



SEANAD ÉIREANN

**BILLE NA gCÚIRTEANNA, 2013
COURTS BILL 2013**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

BILLE NA gCÚIRTEANNA, 2013 —AN COISTE

COURTS BILL 2013 —COMMITTEE STAGE

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

SECTION 1

*1. In page 4, line 19, after “Courts” to insert “and Civil Law (Miscellaneous Provisions)”.

*2. In page 4, line 20, to delete “9” and substitute “12#”.

[#This is a reference to the section proposed to be inserted by amendment 19.]

*3. In page 4, after line 31, to insert the following:

“(4) *Part 7#* shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular provision and different days may be so appointed for different provisions.

(5) *Part 8##* shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular provision and different days may be so appointed for different provisions.”.

[#This is a reference to the Part proposed to be inserted by amendment 27.]

[##This is a reference to the Part proposed to be inserted by amendment 39.]

*4. In page 5, between lines 2 and 3, to insert the following:

“(5) The Coroners Acts 1962 and 2005 and *section 21#* may be cited together as the Coroners Acts 1962 to 2013.”.

[#This is a reference to the section proposed to be inserted by amendment 25.]

SECTION 3

*5. In page 5, line 12, to delete “2004.” and substitute the following:

“2004;

“Act of 2010” means the Adoption Act 2010.”.

SECTION 4

*6. In page 6, to delete lines 2 to 7 and substitute the following:

“(h) sections 33 and 38 of the Act of 1995;

(i) section 38 of the Act of 1996;

(j) section 16 of the Domestic Violence Act 1996;

[SECTION 4]

- (k) sections 18, 30, 31, 49, 54 and 92 of the Adoption Act 2010;
- (l) sections 145 and 199 of the Act of 2010.”.”.

SECTION 5

*7. In page 6, line 23, after “relate” to insert “, by order”.

*8. In page 6, to delete lines 30 and 31 and substitute the following:

“and any such order may, with regard to any restriction, contain such conditions as the court considers appropriate.”.

*9. In page 6, to delete lines 32 to 38, to delete page 7, and in page 8, to delete lines 1 to 3 and substitute the following:

“(c) In determining whether or not to make an order under paragraph (b), a court shall have regard to the desirability of promoting public confidence in the administration of justice and to any other matter that appears to it to be relevant and shall, in particular, have regard to the following:

- (i) the best interests of a child to whom the proceedings relate;
- (ii) the views, if any, of—
 - (I) a party to the proceedings, and
 - (II) a child to whom the proceedings relate who is, in the opinion of the court, capable of forming his or her own views;
- (iii) whether information given or likely to be given in evidence is sensitive personal information;
- (iv) the extent to which the attendance of bona fide 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 emotional condition or any medical condition, physical impairment or intellectual disability of the party or the child concerned;
- (v) the need to protect a party to the proceedings or a child to whom the proceedings relate against coercion, intimidation or harassment;
- (vi) whether information given or likely to be given in evidence might be prejudicial to a criminal investigation or criminal proceedings;
- (vii) whether information given or likely to be given in evidence is commercially sensitive information; and
- (viii) whether information of the type referred to in subparagraphs (iii), (vi) and (vii) when taken together with other information would, if published or broadcast, be likely to lead members of

[SECTION 5]

the public to identify a party to the proceedings or a child to whom the proceedings relate.

- (d) In considering the views of a child referred to in clause (II) of paragraph (c)(ii), a court shall take account of the age and level of maturity of the child concerned.
- (e) Where evidence in proceedings to which a relevant enactment relates concerns a matter referred to in subparagraph (vi) of paragraph (c), an application under paragraph (b) may be made by or on behalf of the Director of Public Prosecutions.
- (f) In this subsection—

‘commercially sensitive information’ means—

- (i) financial, commercial, scientific, technical or other information the disclosure of which could reasonably be expected to result in a material financial loss or gain to the person to whom it relates, or could prejudice the competitive position of that person in the conduct of his or her business or otherwise in his or her occupation, or
- (ii) information the disclosure of which could prejudice the conduct or outcome of contractual or other negotiations of the person to whom it relates;

‘party to the proceedings’ includes a witness in the proceedings;

‘sensitive personal information’ means information about a person that would, in the ordinary course of events, be known only to the person or members of the family, or friends, of the person, and includes but is not limited to—

- (i) information relating to the medical, psychiatric or psychological history of the person,
- (ii) information relating to the tax affairs of the person,
- (iii) information relating to the sexual conduct or sexual orientation of the person.”.”.

SECTION 6

10. In page 8, between lines 3 and 4, to insert the following:

“6. Section 133 of the Personal Insolvency Act 2012 is amended by the substitution of the following subsection for subsection (4):

“(4) A register maintained by the Insolvency Service shall remain confidential at all stages.”.”.

—*Senator Darragh O'Brien.*

[SECTION 6]

*11. In page 8, to delete lines 29 to 41, and in page 9, to delete line 1 and substitute the following:

“(3) (a) Where an offence under this section is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(b) Where the affairs of a body corporate are managed by its members, paragraph (a) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.”.

SECTION 8

12. In page 9, between lines 14 and 15, to insert the following:

“(b) Notwithstanding paragraph (a), bona fide representatives of the press shall be required to undergo an accreditation process to be provided for by the Minister by way of regulation.”.

—*Senators Trevor Ó Clochartaigh, David Cullinane, Kathryn Reilly.*

*13. In page 9, line 23, after “relate” to insert “, by order”.

*14. In page 9, to delete lines 30 and 31 and substitute the following:

“and any such order may, with regard to any restriction, contain such conditions as the court considers appropriate.”.

*15. In page 9, to delete lines 32 to 38, and in page 10, to delete lines 1 to 33 and substitute the following:

“(c) In determining whether or not to make an order under paragraph (b), a court shall have regard to the desirability of promoting public confidence in the administration of justice and to any other matter that appears to it to be relevant and shall, in particular, have regard to the following:

(i) the best interests of a child to whom the proceedings relate;

(ii) the views, if any, of—

(I) a party to the proceedings, and

(II) a child to whom the proceedings relate who is, in the opinion of the court, capable of forming his or her own views;

(iii) whether information given or likely to be given in evidence is sensitive personal information;

(iv) the extent to which the attendance of bona fide representatives

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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 emotional condition or any medical condition, physical impairment or intellectual disability of the party or the child concerned;

- (v) the need to protect a party to the proceedings or a child to whom the proceedings relate against coercion, intimidation or harassment;
 - (vi) whether information given or likely to be given in evidence might be prejudicial to a criminal investigation or criminal proceedings; and
 - (vii) whether information of the type referred to in subparagraphs (iii) 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.
- (d) In considering the views of a child referred to in clause (II) of paragraph (c)(ii), a court shall take account of the age and level of maturity of the child concerned.
- (e) Where evidence in proceedings referred to in subsection (1) concerns a matter referred to in subparagraph (vi) of paragraph (c), an application under paragraph (b) may be made by or on behalf of the Director of Public Prosecutions.
- (f) In this subsection—
- ‘party to the proceedings’ includes a witness in the proceedings;
 - ‘sensitive personal information’ means information about a person that would, in the ordinary course of events, be known only to the person or members of the family, or friends, of the person, and includes but is not limited to—
 - (i) information relating to the medical, psychiatric or psychological history of the person,
 - (ii) information relating to the tax affairs of the person,
 - (iii) information relating to the sexual conduct or sexual orientation of the person.”.”.

