



Bille na gCúirteanna Teaghlaigh, 2022
Family Courts Bill 2022

Meabhrán Miniúcháin agus Airgeadais
Explanatory and Financial Memorandum



BILLE NA gCÚIRTEANNA TEAGHLAIGH, 2022
FAMILY COURTS BILL 2022

EXPLANATORY AND FINANCIAL MEMORANDUM

Purpose of the Bill

The Family Courts Bill 2022 provides for the establishment of a Family High Court, Family Circuit Court and Family District Court as divisions within the existing court structures. When enacted, the Bill will form an intrinsic part of the reform of the family justice system, providing many of the building blocks essential to the development of a more efficient and user-friendly family court system; a system that puts families at the centre of its activities, facilitates access to specialist supports and encourages the use of appropriate dispute resolution in family law proceedings.

Provisions of the Bill

PART 1

PRELIMINARY AND GENERAL

1. Short title and commencement

Section 1 is a standard provision providing for the short title of the Bill and its commencement.

2. Interpretation

Section 2 provides for the definitions of terms used in the Bill.

3. Power to prescribe additional enactments in definition of family law proceedings

Section 3 gives power to the Minister to prescribe an enactment for the purposes of the definition of “family law proceedings” under the Bill.

4. Orders and regulations

Section 4 provides laying provisions for orders and regulations made by the Minister under the Bill.

5. Repeals

Section 5 provides for the repeal of the legislative provisions listed in Schedule 1 to the Bill.

6. Amendments of miscellaneous enactments

Section 6 provides for the amendment of the legislative provisions listed in Schedule 2 to the Bill.

7. Expenses

Section 7 is a standard provision regarding expenses incurred in the administration of the Bill.

PART 2

GUIDING PRINCIPLES

8. Guiding principles

Section 8 sets out the principles that the courts, legal practitioners and parties must have regard to when dealing with family law proceedings. These principles relate to ensuring the welfare of children involved in the proceedings or likely to be affected by their outcome, encouraging alternatives to litigation, promoting good case management practice, ensuring that proceedings are conducted as far as possible in a user-friendly manner and where feasible minimising the cost of the proceedings.

PART 3

FAMILY HIGH COURT

9. Establishment and constitution of Family High Court

Section 9 amends the Courts (Establishment and Constitution) Act 1961 to provide for the establishment of the Family High Court. The Family High Court will consist of a Principal Judge and a number of ordinary judges of the Family High Court.

10. Jurisdiction, proceedings and sittings of Family High Court

Section 10 provides for the exercise of jurisdiction by the Family High Court and includes provisions relating to proceedings and sittings of the Family High Court.

This section inserts new sections into the Courts (Supplemental Provisions) Act 1961, providing for the jurisdiction of the Family High Court in family law proceedings. This section sets out the information to be provided in applications to the Family High Court, including, with some exceptions, whether mediation has been attempted.

The section provides that court proceedings will be as informal as is practicable including that judges, solicitors and barristers appearing in court will not wear a wig or gown. The section allows a Family High Court judge to suspend proceedings to enable parties to engage in alternative dispute resolution.

The section provides for the Family High Court to sit to hear and determine family law proceedings in a different building or room, or on different days or times from the days, or times on which, sittings of any other court (other than the Family Courts) are held, with limited exceptions.

11. Functions of Principal Judge of Family High Court

Section 11 amends the Courts (Supplemental Provisions) Act 1961 to provide for the functions of the Principal Judge of the Family High Court.

12. Judge of Family High Court may issue orders or directions in family law proceedings

Section 12 provides for the power of the Principal Judge of the Family High Court or a judge of the Family High Court, nominated by the Principal Judge, to make any order or give any direction that he or she thinks appropriate relating to the conduct of proceedings before the Family High Court.

13. Principal Judge of Family High Court may issue practice directions

Section 13 gives the Principal Judge of the Family High Court the power to issue practice directions relating to family law proceedings.

14. Qualification for assignment as Principal Judge of Family High Court

Section 14 amends the Courts (Supplemental Provisions) Act 1961 to provide for the qualification of an ordinary judge of the High Court for assignment as Principal Judge of the Family High Court.

15. Assignment of Principal Judge of Family High Court

Section 15 provides for the assignment of an ordinary judge of the High Court, by the President of the High Court, to be Principal Judge of the Family High Court. This section provides that the judge assigned should, by reason of his or her training, experience and temperament, be a suitable person to deal with family law proceedings. The President of the High Court shall select the Principal Judge in accordance with a selection process recommended by the Judicial Appointments Commission. The President of the High Court may also select a new Principal Judge or reassign the Principal Judge of the Family High Court to the High Court.

