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Briefing Paper

General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025 – Remote Hearings in Criminal Proceedings

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Policy and Legislative Briefing Paper

Abstract

This Policy and Legislative Briefing Paper provides an overview of Parts 2 and 4 of the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025. These Heads relate to the use of electronic technology in court proceedings, with a particular focus on the proposed expanded use of remote and hybrid hearings to permit the use of such hearings in complex criminal matters, including contested criminal proceedings and jury trials. This briefing paper outlines a number of positive and negative aspects to this proposed expansion and considers similar recent legislative developments in the United Kingdom.

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Executive Summary

The General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025[1] was published on 6 May 2025 by the Department of Justice, Home Affairs and Migration. The General Scheme is comprised of 51 Heads which are divided into 14 Parts and cover a wide range of distinct civil and criminal matters. This briefing paper addresses Parts 2 and 4 of the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025. These Heads relate to the use of electronic technology in court proceedings, with a particular focus on the proposed expanded use of remote and hybrid court hearings in criminal cases and international co-operation proceedings.

A remote hearing is a court hearing held by secure video link. One or more of the participants participates from a location other than the court itself, whether within the state or outside the state, and they do so by means of electronic communications technology. When the Covid-19 public health emergency made in-person hearings difficult or impossible, the Courts Service of Ireland implemented a rapid shift towards remote hearings, facilitated partly by the statutory framework for remote hearings and the use of video links set out in the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020. The current Courts Service Modernisation Plan focuses partly on improving existing technological resources for court users. This continued modernisation is key to the success of the provisions of the General Scheme, particularly for the proposed expanded use of remote hearings.

Remote and hybrid hearings have remained in regular use in the courts since 2020, and are used in civil and less procedurally complex criminal matters. This use has been broadly supported by practitioners, advocacy groups and court users, and the submissions received during pre-legislative scrutiny of the General Scheme did not advocate for a different approach.

Heads 5 and 6 of the General Scheme propose to extend the use of remote hearings. Head 5 of the General Scheme covers less procedurally complex criminal matters, including bail applications, arraignment and sentencing hearings. However, Head 6 of the General Scheme proposes to extend the use of remote and hybrid hearings in more complex criminal matters, including contested criminal proceedings and jury trials (unless it is not in the interest of justice to do so). There is significant debate about the use of remote or hybrid hearings in such matters. There may be some benefits, including:

- Ensuring the continued administration of justice during future public health emergencies or extremes weather events.
- It may be of assistance to vulnerable participants, or victims of sexual or domestic violence who may find it difficult to participate in a courtroom setting.

[1] General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025

- Various practical positive outcomes, including reduced travel times and costs associated with in-person hearings.
- In the case of jury trials, permitting a jury to participate remotely may mitigate the potential for juror intimidation in cases involving organised crime or terrorist offences.

However, there are a number of potential drawbacks to the use of remote hearings, particularly in complex criminal matters, as proposed by the General Scheme:

- It may undermine the right of the accused to be present for their trial, and undermine the presumption of innocence, and thus negatively impact their right to a fair trial.
- A number of practical issues, including communication by the accused with their lawyer, and the use of interpreters during trials.
- There are a number of potential issues with remote jury trials specifically, including control of the jury by the trial judge, and the potential for technical issues to lead to jurors missing vital evidential points.
- Though there may be benefits to some vulnerable participants, or children, participating in a trial remotely there are also a number of potential drawbacks.

Legislation that is broadly similar to Head 6 was introduced in the UK in 2022. A number of legal advocacy groups and other stakeholders objected to the legislation, and there have been mixed views on the operation of the legislation in practice.

It has been a consistent complaint, in other jurisdictions and particularly in Ireland, that there have been few comprehensive studies on the operation of remote hearings in practice, the impact on participants and the opinions of legal practitioners. One study was conducted on the opinion of judges in Ireland, and these findings are reviewed in this briefing paper. Additionally, surveys have been conducted regarding the use of remote technology by judges and practitioners in England and Wales, which is also addressed.

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Introduction

The General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025 was published on 6 May 2025 by the Department of Justice, Home Affairs and Migration. The General Scheme is comprised of 51 Heads which are divided into 14 Parts. Given the disparate and discrete nature of the Bill, covering a wide range of distinct criminal and civil matters, the Parliamentary Research Service (PRS) has elected to produce four separate Policy and Legislative Briefing Papers on selected Heads of the General Scheme. These papers will provide an overview of the policy and legislative context to the selected Heads.

This Policy and Legislative Briefing Paper provides an overview of Part 2 (Heads 4 – 11) and Part 4 (Heads 15 – 16) of the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025. These Heads relate to the use of electronic technology in court proceedings, with a particular focus on the proposed expanded use of remote and hybrid hearings to permit the use of such hearings in complex criminal matters, including contested criminal proceedings and jury trials. The briefing paper outlines a number of positive and negative aspects to this proposed expansion and considers similar recent legislative developments in the United Kingdom.

The three other Policy and Legislative Briefing Papers will consider the following selected Heads from the General Scheme:

- prohibiting a person offering another person accommodation in exchange for sexual activity in lieu of payment for the accommodation and prohibiting a person advertising or causing the advertisement of an offer of accommodation of SFR. It will be a defence to show that a person did not suspect that the advertisement related to this type of accommodation offer **(Head 39)**,
- permitting members of An Garda Siochana to order removal of face coverings in public if there is concern for public safety **(Head 26)**,
- an overview of the proposed amendments to disclosure in sexual offence cases (**Head 19**).

The PRS has also produced a Bill Resource page, which provides links to a wide range of resources on the Bill (available internally only). The PRS intends to publish a Bill Digest ahead of Second Stage debate on the Bill, which will provide an overview of the provisions of the Bill in its entirety. The Bill Digest will consider the recommendations arising from PLS and if, and to what extent, the PLS recommendations have been incorporated into the published Bill.

Policy and legal context

This briefing paper addresses Parts 2 and 4 of the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025.[2] These Heads relate to the use of electronic technology in court proceedings, with a particular focus on the proposed expanded use of remote court hearings in criminal matters and international co-operation proceedings.

What are remote hearings?

A remote hearing is a court hearing held by secure video link. One or more of the participants participates from a location other than the court itself, whether within the state or outside the state, and do so by means of electronic communications technology.[3] A remote hearing is defined under s. 31(6) of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 (the 2020 Act) in a manner which allows for a hybrid hearing, where some persons attend in person and others attend remotely. The judge decides whether a case will proceed remotely, in person, or as a hybrid hearing. The 2020 Act contains a number of safeguards, which ensure that proceedings will not be held remotely if it would be unjust to do so.

Remote hearings have a number of potential benefits and shortcomings.[4] Some of these considerations will be addressed later in this briefing paper, focusing on those that relate to the use of remote hearings in criminal trials, as the General Scheme's provisions relate to criminal matters.

There has been a statutory basis for the limited use of video conferencing technology in the Irish Courts since 1992 (see the legal context of the General Scheme, below), and some court rooms were equipped with the appropriate technology to facilitate this. However, the Covid-19 public health emergency made in-person hearings difficult or impossible, and the Courts Service of Ireland implemented a rapid shift towards remote hearings to prevent the accumulation of a substantial backlog of cases and to ensure the continued administration of justice. This shift to remote hearings occurred on a global scale. The Remote Courts Worldwide website catalogued the experience of this development in 168 jurisdictions. In June 2025, the European Commission for the Efficiency of Justice (CEPEJ)[5] published an overview of recent international developments in the use of remote hearings.[6] This transition from physical to

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[2] General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025

[3] Section 11(17) of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020.

[4] See e.g. Pros and cons of remote hearings weighed up, *Law Society Gazette*, 31 December 2021

[5] The aim of the CEPEJ is the improvement of the efficiency and functioning of justice in the respective member States, and the development of the implementation of the instruments adopted by the Council of Europe to this end.

[6] European Commission for the Efficacy of Justice, Guide on the Use and Development of Remote Hearings, 5 June 2025.

virtual presence has sparked "substantial scholarly debate"[7] regarding the benefits and drawbacks of remote hearings.

Move to remote hearings during the Covid 19 pandemic

In March 2020, the Courts Service introduced measures to scale back the work of the courts due to the risks posed to public health by the Covid-19 pandemic. This was facilitated partly by the provisions of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020,[8] which provided a statutory basis for remote hearings in certain matters. The Courts did not close entirely at any point during the first Covid-19 lockdown period.[9] During the initial stages of the first lockdown, only urgent cases and those that did not involve a jury, were allowed to commence or proceed.

The Chief Justice and Court Presidents established a working group of judges to consider the practicalities of using virtual meeting room (VMR) technology, driven by PEXIP (video technology) to hear cases.[10] There was some limited testing of the new technology over the 2020 two-week Easter vacation,[11] and remote hearings were then piloted in the Easter term, beginning 20 April 2020. The first remote hearings took place in 'virtual courtrooms',[12] with judges, practitioners and parties being present in court via remote video technology.[13] Most proceedings before the Supreme Court and the Court of Appeal were conducted remotely during this time, save for a small number where a physical hearing was considered necessary. Matters before these courts were viewed as being well suited to remote hearings.[14] The then President of the High Court, Ms. Justice Mary Irvine indicated in a statement published on 17 July 2020 that a significant benefit of transferring work to remote platforms would be that

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[7] Karolina Kremens and Christina Peristeridou, 'Everything, Everywhere All At Once': Virtual Criminal Justice in Europe, *European Journal of Crime, Criminal Law and Criminal Justice*, 2025.

[8] "A court before which civil proceedings may be heard may direct that any category or type of such proceedings shall proceed by remote hearing", unless "it appears to the court that the conduct of the proceedings in accordance with such a direction would be unfair to any of the parties or otherwise be contrary to the interests of justice."

[9] The Courts Service, 'Guidance for Participants at Remote Supreme Court Hearings', 23 April 2020.