SECTION 9

***16.** In page 11, to delete lines 10 to 23 and substitute the following:

“(3A) (a) Where an offence under this section is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of

[SECTION 9]

the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

- (b) Where the affairs of a body corporate are managed by its members, paragraph (a) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.”.”.

SECTION 10

- *17. In page 11, between lines 23 and 24, to insert the following:

“Amendment of section 18 of Adoption Act 2010

10. Section 18 of the Act of 2010 is amended by inserting the following subsection after subsection (7):

“(8) An application for approval under this section shall be heard in private.”.”.

- *18. In page 11, between lines 23 and 24, to insert the following:

“Amendment of section 30 of Adoption Act 2010

11. Section 30 of the Act of 2010 is amended by inserting the following subsection after subsection (7):

“(8) An application for approval under this section shall be heard in private.”.”.

- *19. In page 11, between lines 23 and 24, to insert the following:

“Amendment of section 31 of Adoption Act 2010

12. Section 31 of the Act of 2010 is amended by inserting the following subsection after subsection (4):

“(5) Proceedings under this section shall be heard in private.”.”.

SECTION 14

- *20. In page 13, to delete line 9 and substitute the following:

“(a) in section 33—

(i) in subsection (3), by substituting “€15,000” for “£5,000”,

(ii) in subsection (4)(a)—

(I) by substituting “Consumer Credit Act 1995 or to which section 17(2) of that Act refers” for “Hire-Purchase Acts, 1946 and 1960”, and

(II) by substituting “€15,000” for “£5,000” (inserted by section 6(2) of the Act of 1991),”.

[SECTION 14]

*21. In page 13, line 11, to delete “3, 4, 5,”.

*22. In page 13, between lines 13 and 14, to insert the following:

“(ii) at reference number 3—

(I) in column (2), by substituting “Consumer Credit Act 1995 or to which section 17(2) of that Act refers” for “Hire-Purchase Acts, 1946 and 1960”, and

(II) in column (3)—

(A) by substituting “the said Act” for “the said Acts”, and

(B) by substituting “€75,000” for “£30,000” (inserted by section 2(1)(a) of the Act of 1991),

(iii) at reference numbers 4 and 5—

(I) in column (2), by substituting “Consumer Credit Act 1995 or to which section 17(2) of that Act refers” for “Hire-Purchase Acts, 1946 and 1960”, and

(II) in column (3), by substituting “€75,000” for “£30,000” (inserted by section 2(1)(a) of the Act of 1991),”.

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*23. In page 15, after line 13, to insert the following:

“PART 4

AMENDMENT OF COURTS (ESTABLISHMENT AND CONSTITUTION) ACT 1961

Amendment of section 1 of Courts (Establishment and Constitution) Act 1961

19. Section 1(2) (inserted by section 6(1) of the Courts and Court Officers Act 1995) of the Courts (Establishment and Constitution) Act 1961 is amended by substituting the following paragraph for paragraph (b):

“(b) not more than nine ordinary judges (each of whom shall be styled ‘Breitheamh den Chúirt Uachtarach’ (‘Judge of the Supreme Court’)).”.

*24. In page 15, after line 13, to insert the following:

“PART 5

JURIES IN LENGTHY TRIALS

Amendment of Juries Act 1976

20. The Juries Act 1976 is amended—

[NEW SECTIONS]

- (a) by inserting the following section after section 15:

“Additional jurors

15A. (1) Subject to subsection (2), at any time before the selection of a jury in a trial of a criminal issue begins pursuant to section 15, a judge of the Circuit Court or the Central Criminal Court, as the case may be, may, on his or her own motion or on the application of the prosecution or the accused person, order that a specified number of persons not exceeding 15 in number be selected to serve as jurors and sworn in the trial concerned.

(2) A judge shall not make an order referred to in subsection (1) unless the judge is satisfied that—

(a) the duration of a trial is likely to exceed 2 months, and

(b) the selection of additional jurors for the trial is an appropriate means of ensuring that there will be a sufficient number of jurors for the jury to remain properly constituted for the purposes of giving a verdict in that trial.

(3) An application referred to in subsection (1) shall be made—

(a) not later than 10 working days before the selection of a jury in the trial of a criminal issue begins pursuant to section 15, and

(b) on notice—

(i) where the application is made by the prosecution, to each accused person in the trial, or

(ii) where the application is made by an accused person in that trial, to the prosecution and any other accused person in the trial concerned.

(4) Where an order is made pursuant to subsection (1), the number of persons specified in the order shall be selected to serve as jurors pursuant to section 15 and sworn in the trial concerned.

(5) Where—

(a) additional jurors have been sworn in the trial of a criminal issue pursuant to an order under subsection (1), and

(b) immediately before the jury in the trial retires to consider its verdict the jury comprises more than 12 jurors,

the judge shall direct that from the jurors then constituting the jury 12 jurors be selected to retire and consider the verdict in the trial.

(6) The selection of jurors to retire and consider the verdict in a trial pursuant to a direction under subsection (5) shall be made by balloting in open court.

(7) Where a ballot is held pursuant to subsection (6)—

[NEW SECTIONS]

- (a) a juror who is selected shall retire to consider the verdict in the trial concerned, and
 - (b) a juror who is not selected shall be discharged by the judge.
- (8) A jury which has been selected pursuant to subsection (6) to retire and consider the verdict in a trial shall continue to constitute the jury for the purposes of the trial and that trial shall proceed and a verdict may be found accordingly.”,

and

(b) in section 20—

- (i) in subsection (2), by substituting “Subject to subsection (2A), in every trial of a criminal issue” for “In every trial of a criminal issue”, and
- (ii) by inserting the following subsection after subsection (2):

“(2A) In every trial of a criminal issue which is tried with a jury in which additional jurors have been selected pursuant to section 15A, the prosecution and each accused person may challenge without cause shown eight jurors and no more.”.