This section also provides for the minimum term of assignment for the Principal Judge to the Family High Court. This section provides that a Principal Judge may request for his or her assignment to be terminated after completing 4 years in his or her assignment and may thereafter be reassigned to the Family High Court or assigned to fill a vacancy in the High Court.

16. Assignment of judge of High Court as judge of Family High Court

Section 16 provides for the assignment of judges of the High Court as judges of the Family High Court by the President of the High Court, where the President is satisfied of the judges' suitability. Judges will be assigned to the Family High Court for a term of not less than 3 years. Where 3 years have been completed in the Family High Court, a judge may request for his or her assignment to be terminated and may thereafter be assigned to fill a vacancy in the High Court.

The section also provides for the President of the High Court, in consultation with the Principal Judge of the Family High Court, to reassign a judge of the Family High Court and assign a new judge in his or her place if it is in the interest of good administration of the Family High Court.

17. Family High Court on Circuit

Section 17 amends the Courts of Justice Act 1936 to provide for the Family High Court Circuits. The purpose of this section is to give the Courts Service the power to divide the State into Family High Court Circuits, to alter the composition of a circuit and where appropriate, to attach a name to a circuit.

This section also makes provision for the sitting of the Family High Court on Circuit.

18. Amendment of Act of 1995

Section 18 amends sections 25 and 50 of the Courts and Court Officers Act 1995 to provide for the functions of the Master of the High Court in family law proceedings, where allocated by the Principal Judge of the Family High Court.

PART 4
FAMILY CIRCUIT COURT
CHAPTER 1

Establishment, jurisdiction and proceedings of Family Circuit Court

19. Establishment and constitution of Family Circuit Court

Section 19 amends the Courts (Establishment and Constitution) Act 1961 to provide for the establishment of the Family Circuit Court. This section provides for the Principal Judge of the Family Circuit Court and for judges of the Family Circuit Court.

20. Jurisdiction of Family Circuit Court and exercise of jurisdiction by judges of Family Circuit Court

Section 20 inserts a new section into the Courts (Supplemental Provisions) Act 1961, providing for the geographical jurisdiction of the Family Circuit Court under the Act, and provides for the exercise of jurisdiction by judges of the Family Circuit Court, including the Principal Judge of the Family Circuit Court. The section also provides for a judge in a particular circuit to deal with a specific case where it may be in the best interests of the child for this to happen. Provision is made for appeals from the Family District Court to be heard in the Family Circuit Court and for decisions of the Family Circuit Court to be appealed to the Family High Court.

21. Functions of Principal Judge of Family Circuit Court

Section 21 inserts a new section into the Courts (Supplemental Provisions) Act 1961 providing for the functions of the Principal Judge of the Family Circuit Court. These include taking steps aimed at ensuring the implementation of the guiding principles under section 8, to ensure the efficiency of court business and to make recommendations to the President of the Circuit Court in respect of the number of judges to be assigned to a Family Circuit Court circuit.

22. Judge of Family Circuit Court may issue orders or directions in family law proceedings

Section 22 provides for the power of the Principal Judge of the Family Circuit Court or any judge of the Family Circuit Court, as nominated by the Principal Judge, to make any order or give any direction that he or she thinks appropriate relating to the conduct of proceedings before the Family Circuit Court.

23. Principal Judge of Family Circuit Court may issue practice directions

Section 23 gives the Principal Judge of the Family Circuit Court the power to issue practice directions for the conduct of family law proceedings.

24. Proceedings in Family Circuit Court

Section 24 includes provisions for family law proceedings to be commenced in the Family Circuit Court. This section sets out the information to be provided in the civil bill, including, with some exceptions, whether mediation has been attempted.

The section provides that court proceedings will be as informal as is practicable including that judges, solicitors and barristers appearing in court will not wear a wig or gown. The section allows a Family Circuit Court judge to suspend proceedings to enable parties to engage in alternative dispute resolution.

25. Sittings of Family Circuit Court

Section 25 provides for the Family Circuit Court to hear and determine proceedings in a location separate from where sittings of any other court are held, or on different days or times from the days, or times on which, sittings of any other court (other than the Family Courts) are held, with limited exceptions.

Section 25 also provides for the Principal Judge of the Family Circuit Court to specify the locations, dates and times of Family Circuit Court sittings.