[10] 'Courts working group for virtual meeting room tech', *Law Society Gazette*, 17 April 2020.

[11] 'Life in technicolour', *Law Society Gazette*, 8 May 2020.

[12] The Courts Service, 'Virtual Remote Courts Piloted in Ireland this morning', 20 April 2020.

[13] The development was welcomed by then Minister for Justice and Equality, Charlie Flanagan, 'Minister Flanagan welcomes Supreme Court's first use of video technology to hear case remotely' 20 April 2020.

[14] Statement from the Chief Justice, Frank Clarke, 'Courts planning to safely expand hearings', 10 July 2020; Ms. Justice Marie Baker, 'Remote Court Hearings and Data Protection', EJTN Judicial Training on Data Protection, 8 June 2020; 'Court of Appeal delays caused by Covid-19 not 'catastrophic'', *The Irish Times*, 2 May 2020.

"remote hearings should be 'Covid-19 proof' in the event that a second wave of the virus leads to the introduction of new or additional health and safety restrictions".

During periods when public lockdowns were not in force, hybrid hearings resumed, with enforced capacity limits on courtrooms and with necessary safety apparatus in place. Remote and hybrid hearings have continued to be used since this period, particularly for less procedurally complex matters, such as case management, preliminary applications, commercial cases,[15] uncontested matters etc.

Further information about the current procedures in place for video and remote hearings is provided by the Courts Service website.[16]

The Courts Service of Ireland: modernisation plans and court resources

The Courts Service manages and administers the courts of Ireland. The Service is currently mid-way through a ten-year modernisation programme (2020 – 2030), which focuses partly on improving existing technological resources for court users. Members of the judiciary have expressed their "full support" for the Service's modernisation plan.[17] This continued modernisation is key to the success of the provisions of the General Scheme, as it will facilitate the increased use of technology in court procedure, particularly the proposed expanded use of remote and hybrid hearings.

In 2024, the Courts Service of Ireland published its Corporate Strategic Plan 2024 – 2027,[18] which highlighted the progress made in key areas of the Modernisation Programme during the prior strategy 2021-2024. These included:

- A significant expansion of technology-enabled courtrooms, providing remote courts and digital evidence display functionality, moving from 46 such courtrooms at the beginning of 2020 to 136 at the end of 2023.
- Commencement in 2023 of a deployment of Wi-Fi services across the Courts Service managed buildings, including courtrooms, common areas in courthouses and court offices, completing 23 buildings in 2023, with the remaining to be completed in 2024 and 2025.[19]

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[15] A number of Judges who hear commercial cases in the High Court have been supportive of the use of remote hearings and the remote examination of witnesses in such matters; see e.g. the comments of McDonald J, stating that the system for remote hearing and witness handling was "perfectly adequate from a judge's perspective in terms of being able to see the face of the witness clearly as the witness is being examined by counsel". *Leinster Overview & Ors v FBD Insurance* [2021] IEHC 78.

[16] Video and remote hearings, Courts Service of Ireland.

[17] Judges 'fully support' courts modernisation, *Law Society Gazette*, 15 January 2025.

[18] Corporate Strategic Plan 2024 – 2027, Courts Service of Ireland.

[19] Ibid, p 16.

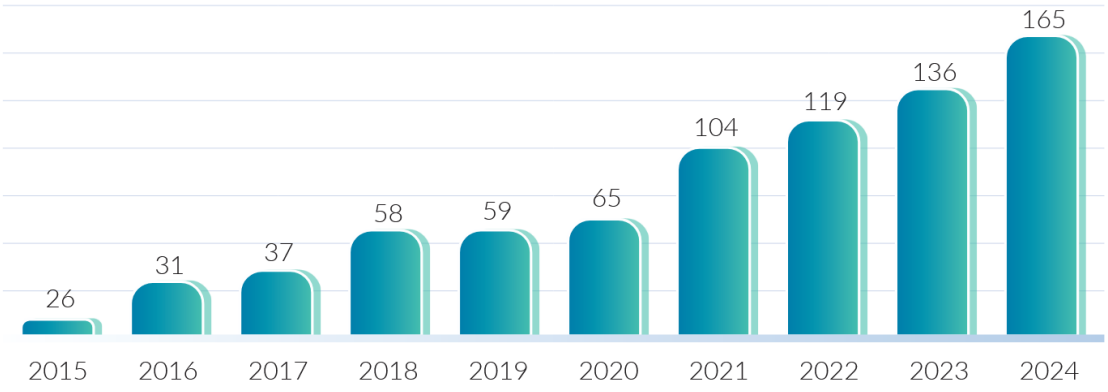
A stated Strategic Goal for the Courts Service is the "increased utilisation of technology and improved options for court attendance and participation in remote and hybrid hearings".[20]

Also relevant to the General Scheme is the plan to further collaborate with the Prison Service and Gardaí:

> "[The Courts Service will] continue to expand technology-enabled courtrooms to support administration of courts through digital channels, and work collaboratively with the Irish Prison Service and An Garda Síochána to support court appearances by videolink."[21]

The 2024 Annual Report of the Courts Service noted that the Irish Prison Service continued to be a high-volume user of remote courtroom attendance, with 23,103 "dial-ins" from prisons throughout the year.[22] The Report also noted that, in 2024, the Courts Service enabled 29 courtrooms with video technology, bringing the total number to 165 courtrooms countrywide.[23] The progress made over the last decade is shown in fig.1, below:

Fig. 1: Technology-Enabled Courtrooms[24]



[20] Ibid, p 23.

[21] Ibid, p 23.

[22] '2024 Annual Report of the Courts Service', Courts Service of Ireland, July 2025.

[23] Ibid

[24] Ibid, p 31.

Remote hearings, vulnerable witnesses and the Courts Service Digital Strategy

When creating their current ICT, Digital and Data Strategy,[25] the Courts Service sought feedback from a range of external stakeholders.[26] A number of points were raised in the responses received, such as:

- the need to ensure continued provision of traditional, non-digital channels for users of lower digital literacy,
- the need for essential supports for victims of domestic violence through remote hearings, and
- the need for enhanced data-sharing and improved digital services to improve efficiency.[27]

The strategy report notes that, during the consultation, the most frequently repeated element was the broadly positive significance of hybrid or remote hearings for vulnerable witnesses. This was raised by four Justice-sector advocacy and support groups, and its importance was emphasised in cases of domestic violence. It was indicated by the Courts Service that remote and hybrid courtroom technology is a key priority. This technology will facilitate the Service's support victims of domestic violence and other vulnerable Court users, "to provide them a safe and secure avenue through which they can attend Court". The Courts Service is further exploring potential opportunities in this area. The issue of remote hearings and vulnerable people is discussed in more detail later in this briefing paper.

The views of the Courts Service on the General Scheme

The Courts Service broadly welcomed the provisions of the General Scheme.[28] During Pre-Legislative Scrutiny of the General Scheme, Angela Denning, CEO of the Courts Service, noted that the advances proposed by Part 4 of the Bill, facilitating electronic transfer of documents, was a positive development, noting that most existing legislative provisions relating to court procedure did not take account of the changing digital legal landscape, and such instruments presume that procedures are paper based. On this point, Ms. Denning noted:

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[25] Courts Service ICT, Digital and Data Strategy 2024 – 2027, Courts Service of Ireland, November 2024.

[26] Partnering Public Service bodies include the Department of Justice, Office of the Director of Public Prosecutions, An Garda Síochána, the Legal Aid Board, Forensic Science Ireland, the Probation Service, and the Irish Prison Service. Requests for feedback were also shared with practitioners via the Bar of Ireland and the Law Society, and advocacy groups such as Safe Ireland, Pavee Point, Women's Aid, Men's Aid, Treoir, and One Family. Ibid, p 6.

[27] 'Courts Service ICT, Digital and Data Strategy 2024 – 2027', Courts Service of Ireland, November 2024.

[28] Opening Statement Courts Service appearance before the Oireachtas Committee on Justice, Home Affairs and Migration, 30 September 2025; Joint Committee on Justice, Home Affairs and Migration debate - Tuesday, 30 Sep 2025

> "This legislation will facilitate criminal courts to electronically generate, receive and transmit documents including applications, orders, reports, filings and written submissions and will support implementation of the recommendations of an interagency working group on video conferencing and the Criminal Justice Strategic Committee Subgroup on Strategic Collaboration."[29]

Ms. Denning noted that the increased use of video technology and remote hearings have resulted in "significant savings and efficiencies" for the Irish Prison Services, expert witnesses and other third parties. It was also noted that victim representative organisations and advocacy groups have documented that their users have experienced easier access, and reduced levels of anxiety and stress thanks to video enabled technology.[30] Ms Denning stressed that the provision of a comprehensive legislative underpinning for remote and hybrid hearings in both civil and criminal cases would ensure that measures were in place to ensure the continued administration of justice in the event of future prolonged weather events or public health emergencies.

Concerns of legal practitioners regarding current court facilities

In their submissions to the Joint Committee during Pre-Legislative Scrutiny of the General Scheme, both the Law Society of Ireland and the Council of the Bar of Ireland voiced concerns regarding the adequacy of the current court and prison facilities, which may undermine the implementation of reforms proposed by the General Scheme.

The Bar Council stated:

> "There is a lack of infrastructure both to ensure the smooth running of remote hearings involving multiple parties and multiple witnesses and no adequate facilities to allow communication in confidence with a client in custody during the course of remote hearings of such importance. This is an essential prerequisite to vindicate the rights and safeguards provided for in the General Scheme."[31]

The Law Society indicated:

> "It has been the practical experience of solicitors engaged in criminal defence that prisons are not equipped with enough video conference facilities to allow timely

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[29] Opening Statement Courts Service appearance before the Oireachtas Committee on Justice, Home Affairs and Migration, 30 September 2025; Joint Committee on Justice, Home Affairs and Migration debate - Tuesday, 30 Sep 2025.