*25. In page 15, after line 13, to insert the following:

“PART 6#

LEGAL ADVICE AND LEGAL AID IN RELATION TO CORONERS INQUESTS

Amendment of Coroners Act 1962

21. The Coroners Act 1962 is amended—

(a) in section 29—

(i) by substituting the following subsection for subsection (3):

“(3) A coroner shall furnish a copy of any document preserved by him or her under this section to every person who applies for a copy of such document and, except where the application is made on behalf of—

- (a) a Minister of the Government,
 - (b) the Attorney General,
 - (c) the Garda Síochána,
 - (d) the Defence Forces,
 - (e) the Garda Síochána Ombudsman Commission, or
 - (f) an applicant within the meaning of section 60,
- shall charge for the copy such fee as may be prescribed.”,

[NEW SECTIONS]

and

(ii) by substituting the following subsection for subsection (4):

“(4) A county registrar shall furnish a copy of any document preserved by him or her under this section to every person who applies for a copy of such document and, except where the application is made on behalf of—

- (a) a Minister of the Government,
 - (b) the Attorney General,
 - (c) the Garda Síochána,
 - (d) the Defence Forces,
 - (e) the Garda Síochána Ombudsman Commission, or
 - (f) an applicant within the meaning of section 60,
- shall charge for the copy such fee as may be prescribed.”,

and

(b) by inserting the following section after section 59:

“Legal advice and legal aid for inquests

60. (1) Where an inquest in relation to the death of a person is to be held under Part III of this Act, a family member of the deceased (in this section referred to as ‘the applicant’) may apply to the coroner for a request to be submitted by that coroner to the Legal Aid Board in relation to the granting of legal aid or legal advice, or both, to the applicant pursuant to the Civil Legal Aid Act 1995.
- (2) An application referred to in subsection (1) shall be made before the commencement of the inquest, unless the coroner otherwise permits.
- (3) A coroner shall determine an application referred to in subsection (1) and shall notify the applicant of his or her determination within 10 working days of the receipt of the application.
- (4) Subject to subsections (5) and (6), where a coroner receives an application referred to in subsection (1) in respect of an inquest, he or she shall request the Legal Aid Board to grant legal aid or legal advice, or both, to the applicant in respect of the inquest concerned.
- (5) A coroner shall not make a request referred to in subsection (4) unless—
- (a) the deceased was, at the time of his or her death or immediately before his or her death, in the custody of the Garda Síochána,
 - (b) the deceased was, at the time of his or her death or immediately before his or her death, in custody in a prison within the meaning of section 2 of the Prisons Act 2007,

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- (c) the deceased was, at the time of his or her death or immediately before his or her death, in service custody within the meaning of section 2 of the Defence Act 1954,
 - (d) the deceased was, at the time of his or her death or immediately before his or her death, involuntarily detained under Part 2 of the Mental Health Act 2001 in an approved centre within the meaning of section 2 of that Act,
 - (e) the deceased was, at the time of his or her death or immediately before his or her death, detained in a designated centre within the meaning of section 3 of the Criminal Law (Insanity) Act 2006 or was a person to whom section 20 of that Act refers,
 - (f) the deceased was, at the time of his or her death or immediately before his or her death, in custody in a remand centre within the meaning of section 3 of the Children Act 2001 or detained in a children detention school within the meaning of that section,
 - (g) the deceased was, at the time of his or her death or immediately before his or her death, a child in care, or
 - (h) the coroner is of the opinion that the death of the deceased occurred in circumstances the continuance or possible recurrence of which would be prejudicial to the health or safety of the public or any section of the public such that there is a significant public interest in the family member of the deceased person being granted legal aid or legal advice, or both, for the purposes of the inquest concerned.
- (6) Where legal aid or legal advice, or both, are granted by the Legal Aid Board to an applicant in respect of an inquest further to a request by a coroner under subsection (4), no further applications under subsection (1) may be made by a family member in respect of the inquest concerned.
- (7) In this section—
- ‘child in care’ means a child who was in the care of the Health Service Executive pursuant to section 4 or Part III, IV or IVA of the Child Care Act 1991;
- ‘family member’, in relation to a deceased person, means—
- (a) a parent, grandparent, child, brother, sister, nephew, niece, uncle or aunt, whether of the whole blood, of the half blood or by affinity, of the person,
 - (b) a spouse, a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or a cohabiting partner of the person,
 - (c) any other person who is ordinarily a member of the person’s

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household, or

- (d) any child who has been placed in foster care with the person or any person referred to in paragraphs (a) to (c),

and includes a reference to any such member of his or her family who is adopted;

‘legal advice’ has the same meaning as it has in the Civil Legal Aid Act 1995;

‘legal aid’ has the same meaning as it has in the Civil Legal Aid Act 1995.”.”.

[#The proposed new Part comprehends the inclusion of amendment 26.]

*26. In page 15, after line 13, to insert the following:

“Amendment of Civil Legal Aid Act 1995

22. The Civil Legal Aid Act 1995 is amended—

(a) in section 1—

- (i) by substituting the following definition for the definition of “applicant”:

“ ‘applicant’ means, subject to subsection (1A), a person who makes an application for legal aid or advice, or both;”

and

- (ii) by inserting the following subsection after subsection (1):

“(1A) A person in respect of whom a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of the Coroners Act 1962 shall be deemed to be an applicant for the purposes of this Act.”

(b) by inserting the following section after section 24:

“Restriction on right to apply for legal aid and advice

24A. A person shall not be granted legal aid or advice in relation to an inquest under Part III of the Coroners Act 1962 unless a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of that Act in respect of the person.”

(c) in section 26(3), by substituting the following for paragraph (b):

“(b) a person shall qualify for legal advice, in respect of a matter referred to in section 28(9)(a), in the cases mentioned in subparagraphs (i) to (v) and (vii) of section 28(9)(c).”