CHAPTER 2

Creation and alteration of Family Circuit Court circuits and assignment of judges to Family Circuit Court

26. Family Circuit Court circuits

Section 26 amends the Courts (Supplemental Provisions) Act 1961 to provide for the creation of Family Circuit Court circuits.

Provision is made for the division of the State into geographical areas which will become the Family Circuit Court circuits. This provision also provides for alteration of the composition of a circuit or substitution of the name of a Family Circuit Court circuit.

27. Qualification for assignment as Principal Judge of Family Circuit Court

Section 27 amends the Courts (Supplemental Provisions) Act 1961 to provide for the qualification of an ordinary judge of the Circuit Court for assignment as Principal Judge of the Family Circuit Court.

28. Assignment of Principal Judge of Family Circuit Court

Section 28 provides for the assignment of an ordinary judge of the Circuit Court, by the President of the Circuit Court, to be Principal Judge of the Family Circuit Court. This section provides that the judge assigned should, by reason of his or her training, experience and temperament, be a suitable person to deal with family law proceedings. The President of the Circuit Court shall select the Principal Judge in accordance with a selection process recommended by the Judicial Appointments Commission. The President of the Circuit Court may also select a new Principal Judge or reassign the Principal Judge of the Family Circuit Court to the Circuit Court.

This section also provides for the minimum term of assignment for the Principal Judge to the Family Circuit Court. This section provides that a Principal Judge may request for his or her assignment to be terminated after completing 4 years in his or her assignment and may thereafter be reassigned to the Family Circuit Court or assigned to fill a vacancy in the Circuit Court.

29. Assignment of judges of Circuit Court to Family Circuit Court

Section 29 provides for the assignment of judges of the Circuit Court as judges of the Family Circuit Court by the President of the Circuit Court, where the President is satisfied of the judges' suitability. Judges will be assigned to the Family Circuit Court for a term of not less than 3 years. Where 3 years have been completed in the Family Circuit Court, a judge may request for his or her assignment to be terminated and may thereafter be assigned to fill a vacancy in the Circuit Court.

The section also provides for the President of the Circuit Court, in consultation with the Principal Judge of the Family Circuit Court, to reassign a judge of the Family Circuit Court and assign a new judge in his or her place if it is in the interest of good administration of the Family Circuit Court.

30. Assignment of persons to act temporarily as additional judges of Family Circuit Court

Section 30 provides for the temporary assignment of a judge or judges of the Circuit Court to the Family Circuit Court.

Under this section, the President of the Circuit Court may assign one or more ordinary judges of the Circuit Court to hear an application in family law proceedings in circumstances of urgency where no judge of the Family Circuit Court is available.

31. Mode of address and precedence of judges: Circuit Court

Section 31 amends the Courts of Justice Act 1924 to provide for the mode of address for the Principal Judge of the Family Circuit Court.

32. Orders which can be made by County Registrar in family law proceedings

Section 32 amends the Courts and Court Officers Act 1995 providing for a County Registrar to make orders for transfer of proceedings to the Family High Court, or the Family District Court, as well as all ancillary orders for the transfer of moneys lodged in the Family Circuit Court.

33. Amendment of section 38 of Act of 1926

Section 33 amends the Court Officers Act 1926 by providing that rules of court may provide for the County Registrar to hear and determine the applications set out in section 38(2) of the Act of 1926.

34. Family Circuit Court circuits comprising Irish speaking Family District Court districts

Section 34 amends the Court Officers Act 1924 by providing that a judge assigned to a Family Circuit Court circuit which includes an area where the Irish language is in general use shall have such knowledge of the Irish language that would enable him or her to dispense with the assistance of an interpreter when evidence is given in that language.

35. Money paid into Family Circuit Court

Section 35 amends the Court Officers Act 1926 in respect of moneys paid into court to take account of the Family Circuit Court and of judges of the Family Circuit Court.

PART 5

FAMILY DISTRICT COURT

CHAPTER 1

Establishment, jurisdiction and proceedings of Family District Court

36. Establishment and constitution of Family District Court

Section 36 amends the Courts (Establishment and Constitution) Act 1961 to provide for the establishment of the Family District Court. This section provides for the Principal Judge of the Family District Court and for the judges of the Family District Court.

37. Jurisdiction of Family District Court and exercise of jurisdiction by judges of Family District Court

Section 37 inserts a new section into the Courts (Supplemental Provisions) Act 1961, providing for the geographical jurisdiction of the Family District Court. The jurisdiction of the Family District Court is exercisable by a Family District Court judge assigned to the Family District Court district in which a party to the proceedings lives or works, in which a child whose welfare is the subject of proceedings resides or in which a previous order in the same proceedings has been made.

