

**General Scheme of the
Courts and Civil Law (Miscellaneous Provisions) Bill 2017**

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Long Title of Bill

A Bill to amend the law in relation to courts and court officers; to amend the Bankruptcy Act 1988; to amend the Personal Insolvency Act 2012; to amend various enactments for the purpose of the prevention of benefit from homicide; to amend the Civil Liability and Courts Act 2004; to amend the law in relation to the sale of intoxicating liquor; to amend the Land and Conveyancing Law Reform Act 2009; to amend the Courts Service Act 1998; to amend the Legal Services Regulation Act 2015; to amend the International Protection Act 2015; to amend the Immigration Acts; to amend the Gaming and Lotteries Act 1956; to amend the Totalisator Act 1929; to amend the Property Services (Regulation) Act 2011; to amend the Charities Act 2009; to amend the Taxes Consolidation Act 1997 for the purpose of providing information to the Charities Regulatory Authority; and to amend certain other enactments; and to provide for related matters.

PART 1 - PRELIMINARY AND GENERAL

Head 1: Short title and commencement

Provide along the following lines:

- (1) This Act may be cited as the Courts and Civil Law (Miscellaneous Provisions) Act 2017.
- (2) This Act shall come into operation on such day or days as the Minister for Justice and Equality may appoint by orders or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

PART 2 - COURT AND COURT OFFICERS (to facilitate centralisation and automation of court processes)

Head 2 – Interpretation (Part 2)

Provide that:

In this Part-

“centralised court office” means a court office or an office of the Courts Service designated under Head 3;

“court office” means any office of, or attached to, any of the following:

- (a) the Supreme Court;
- (b) the Court of Appeal;
- (c) the High Court;
- (d) the President of the High Court;
- (e) the Circuit Court;
- (f) the District Court;
- (g) a District Court Clerk;

and -

- (i) for the avoidance of doubt shall include a combined court office within the meaning of Part 3 of the Courts and Court Officers Act 2009,
- (ii) for the purpose of this definition, a district probate registry shall be deemed to be an office attached to the High Court;

‘electronic form’ means information that is generated, communicated, processed, sent, received, recorded, stored or displayed by electronic means and is capable of being used to make a legible copy or reproduction of that communicated information”;

‘electronic means’ includes electrical, digital, magnetic, optical, electromagnetic, biometric, photonic means of transmission of data and other forms of related technology by means of which data is transmitted;

“enactment” means an Act or a statutory instrument or any portion of an Act or statutory instrument.

Head 3 - Designation of centralised court offices

Provide that:

- (1) Notwithstanding any other enactment, the Courts Service may designate –
- (a) any court office and
 - (b) any office of the Courts Service,

as an office (in this Part a “centralised court office”) in which either or both of the following, viz:

- (i) specified business, or a specified category of business transacted in a specified court office or court offices;
- (ii) the business of selection and summoning of persons for service as jurors -

(I) may be transacted in the centralised court office in addition to the court office concerned or

(II) shall be transacted exclusively in the centralised court office, with effect from a specified date.

(2) Where a designation has been made under subsection (1) –

- (a) the specified business, or category of business or
- (b) the selection and summoning of persons for service as jurors or
- (c) as the case may be, both (a) and (b)

may be transacted in the centralised court office so designated in addition to the court office concerned or, as the case may be, shall exclusively be transacted in the centralised court office so designated from the specified date.

(3) The Courts Service shall, as soon as may be after a centralised court office is designated under this section, publish notice of that fact and of the matter referred to in subsection (1) relating to that office in *Iris Oifigiúil*, but failure to so publish shall not affect the validity of the establishment of the centralised office concerned.

(4) Where the selection and summoning of persons for service as jurors has been specified under subsection (1) –

- (a) the references to “county registrars” and “county registrar” in the first and third lines of section 10 of the Juries Act 1976 shall be construed as references to the centralised court office concerned, and
- (c) the references to “county registrar” in sections 11 and 12 of the Juries Act 1976 shall be construed as references to a centralised court office.

(5) The Juries Act 1976 shall be amended –

- (a) by the substitution in section 10 of that Act for “For the purpose of enabling county registrars” of “Subject to [section 2 of this Part], for the purpose of enabling county registrars”,
- (b) by the substitution in section 11 and section 12(1) of that Act for “Each county registrar” of “Subject to [section 2 of this Part] , each county registrar” ,
- (c) by the substitution for paragraphs (a) and (b) of section 13(3) of that Act of the following paragraphs -
 - “(a) a certificate by

- (i) the county registrar or an officer acting on his behalf, or,
- (ii) a member of the staff of the Courts Service duly authorised in that behalf by the Chief Executive Officer of the Courts Service,
that, as the case may be, the registrar or officer or member of staff of the Courts Service posted a letter containing the summons addressed as provided in subsection (2) shall be evidence of the fact so certified;
- (b) a certificate by
 - (i) the county registrar or an officer acting on his behalf, or,
 - (ii) a member of the staff of the Courts Service duly authorised in that behalf by the Chief Executive Officer of the Courts Service, or
 - (iii) a member of the Garda Síochána that he personally delivered the summons to the juror on a specified date shall be evidence of the fact so certified, and”,
- (d) by the insertion in section 13(4) after “officer of a court” of “, member of the staff of the Courts Service duly authorised in that behalf by the Chief Executive Officer of the Courts Service”,
- (e) by the insertion in section 27 of that Act after “county registrars” of “and the Courts Service”, and
- (f) by the insertion in section 35(1) of that Act after “the county registrar or any person acting on his behalf,” of “ the Courts Service or any member of the staff of the Courts Service,”.

(6) In this section, “specified” means specified in the designation made under this section.

Head 4 - Variation of functions or dissolution of a centralised court office

Provide that:

- (1) The Courts Service may vary the functions of a centralised court office, including by-
 - (a) varying the business, or a category of business, which is to be transacted in that office, and
 - (b) removing the business, or a category of business, which is to be transacted in that office.
- (2) The power to designate any court office and any office of the Courts as a centralised court office conferred by Head 3(1) includes the power to dissolve such centralised court office.
- (3) Sections 2(3) and 4 apply, with any necessary modifications, when the Courts service exercises its powers under subsection (1) or (2).

Head 5 - Consultations

Provide that:

Before making a designation under Head 3, the Courts Service shall consult with-

- (a) the Chief Justice, where it is proposed that the business, or a category of business, of an office attached to the Supreme Court, be transacted in the centralised court office concerned,
- (b) the President of the Court of Appeal, where it is proposed that the business, or a category of business, of an office attached to the Court of Appeal be transacted in the centralised court office concerned,
- (c) the President of the High Court, where it is proposed that the business, or a category of business, of an office attached to the High Court or the President of the High Court be transacted in the centralised court office concerned,
- (d) the President of the Circuit Court, where it is proposed that the business, or a category of business, of an office attached to the Circuit Court, be transacted in the centralised court office concerned,
- (e) the President of the District Court, where it is proposed that the business, or a category of business, of an office attached to the District Court or to a District Court Clerk be transacted in the centralised court office concerned.