[30] Opening Statement Courts Service appearance before the Oireachtas Committee on Justice, Home Affairs and Migration, 30 September 2025; Joint Committee on Justice, Home Affairs and Migration debate - Tuesday, 30 Sep 2025.

[31] The Bar of Ireland, Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, June 2025, p 3.

> appearance of those in custody at court hearings. There would be concerns that adding remote hearings to an already strained system could overwhelm it. [...]
>
> The Law Society would like to emphasise that for remote hearing trials to be efficient commensurate investment in court infrastructure and IT solutions and human resources will be required."[32]

Legal context

Pre-2020 Legislation

There are certain legal provisions, which predate the Covid-19 pandemic, that facilitate the use of video conferencing technology in legal hearings. Under Part III of the Criminal Evidence Act 1992 ('the 1992 Act'), a person under 18 years of age is presumptively entitled to testify via video-link in trials for violent offences or sexual offences[33] and any other witness may do so in such proceedings with the leave of the court.[34] The 1992 Act was amended by the Criminal Justice (Victims of Crime) Act 2017, and the video-link provision was extended to victims of any crime who give evidence and whom the trial judge considers to be at risk of secondary victimisation, intimidation or retaliation.[35] The provision is not used very frequently. The 2020 Courts Service Annual Report noted that evidence was given by video link 28 times in 2024 (pursuant to the 1992 Act).[36] The General Scheme noted that Head 6 builds on this provision by providing that one or more participants may appear remotely where the court so directs.[37]

Additionally, s. 26 of the Civil Law (Miscellaneous Provisions) Act 2008[38] permitted a court to accept evidence by video link in civil matters, provided that it was not unfair to any party to do so, and was not contrary to the interests of justice. However, this provision was repealed by the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020, which created new statutory provisions providing for remote civil hearings.

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[32] Law Society of Ireland, Submission on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, June 2025, pp 3 – 4.

[33] Section 13(1)(a)

[34] Section 13(1)(b)

[35] Liz Heffernan and Yvonne Daly, *Evidence in Criminal Trials* (2025, Bloomsbury), para. 10.24.

[36] 2024 Annual Report of the Courts Service, Courts Service of Ireland, July 2025, p 117.

[37] General Scheme of the Criminal Law and Civil Law Miscellaneous Provisions Bill 2025.

[38] There is a comparable provision in England and Wales. The Criminal Justice Act 2003 made provision for witnesses to give evidence via video or audio link in eligible cases at the discretion of the court where it is in the interest of justice. Capability for remote hearings is part of the UK's strategy for modernising the justice system, expedited through necessity by the pandemic. The Bar Council (England and Wales), 'A lens on justice: The move to remote justice 2020 – 2024', May 2024.

2020 Legislation

The Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 provided a statutory framework for remote hearings.[39] The 2020 Act provided that a court, before which civil proceedings may be heard, may direct that any category or type of such proceedings shall proceed by remote hearing.[40] There is an additional safeguard, whereby if it appeared to the court that a remote hearing of the matter would be unfair to any of the parties or contrary to the interests of justice, the court, having heard the parties, must direct that the proceedings would not be held remotely.[41]

Provision was also made for criminal appeals to be heard remotely,[42] and for certain applications to court in criminal proceedings to be heard using live video link, where the person who is the subject of the proceedings may participate remotely.[43] The General Scheme of the Bill[44] proposes to repeal these sections of the 2020 Act (i.e. sections 23, 24, and 26), and to expand on the repealed provisions. Head 5 proposes that any or all participants may now participate remotely in such hearings (and in the first court appearance in international co-operation proceedings) where the court so directs. The General Scheme notes that under the 2020 Act the accused may already, where the court directs, appear remotely at the vast majority of the criminal hearings that are encompassed by Head 5 (though not those proposed in Head 6).[45] It was further noted that Head 5 is modelled on the relevant sections of the 2020 Act that provide for civil proceedings and criminal appeals, with certain elements (including safeguards) being drawn from section 23.[46] The General Scheme notes that the primary legislative influences for Head 6 of the Bill are comparable policies that have been enacted in neighbouring jurisdictions (discussed later in this briefing paper) and the video-conferencing provisions of the Criminal Evidence Act 1992 (above).[47]

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[39] The Act has subsequently been amended by the Courts and Civil Law (Miscellaneous Provisions) Act 2023; Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023; and the Criminal Justice (Perjury and Related Offences) Act 2021.

[40] Section 11(1). Under the 2020 Act, the President of each of the court jurisdictions may issue practice directions governing which remote platform may be used, and any such ancillary or consequential directions as the court considers appropriate. These directions govern the rules on how many participants may join, the dress code for remote hearings, the requirement to have a mic and camera on or off at different times etc.

[41] Section 11(4).

[42] Section 26.

[43] Sections 23 and 24.

[44] General Scheme of the Criminal Law and Civil Law Miscellaneous Provisions Bill 2025.

[45] Ibid, p 15.

[46] Ibid, p 14.

[47] Ibid, p 19.

The use of remote hearings in criminal matters

Potential issues relating to remote hearings and criminal cases

As noted above, under the current legislative framework criminal appeals may be heard remotely,[48] and certain applications in criminal proceedings may be heard using live video link (e.g. bail applications, sentencing hearings and arraignments).[49] This use has generally been supported by practitioners, advocacy groups and court users, and the submissions received during pre-legislative scrutiny of the Bill do not advocate for a different approach. Head 5 of the General Scheme covers such criminal matters. However, Head 6 of the General Scheme proposes to extend the use of remote and hybrid hearings beyond these less procedurally complex matters, to permit the use of remote hearings in more serious matters including jury trials (unless it is not in the interests of justice to do so). There are a number of potential issues with such expansion, which are addressed below.

Fair Trials International (FTI)[50] has been consistently critical of the use of remote hearings in certain criminal matters. When commenting on a proposed legislative expansion of the use of criminal remote hearings in the UK in 2022, FTI noted:

> "Remote justice might increase efficiency, such as ensuring less unnecessary travel, but cost-cutting and timesaving should never be chosen at the expense of fundamental rights. We know that remote hearings often have an adverse effect on defendants' right to access effective legal assistance, to participate effectively at their own hearings and to review and challenge information and evidence being presented. Baroness Williams also said that the decision as to how a hearing is conducted will remain a matter for the judiciary. This is incredibly concerning as judicial discretion should not replace defendant's consent to participate in remote proceedings."[51] (Emphasis added)

A report produced in 2020 by Fair Trials International[52] surveyed the views of those involved in the criminal justice system.[53] The survey examined the reported impact of Covid-19 on the functioning of the criminal justice system in England and Wales, based on the views of the

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[48] Section 26.

[49] These are minor criminal matters, heard in the District Court by a judge without a jury.

[50] Fair Trials International is an international, UK-registered NGO founded in 1992 that campaigns for fair and equal criminal justice systems. See FTI About us for more information.

[51] Remote Justice Debated - PCSC Bill's Second Reading in the House of Lords.

[52] Fair Trials International 'Justice Under Lockdown - A survey of the criminal justice system in England & Wales between March and May 2020', May 2020.

[53] The survey sought the views of individuals involved in the criminal justice system, including defence solicitors, barristers, accredited legal representatives, judges, magistrates, police officers, Crown Prosecution Service (CPS) staff, and appropriate adults.

survey's respondents, and stated that the restrictions that had been put in place have had "an unprecedented impact on criminal justice".[54] Of particular concern to FTI was that, in their opinion, defendants' rights were being undermined due to difficulties in communicating with their lawyers and the Court, and in their capacity to review and challenge information relevant to the proceedings.

The survey, conducted by FTI between March and May 2020, found:

- 44% of respondents believed remote hearings had made it significantly more difficult for defendants to participate in the proceedings (with a further 19% saying that the impact on effective participation had been moderately negative);
- 67% of respondents thought the remote hearings had a significant negative impact on the ability of defendants and their lawyers to communicate before and during hearings. A further 25% thought there had been at least some or moderate negative impact;
- 75% of respondents believed remote hearings had made it harder for defendants and their lawyers to obtain, present, and challenge evidence; and
- 60% of respondents expressed that the use of video-link or telephone in hearings had had a noticeably negative impact on the overall fairness of the hearings.[55]

These findings accord with the conclusions of other studies,[56] such as those produced by the Legal Education Foundation and Transform Justice (conducted in 2020 and 2017 respectively), which have found that remote hearings are less suited to criminal trials than to civil proceedings, though they are not fundamentally incompatible.

Additionally, UK Government research on video links in 2010 found more people pleading guilty and more receiving custodial sentences when appearing via video link.[57]

In July 2017, the Department of Public Expenditure and Reform (DPER) undertook a spending review[58] of the Courts Service as part of a wider programme of reviews across the civil service, including the use of technology and video conferencing in courts. The review highlighted that

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[54] Ibid., p 3.

[55] Ibid.

[56] Fair Trials International, 'Safeguarding the Right to a Fair Trial During the Coronavirus Pandemic: Remote Criminal Justice Proceedings', March 2020; Transform Justice, 'Defendants on video – conveyor belt justice or a revolution in access?', October 2017; Legal Education Foundation 'Briefing: Coronavirus Bill, Courts and the Rule of Law', March 2020. See also Bloomberg Law, 'INSIGHT: Virtual Criminal Jury Trials Threaten Fundamental Rights', 23 June 2020.

[57] Matthew Terry, Dr Steve Johnson and Peter Thompson, Virtual Court pilot Outcome evaluation, Ministry of Justice Research Series 21/10, December 2010.

[58] 'Courts Service Spending Review', July 2017.

civil law practitioners were more comfortable with the use of technology in the courtroom (including the use of remote hearings) than criminal law practitioners.[59]

It may be noted that the above studies were conducted in 2020 and earlier, and it is possible that some of their negative findings may be mitigated by the significant increase in the use of video technology in courts, and the commensurate development of user experience and court facilities. There have been no comprehensive studies on the use of remote hearings in Ireland post-2020; however, the experience of the Irish judiciary in using remote technology has been analysed, and this study is discussed later in this paper.