There is discretion to allow an application to be heard by a Family District Court judge, in another Family District Court district in which the child or party to proceedings has a connection, when it would be in the best interest of the child or where otherwise appropriate.

The section provides for a judge of the Family District Court to make an order or give a direction in family law proceedings both within and outside of his or her district, in matters of urgency.

Provision is made for referral of any question of law arising in proceedings to the Family High Court for final determination. Provision is also made for a decision of the Family District Court to be appealed to the Family Circuit Court in the circuit in which the Family District Court is situated.

38. Amendment of section 79 of Act of 1924

Section 38 amends the Courts of Justice Act 1924 by substituting “Family District Court” for “District Court” in section 79(5) of that Act enabling any judge of the Family District Court to make an order under the Guardianship of Infants Act 1964 as a matter of urgency.

39. Proceedings in Family District Court

Section 39 provides for relevant family law proceedings to be commenced in the Family District Court. This section outlines what is required to be stated in the originating document, including, with some exceptions, whether mediation has been attempted.

This section provides that Family District Court proceedings will be as informal as is practicable and provides that judges, solicitors and barristers appearing in court will not wear a wig or gown. This section gives the Family District Court judge the power to suspend proceedings to enable parties to engage in alternative dispute resolution.

40. Sittings of Family District Court

Section 40 provides that the Family District Court shall hear and determine proceedings in a location separate from where sittings of any other court are held, or on different days or times from the days, or times on which, sittings of any other court (other than the Family Courts) are held, with limited exceptions.

This section also provides for the Principal Judge of the Family District Court to distribute work amongst Family District Court judges, arrange the prompt despatch of business of the court and to specify the locations, dates and times of court sittings.

41. Judge of Family District Court may issue orders or directions in family law proceedings

Section 41 provides for the power of the Principal Judge of the Family District Court or any judge of the Family District Court, as nominated by the Principal Judge, to make any order or give any direction that he or she thinks appropriate relating to the conduct of proceedings before the Family District Court.

42. Principal Judge of Family District Court may issue practice directions

Section 42 gives the Principal Judge of the Family District Court the power to issue practice directions for the conduct of family law proceedings.

43. Functions of Principal Judge of Family District Court

Section 43 inserts a new section into the Courts (Supplemental Provisions) Act 1961 providing for the functions of the Principal Judge of the Family District Court. These include taking steps aimed at ensuring the implementation of the guiding principles under section 8, to ensure the

efficiency of court business and to make recommendations to the President of the District Court in respect of the number of judges to be assigned to a Family District Court district.

CHAPTER 2

Creation and alteration of Family District Court districts and assignment of judges to Family District Court

44. Family District Court districts

Section 44 amends the Courts (Supplemental Provisions) Act 1961 to provide that Family District Court districts created under the Courts of Justice Act 1953, as amended by section 44, shall be the districts for the purposes of the Family District Court.

45. Power to create, vary and abolish Family District Court districts for Family District Court

Section 45 amends the Courts of Justice Act 1953 to provide for the power to create, vary and abolish districts for the Family District Court. The Family Circuit Court circuits created by section 20A of the Courts (Supplemental Provisions) Act 1961, as inserted by section 26 of the Bill, will be divided by the Courts Service into geographical districts convenient for the conduct of the Family District Court. These shall be referred to as “Family District Court districts”.

46. Qualification for assignment as Principal Judge of Family District Court

Section 46 amends the Courts (Supplemental Provisions) Act 1961 to provide that a person who is qualified for appointment as an ordinary judge of the District Court is qualified for assignment as Principal Judge of the Family District Court.

47. Assignment of Principal Judge of the Family District Court

Section 47 provides for the assignment of an ordinary judge of the District Court, by the President of the District Court, to be Principal Judge of the Family District Court. This section provides that the judge assigned should, by reason of his or her training, experience and temperament, be a suitable person to deal with family law proceedings. The President of the District Court shall select the Principal Judge in accordance with a selection process recommended by the Judicial Appointments Commission. The President of the District Court may also select a new Principal Judge or reassign the Principal Judge of the Family District Court to the District Court.

This section also provides for the minimum term of assignment for the Principal Judge to the Family District Court. This section provides that a Principal Judge may request for his or her assignment to be terminated after completing 4 years in his or her assignment and may thereafter be reassigned to the Family District Court or assigned to fill a vacancy in the District Court.