Head 6 - Centralised court office: deemed powers and functions

Provide that:

Where any court office or office of the Courts Service has been designated as a centralised court office under Head 3, for the purpose of the transaction of any business otherwise transacted in a court office, or category of business so transacted

- (a) that centralised court office is additionally deemed to be the court office concerned;
- (b) the members of staff of the Courts Service employed in that centralised court office under Head 7 are deemed to be officers attached to the court office concerned;
- (c) any reference in an enactment to the court office concerned or to an officer or member of staff employed in that court office shall, save where the context otherwise requires, be deemed additionally to include that centralised court office or an officer or member of staff of that centralised court office, as the case may be.

Head 7 - Staff of centralised court office

Provide that:

There shall be employed in a centralised court office such and so many members of the staff of the Courts Service as the Courts Service shall from time to time determine.

Head 8 - Functions of staff

Provide that:

The Courts Service may, notwithstanding any other enactment, appoint any member of staff of the Courts Service employed in a centralised court office under section 6 as one or more of the following:

- (a) a District Court Clerk for such one or more district court areas in respect of which business, or a category of business, has been specified for transaction in the centralised court office under Head 3;
- (b) a member of staff of such one or more Circuit Court offices in respect of which business, or a category of business, has been so specified;
- (c) a principal officer, within the meaning of Part 1 of the Court Officers Act 1926 of any office attached to the High Court or the President of the High Court in respect of which business, or a category of business, has been so specified.

Head 9 - Processes by electronic means in civil proceedings

Provide that:

(1) Notwithstanding any other enactment, and without prejudice to any powers which were exercisable by the rule-making authorities, respectively, for the Superior Courts, the Circuit Court and the District Court prior to the coming into operation of this section, rules of court may, in relation to civil proceedings, make provision -

- (a) for the lodgement or filing of a document with and making of an application to a court by transmitting the document or application by electronic means to -
- (i) the court office concerned or
 - (ii) where, under Head 3, the business, or a category of business, of a court office may or is required to be transacted in a centralised court office, a centralised court office,

whether in place of or as an alternative to any method by which such document or application could, as the case may be, be filed, lodged or made immediately before the enactment of this section, and on such conditions and subject to such exceptions as may be specified by such rules,

- (b) for -
- (i) the issue of a summons, civil bill, claim notice or other originating document by a court,
 - (ii) the issue of a judgment, decree or other order or determination of a court (including any judgment, decree or other order or determination entered in or issuing from an office of a court),
 - (iii) the issue of any other document or information from or on behalf of a court or court office,

by or on behalf of -

- (i) the court office concerned or
- (ii) where, under Head 3, the business, or a category of business, of a court office may or is required to be transacted in a centralised court office, a centralised court office,

by transmitting the same by electronic means to the person who applied for it or a person acting on his or her behalf, whether in place of or as an alternative to any method by which such issue could be effected immediately before the enactment of this section, and on such conditions and subject to such exceptions as may be specified by such rules,

- (c) for -
- (i) the manner in which any of the documents or other matters, transmitted by electronic means in accordance with rules of court made under this subsection, may be authenticated and
 - (ii) the conditions under which such documents or matters shall be admissible as evidence in any legal proceedings,

(iii) the furnishing by a person lodging or filing a document or making an application to a court by electronic means, in accordance with rules of court made under subsection (1), of information to identify that person.

(2) Notwithstanding section 262 of the Social Welfare (Consolidation) Act 2005, information referred to in subparagraph (iii) of paragraph (c) of subsection (1) may include the Personal Public Service Number (within the meaning of that section), if any, of that person.

(3) References, howsoever expressed, in any enactment to the lodgement of a document or making of an application to a court, or to the issue of any document or other matter referred to in paragraph (b) of subsection (1) in civil proceedings, shall be construed as including reference to the lodgement of the document or making of the application, or issue of the document or matter concerned, by electronic means in accordance with rules of court made under subsection (1).

(4) For the purposes of this section, references to a document or application in subsection (1) shall be construed as including a copy of such document or application.

Head 10 - Continuity of administration of justice not to be affected

Provide that:

- (1) The continuity of the administration of justice shall not be interrupted by the
 - (a) designation of a centralised court office under Head 3,
 - (b)(i) variation of the business, or a category of the business, which is to be transacted in that office
 - (ii) removal of the business, or a category of the business, which is to be transacted in that office, or
 - (iii) the dissolution of a centralised court office,

under Head 4.

- (2) Without prejudice to the generality of subsection (1) –
 - (a) where, under Head 3, a centralised court office has been designated for the transaction of business, or a category of business of a court office, which in consequence is required to, or may, be transacted in the centralised court office concerned, the business, or category of business, of the court office concerned shall be continued in that centralised court office;
 - (b) where business had begun to be transacted in a centralised court office which, by virtue of the variation of the business, or categories of business, removal of the business, or categories of business, or dissolution of that office under Head 4, is subsequently required to be transacted in another court office, that business shall be continued in that other court office.

Head 11 - Protection from liability

Provide that:

(1) Notwithstanding any provision of any enactment, agreement or rule of law, the Courts Service shall not be liable to any action, suit or proceeding for or in respect of any act or matter *bona fide* done or omitted to be done by or on its behalf in connection with the lodgement of a document or making of an application to a court, or the issue of any document or other matter referred to in paragraph (b) of section 8(1) in civil proceedings by electronic means.

(2) An officer or the court or member of staff of the Courts Service shall not be liable to any action, suit or proceeding for or in respect of any act or matter *bona fide* done or omitted to be done by or on behalf of that officer or member of staff in connection with the lodgement of a document or making of an application to a court, or the issue of any document or other matter referred to in paragraph (b) of Head 9(1) in civil proceedings by electronic means.

Head 12 - Statement of Truth

Provide that:

(1) Where -

- (a) in any civil proceedings evidence is to be given or a document or information is to be verified by an affidavit or a statutory declaration, and
- (b) in those proceedings a document may be lodged or filed or is required to be lodged or filed, or an application may be made or is required to be made by electronic means by virtue of rules made under Head 9(1),

subject to subsection (2), and notwithstanding any provision of any enactment or rule of law, rules of court may make provision for a statement (in this section a “statement of truth”) to be made and transmitted by electronic means for the purpose of substituting for the affidavit or statutory declaration concerned, and on such conditions and subject to such exceptions as may be specified by such rules.

(2) A statement of truth –

- (a) may be in electronic form
- (b) shall contain a statement that the person making the statement of truth believes that the facts stated therein are true,
- (c) may be signed by the person making it by that person entering his or her name on an online form and
- (d) shall, subject to subsection (5), comply with any other requirements as to its content or form as may be prescribed by rules of court.