Remote jury trials

Trial by jury for serious offences is a fundamental element of Ireland's criminal justice system, guaranteed by the Constitution.[60] The General Scheme proposes to extend the range of cases that can be heard remotely to include more complex criminal trials, including those involving a jury. The General Scheme includes the caveat that members of the jury must be present in the same physical location at all times while participating remotely in trial proceedings.

However, remote jury trials present a number of potential issues. Daniel Jasinski[61] has noted the following difficulties:

- erosion of a judge's ability to monitor and control the jury,
- the potential for technical issues to lead to jurors missing vital evidential points without resolution; and

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[59] Ibid., p. 67. "There may be a clear divide between the criminal and civil law practitioners regarding their eagerness to engage with eCourt requirements. It has been suggested to the Review Team that legal professionals on the criminal side are generally resistant to engaging with technology in a substantive day-to-day manner and insist overwhelmingly on face-to-face dealings with their clients, whereas civil law practitioners and court users readily embrace technology as demonstrated in the area of family law and e-licensing".

[60] Article 38.5 of the Constitution states: "Save in the case of the trial of offences under section 2, section 3 or section 4 of this Article [minor offences, special criminal courts or military tribunals] no person shall be tried on any criminal charge without a jury." The nature of this right was summarised thus: "The purpose of trial by jury is to provide that a person shall get a fair trial, in due course of law, and be tried by a reasonable cross-section of people, acting under the guidance of the judge, bound by his directions on law but free to make their findings as to the facts." *O'Callaghan v Attorney General* [1993] 2 IR 17, *per* Finlay CJ. See Mark Coen, 'Another case of Hibernian exceptionalism? Jury trial in Ireland', in *Contemporary Challenges in the Jury System* (2024, Routledge).

[61] Head of School (Law, Criminology & Criminal Justice), University of Northampton.

- the significant changes to the way in which the jury communicates with other participants in the [...] trial.[62]

Issues identified by other commentators include a loss of the human and emotional dimension when remote hearings are used, and it has been suggested that this would be even more likely and more damaging in criminal cases, which often turn on an assessment of credibility.[63] It was suggested that there is the possibility that remote participation would impact a jury's impartiality,[64] or jurors would be less engaged if participating remotely.[65]

However, there are some benefits to placing remote jury trials on a statutory footing, which include ensuring that jury trials continue in the event of future public health crises or extreme weather events, which would make in person attendance impossible.[66] Additionally, allowing juries to participate remotely may mitigate the potential for juror intimidation in cases involving organised crime or terrorist offences.[67] These are discussed in more detail below.

Commentary on remote jury trials

Certain PLS submissions were particularly critical of the introduction of remote jury trials. The Bar Council voiced "serious reservations about the appropriateness of extending remote hearings to jury trials in particular,"[68] noting that, while the General Scheme cited recent developments in the UK as a factor influencing the provisions of the GS, there does not appear to have been "any qualitative analysis of how provisions enabling remote jury trials have been utilised" in neighbouring jurisdictions. It also observed that the introduction of jury trials in the

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[62] Daniel Jasinski, 'Covid-19 and Technologically Enhanced Trials under the Police, Crime, Sentencing, and Courts Act 2022, Have Remote Jury Trials Shifted from Criminal Justice Fiction to Virtual Reality?' in Ed Johnston (ed.), *Covid-19 and Criminal Justice Impact and Legacy in England and Wales* (Routledge, 2023).

[63] Conor Hanly and Rónán Kennedy, Is it possible to have a socially distant trial by jury? RTE, 7 May 2020.

[64] Dorris de Vocht Pauline Jacobs, Can Remote Trials be Fair Trials? Exploring the Potential Effects of Communication Technology in the Criminal Justice Context from an Interdisciplinary Perspective, (2024) 29(2) *Tilburg Law Review* pp. 1–9.

[65] To try or not to try — remotely. As jury trials move online, courts see pros and cons, NPR, March 18, 2022.

[66] Opening Statement Courts Service appearance before the Oireachtas Committee on Justice, Home Affairs and Migration, 30 September 2025; Joint Committee on Justice, Home Affairs and Migration debate - Tuesday, 30 Sep 2025

[67] Offences Against the State Acts, Independent Review Group, Report of the Minority, 2023, p 5; Jacqueline Horan and Jane Goodman-Delahunty, The Legal Landscape in Terrorism Trials, in *Juries, Science and Popular Culture in the Age of Terror* (pp.11-35)

[68] The Bar of Ireland, Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, June 2025, p 5.

UK has been "plagued with issues, delays and cost overruns".[69] The legislation that introduced criminal remote hearings in the UK will be discussed later in this briefing paper. The submissions conclude:

> "It appears that remote jury trials have not in fact been widely used in the UK and there is a dearth of analysis and evaluation of the impact of holding such trials on the quality of justice and the fair trial rights of an accused."[70]

It was submitted by the Bar Council that criminal proceedings involving a jury adjudicating on the guilt of an accused should maintain a presumption of an in-person hearing, which it was suggested should only be departed from in exceptional circumstances.

In 2020, legal academics Conor Hanly and Rónán Kennedy[71] suggested that it would be possible to allow constitutionally mandated jury trials to take place remotely without affecting the core elements of trial by jury. However, this analysis was conducted in the context of the Covid-19 pandemic, where it was not possible to hold in person jury trials. The authors suggested that it was possible to hold jury trials remotely in emergency situations, but did not suggest that this approach was preferable or comparable in its efficacy to in person juries.[72] They outlined some of the practical difficulties in holding remote jury trials:

> "As a Scottish Government discussion paper makes clear, there are serious logistical and security issues involved in this approach. Jurors would need to be accommodated somewhere, and be provided with safe and secure computer equipment. Physical security would need to be provided for each juror to ensure against external influences. A study by British non-governmental organisation Transform Justice recommended against "trial-by-Skype", finding that technology threatens defendants' rights and undermines trust in the criminal justice system. Both judges and litigants in civil cases have already expressed unease about the loss of the human and emotional dimension in remote hearings. This would be even more likely and more damaging in criminal cases, which often turn on an assessment of credibility."[73]

However, there are some potential benefits to remote jury trials. In their 2024 Submission to the Public Consultation on Jury Reform,[74] the Irish Council for Civil Liberties supported the use

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[69] Ibid, citing the UK National Audit Office: NAO-Progress on the courts and tribunals reform programme. 16 February 2023.

[70] The Bar of Ireland, Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, June 2025.

[71] Conor Hanly and Rónán Kennedy, Is it possible to have a socially distant trial by jury? RTE, 7 May 2020

[72] Ibid.

[73] Conor Hanly and Rónán Kennedy, Is it possible to have a socially distant trial by jury? RTE, 7 May 2020

[74] ICCL Submission to the Public Consultation on Jury Reform, Irish Council for Civil Liberties, November 2024.

of remote juries "where a risk of jury intimidation is identified".[75] The report cited remote jury trials that had taken place in Scotland during Covid, which were viewed as successful.[76] Additionally, the potential for jury intimidation remains the dominant rationale for the continued existence of the Special Criminal Court, whose remit has been extended over time to deal with prosecutions arising from organised crime in addition to seditious or terrorism related offences.[77] The Minority Report of the Offences Against the State Acts Review Group recommended the use of remote juries in such cases, where the potential for juror intimidation is high. The minority report indicated that remote juries were technologically feasible, and were preferable to no jury trial taking place:

> "If we have learned anything from the COVID pandemic it is how to optimise technology to do things differently. The use of remote juries would entail additional costs and would require some adjustment on the part of judges and criminal practitioners but neither of these are insuperable obstacles. It would also represent a more proportionate compromise on the right to trial by jury, in the traditional sense, than dispensing with jury trial altogether."[78]

While remote jury trials are a possible alternative to in person trials, they are not widely considered to be preferable,[79] and should be reserved for circumstances where an in-person jury trial would be very undesirable or could not proceed for some significant reason (e.g. jury intimidation or public emergencies).

Vulnerable participants and remote hearings

The participation in legal proceedings by vulnerable people may be either assisted or hindered by the use of remote technology. As noted earlier in this briefing paper, there is currently provision under Part III of the Criminal Evidence Act 1992 for vulnerable witnesses and minors to give evidence via live video link.

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[75] Ibid, p 7.

[76] Daniel Jasinski, 'Covid-19 and Technologically Enhanced Trials under the Police, Crime, Sentencing, and Courts Act 2022, Have Remote Jury Trials Shifted from Criminal Justice Fiction to Virtual Reality?' in Ed Johnston (ed.), *Covid-19 and Criminal Justice Impact and Legacy in England and Wales* (Routledge, 2023).

[77] Offences Against the State Acts, Independent Review Group, Report of the Minority, 2023, p 5.

[78] Ibid, p 7.

[79] "In essence, when deciding whether to exercise their newly established power to order the remote attendance of a jury, or indeed any other participant, that judge is arguably faced with weighing up a delay against the delivery of an inferior quality of justice." Ibid.

Criticisms

In their respective opening remarks to the Joint Committee during pre-legislative scrutiny, both the Irish Human Rights and Equality Commission (IHREC) and the Bar of Ireland addressed the issue of vulnerable people who may face difficulties during a remote hearing, such as those who may have cognitive difficulties, who suffer from addiction issues, or who are neurodivergent. Both organisations underlined its concerns about the impact of remote hearings on the fundamental right to a fair trial. IHREC noted:

> "[W]e have serious concerns about the operation of remote proceedings in practice. As the Independent Monitoring Mechanism for the [Convention on the Rights of Persons with Disabilities], we are concerned about the continued failure to provide adequate and effective access to justice to disabled people in Ireland."[80]

Several reports[81] have indicated that those most likely to be impacted negatively by a shift to remote hearings would be litigants in person (i.e. people who are representing themselves) and vulnerable people. First, the use of remote hearings may limit the extent to which participants in a case may engage with their legal representatives. Second, it may be either difficult or impossible for a vulnerable or unrepresented participant to use the new technology that has been put in place to facilitate remote hearings. Many will be unfamiliar with the legal processes being used. They may also have other "digital disadvantages", as discussed below.[82] The use of remote hearings may compound pre-existing barriers to effective participation.