48. Assignment of judges to Family District Court

Section 48 provides for the assignment of judges of the District Court as judges of the Family District Court by the President of the District Court, where the President is satisfied of the judges’ suitability. Judges will be assigned to the Family District Court for a term of not less than 3 years. Where 3 years have been completed in the Family District Court, a judge may request for his or her assignment to be terminated and may thereafter be assigned to fill a vacancy in the District Court.

The section also provides for the President of the District Court, in consultation with the Principal Judge of the Family District Court, to

reassign a judge of the Family District Court and assign a new judge in his or her place if it is in the interest of good administration of the Family District Court.

49. Assignment of persons to act temporarily as additional judges of Family District Court

Section 49 provides for the temporary assignment of a judge or judges of the District Court to the Family District.

Under this section, the President of the District Court may assign one or more ordinary judges of the District Court to hear an application in family law proceedings in circumstances of urgency where no judge of the Family District Court is available.

50. Family District Court districts comprising Irish speaking areas

Section 50 amends the Court Officers Act 1924 by providing that a judge assigned to a Family District Court district which includes an area where the Irish language is in general use shall have such knowledge of the Irish language that would enable him or her to dispense with the assistance of an interpreter when evidence is given in that language.

PART 6

FAMILY LAW RULES COMMITTEE

51. Family Law Rules Committee

Section 51 inserts new sections 72A, 72B and 72C into the Courts of Justice Act 1936 to provide for the establishment, composition, functions and powers of a Family Law Rules Committee or, alternatively, Family Law Sub-committees of the existing Court Rules Committees.

Notwithstanding the creation of the Family Law Rules Committees, the Superior Court, Circuit Court and District Court Rules Committees may continue to make rules in respect of family law proceedings until such time as the Family Law Rules Committee or Family Law Sub-committees are established. Similarly, any rules in force immediately before the establishment of the Family Law Rules Committee shall remain in force until or unless revoked.

Section 51 contains provisions relating to the quorum of the Family Law Rules Committee, vacancies in membership and appointment of replacements and the appointment of the secretary to the Committee.

This section also outlines the rules that can be made by the Committee in respect of the Family Courts.

Section 51 inserts a further section into the 1936 Act to provide for Family Law Sub-committees. The Family Law Sub-committees may propose the making of rules of court by the Court Rules Committees in respect of family law proceedings and the content of such rules.

52. Amendment of Act of 1924

Section 52 amends the Courts of Justice Act 1924 to provide for the application to the Family Courts of rules made by the Family Law Rules Committee.

53. Exercise of jurisdiction pursuant to rules of court: amendment of Act of 1961

Section 53 amends the Courts (Supplemental Provisions) Act 1961 to take account of the rules of court made under section 72B of the Courts of Justice Act 1936 as inserted by section 51 of the Bill in respect of family law proceedings before the Family High Court, Family Circuit Court and

Family District Court and to include them in the definition of “rules of court” for the purposes of that Act.

54. Scales of costs

Section 54 amends section 46 of the Courts and Court Officers Act 1995 to take account of the Family Law Rules Committee and to include it in the definition of “rules-making authority” for the purposes of that Act.

PART 7

MISCELLANEOUS

55. Precedence between judges

Section 55 amends the Courts of Justice Act 1924 to provide for the inclusion of the Principal Judge of the Family High Court and the Principal Judge of the Family Circuit Court in the ranking of precedence of judges.

56. References to senior ordinary judge

Section 56 amends the Courts (No. 2) Act 1997 to include a reference to the Principal Judge of the Family High Court.

57. Temporary discharge of duties of certain judges

Section 57 amends the Courts Act 1981 to provide that where the Principal Judge of the Family High Court is unable to act or where the office is vacant, during that time all powers of the Principal Judge of the Family High Court will be exercised and performed by the President of the High Court.

This section includes the same provisions in respect of the Principal Judges of the Family Circuit Court and the Family District Court with regard to the Presidents of the Circuit Court and the District Court respectively.

58. Register of reserved judgments

Section 58 amends the Courts and Court Officers Act 2002 to include reference to the Principal Judges of the Family High Court, Family Circuit Court and Family District Court in respect of the register of reserved judgments.

59. Training and education of judges of Family High Court, Family Circuit Court and Family District Court

Section 59 provides that judges of the Family Courts shall undertake training courses as required by the Principal Judge of each court in consultation with the President of the court in question and in consultation with the Chief Justice.