(d) in section 27—

- (i) by substituting the following for subsection (1):

“(1) In this Act ‘legal aid’ means representation by a solicitor of the Board,

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or a solicitor or barrister engaged by the Board under section 11, in any civil proceedings to which this section applies or at an inquest under Part III of the Coroners Act 1962, and includes all such assistance as is usually given by a solicitor or barrister, as the case may be, in contemplation of, ancillary to or in connection with, such proceedings or inquest, and whether for the purposes of arriving at or giving effect to any settlement in proceedings or otherwise.”,

and

- (ii) in subsection (2), by substituting “This section applies to an inquest under Part III of the Coroners Act 1962 where a request for legal aid has been made to the Board by a coroner pursuant to section 60 of that Act and to all civil proceedings other than proceedings relating to” for “This section applies to all civil proceedings other than those relating to”,

and

- (e) in section 28—

- (i) in subsection (2), by substituting “under this section to a person, other than a person referred to in subsection (2A), if, in the opinion of the Board” for “under this section to a person if, in the opinion of the Board”,

- (ii) by inserting the following subsection after subsection (2):

“(2A) Subject to sections 24 and 29 and the other provisions of this section and to regulations (if any) made under section 37, the Board shall grant a legal aid certificate under this section to a person in respect of whom a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of the Coroners Act 1962 if, in the opinion of the Board, the person satisfies the criteria in respect of financial eligibility specified in section 29.”,

and

- (iii) in subsection (9)(c), by substituting the following paragraphs for paragraph (vi):

“(vi) in respect of a conveyancing matter connected to a matter in which legal aid or advice has already been granted;

- (vii) in respect of an inquest under Part III of the Coroners Act 1962 where a request for legal aid has been made to the Board by a coroner pursuant to section 60 of that Act.”.

[NEW SECTIONS]

*27. In page 15, after line 13, to insert the following:

“PART 7#

BANKRUPTCY

Interpretation (Part 7)

23. In this Part—

“Act of 1961” means the Courts (Supplemental Provisions) Act 1961;

“Act of 1988” means the Bankruptcy Act 1988.”.

[#The proposed new Part comprehends the inclusion of amendments 28 to 38.]

*28. In page 15, after line 13, to insert the following:

“Amendment of section 3 of Act of 1988

24. Section 3 of the Act of 1988 is amended—

(a) by the substitution of the following definition for the definition of “the Bankruptcy Inspector”:

“ ‘Bankruptcy Inspector’ means a person standing appointed for the time being—

(i) to the position of Bankruptcy Inspector in the Office of the Official Assignee in Bankruptcy on the day before the coming into operation of *section 25#* of the *Courts Act 2013*, or

(ii) to the position of Bankruptcy Inspector pursuant to section 12 of the *Personal Insolvency Act 2012;*”.

and

(b) by the substitution of the following definition for the definition of “the Official Assignee”:

“ ‘Official Assignee’ means a person standing appointed for the time being—

(i) to the position of Official Assignee in Bankruptcy in the Office of the Official Assignee in Bankruptcy on the day before the coming into operation of *section 25#* of the *Courts Act 2013*, or

(ii) to the position of Official Assignee pursuant to section 12 of the *Personal Insolvency Act 2012;*”.

[#This is a reference to the section proposed to be inserted by amendment 29.]

[NEW SECTIONS]

*29. In page 15, after line 13, to insert the following:

“Amendment of section 60 of Act of 1988

25. The Act of 1988 is amended by the substitution of the following for section 60:

“The Official Assignee

60. (1) The Official Assignee shall have such functions as are assigned to him by or under this Act or any other enactment, and subject to this section, sections 60A to 60C and the Personal Insolvency Act 2012, such powers and functions as were heretofore exercisable by the Official Assignee in Bankruptcy continue to be exercisable by the Official Assignee.
- (2) The Official Assignee shall be a member of the staff of the Insolvency Service.
- (3) Subject to subsections (4) to (6), the Official Assignee shall be independent in the performance of his functions under this Act and any other enactment.
- (4) The Official Assignee shall, in relation to matters of general administration, be subject to the general direction of the Director.
- (5) The Official Assignee, when performing any function relating to the business of a court, or acting under or pursuant to an order of a court, shall observe and obey such directions as are given to him by the court.
- (6) The Official Assignee shall be an officer of the court for the purposes of the performance of his functions under this Act or any other enactment.
- (7) Subject to sections 60B and 60C, subsections (3) to (6) shall apply to a member of the staff of the Insolvency Service—
- (a) to whom functions of the Official Assignee have been delegated under section 60B, as respects those functions, or
- (b) who is designated under section 60C, as respects those functions, for so long as the delegation or designation remains in force and is exercisable by the member of staff concerned.
- (8) The Official Assignee shall not, without the approval of the Director, hold any other office or position in respect of which remuneration is payable, or carry on any business, trade or profession.
- (9) In this section and sections 60A to 60C a reference to an enactment means—
- (a) an Act of the Oireachtas,
- (b) a statute that was in force in Saorstát Éireann immediately before

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the date of the coming into operation of the Constitution and that continues in force by virtue of Article 50 of the Constitution, or

- (c) an instrument made under—
 - (i) an Act of the Oireachtas, or
 - (ii) a statute referred to in paragraph (b).

Office of Official Assignee – Transfer of staff

60A. (1) This section applies to—

- (a) the person who immediately before the coming into operation of this section held the office of Official Assignee in Bankruptcy (otherwise referred to as the Official Assignee), and
 - (b) every person who immediately before the coming into operation of this section was a member of the staff of the Courts Service assigned to the Office of the Official Assignee in Bankruptcy.
- (2) On the coming into operation of this section every member of the staff of the Courts Service to whom this subsection applies shall be seconded to the Insolvency Service for a period of 2 years.
- (3) On the expiry of the period of secondment referred to in subsection (2) each person seconded under that subsection shall—
- (a) transfer definitively to the staff of the Insolvency Service, or
 - (b) subject to subsection (4), exercise a right to return to a suitable vacancy on the staff of the Courts Service.
- (4) If a person seconded under subsection (2) exercises a right under subsection (3)(b) to return to the staff of the Courts Service but no suitable vacancy on the staff of the Courts Service exists, the person concerned shall be transferred to a suitable vacancy in a public service body.
- (5) A person who—
- (a) is seconded under subsection (2),
 - (b) is transferred under subsection (3)(a) or subsection (4), or
 - (c) returns to the Courts Service under subsection (3)(b),

shall not, except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service than the scale of pay to which he was entitled and the terms and conditions of service to which he was subject immediately before the secondment, transfer or return concerned.

- (6) A person seconded under subsection (2) shall be deemed to be a member of the staff of the Insolvency Service during the period of the

secondment.

- (7) Subject to subsection (3)(a)—
- (a) the person who immediately before the coming into operation of this section held the office of Official Assignee in Bankruptcy shall continue in office as Official Assignee, and
 - (b) the person who immediately before the coming into operation of this section held the position of Bankruptcy Inspector shall continue to hold the position of Bankruptcy Inspector.
- (8) In this section—
- (a) ‘public service body’ has the meaning assigned to it by section 5 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;
 - (b) ‘recognised trade union or staff association’ means a trade union or staff association recognised by the Minister for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees.