(3) A statement of truth may be made

- (a) by a party in the proceedings concerned or on his or her behalf by a solicitor acting for that party in those proceedings,
- (b) by a solicitor on his or her own behalf where that solicitor is acting for a party in the proceedings concerned,
- (c) by a solicitor on behalf of a person who has served or delivered a document in the proceedings concerned, where that solicitor is acting for a party in those proceedings.

(4) Where a statement of truth is made by a solicitor in circumstances to which paragraph (a) or (c) of subsection (3) refer, that solicitor shall, before making the statement of truth -

- (a) obtain permission to make the statement of truth from the party or person on whose behalf it is being made,
- (b) explain to the party or person concerned that in making the statement of truth the solicitor will be confirming by that statement that the party or person concerned honestly believes that the contents of the statement of truth are true, and
- (c) inform the party or person on whose behalf the statement of truth is being made of the provisions of subsection (7) [and (8)].

(5) A statement of truth made by a solicitor in circumstances to which paragraph (a) or (c) of subsection (3) refer shall contain a statement by that solicitor that he or she has complied with each of the requirements specified in paragraphs (a), (b) and (c) of subsection (4) before making the statement of truth.

(6) Where rules of court have made provision for the purposes referred to in subsection (1), any reference in any enactment to an affidavit or a statutory declaration shall be construed as a reference to a statement of truth substituting for such affidavit or statutory declaration by virtue of that subsection.

(7) It shall be a contempt of court for a person to make or cause to be made a false statement in a statement of truth without an honest belief in its truth.

[(8) A person who makes or causes to be made a statement in a statement of truth without an honest belief in the truth of that statement shall be guilty of an offence.

(9) A person guilty of an offence under this section shall be liable –
(a) on summary conviction, to a Class ...fine or to imprisonment for a term not exceeding twelve months, or to both the fine and imprisonment, or
(b) on conviction on indictment, to a Class ...fine or to imprisonment for a term not exceedingyears, or to both the fine and imprisonment.]

Head 13 - Electronic Registers

Provide that:

(1) Each of the following registers may, with effect from the date of commencement of this section, be maintained in electronic form:

- (a) the register of judgments maintained under the Judgments (Ireland) Act 1844 ;
- (b) the register of lis pendens affecting land referred to in section 121 of the Land and Conveyancing Law Reform Act 2009;
- (c) such other register maintained in a court office as the Chief Executive Officer of the Courts Service may designate,

and whether in respect of -

- (a) all matters registrable in that register from the date of such commencement, or
- (ii) all such matters together with any matters previously registered in that register from such date as the Chief Executive Officer of the Courts Service may determine.

PART 3 - BANKRUPTCY

Head 14 – Amendment of section 56 of Bankruptcy Act 1988

Provide that:

The Bankruptcy Act 1988 is amended in section 56 as follows:

- by the deletion in subsection (1) of the words “with the leave of the Court and”.
- by the insertion of a new subsection after subsection (1) as follows:

“(1A) The Official Assignee shall give notice in writing of the disclaimer to each person who, to the Official Assignee’s knowledge at the time of the disclaimer:

(a) has an interest in the disclaimed property (including any person who is in occupation of or claims a right to occupy the property as that person’s principal private residence (as defined in section 2 of the Personal Insolvency Act 2012 subject to the modification that a reference to the debtor shall be taken as a reference to that person); or

(b) is under a liability not discharged by this Act in respect of the disclaimed property.”

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

“(4) The Court may, on application by the Official Assignee at any time or on application by any person who either claims any interest in any disclaimed property or is under any liability not discharged by this Act in respect of any disclaimed property before the end of the period of 14 days beginning with the day on which notice of the disclaimer was given, give such directions and make such other order in the matter as the Court thinks just.”

Head 15 - Statement of Affairs – new section 61A

Provide that:

The Bankruptcy Act 1988 is amended by the insertion of the following new section:

“Statement of Affairs

61A (1) The Official Assignee may, whether by electronic means or otherwise, and whether before or after adjudication:

- (a) receive and process information about the financial affairs of a debtor or bankrupt; and
 - (b) provide such assistance or facilities as he sees fit in connection with the preparation of a statement of affairs.
- (2) A debtor or a bankrupt, when completing a statement of affairs, shall make full and honest disclosure of his or her financial affairs and ensure that, to the best of his or her knowledge, the statement of affairs is true, accurate and complete.
 - (3) Unless the Court otherwise directs, a debtor or bankrupt shall not file a statement of affairs with the Court unless the statement of affairs has been stamped, electronically or otherwise, by the Official Assignee.
 - (4) The Official Assignee may refuse to stamp a statement of affairs as referred to in subsection (3) where he is not satisfied that the statement of affairs is true, accurate and complete.
 - (5) The Official Assignee may carry out such checks or make such enquiries as he considers necessary or appropriate to verify the truth, accuracy and completeness of any matter referred to in a statement of affairs.”

Head 16 – Amendment of section 82 of Bankruptcy Act 1988

Provide that:

The Bankruptcy Act 1988 is amended in section 82 as follows:

- by substituting the following subsection for subsection (2):

“(2) Within four working days of the filing in accordance with subsection (1), the Official Assignee shall give notice to creditors of the filing by way of publication on the website of the Insolvency Service, or in such other manner as may be prescribed, and provide particulars to creditors in the prescribed manner of how it is proposed to distribute the estate.

(2A) The Official Assignee shall distribute the estate in the manner set out in the notice under subsection (1) no earlier than fifteen days after the giving of such notice but no such distribution shall be made without leave of the Court where an application under subsection (3) has been made by a creditor.”

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

“(3) The Court may, on the application of a creditor make such order as it thinks fit for distribution of the estate or any part thereof by payment of the expenses, fees, costs and preferential payments, as well as the relevant dividend and any such application shall be made within 14 days of the giving of the notice under subsection (1).”

- by substituting the following subsection for subsection (6):

“(6) In any case where there are no funds, or in the opinion of the Official Assignee insufficient funds, available for distribution to the creditors, the Official Assignee may pay the expenses, fees, costs and preferential payments in that order so far as the funds extend. Where a balance remains, it shall be transferred to the account referred to in section 84 (1).”

