the Statutory Declarations Act 1938 is amended by the insertion after paragraph (d) of the following paragraph:
Amendment of section 1 of Statutory Declarations Act 1938.

“(e) a judge of the District Court.”.

20 **60.**—The Domestic Violence Act 1996 is amended—
Amendment of Domestic Violence Act 1996.

(a) in the definition of “the applicant” in section 2(1)(a):

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

25 “(ii) is not the spouse or civil partner within the meaning of the Act of 2010 of the respondent and is not related to the respondent within the prohibited degrees of relationship, but lived with the respondent in an intimate and committed relationship prior to the application for the safety order, or”,

30 (ii) in subparagraph (iv), by the substitution of “primarily contractual, or” for “primarily contractual;”, and

(iii) by the insertion of the following subparagraph after subparagraph (iv):

35 “(v) is a parent of a child whose other parent is the respondent;”,

and

(b) in the definition of “the applicant” in section 3(1), by the substitution of the following paragraph for paragraph (b):

40 “(b) is not the spouse or civil partner within the meaning of the Act of 2010 of the respondent and is not related to the respondent within the prohibited degrees of relationship, but lived with the respondent in an intimate and committed relationship for a period of at least six

months in aggregate during the period of nine months immediately prior to the application for the barring order, or”.

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

61.—The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 is amended— 5

- (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— 10
 - (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— 15
 - (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 20
- (e) in section 197 by the substitution of “a class C fine” for “a fine not exceeding €254”.

Amendment of Official Languages Act 2003.

62.—The Official Languages Act 2003 is amended—

- (a) in the Irish text by substituting the following section for section 7: 25

“Achtanna an Oireachtais. 7.—(1) A luaithe is féidir tar éis aon Acht den Oireachtas a achtú, déanfar an téacs den chéanna a chló agus a fhoilsiú go comhuaineach i ngach ceann de na teanga-cha oifigiúla. 30

(2) Ní oibreoidh fo-alt (1) chun toirmeasc a chur ar Acht den Oireachtas a fhoilsiú ar an idirlíon in aon teanga oifigiúil amháin sula ndéanfar é a chló agus a fhoilsiú de réir an fho-ailt sin.” 35

and

- (b) in the English text by substituting the following section for section 7:

“Acts of the Oireachtas. 7.—(1) As soon as may be after the enactment of any Act of the Oireachtas, the text thereof shall be printed and published in each of the official languages simultaneously. 40

(2) Subsection (1) shall not operate to prohibit the publication on the internet of an Act of the Oireachtas in one official language only prior to its printing and publication in accordance with that subsection.”.

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

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

“Enforcement of certain orders for periodical payments.

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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.

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(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:

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(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,

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(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,

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(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. 5

(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. 10

(4) All moneys received by the relevant District Court clerk shall be paid as soon as practicable after receipt to the applicant. 15

(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.”. 20

Amendment of Courts of Justice Act 1936.

64.—The Courts of Justice Act 1936 is amended— 25

(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.”, 30

(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. 35 40

(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. 45

(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. 50

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(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.

(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. 5

(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. 10

(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. 15 20 25

(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.”, 30 35

(d) by the repeal of section 36,

(e) in section 38 by the substitution of the following for paragraph (b) of subsection (1): 40

“(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), 45

(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), 50

(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

5 (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.

10 **65.**—Paragraph 1 of the Second Schedule to the Courts and Court Officers Act 1995 is amended by the addition of the following subparagraphs: Amendment of Second Schedule to Courts and Court Officers Act 1995.

15 “(xxxvii) An order under section 47 of the Civil Registration Act 2004 exempting a marriage from the application of section 46(1)(a)(i) (notice of intention to marry) of that Act.

20 (xxxviii) An order under section 59B of the Civil Registration Act 2004 exempting the registration of a civil partnership from the application of section 59B(1)(a) (notice of intention to enter into a civil partnership) of that Act.

(xxxix) An order under the Nursing Homes Support Scheme Act 2009 relating to—

25 (a) directions under section 21(17) of that Act relating to the manner of giving of notice of an application under section 21 of that Act,

(b) the deeming of notice given of an application under section 21 of that Act to be sufficient, or

30 (c) dispensing with the giving of notice of an application under section 21 of that Act (other than notice referred to in subsection (10) of that section).

35 (xl) An order extending or amending the time for the service of documents.

(xli) An order under section 61(7) of the Registration of Title Act 1964 dispensing with the need to raise representation and ordering that the applicant be registered as owner of the land.”.

40 **66.**—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): Amendment of section 65 of Courts of Justice Act 1936.

45 “(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. 5

(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: 10

- (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; 15
- (c) provision of services and facilities to users of those offices or courts.”.

SCHEDULE

Section 64.

“SECOND SCHEDULE

APPEAL TOWNS

5	Carlow
	Carrick-on-Shannon
	Castlebar
	Cavan
	Clonmel
	Cork
10	Dundalk
	Ennis
	Galway
	Kilkenny
	Letterkenny
15	Limerick
	Longford
	Monaghan
	Mullingar
	Naas
20	Nenagh
	Portlaoise
	Roscommon
	Sligo
	Tralee
25	Trim
	Tullamore
	Waterford
	Wexford
	Wicklow
30	”.