Delegation of functions of Official Assignee

- 60B. (1) The Official Assignee may in writing delegate to a specified member of the staff of the Insolvency Service—
- (a) any of his functions under this Act in relation to a specific bankruptcy or arrangement matter, or
 - (b) any of his functions under any other enactment.
- (2) A delegation under subsection (1) shall be subject to such conditions or limitations as to the performance of any of the functions delegated, or as to time or circumstance, as may be specified in the delegation.
- (3) The Official Assignee may in writing revoke or vary a delegation made under subsection (1).
- (4) More than one delegation may be made and have effect under subsection (1) at any one time.
- (5) Subject to subsection (2), a person to whom functions of the Official Assignee have been delegated under subsection (1), shall, while the delegation remains in force, have all the powers of the Official Assignee in respect of the functions delegated to him as fully as if he held that office, and such powers shall, where the delegation so specifies, include the power to sell, transfer or otherwise dispose of property or assets in the name of and on behalf of the Official Assignee.
- (6) Nothing in this section shall affect the vesting of property in the Official Assignee in accordance with section 44.

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- (7) In any legal proceedings, a certificate that—
- (a) is signed by the Official Assignee,
 - (b) states that any function of the Official Assignee in relation to a bankruptcy matter was on a specified date delegated to a specified member of staff of the Insolvency Service, and
 - (c) states that the delegation of the function remained in force on a specified date,
- is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.
- (8) A certificate referred to in subsection (7) that appears to be signed by the Official Assignee is admissible in any proceedings as evidence of the matters stated in the certificate without proof of his or her signature.

Deputy for Official Assignee

- 60C. (1) The Director may in writing designate a member of the staff of the Insolvency Service to be the deputy for the Official Assignee, and the member of staff so designated shall, during every temporary absence and every temporary incapacity through illness of the Official Assignee and every occasion on which the office of the Official Assignee is vacant occurring while such designation remains in force, perform the functions assigned to the Official Assignee under this Act or under any other enactment.
- (2) A designation under subsection (1) shall be subject to such conditions or limitations as to time or circumstance as may be specified in the designation.
- (3) The Director may in writing at any time revoke or vary a designation made under subsection (1).
- (4) Subject to subsection (2), a person designated under subsection (1) shall, while he performs the functions of the Official Assignee, have all the powers of the Official Assignee as fully as if he held that office, and such powers shall include the power to sell, transfer or otherwise dispose of property or assets in the name of and on behalf of the Official Assignee.
- (5) In any legal proceedings, a certificate that—
- (a) is signed by the Director,
 - (b) states that a specified member of staff of the Insolvency Service was designated on a specified date, in accordance with subsection (1), to be the deputy for the Official Assignee, and
 - (c) states that the designation remained in force on a specified date,
- is, in the absence of evidence to the contrary, proof of the matters

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stated in the certificate.

- (6) A certificate referred to in subsection (5) that appears to be signed by the Director is admissible in any proceedings as evidence of the matters stated in the certificate without proof of his signature.”.”.

*30. In page 15, after line 13, to insert the following:

“Amendment of section 63 of Act of 1988

26. Section 63 of the Act of 1988 is amended in paragraph (b) by the substitution of “regulations made by the Minister under this Act” for “rules of court”.”.

*31. In page 15, after line 13, to insert the following:

“Amendment of section 69 of Act of 1988

27. Section 69 of the Act of 1988 is amended—

(a) by the substitution of the following for subsection (3):

“(3) All money and securities received by the Official Assignee, being part of a bankrupt’s estate, shall be forthwith lodged by him in an account in the Central Bank of Ireland or a bank authorised to carry on business in the State and shall be kept there to the credit of the Official Assignee subject to the provisions of this Act, any regulations made under subsection (6) and the directions of the Court.”.

and

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

“(6) The Minister may, following consultation with the Insolvency Service, by regulations make provision for the manner in which the Official Assignee shall maintain accounts referred to in subsection (3) and for matters relating to the keeping of such accounts.”.”.

*32. In page 15, after line 13, to insert the following:

“Repeal of section 83 of Act of 1988

28. Section 83 of the Act of 1988 is repealed.”.

*33. In page 15, after line 13, to insert the following:

“Amendment of section 84 of Act of 1988

29. The Act of 1988 is amended by the substitution of the following for section 84:

“Official Assignee — Unclaimed Dividend Account

84. (1) The Official Assignee shall cause an account to be opened—

(a) in the Central Bank of Ireland, or

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- (b) a bank authorised to carry on business in the State,
and any such account shall be called the “Official Assignee — Unclaimed Dividend Account” and a reference in this section to a “relevant account” is to be construed as a reference to such an account.
- (2) The Official Assignee shall pay into a relevant account all unclaimed dividends and all money unclaimed, being part of any bankrupt's estate.
- (3) (a) The Official Assignee shall be entitled to pay out of a relevant account all dividends lawfully claimed as well as the sums provided for by section 61(3)(k).
- (b) In order to provide temporarily for payments for which no funds are immediately available in the particular estate against which they are chargeable, there may be paid out of a relevant account to the credit of the Official Assignee in a separate account in the said bank such sums, subject to such conditions, as may be prescribed by regulations made by the Minister.
- (4) The Official Assignee, with the leave of the Court, may from time to time invest the whole or any part of the money standing to the credit of a relevant account, and the interest on the investments shall be paid into a relevant account.
- (5) The Court may order that the Official Assignee shall be paid out of a relevant account such sum by way of indemnity in respect of any damages, costs or expenses payable or incurred or to be payable or incurred by him for or by reason of any act or matter done by him while acting as Official Assignee as the Court thinks just, including the costs of any proceedings taken by the Official Assignee with the leave of the Court where there are insufficient funds in the matter.
- (6) A relevant account shall not be available for any purpose other than the purposes of this section.
- (7) The Minister may, following consultation with the Insolvency Service, by regulations prescribe—
- (a) the manner in which the Official Assignee shall maintain a relevant account,
- (b) the purposes for which funds may be withdrawn from a relevant account pursuant to subsection (3)(b),
- (c) the monetary limits relating to the withdrawal of funds from a relevant account pursuant to subsection (3)(b), and
- (d) the conditions subject to which funds may be withdrawn from a relevant account pursuant to subsection (3)(b).”.”.

[NEW SECTIONS]

*34. In page 15, after line 13, to insert the following:

“Amendment of section 144 of Act of 1988

30. The Act of 1988 is amended by the substitution of the following for section 144:

“Regulations and orders

144. (1) A regulation under this Act may contain such incidental, supplementary and consequential provisions as the Minister considers necessary or expedient for the purposes of the regulations.

(2) Every regulation made under this Act and every order made under section 142(2) or 143 shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.”.