Head 17 - Bankruptcy payment agreements – new section 85E

Provide that:

The Bankruptcy Act 1988 is amended by the insertion of the following new section 85E:

“Bankruptcy Payment Agreement

85E. (1) In this section “bankruptcy payment agreement” means a written agreement between a bankrupt and the Official Assignee or between a bankrupt and a trustee and which provides—

- (a) that the bankrupt is to pay to the Official Assignee or the trustee an amount equal to a specified part or proportion of the bankrupt’s income for a specified period, or
 - (b) that a third person is to pay to the Official Assignee or the trustee a specified proportion of money due to the bankrupt by way of income for a specified period.
- (2) A provision of a bankruptcy payment agreement of a kind specified in subsection (1)(a) or (b) may be enforced as if it were a provision of a bankruptcy payment order.
- (3) While a bankruptcy payment agreement is in force the Court may, on the application of the bankrupt, the Official Assignee or the trustee, discharge or vary an attachment of earnings order that is for the time being in force to secure payments by the bankrupt.
- (4) Subsections (4), (5) and (6) of section 85D shall apply to a bankruptcy payment agreement as they apply to a bankruptcy payment order.
- (5) A bankruptcy payment agreement must specify the period during which it is to have effect, and that period—
- (a) shall have effect for no longer than 3 years from the date on which the agreement is made, and
 - (b) shall cease to have effect on the 4th anniversary of the date on which the bankrupt was adjudicated bankrupt.
- (6) A bankruptcy payment agreement may (subject to subsection (5)) be varied—
- (a) by written agreement between the parties, or
 - (b) by the Court on an application made by the bankrupt, the Official Assignee or the trustee.
- (7) The Court—
- (a) may not vary a bankruptcy payment agreement so as to include provision of a kind which could not be included in a bankruptcy payment order, and
 - (b) shall grant an application to vary a bankruptcy payment agreement if subject to section 65(2).”

Head 18 - Interpretation (Part)

Provide that:

In this Part “Act of 1988” means the Bankruptcy Act 1988.

Head 19 – Collective citation and commencement

Provide that:

Heads _ to _ and the Bankruptcy Acts 1988 to 2015 may be cited together as the Bankruptcy Acts 1988 to 2017.

This Act shall come into operation on such day or days as may be fixed by order or orders made by the Minister for Justice and Equality, either generally or by reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions.

PART 4 – AMENDMENT OF THE PERSONAL INSOLVENCY ACT 2012

Head 20 - Amendment of section 5 of the Personal Insolvency Act 2012

Provide that:

Section 5 of the Personal Insolvency Act 2012 is amended by the insertion of the following subsection:

“(2A) Where a debtor does not meet the requirements of subsection (2)(a) or (b), an application under this Act shall be made to the Dublin Circuit Court.”

Head 21 - Amendment of section 26 of the Personal Insolvency Act 2012

Provide that:

Section 26 of the Personal Insolvency Act 2012 is amended by:

- the substitution of the following for subsection (2)(c):

“(c) has assets, calculated in accordance with subsection (6), worth €1,000 or less;”

- the deletion of section 26 (2)(f).

Head 22 - Amendment of section 27 of the Personal Insolvency Act 2012

Provide that:

Section 27 of the Personal Insolvency Act 2012 is amended by the substitution of the following for subsection (1):

“(1) A debtor who wishes to become a specified debtor shall submit to an approved intermediary a written statement disclosing the debtor’s financial affairs, which statement shall include—“

Head 23 - Amendment of section 31 of the Personal Insolvency Act 2012

Provide that:

Section 31 of the Personal Insolvency Act 2012 is amended by:

- the substitution of “or” for “and” in subsection (1)(a) subparagraph (iii),
- the substitution of the following for subsection (1) paragraph (b):

“(b) is not satisfied that an application under section 29 is in order, it shall –

- (i) notify the approved intermediary to that effect, or
- (ii) make an application to the appropriate court for directions in relation to a matter arising in connection with its consideration of the application under section 30.”

- inserting the following subsections after subsection (1):

“(1A) An application under section 31(1) shall be made by the lodging by the Insolvency Service of a notice with the appropriate court, on notice to the approved intermediary.

(1B) On an application under section 31(1) the court may do one or more of the following-

- (a) give the Insolvency Service such directions as it deems appropriate,
- (b) make an order confirming that it is in order for the Insolvency Service to issue a certificate under section 31(1)(a)(i), or
- (c) make such other order as it deems appropriate.”

Head 24 - Amendment of section 34 of the Personal Insolvency Act 2012

Provide that:

Section 34 of the Personal Insolvency Act 2012 is amended by the substitution of the following for subsection (1):

“(1) Subject to this section, the period for which a Debt Relief Notice shall remain in effect (“supervision period”) is the period of 1 year from the date on which its issue is recorded under section 33 (4).”

Head 25 - Amendment of section 36 of the Personal Insolvency Act 2012

Provide that:

Section 36 of the Personal Insolvency Act 2012 is amended:

- by the substitution of the following for subsection (3)

“(3) Subject to subsections (3A) and (4), a specified debtor whose income increases by €400 or more per month during the supervision period concerned shall surrender to the Insolvency Service 50 per cent of that increase. “

- and by the insertion of the following new subsection after subsection (3):

“(3A) The requirement to surrender 50 per cent of the increase in income shall not apply where -

- (a) having received the increase in income, the debtor and his or her dependants do not have sufficient income to maintain a reasonable standard of living, or
- (b) so surrendering 50 per cent of the increase would cause the debtor and his or her dependants not to have sufficient income to maintain a reasonable standard of living.”

Head 26 - Amendment of section 43 of the Personal Insolvency Act 2012 (creditor objection)

Provide that:

Section 43, subsection (3) paragraph (b) of the Personal Insolvency Act 2012 is amended by the substitution of the following for subparagraph (vi):

- “(vi) the specified debtor, by his or her conduct within the period of 6 months ending on the application date, arranged his or her financial affairs primarily with a view to being or becoming eligible for the issue of a Debt Relief Notice;
- (vii) the specified debtor entered into a transaction with a person at an undervalue that has materially contributed to the debtor’s inability to pay his or her debts (other than any debts due to the person with whom the debtor entered the transaction at an undervalue);
- (viii) the specified debtor gave a preference to a person that has had the effect of substantially reducing the amount available to the debtor for the payment of his or her debts (other than a debt due to the person who received the preference).”

Head 27 - Amendment of section 54 of the Personal Insolvency Act 2012

Provide that:

Section 54 of the Personal Insolvency Act 2012 is amended by the substitution of the following for subsection (d):

“(d) having regard to the debtor’s circumstances as set out in the Prescribed Financial Statement, it is appropriate for the debtor to make a proposal for a Debt Settlement Arrangement as there is a reasonable prospect that the debtor entering into such an arrangement would facilitate the debtor becoming solvent within a period of not more than 5 years or, as the case may be, it is appropriate for the debtor to make a proposal for a Personal Insolvency Arrangement as there is a reasonable prospect that the debtor entering into such an arrangement would facilitate the debtor becoming solvent within a period of not more than 6 years.”

Head 28 - Delegation and outsourcing by personal insolvency practitioner

Provide that:

Part 3, Chapter 2 of the Personal Insolvency Act 2012 is amended by the insertion, after section 54 of the following new Section:

“Section 54A - Delegation and outsourcing by personal insolvency practitioner

(1) Nothing in this Act shall be taken to prevent any individual

- (a) employed by a personal insolvency practitioner, or
- (b) otherwise under the control and supervision of a personal insolvency practitioner and having a common employer with that personal insolvency practitioner,

from discharging any function (or performing any act in relation to such function) that is authorised or required by this Act to be discharged by a personal insolvency practitioner, where authorised by the personal insolvency practitioner to do so.

