

# DÁIL ÉIREANN

## AN ROGHCHOISTE UM DHLÍ AGUS CEART

### SELECT COMMITTEE ON JUSTICE

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*Dé Máirt, 5 Nollaig 2023*

*Tuesday, 5 December 2023*

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Tháinig an Roghchoiste le chéile ag 4 p.m.

The Select Committee met at 4 p.m.

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Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	
James Browne (Minister of State at the Department of Justice),	
Patrick Costello,	
Mark Ward.	

Teachta / Deputy James Lawless sa Chathaoir / in the Chair.

## Court Proceedings (Delays) Bill 2023: Committee Stage

**An Cathaoirleach:** Apologies have been received from Deputy Alan Farrell. It is good to see Deputy Mark Wall back with us. He is very welcome.

The meeting has been convened to consider Committee Stage of the Court Proceedings (Delays) Bill 2023. I welcome the Minister of State at the Department of Justice and his officials to the meeting. I remind members that if a division is called, they must be physically present. They cannot partake in a division online, although they can follow the proceedings online. Does the Minister of State wish to make an opening statement or leave it until the end?

**Minister of State at the Department of Justice (Deputy James Browne):** I wish to advise that a Report Stage amendment to section 7 may be required to provide for a solicitor or barrister who becomes a member of the Judiciary to step down from a role of assessor.

**An Cathaoirleach:** That makes sense.

Sections 1 to 11, inclusive, agreed to.

### SECTION 12

**An Cathaoirleach:** Amendments Nos. 1 and 2 are related and may be discussed together.

**Deputy James Browne:** I move amendment No. 1:

In page 13, line 11, to delete “by such documents,” and substitute the following:

“by—

(i) such documents, and

(ii) such fee, if any.”.

Amendment No. 1 provides for the possibility of charging an assessment application fee. Amendment No. 2 is a consequential amendment to amendment No. 1 referencing the fee “if any” to be published on our website along with the other assessment application information. I want to be clear that amendment No. 1 does not, of itself, introduce a fee and the words “if any” were included in the amendment to ensure that this was clear. The amendment will, however, avoid a potential need for a legislative amendment in the future should the introduction of a fee be deemed appropriate. The appropriateness of the charging of an assessment application fee will be determined in collaboration with stakeholders during the implementation process, which is under way in my Department, and the matter can also be re-examined later on. I also want to be clear that if the charging of a fee is deemed appropriate at any stage consideration will be given to the level at which any such fee is set to ensure that the process remains accessible while providing a sufficient deterrent to unmeritorious claims. I am acutely aware that the scheme must remain accessible if it is to implement the McFarlane judgment and, as Deputies will know, the Council of Europe is closely monitoring Ireland’s compliance with that judgment.

Amendment agreed to.

**Deputy James Browne:** I move amendment No. 2:

In page 13, lines 17 and 18, to delete all words from and including “and” in line 17 down

to and including line 18 and substitute the following

“(ii) the documents referred to in subsection (4)(c)(i), and  
(iii) the fee referred to in subsection (4)(c)(ii).”.

Amendment agreed to.

Section 12, as amended, agreed to.

Sections 13 to 15, inclusive, agreed to.

**An Cathaoirleach:** Amendment No. 3 has been ruled out of order.

Amendment No. 3 not moved.

## SECTION 16

**Deputy James Browne:** I move amendment No.4:

In page 15, after line 39, to insert the following:

“(6) Subject to *subsections (7) and (8)*, where a person, other than a public body, complies with a requirement under *subsection (1)* within the time period specified in the notice under that subsection or as extended under *subsection (3)*, an Assessor may, not later than 1 month after such compliance, direct that the person (in this section referred to as a “relevant person”) be paid such amount as the Assessor considers reasonable in respect of the costs incurred by the relevant person in complying with the requirement.

(7) The costs directed to be paid under *subsection (6)* shall not include any amount relating to costs incurred by the relevant person in respect of legal advice obtained by him or her in relation to a requirement under *subsection (1)* or compliance with such a requirement.

(8) The Minister may from time to time prepare and issue guidelines as to the level of costs that may be directed to be paid under *subsection (6)* and, if he or she does so, an Assessor, in making a direction under the subsection shall—

(a) do so in accordance with such guidelines, and

(b) not direct that costs be paid that are in excess of such maximum amount (if any) of costs that may be directed to be paid that is specified by the Minister in the guidelines.

(9) The Minister shall publish, on a website maintained by or on behalf of the Minister, guidelines prepared and issued by him or her under *subsection (8)* as soon as practicable after they are issued.

(10) The Minister shall, not later than 2 months after the date on which costs (if any) are directed to be paid under *subsection (6)*, pay to the relevant person such costs.”.

Amendment No. 4 provides that a third party who is asked to provide information or documentation to an assessor to decide a claim can be awarded reasonable costs associated with complying with an assessor’s request.

Amendment agreed to.

Section 16, as amended, agreed to.

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**An Cathaoirleach:** Amendment No. 5 has been ruled out of order.

Amendment No. 5 not moved.

Sections 17 to 23, inclusive, agreed to.

## SECTION 24

**An Cathaoirleach:** Amendments Nos. 6 and 7 are related and may be discussed together. Is that agreed? Agreed.

**Deputy James Browne:** I move amendment No. 6:

In page 20, line 10, to delete “3 months” and substitute “6 months”.

Amendment No. 6 is a technical amendment to section 24(2) of the Bill. Section 24(2) currently provides that an application to the Circuit Court shall be made no later than three months after the date the authorisation is issued. Such an application is permissible after and assessor has made an assessment, if either the Minister or the applicant does not accept the assessment or if the applicant is deemed not to have accepted the assessment.

Amendment No. 6 amends section 24(2) of the Bill to extend the application period to the Circuit Court, and the amendment has extended from three months to six months the period in which an application can be made to the Circuit Court. This arises from feedback on this that there was a particular concern, and Deputy Pa Daly made this suggestion. I am in agreement with him on that.

Amendment agreed to.

**Deputy James Browne:** I move amendment No. 7:

In page 20, line 16, before “the” to insert “notwithstanding section 100 of the Courts and Civil Law (Miscellaneous Provisions) Act 2023,”.

Amendment No. 7 is a technical amendment to section 24 (4) of the Bill which inserts a “notwithstanding” provision into the subsection to ensure it can be read in harmony with section 1 of the Courts and Civil Law (Miscellaneous Provisions) Act 2023.

Amendment agreed to.

Section 24, as amended, agreed to.

Sections 25 to 37, inclusive, agreed to.

Title agreed to.

Bill reported with amendments.

## Message to Dáil

**An Cathaoirleach:** In accordance with Standing Order 101, the following message will be

5 DECEMBER 2023

sent to the Dáil:

The Select Committee on Justice has completed its consideration of the Court Proceedings (Delays) Bill 2023 and has made amendments thereto.

I thank the Minister of State and his officials for their attendance today. I thank members for their attendance also. This concludes the business of the select committee.

The select committee adjourned at 4.15 p.m. *sine die*.