*35. In page 15, after line 13, to insert the following:

“Amendment of section 9 of Personal Insolvency Act 2012

31. Section 9(1) of the Personal Insolvency Act 2012 is amended by the insertion of the following paragraph after paragraph (j):

“(ja) subject to section 60(3) of the Bankruptcy Act 1988, administer the functions assigned to the Official Assignee by the Bankruptcy Act 1988 or any other enactment.”.

*36. In page 15, after line 13, to insert the following:

“Amendment of section 17 of Personal Insolvency Act 2012

32. Section 17 of the Personal Insolvency Act 2012 is amended by the substitution of the following subsections for subsection (2):

“(2) Subject to subsection (2A), the Insolvency Service shall keep in such form and in respect of such accounting periods as may be approved of by the Minister, with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts—

(a) of moneys received and spent by the Insolvency Service, including an income and expenditure account and a balance sheet, and

(b) relating to the functions of the Official Assignee under the Bankruptcy Act 1988 or any other enactment.

(2A) Accounts which are required to be maintained by the Official Assignee under the Bankruptcy Act 1988 in relation to the estates of bankrupts or in respect of unclaimed dividends shall be kept in such a manner

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that monies or securities or interest accrued or earned thereon in relation to the estates of bankrupts or unclaimed dividends are not intermingled with monies otherwise held by the Insolvency Service.”.”.

*37. In page 15, after line 13, to insert the following:

“Amendment of section 20 of Personal Insolvency Act 2012

33. Section 20 of the Personal Insolvency Act 2012 is amended—

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

“(1) Subject to subsection (5), the Insolvency Service, with the consent of the Minister, may, and if directed by the Minister to do so and in accordance with the terms of the direction, shall, prescribe by regulations the fees to be paid to it and when they fall due in respect of—

(a) (i) the performance of functions,

(ii) the provision of services, and

(iii) the carrying on of activities,

by it under this Act, and

(b) the performance of functions by the Official Assignee under the Bankruptcy Act 1988 or any other enactment.”,

and

(b) in subsection (5), by inserting “or in the performance by the Official Assignee of his or her functions under the Bankruptcy Act 1988 or any other enactment” after “this Act”.”.

*38. In page 15, after line 13, to insert the following:

“Miscellaneous amendments to enactments consequential on transfer of Official Assignee to Insolvency Service

34. (1) Section 32(3) of the Solicitors (Amendment) Act 1960 is amended by the substitution of “such fee as may be prescribed under section 20 of the Personal Insolvency Act 2012” for “in the Bankruptcy Office such court fees as are payable on a realisation account of the Official Assignee in a bankruptcy matter”.

(2) The Eighth Schedule to the Courts (Supplemental Provisions) Act 1961 is amended—

(a) in paragraph 2, by deleting “The Office of the Official Assignee in Bankruptcy”,

(b) in paragraph 3, by deleting “The Official Assignee in Bankruptcy”, and

(c) by deleting paragraph 9.

(3) Part 2 of the Schedule to the Dormant Accounts Act 2001 is amended—

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- (a) in paragraph 1, by deleting subparagraph (g), and
- (b) by the insertion, after paragraph 3, of the following:

“3A. An account held by the Official Assignee.”.

- (4) Section 2(1) of the Personal Insolvency Act 2012 is amended by the insertion of the following:

“ ‘Official Assignee’ has the same meaning as it has in the Bankruptcy Act 1988;”. ”.

- *39. In page 15, after line 13, to insert the following:

“PART 8#

AMENDMENT OF PERSONAL INSOLVENCY ACT 2012

Definition (Part 8)

- 35. In this Part, “Act of 2012” means the Personal Insolvency Act 2012.”.

[#The proposed new Part comprehends the inclusion of amendments 40 to 71.]

- *40. In page 15, after line 13, to insert the following:

“Amendment of section 8 of Act of 2012

- 36. Section 8(4) of the Act of 2012 is amended, in paragraph (a), by substituting “or” for “and”.”.

- *41. In page 15, after line 13, to insert the following:

“Amendment of section 13 of Act of 2012

- 37. Section 13(1) of the Act of 2012 is amended by substituting “may” for “shall, as soon as may be after the establishment day”.”.

- *42. In page 15, after line 13, to insert the following:

“Amendment of section 25 of Act of 2012

- 38. Section 25 of the Act of 2012 is amended, in paragraph (a)(iv) of the definition of “qualifying debt”, by deleting “such as a guarantee given by a debtor that has been called up that any amount guaranteed is due and payable by the debtor,”.”.

- *43. In page 15, after line 13, to insert the following:

“Amendment of section 27 of Act of 2012

- 39. Section 27 of the Act of 2012 is amended—

(a) in subsection (10), by substituting “Where, at any time after the debtor has made

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the confirmation referred to in subsection (3) but before the Debt Relief Notice is issued under section 31, the approved intermediary concerned (“original approved intermediary”)—” for “Where, at any time during the Debt Relief Notice process after the debtor has made the confirmation referred to in subsection (3), the approved intermediary concerned (“original approved intermediary”)—”,

- (b) in subsection (11)(b), by substituting “and, where applicable, a creditor to whom a notification under section 28(2) has been sent, where the period referred to in section 28(3) has not expired,” for “and the creditors concerned”, and
- (c) by deleting subsection (12) and substituting the following:

“(12) Where an approved intermediary is appointed under subsection (10)—

- (a) that appointment shall not affect the validity of anything previously done under this Chapter by the original approved intermediary, and
- (b) references in this Act to an approved intermediary, in relation to the debtor concerned, shall be construed as including references to the approved intermediary so appointed.”.

*44. In page 15, after line 13, to insert the following:

“Amendment of section 31 of Act of 2012

40. Section 31(1) of the Act of 2012 is amended by substituting the following for paragraph (a)(ii):

“(ii) furnish that certificate together with a copy of the application and the supporting documentation (other than the documents referred to in section 29(2)(e) and (f) to the appropriate court, and”.

*45. In page 15, after line 13, to insert the following:

“Amendment of section 34 of Act of 2012

41. Section 34(5) of the Act of 2012 is amended by deleting the words “and the approved intermediary concerned”.

*46. In page 15, after line 13, to insert the following:

“Amendment of section 35 of Act of 2012

42. Section 35(1) of the Act of 2012 is amended by substituting the following for paragraph (e):

“(e) take any step to recover goods in the possession or custody of the debtor, unless title to the goods is vested in the specified creditor or the specified creditor holds security over the goods,”.

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*47. In page 15, after line 13, to insert the following:

“Amendment of section 39 of Act of 2012

43. Section 39 of the Act of 2012 is amended—

- (a) by designating the section as subsection (1), and
- (b) by inserting the following after subsection (1):

“(2) An application under subsection (1) shall be on notice to the specified debtor and each specified creditor.””.