60. Service by post of Family High Court documents

Section 60 amends the Courts Act 1971 to include rules made by the Family Law Rules Committee in respect of service of a superior court document by post.

Sections 61 to 65 inclusive:

Sections 61 through *65* amend various Acts to provide for the definition of “family law proceedings” to have the same meaning as it has in the Family Courts Bill as well as to insert reference to the Family Courts Bill.

66. Pending proceedings under certain enactments

Section 66 provides that where cases under the Judicial Separation and Family Law Reform Act 1989, the Family Law (Divorce) Act 1996 or the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 are pending before the Family Circuit Court or Family High Court, the Family District Court may hear and determine other family law proceedings involving the same parties or relating to the same children

where it is in the interests of justice that those proceedings be heard before the other pending proceedings.

67. Exercise of jurisdiction of High Court, Circuit Court and District Court available to judges of Family High Court, Family Circuit Court and Family District Court

Section 67 provides that judges of the Family High Court, Family Circuit Court and Family District Court will retain their powers as judges of the High Court, Circuit Court and District Court while assigned to the Family Courts.

68. Family law proceedings where concurrent jurisdiction conferred on Family High Court, Family Circuit Court and Family District Court

Section 68 provides that where an enactment confers concurrent jurisdiction on the Family Courts, an applicant should not initiate proceedings in the Family High Court without special reason to do so. Where proceedings are initiated in the Family High Court without special reason, or in the case of transfer under Part 10, where the Family District Court or the Family Circuit Court may be the more appropriate court in the circumstances, the court may transfer those proceedings to the lower court and make an order as to costs.

PART 8

JURISDICTION

69. Jurisdiction of Family District Court in consent cases

Section 69 provides for the Family District Court to have unlimited monetary jurisdiction in consent cases. Where a judge of the Family District Court is satisfied that the parties have reached an agreement on the subject matter of the proceedings and they have consented to the proceedings being determined by the Family District Court, the proceedings can be determined at Family District Court level without a limit as to monetary jurisdiction.

70. Transfer of proceedings from Family District Court to Family Circuit Court

Section 70 provides that a judge of the Family District Court may send forward proceedings to the Family Circuit Court where there are special circumstances in the proceedings that would make it more appropriate for the proceedings to be dealt with by that court.

71. Transfer of proceedings from Family Circuit Court to Family District Court

Section 71 provides that a judge of the Family Circuit Court may remit or transfer proceedings to the Family District Court where it would be more appropriate for the proceedings to be dealt with by that court or if it is considered that the proceedings should have been commenced in the Family District Court in the first instance. The section also provides for restrictions on subsequent transfer of proceedings that have been transferred under section 70 or section 71.

72. Restriction on power to transfer under section 70 or 71

Section 72 provides that where an order for judicial separation, divorce or dissolution of a civil partnership has been granted by a judge of the Family District Court or the Family Circuit Court, a judge of either court shall not transfer proceedings under section 70 or 71 in relation to orders made under Part II of the Family Law Act 1995, Part III of the Family Law (Divorce) Act 1996 or Part 12 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

73. Amendment of section 2 of Legitimacy Act 1931

Section 73 amends section 2 of the Legitimacy Act 1931 to insert appropriate references to the Family Circuit Court.

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

Section 74 amends the Enforcement of Court Orders Act 1940 to insert appropriate references to the Family District Court, Family District Court judge and Family District Court district in respect of the enforcement of certain orders for periodical payments.

75. Amendment of Act of 1964

Section 75 amends the Guardianship of Infants Act 1964 to insert appropriate references to the Family Circuit Court and Family District Court in relation to jurisdiction in guardianship matters. The section increases the monetary jurisdiction of the Family District Court in relation to maintenance and lump sum payments that can be ordered under the 1964 Act, to €500 per week and €50,000 respectively.

76. Amendment of section 10 of Act of 1976

Section 76 amends the Family Home Protection Act 1976 to provide for the concurrent jurisdiction of the Family High Court, Family Circuit Court and Family District Court under that Act.

This section also provides that the Family District Court shall not have jurisdiction in proceedings under that Act where the market value of any land to which the proceedings relate exceeds €1 million. Where the court is of the view, on the basis of evidence before it, that the market value of any land to which the proceedings relates exceeds €1 million, it shall transfer the proceedings to the Family Circuit Court. The section permits the Minister for Justice to, by order, increase this limit to a maximum of €2 million.

