



BILLE NA gCÚIRTEANNA, 2013
COURTS BILL 2013

EXPLANATORY AND FINANCIAL MEMORANDUM

Main Purposes of the Bill

The purposes of the Bill are:

- (i) to amend the *in camera* rule in order to introduce greater transparency in the administration of family and child care law by allowing press access to the courts in family and child care proceedings, subject to certain restrictions and prohibitions, including a strict prohibition on the publication of any material which would lead to the identification of the parties or children involved, and

- (ii) to increase the monetary jurisdiction limits of the Circuit Court and District Court in personal injuries actions and other civil proceedings.

Provisions of the Bill

Preliminary and General (Part 1)

Section 1 contains standard commencement and citation provisions.

Section 2 provides for the repeal of sections 13 to 18 of the Courts and Court Officers Act 2002, which have not been brought into operation. These provisions will be overtaken by Part 3 of the Bill. Provision is also made for the repeal of section 40(2) of the Civil Liability and Courts Act 2004 and section 31(5) of the Child Care Act 1991 consequential to the amendment of those Acts by Part 2.

Amendment of rules relating to certain proceedings heard otherwise than in public (Part 2)

The purpose of Part 2 is to modify the *in camera* rule which prevents the public and members of the press from being present in court during family law and child care proceedings.

Section 3 defines some of the terms used in Part 2.

Section 4 provides for amendments to section 39 (Definitions) of the Civil Liability and Courts Act 2004 consequential to the other amendments of the 2004 Act provided for in Part 2. Sections 145 and 199 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 will be added to the list of relevant enactments for the purposes of the relevant provisions of the 2004 Act.

Section 5 will amend section 40 (Proceedings heard otherwise than in public) of the Civil Liability and Courts Act 2004. It provides for the amendment of the *in camera* rule, as contained in certain enactments relating to family law, so as to allow bona fide representatives of the Press to be present in court during proceedings under those enactments.

However, where a court is satisfied that it is necessary to do so (i) in order to preserve the anonymity of a party to the proceedings or any child to whom the proceedings relate, (ii) by reason of the nature or circumstances of the case or (iii) as it is otherwise necessary in the interests of justice, it may exclude representatives of the Press from the court, or otherwise restrict their attendance, during the hearing or particular parts of it, or restrict or prohibit the publication or broadcasting of evidence given or referred to during the proceedings.

In determining whether or not to make such an order, the court must have regard to the desirability of promoting public confidence in the administration of justice and must also have regard to the following:

- (i) the best interests of any child to whom the proceedings relate;
- (ii) whether information given or likely to be given in evidence is sensitive personal information;
- (iii) the extent to which the attendance of representatives of the Press might inhibit or cause undue distress to a party to the proceedings or a child to whom the proceedings relate by reason of the person's emotional condition, medical condition, physical impairment or intellectual disability;
- (iv) the need to protect a party to the proceedings or a child to whom the proceedings relate against coercion, intimidation or harassment;
- (v) whether information given or likely to be given in evidence might be prejudicial to a criminal investigation or criminal proceedings;
- (vi) whether information given or likely to be given in evidence is commercially sensitive information; and
- (vii) whether information of the type referred to in subparagraphs (ii), (v) and (vi) when taken together with other information would, if published or broadcast, be likely to lead members of the public to identify a party to the proceedings or a child to whom the proceedings relate.

Section 6 inserts a new section 40A (Prohibition on publication or broadcast of certain matters) into the Civil Liability and Courts Act 2004. Subsection (1) of the new section 40A prohibits the publication

or broadcasting of any information about a matter that would be likely to lead members of the public to identify the parties to family law proceedings or children to whom the proceedings relate. Subsection (2) provides that contravention of subsection (1) will be an offence. Subsection (3) is a standard provision regarding offences by bodies corporate. Subsection (4) provides that the law as to contempt of court will not be affected by the new section 40A.

Section 7 provides for amendments to section 2 (Interpretation) of the Child Care Act 1991 consequential to the other amendments of the 1991 Act provided for in Part 2.

Section 8 amends section 29 (Hearing of proceedings) of the Child Care Act 1991 so as to allow bona fide representatives of the Press to be present in court during child care proceedings under that Act. The provisions of this section mirror those of section 5 in relation to the attendance of representatives of the Press at family law proceedings.

Section 9 provides for technical amendments to section 31 (Prohibition on publication or broadcast of certain matters) of the Child Care Act 1991, which prohibits the publication or broadcast of matter likely to lead members of the public to identify a child involved in care proceedings under that Act, and provides for increased penalties for offences under that section.

Jurisdiction of District Court and Circuit Court (Part 3)

Part 3 will change the monetary limits on the jurisdiction of the Circuit Court and District Court in civil proceedings to €75,000 and €15,000 respectively. However, in personal injury actions, the revised monetary jurisdiction limit of the Circuit Court will be €60,000.

Section 10 defines some of the terms used in Part 3.

Section 11 amends the enactments specified in Part 1 of the Schedule to extend the monetary limit of the jurisdiction of the Circuit Court in civil matters under those enactments to €75,000.

Section 12 amends the enactments specified in Part 2 of the Schedule to extend the monetary limit of the jurisdiction of the District Court in civil matters under those enactments to €15,000.

Sections 13 to 18 amend certain enactments to provide for the revised monetary jurisdiction limits of the Circuit Court and District Court. *Section 13* amends Part III of the Courts of Justice Act 1936. *Section 14* amends section 33 of, and the Third Schedule to, the Courts (Supplemental Provisions) Act 1961. *Section 15* amends section 10 of the Hotel Proprietors Act 1963. *Section 16* amends section 17 of the Courts Act 1981. *Section 17* amends section 15(2) of the Courts Act 1991. *Section 18* amends sections 51(3) and 140 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

Schedule

Part 1 of the Schedule specifies the enactments for which section 11 extends the monetary limit of the jurisdiction of the Circuit Court. *Part 2* specifies the enactments for which section 12 extends the monetary limit of the jurisdiction of the District Court.

Financial implications

The changes in jurisdiction levels will result in fewer cases in the High Court while the additional work arising from the increase in jurisdiction in the Circuit Court will be balanced by the reduction in the caseload at the lower end of the jurisdiction when it transfers to the District Court. There will be some additional civil work for the District Court and the impact of this will be monitored. However, overall, the Bill should result in reduced legal costs for all parties to litigation, including the State.

*An Roinn Dlí agus Cirt agus Comhionannais,
Márta, 2013.*