The UK Equality and Human Rights Commission (EHRC), in a submission lodged with the (UK) Public Accounts Committee in late 2019,[83] indicated its concerns about the implications of

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[80] Irish Human Rights and Equality Commission (IHREC), Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, 26 June 2025.

[81] Civil Justice Society, 'Rapid Review: The Impact of COVID-19 on the Civil Justice System Report and Recommendations', May 2020; Nuffield Family Justice Observatory, 'Remote hearings in the family justice system: a rapid consultation', May 2020. Joe Tomlinson, and Jo Hynes, and Emma Marshall, and Jack Maxwell, 'Judicial Review in the Administrative Court during the COVID-19 Pandemic', April 15, 2020; Public Law Project, 'Judicial Review in the Administrative Court during the COVID-19 Pandemic', April 2020 'Written evidence submitted by the Equality and Human Rights Commission', October 2019; 'House of Commons Committee of Public Accounts Transforming Courts and Tribunals: progress review - Second Report of Session 2019', November 2019; Equality and Human Rights Commission, "Inclusive justice: a system designed for all", April 2020. The Lord Chief Justice, Master of the Rolls and President of the Family Division published a message to Circuit and District Judges, which emphasised this problem. 'Message for Circuit and District Judges sitting in Civil and Family from the Lord Chief Justice, Master of the Rolls and President of the Family Division', 09 April 2020.

[82] ''Old culture' of settling on court steps is gone forever', *Law Society Gazette*, 03 July 2020.

[83] 'Written evidence submitted by the Equality and Human Rights Commission', October 2019; 'House of Commons Committee of Public Accounts Transforming Courts and Tribunals: progress review - Second Report of Session 2019', November 2019.

online and digital processes on access to justice for disabled people with cognitive impairments, mental health conditions and neuro-diverse conditions:

> "...Evidence suggests there may be a high prevalence of impairments of this type among defendants, and that they may face particular barriers."

This point was also raised in the report of the UK Criminal Justice Society (CJC), which stated:

> "... significant concerns were raised about the fairness of remote hearings in certain cases and circumstances, specific concerns were commonly raised in relation to specific groups: such as ... parties with a disability or cognitive impairment or where an intermediary or interpreter is required."[84]

The CJC report went on to state:

> "[the] ... collective responses submitted to the rapid review by organisations and individuals with experience of working with and advocating for court users who may be considered vulnerable raised a number of important concerns about the impact of the rapid shift to remote hearings".[85]

Vulnerable people faced emotional stress, often augmented by the difficulties they faced when using remote hearing technology and by the difficulties they had in understanding and taking part in remote proceedings. Further, the EHRC report stressed that more thorough testing was required to establish the extent to which remote hearings negatively impact vulnerable people's participation.

'Digital Disadvantage'

Participation in remote hearings may be hampered by "digital disadvantage".[86] In order to effectively participate in remote hearings, a participant must be technologically literate and have access to the required technology and an adequate broadband speed. It has been suggested that "there are many people in Ireland who...cannot appropriately access [remote hearings],"[87] due to digital disadvantage, and that this is a problem which must be acknowledged and addressed. The issue was considered in an article by Mulcahy and

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[84] Nuffield Family Justice Observatory, 'Remote hearings in the family justice system: a rapid consultation', p. 1.

[85] Civil Justice Society, 'Report and recommendations - The impact of COVID-19 measures on the civil justice system,' 2020 at 1.22.

[86] ''Old culture' of settling on court steps is gone forever', *Law Society Gazette*, 03 July 2020.

[87] Rose Wall, 'Opinion: Ireland's courts might have a digital future but vulnerable people need protection', *The Journal*, May 16 2020.

Tsalapatanis.[88] Their paper considered the current approaches taken by the UK judiciary when considering the possible exclusion of certain cases from online proceedings, and concluded that the "complex dynamics of digital disadvantage are frequently misunderstood and underestimated".[89] It was suggested that the lack of awareness by the judiciary (and the absence from formal judicial guidance[90]) of the many ways in which people can be digitally disadvantaged is in danger of creating and exacerbating existing issues around effective participation.

Children

United Kingdom

Research conducted by the Alliance for Youth Justice (AYJ) on the use of video links by child defendants indicated that, while children often struggle to follow court proceedings, this issue is exacerbated if the child is participating remotely. It was noted that many children participating in criminal trials have communication difficulties, and video link participation makes this issue worse. AYJ's research indicated that with the use of video links:

- Children are less likely to understand what is happening
- Children can't consult their lawyer properly nor communicate well with the judge
- Children are less likely to appreciate the seriousness of the situation or present themselves well, which may impact their outcomes.[91]

This concern was echoed by the Youth Justice Legal Centre.[92]

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[88] Linda Mulcahy and Anna Tsalapatanis, 'Exclusion in the interests of inclusion: who should stay offline in the emerging world of online justice?', *Journal of Social Welfare and Family Law*, Volume 44, 2022 - Issue 4.

[89] Ibid.

[90] Appendix E of the Judicial College Equal Treatment Bench Book provides detailed guidance to the judiciary when deciding whether an online hearing is appropriate: 'Equal Treatment Bench Book', Judicial College, July 2024 (May 2025 update), p 319.

[91] "They just don't understand what's happened or why": A report on child defendants and video links, Alliance for Youth Justice, April 2018.

[92] Police, Crime, Sentencing and Courts Act – A missed opportunity for youth justice, Youth Justice Legal Centre, 2022.

Ireland

Penal Reform International (PRI)[93] have recently begun a project,[94] funded under the EU JUST Programme, that aims to strengthen procedural safeguards for children in the context of digital justice across the EU and Ukraine, with a specific focus on remote hearings. The first four countries that the project has addressed are Ukraine, Ireland, Spain and Romania. In November 2025 a factsheet was published on Remote Hearings and Children's Rights in Ireland.[95] The report highlights the difficulties experienced by children participating in remote hearings. The report noted:

> "Children often feel alienated, passive, and unable to speak or understand the process. One child described the experience as "like watching a YouTube video".[96]

Most of the children interviewed for the report stated that they had little or no opportunity to consult their lawyers prior to the remote hearings. The PRI indicated that children with neurodevelopmental conditions may be disproportionately affected. While some expressed positive views about the experience, many report no engagement with or understanding of the procedure. Ultimately, it has been suggested that in remote and hybrid hearings children's "rights to legal consultation, information, privacy, comprehension, and participation are not consistently upheld".[97]

Safeguards in Heads 5 and 6, and the possible benefits for vulnerable participants

It may be noted that Heads 5 and 6 of the General Scheme provide safeguards whereby the court must be satisfied, before the ordering of a remote hearing, that

- the accused can communicate in confidence with their legal team, and
- that a remote hearing is in the interests of justice having regard to several factors such as the age and mental capacity of the accused.

However, the decision is ultimately at the discretion of the court.

Vulnerable participants in criminal trials may also be assisted by the use of remote technology; for example domestic violence victims (as discussed below) or those with some physical or mental disability, may find it preferable to participate remotely without the stress or discomfort of a courtroom environment.[98] Another use case may be for persons who must be

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[93] Penal Reform International (PRI) is a non-governmental organisation working globally to promote fair criminal justice systems, which accord with international human rights standards; see about us.

[94] Procedural Rights of Children in the Digital Age, Penal Reform International, 2025

[95] Remote Hearings and Children's Rights: Ireland, Penal Reform International, October 2025

[96] Ibid

[97] Ibid

[98] 'Vulnerable litigants may be able to opt for online hearings', *Irish Times*, 02 October 2021.

present for a fitness hearing under the Criminal Law (Insanity) Act 2006, where it may benefit the individual to appear remotely, while remaining under the care of medical support staff.[99]

Additionally, the technology used in remote and hybrid hearings, and their applicable procedures, are improving over time. A survey of practicing barristers in England and Wales indicated that, in 2021, 30% of barrister respondents said that video platforms were not meeting the needs of vulnerable clients; that had reduced to 12% by 2023.[100]

Benefits for victims of domestic violence

While certain vulnerable groups may find remote participation difficult, it has been indicated by a number of stakeholders that remote hearings are of particular value for victims of domestic violence. As noted above, when creating their current ICT, Digital and Data Strategy,[101] the Courts Service sought feedback from a range of external stakeholders.[102] The Service noted that the "most frequently repeated element" in the feedback received was the significance of hybrid or remote hearings for vulnerable witnesses. This was raised by four Justice-sector advocacy and support groups, and its importance was emphasised in cases of domestic violence. The Courts Service identified remote and hybrid courtroom technology as a key priority "to provide them a safe and secure avenue through which [such victims] can attend Court".[103] The Courts Modernisation plan aims to:

> "Cooperate with groups providing Court Accompaniment Services for victims and, where possible, providing improved facilities for vulnerable witnesses in court buildings, including videolink evidence facilities."[104]

The National Women's Council of Ireland also welcomed the use of remote technology in sexual or domestic violence trials. Their submissions during PLS on the General Scheme indicated that the use of such technology would "reduce the burden on survivors, such as enabling victims to give evidence or participate in hearings via video link or other remote

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[99] Law Society of Ireland, Submission on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, June 2025, p 3.

[100] The Bar Council (England and Wales), 'A lens on justice: The move to remote justice 2020 – 2024', May 2024, p 7.

[101] Courts Service ICT, Digital and Data Strategy 2024 – 2027, Courts Service of Ireland, November 2024.