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

Section 77 amends the Family Law (Maintenance of Spouses and Children) Act 1976 to insert appropriate references to the Family High Court, Family Circuit Court and Family District Court. The section increases the monetary jurisdiction of the Family District Court in relation to maintenance to €1,500 per week for the support of a spouse or €500 per week for the support of a child.

78. Amendment of section 8 of Family Law Act 1981

Section 78 amends the Family Law Act 1981 to provide for the concurrent jurisdiction of the Family High Court, Family Circuit Court and Family District Court under that Act.

This section also provides that the Family District Court shall not have jurisdiction in proceedings under that Act where the market value of any land to which the proceedings relate exceeds €1 million. Where the court is of the view, on the basis of evidence before it, that the market value of any land to which the proceedings relates exceeds €1 million, it shall transfer the proceedings to the Family Circuit Court. The section permits the Minister for Justice to, by order, increase this limit to a maximum of €2 million.

79. Amendment of Act of 1987

Section 79 amends the Status of Children Act 1987 to insert appropriate references to the Family Circuit Court and Family Circuit Court circuits and provides for the geographical jurisdiction of the Family Circuit Court in respect of section 34 of that Act.

80. Amendment of Act of 1989

Section 80 amends the Judicial Separation and Family Law Reform Act 1989 to enable applications for judicial separation to be made jointly by both spouses.

This section also inserts appropriate references to the Family Circuit Court and Family District Court and amends provisions of the 1989 Act.

This section provides that the Family District Court shall not have jurisdiction in proceedings under the 1989 Act where the market value of any land to which the proceedings relate exceeds €1 million. Where the court is of the view, on the basis of evidence before it, that the market value of any land to which the proceedings relate exceeds €1 million, it shall transfer the proceedings to the Family Circuit Court. The section permits the Minister for Justice to, by order, increase this limit to a maximum of €2 million.

81. Amendment of Child Abduction and Enforcement of Custody Orders Act 1991

Section 81 amends the Child Abduction and Enforcement of Custody Orders Act 1991 to insert appropriate references to the Family High Court and Family District Court in respect of proceedings under that Act.

The section also amends section 37 of the 1991 Act to provide that the Family District Court or, where no judge or sitting of the Family District Court is available, the District Court may exercise jurisdiction under that section.

82. Amendment of Act of 1991

Section 82 amends the Child Care Act 1991 to insert appropriate references to the Family High Court, Family Circuit Court and Family District Court in respect of proceedings under that Act.

This section also provides for the concurrent jurisdiction of the Family District Court and the Family Circuit Court in relation to proceedings under Parts III, IV or VI of the 1991 Act and provides that the Family District Court, and Family Circuit Court on appeal from the Family District Court, shall have jurisdiction to hear summary proceedings for certain offences under the 1991 Act.

83. Amendment of Act of 1994

Section 83 amends the Maintenance Act 1994 to insert appropriate references to the Family Circuit Court and Family District Court.

84. Amendment of Family Law Act 1995

Section 84 amends the Family Law Act 1995 to provide for joint applications for ancillary orders under that Act.

This section further amends the 1995 Act to provide for the jurisdiction of the Family High Court, Family Circuit Court and Family District Court under that Act.

This section also provides that the Family District Court shall not have jurisdiction in proceedings under the 1995 Act where the market value of any land to which the proceedings relate exceeds €1 million. Where the court is of the view, on the basis of evidence before it, that the market value of any land to which the proceedings relate exceeds €1 million, it shall transfer the proceedings to the Family Circuit Court. The section permits the Minister for Justice to, by order, increase this limit to a maximum of €2 million.

85. Amendment of Act of 1996

Section 85 amends the Family Law (Divorce) Act 1996 to enable applications for divorce and ancillary orders to be made jointly by both spouses.

This section further amends the 1996 Act to provide for the concurrent jurisdiction of the Family High Court, the Family Circuit Court and the Family District Court, the under that Act.

This section also provides that the Family District Court shall not have jurisdiction in proceedings under the 1996 Act where the market value of any land to which the proceedings relate exceeds €1 million. Where the court is of the view, on the basis of evidence before it, that the market value of any land to which the proceedings relate exceeds €1 million, it shall transfer the proceedings to the Family Circuit Court. The section permits the Minister for Justice to, by order, increase this limit to a maximum of €2 million.

86. Amendment of Jurisdiction of Courts and Enforcement of Judgments Act 1998

Section 86 amends the Jurisdiction of Courts and Enforcement of Judgments Act 1998 to insert appropriate references to the Family High Court, Family Circuit Court and Family District Court in respect of proceedings under that Act relating to the enforcement of maintenance orders.