(2) Nothing in this Act shall be taken to prevent a company, or other legal person engaged by or on behalf of a personal insolvency practitioner, other than an individual referred to in subsection (1), from carrying out any activity associated with the functions of the personal insolvency practitioner where authorised by the personal insolvency practitioner to do so.

(3) The personal insolvency practitioner concerned shall, for all purposes under this Act, be responsible in all respects for any function discharged or any act performed pursuant to subsection (1), and for any activity carried out pursuant to subsection (2), on his or her authority.”

Head 29 – Amendment of section 61 of the Personal Insolvency Act 2012

Provide that:

Section 61 of the Personal Insolvency Act 2012 is amended by:

- the substitution of “or” for “and” in subsection (1)(a) subparagraph (iii),
- the substitution of the following for subsection (1) paragraph (b):

“(b) is not satisfied that an application under section 59 is in order, it shall –

- (i) notify the personal insolvency practitioner to that effect and request him or her, within 21 days from the date of the notification, to submit a revised application or to confirm that the application has been withdrawn, or
- (ii) make an application to the appropriate court for directions in relation to a matter arising in connection with its consideration of the application under section 60.”

- inserting the following subsections after subsection (1):

“(1A) An application under section 61 (1) shall be made by the lodging by the Insolvency Service of a notice with the appropriate court, on notice to the personal insolvency practitioner.

(1B) On an application under this section the court may do one or more of the following-

- (a) give the Insolvency Service such directions as it deems appropriate,
- (b) make an order confirming that it is in order for the Insolvency Service to issue a certificate under section 61(1)(a)(i), or
- (c) make such other order as it deems appropriate.”

- the substitution of the following for subsection (5):

“(5) Subject to subsections (6), (7) and (7A) and section 76 (2), a protective certificate shall be in force for a period of 70 days from the date of its issue.”

- the substitution of the following for subsection (7):

“(7) Where a protective certificate has been issued pursuant to subsection (2)(a) or extended under subsection (6), the appropriate court may on application to that court by a personal insolvency practitioner extend the period of the protective certificate by a further additional period not exceeding 40 days where—

- (a) the personal insolvency practitioner has been appointed in accordance with section 49(A), 49(B) or 49(C), and

(b) the court is satisfied that the extension is necessary to enable the personal insolvency practitioner so appointed to perform his or her functions under this Chapter.”

- the insertion of the following new subsection after subsection (7):

“(7A) Where a protective certificate has been extended under subsection (6) or (7), the appropriate court may on application to that court by a personal insolvency practitioner, extend the period of the protective certificate by a further additional period not exceeding 40 days where the court is satisfied, by reason of exceptional circumstance, or other factors which are substantially outside the control of the debtor and the personal insolvency practitioner, that it would be just to permit the extension.”

- the substitution of the following for subsection (8):

“(8) A hearing held under subsection (7) or (7A) shall be held with all due expedition.”

- the substitution of the following for subsection (9):

“(9) The period of a protective certificate may be extended once only under each of subsection (6), (7) and (7A).”

- the substitution of the following for subsection (13):

“(13) Notwithstanding the provisions of subsections (5), (6), (7) and (7A), a protective certificate that is in force on the date on which a proposal for a Debt Settlement Arrangement is approved in accordance with section 73 shall continue in force until it ceases to have effect in accordance with section 76.”

Head 30 - Amendment of section 76 of the Personal Insolvency Act 2012

Provide that:

Section 76 of the Personal Insolvency Act 2012 is amended by the substitution of the following for subsection (2):

“(2) Where the notification and accompanying documentation of the personal insolvency practitioner is received by the Insolvency Service before the expiry of the period of the protective certificate, such protective certificate shall continue in force until the Debt Settlement Arrangement comes into effect or all objections lodged with the appropriate court pursuant to section 75 (3) have been determined by the court.”

Head 31 - Amendment of section 95 of the Personal Insolvency Act 2012

Provide that:

Section 95 of the Personal Insolvency Act 2012 is amended by:

- the substitution of “or” for “and” in subsection (1)(a) subparagraph (iii),
- the substitution of the following for subsection (1) paragraph (b):

“(b) is not satisfied that an application under section 93 is in order, it shall –

(i) notify the personal insolvency practitioner to that effect and request him or her, within 21 days from the date of the notification, to submit a revised application or to confirm that the application has been withdrawn, or

(ii) make an application to the appropriate court for directions in relation to a matter arising in connection with its consideration of the application under section 94.”

- inserting the following subsections after subsection (1):

“(1A) An application under section 95 (1) shall be made by the lodging by the Insolvency Service of a notice with the appropriate court, on notice to the personal insolvency practitioner.

(1B) On an application under this section the court may do one or more of the following-

(a) give the Insolvency Service such directions as it deems appropriate,

(b) make an order confirming that it is in order for the Insolvency Service to issue a certificate under section 95(1)(a)(i), or

(c) make such other order as it deems appropriate.”

- the substitution of the following for subsection (5):

“(5) Subject to subsections (6), (7) and (7A) and section 76 (2), a protective certificate shall be in force for a period of 70 days from the date of its issue.”

- the substitution of the following for subsection (7):

“(7) Where a protective certificate has been issued pursuant to subsection (2)(a) or extended under subsection (6), the appropriate court may on application to that court by a personal insolvency practitioner extend the period of the protective certificate by a further additional period not exceeding 40 days where—

“(a) the personal insolvency practitioner has been appointed in accordance with section 49(A), 49(B) or 49(C), and

(b) the court is satisfied that the extension is necessary to enable the personal insolvency practitioner so appointed to perform his or her functions under this Chapter.”

- the insertion of the following new subsection after subsection (7):

“(7A) Where a protective certificate has been extended under subsection (6) or (7), the appropriate court may on application to that court by a personal insolvency practitioner, extend the period of the protective certificate by a further additional period not exceeding 40 days where the court is satisfied, by reason of exceptional circumstance, or other factors which are substantially outside the control of the debtor and the personal insolvency practitioner, that it would be just to permit the extension.”

- the substitution of the following for subsection (8):

“(8) A hearing held under subsection (7) or (7A) shall be held with all due expedition.”

- the substitution of the following for subsection (9):

“(9) The period of a protective certificate may be extended once only under each of subsections (6), (7) and (7A).”

- the substitution of the following for subsection (13):

“(13) Notwithstanding the provisions of subsections (5), (6), (7) and (7A), a protective certificate that is in force on the date on which a proposal for a Personal Insolvency Arrangement is approved in accordance with section 110 shall continue in force until it ceases to have effect in accordance with section 113.”