*48. In page 15, after line 13, to insert the following:

“Amendment of section 43 of Act of 2012

44. Section 43 of the Act of 2012 is amended by inserting the following after subsection (5):

“(6) Where the appropriate court makes a decision under subsection (5) or section 44(4)—

- (a) the Registrar of the appropriate court shall notify the Insolvency Service of the decision, and
- (b) the Insolvency Service, on receipt of the notification under paragraph (a), shall notify the specified creditors concerned of the decision.””.

*49. In page 15, after line 13, to insert the following:

“Amendment of section 45 of Act of 2012

45. Section 45 of the Act of 2012 is amended by inserting the following after subsection (3):

“(4) Where a Debt Relief Notice is terminated under this Chapter, the Insolvency Service shall, within 3 months after the date on which the supervision period concerned would, but for that termination, have ended, remove from the Register of Debt Relief Notices all information recorded in it in respect of the Debt Relief Notice.””.

*50. In page 15, after line 13, to insert the following:

“Amendment of section 46 of Act of 2012

46. Section 46(2) of the Act of 2012 is amended by deleting “without delay and, in any event,””.

[NEW SECTIONS]

*51. In page 15, after line 13, to insert the following:

“Amendment of section 54 of Act of 2012

47. Section 54 of the Act of 2012 is amended in paragraph (c) by substituting “Prescribed” for “Personal”.”.

*52. In page 15, after line 13, to insert the following:

“New section 54A in Act of 2012

48. The following section is inserted after section 54 of the Act of 2012:

“Performance by other person of certain functions of personal insolvency practitioner

54A. Nothing in this Act shall be taken to prevent a function of a personal insolvency practitioner under this Act that is of a clerical, secretarial or administrative nature being performed, under the direction of the personal insolvency practitioner, by another person.”.

*53. In page 15, after line 13, to insert the following:

“Amendment of section 59 of Act of 2012

49. Section 59(2) of the Act of 2012 is amended by substituting “as may be prescribed” for “as may be specified”.”.

*54. In page 15, after line 13, to insert the following:

“Amendment of section 61 of Act of 2012

50. Section 61 of the Act of 2012 is amended—

(a) in subsection (1), by substituting the following for paragraph (a)(ii):

“(ii) furnish that certificate together with a copy of the application and the supporting documentation (other than the documents referred to in section 59(2)(f) and (g)) to the appropriate court, and”,

and

(b) by substituting the following for subsection (11):

“(11) Where a protective certificate is issued under this section, the Insolvency Service shall—

(a) record in the Register of Protective Certificates, in addition to such other details as may be prescribed under section 133(3)(b), the following—

(i) the name and address of the debtor and the date of issue of the protective certificate,

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- (ii) where applicable—
 - (I) the extension under this section of the protective certificate, and
 - (II) the making by the appropriate court of an order under section 63, and the creditor in respect of whom the order has been made,and
- (iii) the date on which the protective certificate ceases, under this Chapter, to be in force, and
- (b) within 3 months of the date on which the protective certificate ceases, under this Chapter, to be in force, remove from the Register of Protective Certificates all information recorded in it in respect of the protective certificate.”.”.

*55. In page 15, after line 13, to insert the following:

“Amendment of section 62 of Act of 2012

51. Section 62(1) of the Act of 2012 is amended in paragraph (e) by substituting “whether or not” for “unless”.”.

*56. In page 15, after line 13, to insert the following:

“Amendment of section 65 of Act of 2012

52. Section 65(2) of the Act of 2012 is amended, in paragraph (e)(i), by substituting “sections 48 to 54” for “sections 48 to 53”.”.

*57. In page 15, after line 13, to insert the following:

“Amendment of section 72 of Act of 2012

53. Section 72(1) of the Act of 2012 is amended by substituting “called in accordance with section 70” for “called by the personal insolvency practitioner for the purpose of approving a proposal for a Debt Settlement Arrangement given to the creditors under section 70(3)”.”.

*58. In page 15, after line 13, to insert the following:

“Amendment of section 73 of Act of 2012

54. Section 73 of the Act of 2012 is amended by deleting subsection (3).”.

[NEW SECTIONS]

*59. In page 15, after line 13, to insert the following:

“Amendment of section 79 of Act of 2012

55. Section 79(3) of the Act of 2012 is amended in paragraph (e) by substituting “holds security” for “has security”.”.

*60. In page 15, after line 13, to insert the following:

“Amendment of section 83 of Act of 2012

56. Section 83 of the Act of 2012 is amended by inserting the following after subsection (3):

“(4) Where the appropriate court makes a decision under subsection (3)—

(a) the Registrar of the appropriate court shall notify the Insolvency Service of the decision, and

(b) the Insolvency Service, on receipt of the notification under paragraph (a), shall notify the personal insolvency practitioner and the specified creditors concerned of the decision.

(5) Where the appropriate court decides, under subsection (3), to terminate a Debt Settlement Arrangement, the Insolvency Service shall, on receipt of the notification under subsection (4) of that termination, record the fact of the termination of the Debt Settlement Arrangement in the Register of Debt Settlement Arrangements.”.”.

*61. In page 15, after line 13, to insert the following:

“Amendment of section 85 of Act of 2012

57. Section 85 of the Act of 2012 is amended by inserting the following after subsection (2):

“(3) Where subsection (1) applies, the Insolvency Service shall, within 3 months after the date on which the Debt Settlement Arrangement would, but for that fact, have expired, remove from the Register of Debt Settlement Arrangements all information recorded in it in respect of the Debt Settlement Arrangement.”.”.

*62. In page 15, after line 13, to insert the following:

“Amendment of section 86 of Act of 2012

58. Section 86 of the Act of 2012 is amended by substituting the following for subsection (3):

“(3) Where the Insolvency Service receives the notice referred to in subsection (1), it shall—

(a) record the successful completion of the Debt Settlement Arrangement in the Register of Debt Settlement Arrangements, and

[NEW SECTIONS]

- (b) within 3 months of such receipt, remove from the Register of Debt Settlement Arrangements all information recorded in it in respect of the Debt Settlement Arrangement.””.

*63. In page 15, after line 13, to insert the following:

“Amendment of section 93 of Act of 2012

59. Section 93(2) of the Act of 2012 is amended—

- (a) by substituting “accompanied by such fee (if any) as may be prescribed and the following documents:” for “accompanied by the following documents:”,
- (b) in paragraph (c), by substituting “section 91(1)(e);” for “section 91(1)(g);”,
- (c) by inserting the following paragraph after paragraph (c):

“(cc) the declaration in writing of the debtor referred to in section 91(1)(g);””.