87. Amendment of Act of 2000

Section 87 amends the Protection of Children (Hague Convention) Act 2000 to insert appropriate references to the Family Circuit Court and Family District Court in respect of proceedings under that Act.

88. Amendment of Civil Registration Act 2004

Section 88 amends the Civil Registration Act 2004 to insert appropriate references to the Family High Court, Family Circuit Court and Family District Court in respect of proceedings under that Act.

89. Amendment of section 3 of Land and Conveyancing Law Reform Act 2009

Section 89 amends section 3 of the Land and Conveyancing Law Reform Act 2009 to insert appropriate references to the Family High Court, Family Circuit Court and Family District Court in respect of proceedings under section 31 of that Act arising from divorce, judicial separation or dissolution of civil partnership proceedings.

90. Amendment of Act of 2010

Section 90 amends the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 to provide for the concurrent jurisdiction of the Family High Court, Family Circuit Court and Family District Court and to insert appropriate references to the Family High Court, Family Circuit Court and Family District Court in respect of proceedings under that Act.

This section enables applications for dissolution of a civil partnership or for ancillary orders to be made jointly by both civil partners under the 2010 Act.

This section also provides that the Family District Court shall not have jurisdiction in proceedings under the 2010 Act where the market value of any land to which the proceedings relate exceeds €1 million. Where the court is of the view, on the basis of evidence before it, that the market value of any land to which the proceedings relate exceeds €1 million, it shall transfer the proceedings to the Family Circuit Court. The section permits

the Minister for Justice to, by order, increase this limit to a maximum of €2 million.

The section increases the monetary jurisdiction of the Family District Court under the 2010 Act in relation to maintenance.

Sections 91 through 95 inclusive:

Sections 91 through 95 inclusive amend various enactments to insert appropriate references to the relevant Family Court in respect of proceedings under those enactments.

PART 9

PROTECTION FOR PARTIES TO PROCEEDINGS

96. Definitions (Part 9)

Section 96 provides definitions for the terms used in Part 9 of the Bill.

97. Proceedings heard otherwise than in public

Section 97 sets out the detailed rules applicable to attendance at and reporting of in camera family law proceedings. It largely restates the provisions of section 40 of the Civil Liability and Courts Act 2004, as amended.

98. Prohibition on publication or broadcast of certain matters

Section 98 prohibits the broadcasting or publication of matters arising in family law proceedings that would be likely to reveal the identity of the parties to the proceedings or a child to whom the proceedings relate. The section re-states the provisions of section 40A of the Civil Liability and Courts Act 2004.

PART 10

TRANSITIONAL PROVISIONS

99. Definitions (Part 10)

Section 99 provides for the definition of terms used in the transitional provisions of the Bill.

100. Continuity and enforcement of administration of justice not affected

Section 100 provides that the continuity of administration and enforcement of justice shall not be interrupted by the coming into operation of any of the provisions of the Bill.

101. General transitional provisions

Section 101 makes transitional provisions in relation to proceedings which have been initiated before the coming into operation of the Bill.

102. Transitional provision for appeals in family law proceedings

Section 102 makes transitional provisions in relation to appeals and orders in family law proceedings that were lodged before the operative date.

103. General transitional provision validating any court orders, etc. made by District Court, Circuit Court or High Court in family law proceedings

Section 103 provides that any order, etc. made in family law proceedings by the High Court, Circuit Court or District Court which is in effect immediately before the operative date will be deemed to have been made by the corresponding Family Court division. The section makes provision relating to orders made outside the State that were recognised by the Irish courts.

SCHEDULE 1 – REPEALS

Schedule 1 sets out the provisions to be repealed by the Bill.

SCHEDULE 2 - AMENDMENTS OF MISCELLANEOUS ENACTMENTS

Schedule 2 sets out the amendments to various enactments.

Financial Implications

The primary costs arising from the Family Courts Bill will arise from the establishment of the Family High Court, Family Circuit Court and Family District Court and will relate to the renovation and modernisation of court buildings, capital ICT costs, judicial appointments and support staff.

The delivery of Family Court buildings and ICT infrastructure will be part of the wider necessary process of renovating, modernising and ICT-enabling courthouses where the Family Courts will be located.

Construction of a purpose-built family law court complex at Hammond Lane in Dublin is a key project funded under the National Development Plan 2021-2030.

*An Roinn Dlí agus Cirt,
Samhain, 2022.*