Head 32 - Amendment of section 113 of the Personal Insolvency Act 2012

Provide that:

Section 113 of the Personal Insolvency Act 2012 is amended by the substitution of the following for subsection (2):

“(2) Where the notification and accompanying documentation of the personal insolvency practitioner is received by the Insolvency Service before the expiry of the period of the protective certificate, such protective certificate shall continue in force until the Personal Insolvency Arrangement comes into effect or all objections lodged with the appropriate court pursuant to section 112(3) have been determined by the court.”

Head 33 - Amendment of section 119A of the Personal Insolvency Act 2012

Provide that:

Section 119A of the Personal Insolvency Act 2012 is amended by the substitution of the following for subsection (13):

“(13) An application for an order under this section shall be made not later than 14 days after receipt by the personal insolvency practitioner of the notice of the creditor referred to in subsection (9) ... ,”

Head 34 - Amendment of section 164 of the Personal Insolvency Act 2012

Provide that:

Section 164 of the Act is amended by inserting the following after subsection (6):

"(7) Insofar as a personal insolvency practitioner provides services relating to bankruptcy, including the giving of advice to a debtor in connection with a petition for adjudication under the Bankruptcy Act 1988, hereinafter in this section referred to as "bankruptcy services":

- (a) an authorisation to carry on practice as a personal insolvency practitioner shall authorise the individual concerned to provide bankruptcy services;
- (b) the provision of bankruptcy services is a function of the personal insolvency practitioner under this Act and, as such, is subject to regulation and supervision by the Insolvency Service; and
- (c) nothing in this subsection shall authorise an individual to do any act which he or she is prohibited by section 58 of the Solicitors Act 1954 from doing."

Head 35 - Amendment of section 169 of the Personal Insolvency Act 2012

Provide that:

Section 169 of the Personal Insolvency Act 2012 is amended by the substitution of the following for subsection (1)(b):

“(b) declining under section 178 (3) to cause to be carried out an investigation of the matter the subject of a complaint,”

Head 36 - Amendment of section 172 of the Personal Insolvency Act 2012

Provide that:

Section 172 of the Personal Insolvency Act 2012 is amended by the substitution of the following for subsection (a):

“(a) in accordance with regulations made under section 161 (1) (h),”

Head 37 - Amendment of section 176A of the Personal Insolvency Act 2012

Provide that:

The Principal Act is amended by the substitution of the following section for section 176A:

“176A. The Insolvency Service may, for the purpose of ensuring compliance by personal insolvency practitioners with their obligations under this Act and regulations made under this Act, supervise personal insolvency practitioners in the performance of their functions under this Act.”

Head 38 - Amendment of section 10 of the Courts of Justice Act 1947

Provide that:

Section 10, subsection (12), line six of the Courts of Justice Act 1947 is amended by the substitution of “specialist” for “specialty”.

Head 39 - Interpretation (Part 4)

Provide:

- (1) In this Part –
“the Act of 2012” means the Personal Insolvency Act 2012;”

Head 40 – Collective citation and commencement

Provide that:

Heads 20 to 40 and the Personal Insolvency Acts 2012 to 2015 may be cited together as the Personal Insolvency Acts 2012 to 2017.

This Act shall come into operation on such day or days as may be fixed by order or orders made by the Minister for Justice and Equality, either generally or by reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions.

PART 5 – PREVENTION OF BENEFIT FROM HOMICIDE

Head 41 – Interpretation (Part 5)

Provide that:

In this Part—

‘Act of 1961’ means the Civil Liability Act 1961;

‘Act of 1965’ means the Succession Act 1965;

‘Act of 2006’ means the Criminal Law (Insanity) Act 2006;

‘Act of 2009’ means the Land and Conveyancing Law Reform Act 2009;

‘Act of 2010’ means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,

‘child’ means—

- (a) a person under the age of 18 years, or
- (b) if the person is receiving full-time education or instruction at any university, college school or other educational establishment, he or she is under the age of 23 years;

‘court’ means, in relation to proceedings brought under this Part, the court in which that action has been brought, being the High Court or the Circuit Court, as the case may be;

‘interest’ includes any legal or beneficial interest, actual or contingent, whether that interest has vested or is an interest in remainder;

‘interested person’ includes—

- (a) a person who is entitled to an interest in any property of the victim,
- (b) the executor or personal representative of the estate of the victim,
- (c) a beneficiary under the will of the victim or a person who is entitled to an interest in any property on the intestacy of the victim,
- (d) a person claiming through the offender,
- (e) the offender, or
- (f) any other person deemed by the court to have an interest in the outcome of such proceedings;

‘offender’ means a person who is convicted of--

- (a) the murder, attempted murder or manslaughter of the victim, or

- (b) aiding, abetting, counselling or procuring the offence of murder, attempted murder or manslaughter of the victim;

‘property’ means all property of whatever kind in which the victim has an interest, whether real or personal property, or any part or combination of such property, including—

- (a) land;
- (b) goods;
- (c) money;
- (d) property held under a trust; or
- (e) the proceeds of an insurance policy or pension (whether such a pension arises from a pension contract or trust or by virtue of statute), and whether or not such property forms part of the estate of the victim;

‘victim’ means a person who has been the subject of a murder, attempted murder or manslaughter committed by an offender.

Head 42 – Offender not to benefit

Provide that

- (1) Subject to the provisions of this Part, an offender who is convicted of—
 - (a) the murder, attempted murder or manslaughter of the victim, or
 - (b) aiding, abetting, procuring or counselling the commission of an offence of murder, attempted murder or manslaughter of the victim

shall be precluded from:

- (i) taking any share in the property or estate of the victim;
 - (ii) taking any share or interest in any interest of the victim in property which would otherwise have passed to the offender on the death of the victim;
 - (iii) making an application to court under—
 - (I) section 67A(3) of the Act of 1965; or
 - (II) section 117 of the Act of 1965.
- (2) (a) Subhead (1) shall not apply in respect of a share arising under a will made by the victim after the date when an offence referred to in subhead (1) was committed.

(b) Subject to any enactment or rule of law in respect of wills and testamentary capacity, the person against whom an offence referred to in subhead (1) may, after the date the offence was committed, make whatever provision in his or her will as he or she sees fit.
- (3) Any share which the offender is precluded from taking by this Part shall be distributed as if the offender had died before the victim.
- (4) Subhead (1) shall not apply where a person has been found unfit to be tried or not guilty by reason of insanity under the Act of 2006.