*64. In page 15, after line 13, to insert the following:

“Amendment of section 95 of Act of 2012

60. Section 95 of the Act of 2012 is amended—

- (a) in subsection (1) by substituting the following for paragraph (a)(ii):

“(ii) furnish that certificate together with a copy of the application and the supporting documentation (other than the documents referred to in section 93(2)(f) and (g)) to the appropriate court, and”,

and

- (b) by substituting the following for subsection (11):

“(11) Where a protective certificate is issued under this section, the Insolvency Service shall—

- (a) record in the Register of Protective Certificates, in addition to such other details as may be prescribed under section 133(3)(b), the following—

- (i) the name and address of the debtor and the date of issue of the protective certificate,

- (ii) where applicable—

- (I) the extension under this section of the protective certificate, and

- (II) the making by the appropriate court of an order under section 97, and the creditor in respect of whom the order has been made,

[NEW SECTIONS]

and

- (iii) the date on which the protective certificate ceases, under this Chapter, to be in force,

and

- (b) within 3 months of the date on which the protective certificate ceases, under this Chapter, to be in force, remove from the Register of Protective Certificates all information recorded in it in respect of the protective certificate.”.”.

*65. In page 15, after line 13, to insert the following:

“Amendment of section 96 of Act of 2012

61. Section 96(1) of the Act of 2012 is amended by substituting the following for paragraph (f):

“(f) take any step to recover goods in the possession or custody of the debtor, whether or not title to the goods is vested in the creditor;”.”.

*66. In page 15, after line 13, to insert the following:

“Amendment of section 102 of Act of 2012

62. Section 102(7) of the Act of 2012 is amended by substituting “the issue by the appropriate court” for “the Insolvency Service’s issue”.”.

*67. In page 15, after line 13, to insert the following:

“Amendment of section 116 of Act of 2012

63. Section 116(3) of the Act of 2012 is amended by substituting the following for paragraph (f):

“(f) take any step to recover goods in the possession or custody of the debtor, unless title to the goods is vested in the creditor;”.”.

*68. In page 15, after line 13, to insert the following:

“Amendment of section 122 of Act of 2012

64. Section 122 of the Act of 2012 is amended by inserting the following after subsection (3):

“(4) Where the appropriate court makes a decision under subsection (3)—

- (a) the Registrar of the appropriate court shall notify the Insolvency Service of the decision, and
- (b) the Insolvency Service, on receipt of the notification under paragraph (a), shall notify the personal insolvency practitioner and the specified creditors concerned of the decision.

[NEW SECTIONS]

- (5) Where the appropriate court decides, under subsection (3), to terminate a Personal Insolvency Arrangement, the Insolvency Service shall, on receipt of the notification under subsection (4) of that termination, record the fact of the termination of the Personal Insolvency Arrangement in the Register of Personal Insolvency Arrangements.”.”.

*69. In page 15, after line 13, to insert the following:

“Amendment of section 124 of Act of 2012

65. Section 124 of the Act of 2012 is amended by inserting the following after subsection (2):

“(3) Where subsection (1) applies, the Insolvency Service shall, within 3 months after the date on which the Personal Insolvency Arrangement would, but for that fact, have expired, remove from the Register of Personal Insolvency Arrangements all information recorded in it in respect of the Personal Insolvency Arrangement.”.”.

*70. In page 15, after line 13, to insert the following:

“Amendment of section 125 of Act of 2012

66. Section 125 of the Act of 2012 is amended by substituting the following for subsection (4):

“(4) Where the Insolvency Service receives the notice referred to in subsection (1), it shall—

(a) record the successful completion of the Personal Insolvency Arrangement in the Register of Personal Insolvency Arrangements, and

(b) within 3 months of such receipt, remove from the Register of Insolvency Arrangements all information recorded in it in respect of the Personal Insolvency Arrangement.”.”.

*71. In page 15, after line 13, to insert the following:

“Amendment of section 10 of Courts of Justice Act 1947

67. Section 10(12) (inserted by section 194(c) of the Act of 2012) of the Courts of Justice Act 1947 is amended by substituting “specialist judge” for “specialty judge” in both places where it occurs.”.

[NEW SECTIONS]

*72. In page 15, after line 13, to insert the following:

“PART 9

MISCELLANEOUS

Amendment of section 38 of Courts of Justice Act 1936

68. The Courts of Justice Act 1936 is amended in section 38—

(a) in subsection (1), by substituting the following for paragraph (b):

“(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), or
- (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).”

(b) in subsection (4), by deleting “on the same circuit”, and

(c) in subsection (5)(a), by deleting “in the same circuit”.”.

73. In page 15, after line 13, to insert the following:

“PART 4

INADMISSIBILITY OF SEXUAL ASSAULT COMMUNICATIONS

19. The Criminal Evidence Act 1992 is amended by the insertion of the following sections after section 30:

“31. (1) Where a person under the age of 18 gives evidence as a witness in any criminal proceedings, evidence disclosing the content of communications made by that witness in confidence in the course of sexual assault counselling shall not be admissible save by order of the trial court.

(2) In determining an application for an order admitting such evidence, the court shall have regard to the following requirements:

- (a) the evidence must have substantial probative value;
- (b) there must be no other evidence which could prove the disputed facts;

[NEW SECTIONS]

- (c) the public interest in disclosure outweighs the potential harm to the complainant.
32. For the purpose of section 31, sexual assault counselling shall mean communications or notes thereof, whether made contemporaneously or subsequently, made between the relevant witness, being the victim of a sexual assault, and a person—
- (a) who has undertaken training or study or has experience that is relevant to the process of counselling persons who have suffered harm, and
 - (b) who—
 - (i) listens to and gives verbal or other support or encouragement to the other person, or
 - (ii) advises, gives therapy to or treats the other person, whether or not for fee or reward.”.”.

—*Senators Jillian van Turnhout, Fiach MacConghail, Katherine Zappone, Mary Ann O’Brien, Marie Louise O’Donnell.*

TITLE

*74. In page 4, line 5, to delete “2004 and” and substitute “2004,”.

*75. In page 4, line 5, after “1991” to insert “and the Adoption Act 2010”.

*76. In page 4, line 13, after “2002;” to insert the following:

“to amend the Courts (Establishment and Constitution) Act 1961 to increase the number of Supreme Court judges to nine; to amend the Juries Act 1976 to provide for the selection of additional jurors in lengthy criminal trials; to amend the Coroners Act 1962 and the Civil Legal Aid Act 1995 to provide for the provision of legal aid or advice, or both, in respect of coroners inquests to families of deceased persons in certain circumstances; to amend the Bankruptcy Act 1988; to amend the Personal Insolvency Act 2012;”.