[102] Partnering Public Service bodies include the Department of Justice, Office of the Director of Public Prosecutions, An Garda Síochána, the Legal Aid Board, Forensic Science Ireland, the Probation Service, and the Irish Prison Service. Requests for feedback were also shared with practitioners via the Bar of Ireland and the Law Society, and advocacy groups such as Safe Ireland, Pavee Point, Women's Aid, Men's Aid, Treoir, and One Family.

[103] Courts Service ICT, Digital and Data Strategy 2024 – 2027, Courts Service of Ireland, November 2024.

[104] Corporate Strategic Plan 2024 – 2027, Courts Service of Ireland, p 21.

technologies".[105] It was of benefit for vulnerable participants for whom travelling to a court "may be unsafe or unfeasible". Rape Crisis Ireland also welcomed the increased use of remote technology:

> "Attending court and giving evidence is difficult for most but particularly for those who are vulnerable witnesses of sexual crimes. These experiences act as a deterrent which are further exacerbated by prolonged delays which cause further distress. The development of technological measures which can reduce the re-traumatisation of victims engaging in the trial process has the benefit not only of the improved quality of their evidence but also their protection from further harm."[106]

However, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has noted that where victims of domestic violence are participating remotely, there is the potential for them to be in the same room or building as their abuser, which may impact their testimony.[107]

Rationale proposed by the General Scheme

The General Scheme notes a number of potential benefits arising from Head 5:

- Reduce the costs, and the drain on Garda and prison officer time, that arise from conveying persons in custody to the court and waiting around for hearings;
- Allay the high costs and inefficiencies of weekend and late-night emergency sittings which require courthouses to be opened for often very short hearings and require judges, Gardaí, practitioners and other participants to travel often considerable distances;
- Lessen the disruption to the professional and personal lives of court users by not requiring them to physically travel to and from court and wait long periods for the hearing of uncontested cases, particularly in the District Court (e.g. road traffic offences);
- Lower security risks by reducing the need to transport persons in custody, thereby minimising the risks of escape, disorder in/around the courts, and contraband smuggling;
- Support prisoner well-being by minimising the disruption to their rehabilitative regimes;

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[105] NWC Submission to the General Scheme of Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, June 2025, p 2.

[106] Submission on General Scheme of Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, Rape Crisis Ireland, 2025.

[107] Office of the United Nations High Commissioner for Human Rights (OHCHR), On-Line hearings in justice systems.

- Relieve physical capacity and scheduling pressures on the courts and allow them to cope with surges/spikes in demand (e.g. on foot of major public order incidents).[108]

The General Scheme notes the following:

> "The Minister believes that the current outright prohibition on remote criminal trials is outmoded and overly rigid in light of technological advances, the circumstances that individual defendants may be facing, and the need to reduce the risk of important trials being derailed by external events. In the scenarios cited above, and such others as the courts may identify, the Minister considers that, like their UK counterparts, our courts should have the discretion to decide whether a given trial is suitable to be conducted fully or partly remotely, having regard also to such matters as (*inter alia*) the nature of the charge and of the evidence, the potential penalty if convicted, and the age and health of the defendant or of key witnesses."[109]

Potential for improvement over time

Some of the issues raised in relation to remote hearings, such as connectivity and technological issues, are likely to improve over time, with the continuing roll out of broadband services, prolonged use of the relevant videoconferencing technology by judges and practitioners, and the planned improvements in court technology. This probable, gradual improvement was suggested by Richard Susskind, one of the leading contributors to international discourse on remote hearings and legal tech.[110] This was also suggested by Holt and Kelly in their empirical study[111] on the use of remote hearings in the UK family courts:

> "[P]ractice has evolved significantly during the period 2022 to 2023, following the initial fear and uncertainty for all parties of living through a global pandemic, to a new era that has embraced the freedom and flexibility of remote ways of communicating."[112]

This was also noted in the various studies conducted on the views of the judiciary and practitioners, discussed below.

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[108] General Scheme of the Criminal Law and Civil Law Miscellaneous Provisions Bill 2025

[109] Ibid, p

[110] Richard Susskind, 'The Future of Courts', *The Practice* July/August 2020.

[111] 'Time, public and personal space, safe and just systemic change: a symbiotic autoethnographic study of remote digital hearings within the English Family Courts between March 2020 and October 2023', *Journal of Social Welfare and Family Law*, Volume 46, 2024 - Issue 4.

[112] Ibid.

Judicial and legal practitioner opinions on remote hearings

Views of the Judiciary on technology in Courts

Ireland

An article by Dr Rónán Kennedy and Dr Brian Barry, published in 2023 in the Irish Judicial Studies Journal,[113] describes and analyses the results of a national survey of Irish judges on their use of, and views on, technology in Irish courts. This included video conferencing technology and remote trials. Fifty-five judges from a range of court jurisdictions[114] responded to the survey conducted by the authors, which amounts to 32% of serving judges in Ireland. Participating judges described their caseloads as follows: 15 (28%) were described as either exclusively or mainly criminal law, 15 (27%) described their cases as exclusively civil law, and the remaining judges heard a mix of civil and criminal cases.

The judges were surveyed on their views on video conferencing technology and online proceedings.[115] Ninety-one percent of respondents had some experience of remote hearings and were generally positive on the performance of the technology. However, more than half of the respondents indicated that video-conferencing technology was 'average,' 'poor' or 'very poor', which the authors of the study believe suggests a "generally cautious, if not sceptical, view on whether this technology improves the quality of justice".[116]

Judges generally preferred in-person hearing to remote hearings.[117] A number of judges expressed both general and specific concerns regarding the use of remote hearings. Some were of the opinion that such methods should only be used in exceptional circumstances or limited to short or uncontested proceedings. Some were positive regarding the use of remote hearings to deal with such matters, and remote hearings were also deemed suitable for, e.g., case management, hearing evidence from expert witnesses, and more generally for commercial law matters. Several judges raised concerns about the future reduction in face-to-

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[113] Dr Brian M. Barry and Dr Rónán Kennedy, 'Views of the Irish Judiciary on Technology in Courts: Results of a Survey' [2023] *Irish Judicial Studies Journal* Vol 7(1).

[114] 21 were judges of the District Court (38%), 13 were Circuit Court judges (24%), 16 were High Court judges (29%), and five were Court of Appeal judges (9%). No Supreme Court judges participated in the survey. 85% of participants started in their role during or after 2010. Ibid, p 30.

[115] Dr Brian M. Barry and Dr Rónán Kennedy, 'Views of the Irish Judiciary on Technology in Courts: Results of a Survey' [2023] *Irish Judicial Studies Journal* Vol 7(1), p 32.

[116] Ibid, p 32.

[117] 60% of respondents preferred in-person hearings, and 40% preferred a mixture of remote and in person.

face hearings.[118] Irish judges were somewhat less concerned about remote hearings than their UK counterparts, according to similar research carried out in Scotland, Northern Ireland and England and Wales.[119]

Finally, issues were raised about the possibility that remote hearings may be undermined by differences in connectivity between participants of a remote hearing, which can cause breakdowns during proceedings. Additionally, a number of judges raised concerns regarding a "digital divide" between certain social groups, where some struggle to use the technology required to effectively participate in a remote hearing. The issue was also raised that remote hearings may undermine the constitutional requirement that justice must be administered in public.[120]

England and Wales

In the UK, the Judicial Institute of University College London conducts a regular survey that gathers information on the views and concerns of the judiciary. The Report has been published five times in the previous 10 years. The 2024 report was published in February 2025.[121]

For salaried judges, the largest perceived negative effect of remote hearings was on the interactions between parties (60%), the way parties behave during hearings (54%) and the quality of advocacy (50%). (Source)

The respondent judges were asked whether there would be a greater likelihood of salaried judges leaving the judiciary early due to the introduction of online courts or remote hearings. The number of judges agreeing with this statement dropped from 36% in 2022 to 19% in 2024, indicating a possible growing acceptance among the judiciary for remote hearings.[122] A minority of salaried judges (28%) and fee-paid office holders (34%) said the quality of the technology for hybrid/remote hearings in HMCTS courts and tribunals was good or excellent.[123]

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[118] A later question in the survey asked how concerned judges were about the reduction in face-to-face hearings. The responses tallied with findings from the earlier question discussed above where more judges expressed a preference for in-person hearings than for other modes. Of 47 responses, nine (19%) said they were 'extremely concerned,' 17 (36%) said they were 'somewhat concerned,' eight (17%) said they were 'not sure,' eight (17%) said they were 'only slightly concerned,' and five (11%) said they were 'not concerned at all.' (ibid, p. 31-32)

[119] Ibid, p 32.

[120] Ibid.

[121] Judicial Attitude Survey 2024, University College London Judicial Institute, February 24, 2025.

[122] Ibid, p 86. The study indicated that the availability of the option to hold some hearings remotely reduced the likelihood of a judge retiring early from 24% in 2024 to 16% in 2024.

[123] Ibid, p 40.

Views of the legal profession

Views of legal practitioners on remote hearings (England and Wales)

In May 2024, the Bar Council of England and Wales published a report entitled 'A lens on justice: The move to remote justice 2020 – 2024'.[124] No comparable study has been conducted in Ireland. The report indicated that, since May 2021, the Bar Council's position on remote hearings in England and Wales has been the following:

> 1. Supportive of the continuing use of technology in our courts.
>
> 2. Supportive of remote hearings becoming the default position for "short or uncontroversial procedural business".
>
> 3. For any hearing that is potentially dispositive of all or part of a case, the default position should be in-person hearings. Remote hearings should be available as an option in such cases where the court and all parties agree that proceeding in that way would be appropriate.[125]

In 2023, 60% of barristers in England and Wales attended both remote and in-person hearings. Barrister respondents were broadly happy with the functioning of remote hearings and noted that technological issues have improved somewhat over time. Legal practitioners saw a number of personal benefits to the use of remote hearings, including increased flexibility, fewer costs, and an improvement in their work-life balance. However, some barristers offered the view that the primary benefits were for the professionals engaging in remote hearings, and that they did not benefit the overall administration of justice.