Head 43 – Proceedings under this Part

Provide that:

- (1) Subject to this Part, procedures relating to proceedings under this Head shall be in such form as are prescribed by rules of court.
- (2) An interested person within the meaning of this Part may make an application to the court –
 - (a) for an order under Head 44 that the legal and beneficial interests in property held under a joint tenancy between the victim and the offender shall stand severed from the date of the offence specified in Head 42;
 - (b) for an order under Head 44 determining the amount and value of the offender’s interest in property held in a joint tenancy;
 - (c) for an order under Head 45(1) modifying or dis-applying the application of Head 42(1) where the offender has been convicted of the offence of manslaughter;
 - (d) for an order allowing an offender to make application under section 67(4) or section 117 of the Act of 1965 where the offender has been convicted of the offence of manslaughter.
- (3) An application under this Head shall state the circumstances giving rise to the application and the order or orders that the interested person invites the court to make.
- (4) Where the court is satisfied that the making of an order under this Head is justified it shall make such order and any ancillary orders as it deems appropriate in the circumstances.
- (5) Proceedings under this Part may be brought where —
 - (a) there has been no criminal prosecution of the offender in the State in connection with an offence referred to in head 42(1) including where this is because the relevant act occurred outside the State, or
 - (b) arising from a criminal prosecution, whether in or outside the State, the offender has been found not guilty of an offence referred to in Head 42 (including after an appeal).
- (6)
 - (a) In proceedings brought under this Part, any matter shall be established in evidence on the balance of probabilities.
 - (b) Without prejudice to the generality of paragraph (a)—
 - (i) a person bringing proceedings for the purposes set out in subhead 2 shall establish to the satisfaction of the court that, on the

balance of probabilities, the offender's wrongful act caused (or, as the case may be, attempted to cause) the death of the victim, and

- (ii) the court shall not accede to the application or make any order under this Part unless it is satisfied, on the balance of probabilities, either that the offender has been convicted of an offence referred to in head 42(1) or, on the balance of probabilities, has unlawfully killed the victim (and any such order shall be expressed to be made solely for the purposes of this Part and to have effects as a matter of civil law only), and
 - (iii) in paragraph (ii), 'unlawfully killed' means that the offender has, by his or her wrongful act, caused (or, as the case may be, attempted to cause) the death of the victim, and that the wrongful act was intentional, or reckless, or grossly negligent or that it resulted from excessive self-defence or provocation.
- (7) In proceedings under this Part, the conviction of a person for the murder, attempted murder or manslaughter of another person shall be conclusive evidence of that fact for the purposes of Head 42(1).
- (8) Any liability of the offender under this Part does not alter or affect any other civil liability of the offender arising from the act constituting the offence, including liability under sections 48 and 49 of the Act of 1961.

Head 44 – Application to Joint Tenancies

Provide that:

- (1) Where the offender and the victim held property under a joint tenancy—
 - (a) the offender shall be precluded from obtaining the benefit of the right of survivorship, and
 - (b) the legal and beneficial interests in the property held under the joint tenancy between the victim and the offender shall stand severed from the date when an offence referred to in head 42(1) was committed.
- (2) Pending any determination by the court in any proceedings brought under this Part, the legal title in the property shall be held in trust and subject to the respective beneficial interests of the victim and the offender.
- (3) Unless otherwise provided (whether in a deed creating the joint tenancy or otherwise by operation of law), and subject to the subsequent provisions of this section, it shall be presumed until the contrary is shown that, upon severance in accordance with paragraph (a), the victim (or, as appropriate, the estate of the victim) holds at least half of the interest in the property.
- (4) Where proceedings are brought under this Part, the amount and value of the offender's interest in the property shall be determined by the court.
- (5) The court shall, in determining the amount and value of the offender's interest in the property, make such order as appears to the court to be just and equitable having regard to the fact that the right of survivorship was accelerated by the act constituting an offence referred to in head 42(1) and to all the circumstances.
- (6) The court shall, in determining the amount and value of the offender's interest in the property, have regard, where relevant, to the following circumstances—
 - (a) any contributions, direct or indirect, made by the offender and the victim to the property held under the joint tenancy, including the relative values of their contributions,
 - (b) in a case where the offender and the victim were spouses of each other, or civil partners or cohabitants within the meaning of the Act of 2010, or were parents or guardians of or in loco parentis to a child or other person who lacks capacity, the contributions, direct or indirect, made by the offender and the victim to the welfare of their family, including any contribution made by each of them to the income, earning capacity, property and financial resources of the other spouse, civil partner, cohabitant or person who lacks capacity and any contribution made by either of them by looking after the home or caring for the family,
 - (c) the age and financial needs, obligations and responsibilities of any dependent, including any child, of the victim,

- (d) the age and financial needs, obligations and responsibilities of the offender,
- (e) any income or benefits to which the offender or the victim is entitled, including by or under contract, trust or statute,
- (f) whether the commission of an offence referred to in head 42(1) resulted in a payment under a contract of life insurance, including the discharge of an outstanding mortgage debt,
- (g) any civil liability on the part of the offender arising from the act constituting an offence referred to in head 42(1), including any liability under sections 48 and 49 of the Act of 1961,
- (h) the nature of the offender's conduct in relation to the offence and, in particular —
 - (i) whether the offender's act constituted the offence of murder or attempted murder, or
 - (ii) if the offender's act constituted the offence of manslaughter, whether it was voluntary or involuntary manslaughter,

and

- (j) any other matters which may appear to the court to be relevant.
- (7) (a) Where head 42(1) applies and the offender held property under a joint tenancy with the victim and one or more other persons, the offender's interest in the joint tenancy shall stand severed in accordance with subsection (1), and the joint tenancy shall, subject to paragraph (c), continue between the one or more other persons (referred to subsequently in this Part as 'innocent joint tenants'), who shall take the victim's interest by survivorship.
- (b) Where paragraph (a) applies the offender's remaining interest shall be subject to the power of the court to determine that interest in accordance with subsections (2) and (3).
- (c) Where any remaining innocent joint tenant no longer wishes to continue as joint tenant with the offender, he or she may apply for relief under sections 30 and 31 of the Act of 2009.

Head 45 – Court’s discretion regarding offence of manslaughter

Provide that:

- (1) Where the offender has been convicted of manslaughter a court may, in its discretion in any proceedings brought under this Part, make an order to modify or dis-apply the application of Head 42(1) where it is satisfied that the interest of justice so requires.
- (2) In exercising its discretion under subhead (1), the court shall have regard to all of the circumstances of the case, including—
 - (a) in a case where the offender and the victim were spouses of each other, or civil partners or cohabitants within the meaning of the Act of 2010, or were parents or guardians of or in loco parentis to a child or other dependent person, the contributions, direct or indirect, made by the offender and the victim to the welfare of their family, including any contribution made by each of them to the income, earning capacity, property and financial resources of the other spouse, civil partner, cohabitant or dependent and any contribution made by either of them by looking after the home or caring for the family,
 - (b) any income or benefits to which the offender or the victim is entitled, including by or under any contract, trust or statute,
 - (c) the age and financial needs, obligations and responsibilities of any dependent, including any child, of the victim,
 - (d) the age and financial needs, obligations and responsibilities of the offender,
 - (e) the nature of the offender’s conduct in relation to the offence and, in particular, whether the offence was voluntary or involuntary manslaughter,
 - (f) the presence of diminished responsibility (within the meaning of the Act of 2006), where relevant, and
 - (g) any other matters which may appear to the court to be relevant.
- (3) In exercising its discretion under subhead (1), the court may, having regard to the matters set out in subhead (2), and notwithstanding head 42(1)(b)(iii), make an order allowing the offender to make an application under section 67A(3) or, as appropriate, section 117 of the Act of 1965.

