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**An Bille um an Dlí Sibhialta  
(Forálacha Ilghnéitheacha), 2021  
Civil Law (Miscellaneous Provisions) Bill 2021**

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*Meabhrán Míniúcháin  
Explanatory Memorandum*

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**AN BILLE UM AN DLÍ SIBHIALTA  
(FORÁLACHA ILGHNÉITHEACHA), 2021  
CIVIL LAW (MISCELLANEOUS PROVISIONS) BILL 2021**

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**EXPLANATORY MEMORANDUM**

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**Background**

The primary purpose of this Bill is to remove the uncertainty that has arisen during the Covid-19 pandemic regarding the lawful sale and consumption of alcohol in outdoor seating areas, where those outdoor seating areas have been permitted by the local authorities on public land, or where those outdoor seating areas are on private land abutting the licensed premises. The Bill will ensure that obligations on licence holders, including those to maintain good order in those areas, are preserved.

The Bill also provides for an increase in the maximum number of ordinary judges of the High Court and provides that the Government may, by order, allow for an additional judge of the High Court over the maximum number permitted in certain circumstances. These measures are required to assist the Court in addressing the significant increase in its workload and backlog of cases caused by the Covid-19 pandemic.

**Provisions of the Bill**

***Section 1 – Definitions***

*Section 1* defines the key terms in the Bill.

***Section 2 – Temporary licensing of outdoor seating area***

*Section 2* provides for a link between a liquor license and the permission to operate an outdoor seating area by the licensee. The section provides that for the period during which this section remains in operation, such outdoor areas be deemed to be part of the licensed premises. The section provides that failure to operate an outdoor area in accordance with the Licensing Acts shall be grounds for objection to the renewal of the licence. The section also clarifies the issue of operating hours and ensures that the use of these outdoor areas is in compliance with what has been authorised.

***Section 3 – Direction of member of Garda Síochána***

*Section 3* provides the instances where a specified person or a person, on a licensed premises, must comply with the direction of a member of An Garda Síochána.

Where a member of An Garda Síochána suspects with reasonable cause, that a specified person is not complying with the Licensing Acts, the Registration of Clubs Acts or this Act, in so far as they relate to an outdoor seating area, the member can direct the specified person to take the steps considered necessary to ensure compliance with the Acts. A specified person who fails to comply with such a direction shall be guilty of an offence.

This section provides that a member of An Garda Síochána may request a licensee to produce the authorisation, or proof of the authorisation, in force in respect of the outdoor seating area and makes it an offence to fail to produce such authorisation or proof without reasonable excuse.

A member of An Garda Síochána may require a person suspected of an offence to state his or her name and address and where a person does not comply, they shall be guilty of an offence.

A person who is guilty of an offence under this section shall be liable on summary conviction to a fine of up to €2,500 (a Class C fine), or a term of imprisonment not exceeding six months or to both.

For the avoidance of doubt, the powers in this section are in addition to any other powers of a member of An Garda Síochána has in relation to an outdoor seating area under the Licensing Acts, Registration of Clubs Acts or any other enactment.

#### ***Section 4 – Application of Act of 2020 to outdoor seating area in respect of certain enactments and authorisation***

*Section 4* provides that the Criminal Justice (Enforcement Powers) (Covid-19) Act 2020 shall apply to an outdoor seating area in respect of a relevant enactment as the Act applies to a relevant premises in respect of a relevant provision. The relevant enactments in this section are the Licensing Acts 1833 to 2018 and the Registration of Clubs Acts. This section aligns all the enforcement powers contained in the Licensing Acts 1833 to 2018 and the Registration of Clubs Acts to this Act.

#### ***Section 5 – Extension of application of Act of 2020 to outdoor seating area***

*Section 5* provides that the Criminal Justice (Enforcement Powers) (Covid-19) Act 2020 shall apply to an outdoor seating area as it applies to a relevant premises (within the meaning of that Act) and a reference in that Act to a relevant premises shall be taken to include a reference to an outdoor seating area which relates to the relevant premises. This ensures compliance with certain requirements, imposed by or under the Health Act 1947, in relation to outdoor seating areas and this section will remain in force for as long as the Criminal Justice (Enforcement Powers) (Covid-19) Act 2020 remains in force.

#### ***Section 6 – Application of Criminal Justice (Public Order) Act 1994***

*Section 6* provides, for the avoidance of doubt, that an outdoor seating area on private land is a public place for the purposes of the Criminal Justice (Public Order) Act 1994.

#### ***Section 7 – Regulations***

*Section 7* provides that the Minister may by regulation restrict the time during which a licensee of a licensed premises is permitted to sell or supply intoxicating liquor in an outdoor seating area.

#### ***Section 8 – Number of ordinary judges of High Court***

*Section 8* provides for the amendment of section 9 of the Courts and Court Officers Act 1995 to increase maximum number of ordinary judges of the High Court from 37 to 42. Secondly, *Section 8* provides that the Government may, by order, allow for an additional judge of the High Court over the maximum number permitted.

This increase is requested as the Court is described as facing an unprecedented period in its workload due to the Covid-19 pandemic and the time it takes to hear cases remotely, which has resulted in the Court's

backlog of cases increasing. This Bill provides an opportunity to expedite this provision as it is considered urgent.

***Section 9 – Short title, collective citation, commencement and operation***

*Section 9* provides for the short title of the Bill, any relevant collective citations, and matters relating to its commencement.

The section provides that the Act, other than section 8, shall remain in operation for the period beginning on the day following its passing and ending on the 30th day of November 2021. The period of operation may be extended for such further period or periods, each not exceeding 6 months, as is specified in a resolution passed by each House of the Oireachtas.

**Financial Implications**

There are no financial implications for the Exchequer.

*An Roinn Dlí agus Cirt,*

*Meitheamh, 2021.*