The report of the Bar Council of England and Wales stated that there was "reasonable consensus" among barristers that remote hearings were well suited to less complex civil and criminal matters.[126] However, it is of note in the context of the General Scheme's legislative proposals that there was general agreement that for trials, especially longer ones, and those where contested evidence is involved, in-person hearings should be the norm.[127] Additionally, barristers in criminal practice were among the most supportive of the increased use of remote hearings, for appropriate criminal matters.[128]

Hearings that barristers felt should be exempt from being held remotely include:

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[124] The Bar Council (England and Wales), 'A lens on justice: The move to remote justice 2020 – 2024', May 2024.

[125] Ibid, p 4.

[126] "...for shorter applications, case management meetings, preliminary hearings, administration hearings, and small claims hearings, amongst others, remote should be the default." Ibid.

[127] Ibid.

[128] Ibid, p 22.

- Trials
- Contested evidence hearings.
- Final/long hearings (>1.5hrs, 1, 2, 3 hours or longer).
- Multiple party involvement.
- Complex cases (caveats given unless all parties agree).[129]

Legal practitioners in Ireland

There has not been a comparable study conducted on the views of Irish barristers or solicitors on the evolving use of remote technology. However, the section below will provide a short overview of the submissions made by the Law Society of Ireland on the General Scheme of the Bill. The views of the Bar Council are set out elsewhere in this paper. The Council were not supportive of the changes proposed by Head 6 of the Scheme and were strongly critical of the use of remote technology in complex contested criminal matters and jury trials.[130]

The Law Society of Ireland[131] was of the opinion that additional safeguards should be included in Head 6 of the Bill, as the current wording does not provide for a significant degree of protection as required by the European Convention on Human Rights (ECHR) and the European Charter of Fundamental Rights. While the General Scheme imbeds some safeguards in Head 6, it was submitted that supplemental safeguards are required such as:

> (1) participation in the jury selection process by the accused, and
>
> (2) the examination of prosecution witnesses.

It was also stressed that the consent or opinion of the accused on the use of a remote trial should be sought in all cases.

The submissions indicated that there are a number of challenges presented by remote hearings, including:

- Inadequate videoconference facilities
- Lack of consideration regarding the practicalities of interpreters participating in remote hearings
- The current system presents challenges for legal representatives to access their clients when they are presented remotely

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[129] Ibid, p 49.

[130] The Bar of Ireland, Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions Bill, June 2025.

[131] Law Society of Ireland, Submission on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, June 2025.

- There needs to be appropriate investment in court infrastructure if increased remote hearings are to proceed successfully.

Additionally, the Bar Council submits that subhead (5), which permits either party to the proceedings to apply *ex parte* for a remote hearing does not "sit well with the right to apply to dispense with the remote hearing direction where it is contended that the safeguarding conditions [set out in subhead 3] are not met."[132] Accordingly, it was recommended that any applications by either side for a remote hearing should be on notice to the other side.

International approach

According to the General Scheme of the Bill, the stated intention of the Bill is to bring Ireland in line with international best practice regarding the use of remote hearings in criminal matters.[133] However, the Bar Council voiced "serious reservations about the appropriateness of extending remote hearings to jury trials in particular,"[134] noting that, while the General Scheme cited recent developments in the UK as a factor influencing the provisions of the General Scheme, there does not appear to have been "any qualitative analysis of how provisions enabling remote jury trials have been utilised" in neighbouring jurisdictions, and that the introduction of jury trials in the UK has been "plagued with issues, delays and cost overruns".[135] Additionally, it was suggested that "there is a dearth of analysis and evaluation of the impact of holding [remote jury trials] on the quality of justice and the fair trial rights of an accused."[136] Recent relevant legislative developments in the UK are set out below.

Recent international reports

An overview of recent international developments in the use of remote hearings has been provided in a report published in June 2025 by the Council of Europe European Commission for the efficiency of justice (CEPEJ).[137] Additionally, a 2025 report by the European Union Agency for Fundamental Rights (FRA)[138] presents the findings of research conducted by the FRA on the digitalisation of justice and how it affects the fundamental rights of individuals, for

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[132] The Bar of Ireland, Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions Bill, June 2025

[133] General Scheme of the Criminal Law and Civil Law Miscellaneous Provisions Bill 2025, p 19.

[134] The Bar of Ireland, Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, June 2025, p 5.

[135] Ibid, citing the UK National Audit Office: NAO-Progress on the courts and tribunals reform programme. 16 February 2023.

[136] Ibid.

[137] 'Guide on the Use and Development of Remote Hearings', European Commission for the Efficacy of Justice, 5 June 2025.

[138] 'Digitalising Justice: A Fundamental Rights-based Approach', European Union Agency for Fundamental Rights, 2025.

example claimants, victims or defendants. This includes analysis of the use of videoconferencing platforms in court proceedings.[139]

United Kingdom

The General Scheme of the Bill indicates that Head 6 of the Bill has been informed by the approach taken in the UK to remote hearing of criminal trials. The General Scheme does not specify the legislation from which Head 6 draws inspiration.

The most recent significant legislative development in the UK (which appears to have influenced Head 6 of the Bill) is the Police, Crime, Sentencing and Courts Act 2022. The Act broadens the manner in which video and audio technology is used in criminal matters in the UK. Section 200 of the Act[140] provides the following:

- The court may, by a direction, require or permit a person to take part in eligible criminal proceedings through:
    - a live audio link, or
    - a live video link.
- If participating remotely, all members of a jury must be present in the same place
- The types of eligible criminal proceedings is broad, and includes a trial on indictment or any other trial in the Crown Court for an offence.
- Before the court makes a direction that a person or persons should participate in a trial remotely, they must be satisfied that it is in "the interests of justice" for the relevant party to participate remotely.
- If such a direction is being made, the parties must have an opportunity to make representations to the court.
- The court must consider the circumstances of the case and any guidance issued by the Lord Chief Justice. A list of the circumstances that must be considered is set out in subsection (6).

This provision is broadly similar to the reforms proposed by Head 6 of the General Scheme.

Appendix E of the Judicial College Equal Treatment Bench Book provides detailed guidance to the judiciary when deciding whether an online hearing is appropriate.[141]

During pre-enactment debate of the legislation, this proposed provision of the Bill received criticism from stakeholders. Fair Trials International noted the adverse effects that remote hearings may have on defendants' right to access effective legal assistance, to participate effectively at their own hearings and to review and challenge information and evidence being

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[139] Ibid, pp 43 – 57.

[140] Amending section 51 of the Criminal Justice Act 2003.

[141] 'Equal Treatment Bench Book', Judicial College, July 2024 (May 2025 update), p 319.

presented.[142] They were also critical of the courts being the final arbiter of whether proceedings will progress remotely, stating that "judicial discretion should not replace defendant's consent to participate in remote proceedings." Two UK youth justice organisations[143] also criticised the Bill for similar reasons, and for additional reasons discussed earlier in this briefing paper, regarding the participation of children in remote hearings.

A research briefing prepared on the Bill by the House of Commons Library[144] indicated that the first area of concern raised by commentators was whether the technological infrastructure in criminal courts is sufficient to deal with increased virtual hearings.[145] The paper noted that there have previously been significant IT failures in courts causing disruption to proceedings.[146] The paper outlined additional concerns raised by the Justice Select Committee, legal practitioners, and various legal advocacy groups. These concerns are similar to those addressed in PLS submissions on the General Scheme and in this briefing paper.

ECHR jurisprudence on remote hearings in criminal cases

Remote hearings and the ECHR

Article 6 of the European Convention on Human Rights protects the right to a fair and public hearing within a reasonable period of time. The use of video links and remote technology in criminal cases is not prohibited under Article 6. There has been some limited examination by the European Court of Human Rights of issues relating to hearings via video link from the perspective of the right to a fair trial under Article 6.

In 2006, the ECtHR in *Marcello Viola v. Italy*[147] set out the principles to which remote hearings in criminal trials must adhere:

- a defendant's participation in proceedings by videoconference is not always contrary to the Convention;
- nevertheless, recourse to this measure in any given case must serve a legitimate aim; and

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[142] Remote Justice Debated - PCSC Bill's Second Reading in the House of Lords, Fair Trials International, 15 September 2021.

[143] "They just don't understand what's happened or why": A report on child defendants and video links, Alliance for Youth Justice, April 2018.

[144] Police, Crime, Sentencing and Courts Bill: Part 12, Procedures in Courts and Tribunals, House of Commons Library, Number 9167, 12 March 2021.

[145] Ibid, p 11.

[146] "UK's courts system 'on its knees' following major IT failure, lawyers' association says", *Independent*, 22 January 2019; HC Deb 23 January 2019 c247 (Urgent Question on Courts IT System); "IT failure knocks out courts for second time in two months", *Law Gazette*, 5 March 2019.

[147] *Marcello Viola v. Italy* (European Court of Human Rights, Application no. 45106/04, 5 October 2006)

- the arrangements for the giving of evidence must be compatible with the requirements of respect for due process, as laid down in Article 6 of the Convention.[148]

The Strasbourg Court held that the use of remote hearings to reduce the spread of Covid-19 was a legitimate aim for the purposes of the above criteria,[149] as was the preservation of public order where a participant of a hearing was a member of the Mafia.[150] However, it has been held that "domestic authorities have to provide sufficient reasons if they decide that a defendant will participate in hearings via videoconference".[151]

Hearings via video link may undermine the required public nature of court proceedings. According to the ECtHR's case law, a trial complies with the requirement of publicity only if the general public is able to obtain information about its date and place and if this place is easily accessible to them.

The Bar Council has suggested that Head 6 of the General Scheme undermines the right of an accused to be present at their trial, which is part of the overarching right to a fair trial under Article 6 of the ECHR.[152] IHREC and the Law Society have also suggested that the provisions of the General Scheme may undermine an accused's Article 6 rights.

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[148] Ibid, at § 67

[149] Alppi v. Finland (dec.), 2023, (European Court of Human Rights, Application no. 15736/22, 28 November 2023) at §§ 21-22

[150] *Marcello Viola v. Italy* (European Court of Human Rights, Application no. 45106/04, 5 October 2006)

[151] European Court of Human Rights, Key Theme - Article 6 (criminal) Hearings via video link, p 1.

[152] The Bar of Ireland, Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, June 2025

Legislative proposal

Pre-legislative scrutiny

The Joint Oireachtas Committee on Justice, Home Affairs and Migration invited submissions on the General Scheme as part of its pre-legislative scrutiny process. The Committee also held a public hearing on 30 September 2025.

The submissions made to the Joint Committee by stakeholders ranged from positive to critical. Domestic and sexual violence advocacy groups welcomed the use of remote hearings for vulnerable participants. This point was echoed by other stakeholders, such as the Bar of Ireland[153] and IHREC.[154] Certain developments regarding the use of electronic documents were welcomed.[155] The Courts Service of Ireland also broadly welcomed the developments, which tied into the Service's goals and modernisation plans. A number of submissions also referred to the general logistical benefits of remote and hybrid hearings, reducing the time and financial costs associated with in person hearings.

However, a number of stakeholders (notably IHREC, the Law Society and the Council of the Bar of Ireland) were critical of the expansion of remote and hybrid proceedings to include complex criminal matters, including jury trials. It was suggested that this expansion undermined the right to the accused to be present at their trial and undermined their constitutionally protected right to a fair trial, as well as the accused's right to a fair trial under relevant international human rights instruments.[156] The Irish Penal Reform Trust and IHREC also raised the issue that an accused appearing remotely from a prison setting may undermine the presumption of innocence, and thus their right to a fair trial.[157] IHREC, the Bar Council and the Law Society were of the opinion that remote and hybrid proceedings should be the exception rather than

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[153] The Bar of Ireland, Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, June 2025.

[154] Irish Human Rights and Equality Commission (IHREC), Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, 26 June 2025.

[155] The Bar of Ireland, commenting on Head 7 of the General Scheme, The Bar of Ireland, Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, June 2025, p 8.

[156] International Covenant on Civil and Political Rights (ICCPR) in Articles 14 and 15; the European Convention on Human Rights (ECHR) in Article 6; and the EU Charter of Fundamental Rights in Article 47.

[157] Irish Penal Reform Trust (IPRT), Submission by the Irish Penal Reform Trust on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, 23 June 2025.

the norm,[158] particularly in serious criminal matters. It was also stressed that the consent or opinion of the accused on the use of remote trial should be sought in all cases.[159]

A number of procedural and logistical issues were raised, including inadequate video conferencing facilities, difficulties for interpreters, and difficulties for legal representatives in engaging with their clients. Additionally, the Bar Council submitted that any applications by either side for a remote hearing should be on notice to the other side, not *ex parte*, as provided for in Head 5.

The issue was raised that disabled or vulnerable people, or children, may have difficulty in participating in remote hearings. There were potential difficulties with a trial proceeding remotely if multiple key witnesses are to give testimony. There is also the potential for witnesses to be subject to influence or pressure from those in the room with them, when testifying remotely.

The Joint Committee published its PLS Report on the General Scheme of the Bill on 13 November 2025.[160] The Report made 17 recommendations, with the first three recommendations suggesting changes to Head 6 of the Bill, relating to remote hearings in criminal and international co-operation matters. The recommendations were as follows:

1. The Committee recommends the inclusion of a subsection in Head 6 requiring that the consent of the accused be secured for each application for a remote hearing, in particular, when it is envisaged to conduct a trial remotely.
2. The Committee recommends that a direction be included that remote hearings, as set out in Head 6, should not be extended to jury trials, and to summary trials involving the potential for imprisonment. If remote proceedings are permitted for such trials, it is recommended that these will be exceptional and not normative.
3. The Committee recommends that regulations are provided on the use of remote proceedings as set out in Head 6, and that a human rights review of the operation of remote proceedings takes place within a three-year period of commencement of the legislation.

These recommendations and the extent to which, if any, are incorporated into the published Bill will be considered in the Parliamentary Research Service's forthcoming Bill Digest.

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[158] See e.g. Irish Human Rights and Equality Commission, Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, 26 June 2025, p 5; The Bar of Ireland, Submissions on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, June 2025, p 5.

[159] See e.g. Law Society of Ireland, Submission on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, June 2025.

[160] Joint Committee on Justice, Home Affairs and Migration, Report on Pre-Legislative Scrutiny of the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, November, 2025.

General Scheme

The General Scheme of the Criminal Law and Civil Law Miscellaneous Provisions Bill 2025 was published on 6 May 2025. This briefing paper provides a brief overview of Parts 2 and 4 of the General Scheme. The provisions as set out in the published Bill will be considered in more detail in the L&RS Bill Digest.

Part 2

Head 5: remote hearings in criminal and international co-operation procedures generally

This head provides a basis for the remote hearing of all types of criminal proceedings and international co-operation proceedings (as defined in head 4), with the exception of trials or other contested hearings (which are addressed in head 6). This includes contested bail applications, arraignment and sentencing hearings.

The General Scheme notes[161] that the Head is, to a considerable extent, modelled on the equivalent provisions for remote hearing of civil proceedings and criminal appeals in the Superior Courts, as provided for by sections 11 and 26 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020. Under the 2020 Act the accused may already, where the court directs, appear remotely at the vast majority of the hearings that are encompassed by Head 5. The Head provides that the Chief Justice and Court Presidents may issue a general direction that all proceedings of a type referred to in the head shall be held remotely. Otherwise, in any given case, a court may direct a remote hearing of its own motion or on the application of either party to the proceedings.

The Head includes a number of safeguards, drawn from section 23 of the 2020 Act, which the court must consider before directing a hybrid or remote trial.

Head 6: remote hearings in criminal trials and other contested proceedings

This Head provides for the remote hearing, where so directed by the courts, of trials and other contested hearings in criminal proceedings and international co-operation proceedings.

This Head relates to more complex contested criminal matters, including jury trials. The full list of matters to which the section applies is set out in subsection (1). Subsection (3) includes a number of relevant safeguards.

Similarly to Head 5, under Head 6 the Chief Justice and Court Presidents may specify certain classes of hearing under this Head to proceed by remote hearing.

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[161] General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025.

Additionally, the court may direct that jury trials may proceed remotely, if all members of the jury are located in the same physical space at all times.

Head 7: use of electronic means in criminal and international co-operation proceedings

This Head provides a comprehensive enabling basis for the electronic transmission of documents to and from the courts in criminal and international co-operation proceedings. The Head provides that the Chief Justice and Court Presidents may issue practice directions to require or permit the electronic transmission of certain classes of documents, within the scope of Head 7.

Head 8**: Statement of truth**

This Head provides for an electronically transmitted 'statement of truth' as an alternative to a statutory declaration in such types of criminal or international co-operation proceedings, as specified in practice directions.

Head 9**: Power of court to make arrangements for conduct of criminal proceedings or international co-operation proceedings**

This Head restates section 28 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020, which is repealed by Head 11 of this Scheme. It provides a general power for a court to make arrangements to ensure the just and expeditious conduct of criminal proceedings and international co-operation proceedings.

Head 10**: Amendment of section 29 of Criminal Evidence Act 1992**

Head 10 amends section 29 of the 1922 Act to provide that a person, other than the accused, may give evidence through live video link in any criminal or international co-operation proceedings.

Head 11**: Amendment of Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020**

Head 11 provides for technical amendments consequential on the repeal of sections 22 to 26 and 28 of the 2020 Act, which are superseded by Heads 5 and 6 of the General Scheme. The provision redefines "criminal proceedings" and "civil proceedings" and adds additional definitions.

Part 4

Head 15**: Amendment of section 99 of Criminal Justice Act 2006**

Section 99 of the Criminal Justice Act 2006 provides for a court to suspend in whole or in part a sentence of imprisonment, subject to the person entering into a recognisance. This Head amends section 99 by inserting a new subsection to provide that a governor of a prison may

take the recognisance.[162] This will further facilitate participation in remote hearings by persons in prison custody (pursuant to Part 2 of the General Scheme). The General Scheme suggests that this will "free up prison officer time for more productive tasks, by obviating the need for prison officers to convey prisoners to court for the recognisance to be taken".[163]

Head 16**: Amendment of section 22 of Criminal Procedure Act 1967**

Similar to the provision above, Head 16 provides that a judge or clerk of the District Court may take the necessary recognisance where the Court releases a person on bail, facilitating the participation in remote hearings by persons in Garda custody.

[162] Where a person is conditionally discharged, they will enter a recognisance (a bond) to the court and be required to be of good behaviour while on probation and to appear at court if they are called upon within three years of their release.

[163] General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025.

Conclusion

Remote and hybrid hearings have remained in regular use in the courts since 2020. Their use in civil and less procedurally complex criminal matters has been broadly welcomed by practitioners, judges, advocacy groups and court users, with some remaining criticisms. However, the proposal under Head 6 of the General Scheme to extend the use of remote and hybrid hearings to permit their use in more complex criminal matters, including contested criminal proceedings and jury trials, has been criticised by a number of stakeholders. There have also been more general criticisms of the proposals under Heads 5 and 6 (typically focused on a lack of resources available to facilitate the expanded use of remote hearings). Despite these criticisms, it is also possible that there may be some advantages to the expansions proposed under these Heads, particularly for vulnerable court users and victims of domestic violence.

While legislation that is broadly similar to Head 6 was introduced in the UK in 2022, a number of legal advocacy groups and other stakeholders objected to the legislation, and there have been mixed views on the operation of the legislation in practice. Finally, it has been repeatedly noted that the use of remote and hybrid hearings in Ireland requires further study to assess its efficacy and impacts.