Head 46 – Costs in proceedings under this Part

Provide that:

In proceedings under this Part, the court shall, other than in exceptional circumstances, order that the costs of the proceedings shall be borne by the offender (which for the purposes of this section shall include any person against whom an order has been made under Head 43(4)).

Head 47 – Provisions regarding Probate

Provide that:

- (1) Where a person has died in circumstances that gave rise to a criminal investigation in respect of which a prosecution for murder or manslaughter is or may be pending, an interested person within the meaning of this Part may make an application to enter a caveat in the Probate Office of the High Court concerning the estate of the deceased, and while such a caveat is in force, there shall be no transfer of any estate or interest affected by the caveat.
- (2) A person who is convicted of the murder or manslaughter of another shall be presumed, until the contrary is shown, to be unsuitable to administer the estate of the deceased and, accordingly, no grant of probate or letters of administration in the estate shall issue to such person notwithstanding that such person is the nominated executor of the deceased or the person who would but for this subsection be the person entitled as of right to extract letters of administration intestate of the deceased person's estate.

Head 48 – Repeals

Provide that:

Section 120(1) and (4) of the Succession Act 1965 are repealed.

**PART 6 – AMENDMENT OF THE CIVIL LIABILITY AND COURTS ACT
2004 (Dormant funds of the Circuit Court and District Court)**

Head 49 – Amendment of section 33 of the Civil Liability and Courts Act 2004

Provide that section 33 of the Civil Liability and Courts Act 2004 is amended–

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

“‘accounts’ means–

- (a) the general cash account,
- (b) the dormant account of the funds of suitors of the High Court,
- (c) the ledger account,
- (d) the special account for small balances,
- (e) the dormant account of the funds of suitors of the Circuit Court, and
- (f) the dormant funds of suitors of the District Court;”,

(b) by the insertion of the following after the definition of “Accountant”:

“‘dormant account of the funds of suitors of the Circuit Court’ means the general ledger account for dormant balance maintained in accordance with the Circuit Court Rules, containing the balances of funds standing to the credit of ledger accounts carried over to the said ledger account by the Accountant, together with the interest and dividends accruing thereon;

‘dormant funds of suitors of the District Court’ means any funds for the time being lodged in, or under the control of, the District Court in civil proceedings, pursuant to any order of the District Court, or statute or the District Court Rules for the time being in force, where no transaction has been effected on that fund for a period of not less than 15 years ending on the relevant date;”, and

(c) by the substitution for the definition of “fully indemnified” of the following:

“‘fully indemnified’ means, in relation to a person—

- (a) that, in the case of funds in the form of money, the person has been paid the amount standing to his or her credit on the date that the funds were paid into –
 - (i) the dormant account of the funds of suitors of the High Court,

(ii) the dormant account of the funds of suitors of the Circuit Court, or

(iii) the dormant funds of suitors of the District Court,

as the case may be, and any interest accruing from that date, and

(b) that, in the case of funds other than in the form of money, the person has been paid the amount standing to his or her credit on the date of their realisation and any interest accruing thereon from that date;”.

Head 50 – Amendment of the Civil Liability and Courts Act 2004 (new section 34A)

Provide that the Civil Liability and Courts Act 2004 is amended by the insertion of the following section after section 34:

“34A. (1) The Chief Justice shall, [as soon as may be after the commencement of this section], order the Accountant to realise all of the investments of –

- (a) the dormant account of the funds of suitors of the Circuit Court, and
- (b) the dormant funds of suitors of the District Court.

(1) The Chief Justice shall, not later than 3 months after—

- (a) the expiration of 5 years from the making of an order under subsection (1), and
- (b) the expiration of each subsequent period of 5 years from the date on which an order under this section is made,

order the Accountant to realise all of the investments of –

- (c) the dormant account of the funds of suitors of the Circuit Court, and
- (b) the dormant funds of suitors of the District Court.

(3) The Accountant shall comply with an order of the Chief Justice under this section.

(4) In this section “investments” means, in relation to the dormant account of the funds of suitors, assets other than cash.”

Head 51 – Amendment of section 35 of the Civil Liability and Courts Act 2004

Provide that the Civil Liability and Courts Act 2004 is amended by the substitution of the following section for section 35:

“35. (1) The financial institution shall pay out of the general cash account to the Exchequer such sums as the Chief Justice, from time to time, directs, not exceeding 97.5 per cent of the aggregate of the amounts in the form of money standing in—

- (a) the dormant account of the funds of suitors of the High Court and the special account for small balances,
- (b) the dormant account of the funds of suitors of the Circuit Court, and
- (c) the dormant funds of suitors of the District Court,

as may be required for the purposes of subsection (2).

(2) The sums paid to the Exchequer pursuant to an order under subsection (1) may be applied from time to time, by the Minister, with the consent of the Minister for Finance, for the purposes of defraying the costs of providing, managing and maintaining—

- (a) court buildings under section 5(d) of the Courts Service Act 1998, and
- (b) information and communications technology facilities for courts, court offices and the Courts Service.”

Head 52 – Amendment of section 38 of the Civil Liability and Courts Act 2004

- (1) Provide that the register established and maintained under section 38 of the Civil Liability and Courts Act 2004 shall become the register of funds of suitors (in this Head referred to as the “register”).
- (2) Provide that the register shall contain the following particulars in respect of all funds paid into—
 - (i) the dormant account of the funds of suitors of the High Court,
 - (ii) the dormant account of the funds of suitors of the Circuit Court, and
 - (iii) the dormant funds of suitors of the District Court
- (a) the court in which the proceedings were instituted and the title of the proceedings to which the funds relate,
- (b) the names of the parties to those proceedings and the addresses at which they ordinarily reside,
- (c) the ledger account number,
- (d) the value of the investments realised in accordance with section 34 [and section 34A] on the date of their realisation,
- (e) the date on which those funds were paid into—
 - (i) the dormant account of the funds of suitors of the High Court,
 - (ii) the dormant account of the funds of suitors of the Circuit Court, or
 - (iii) the dormant funds of suitors of the District Court,
- (f) if those funds were repaid to the ledger account, the date on which they were so repaid,
- (g) the account number of the special account for small balances,
- (h) the moneys paid over to the special account for small balances, and
- (i) such other matters as are provided for by rules of court, or
 - (i) in relation to funds lodged in proceedings in the High Court, as President of the High Court directs,
 - (ii) in relation to funds lodged in proceedings in the Circuit Court, as the President of the Circuit Court directs, and
 - (iii) in relation to funds lodged in proceedings in the District Court, as the President of the District Court directs.

PART 7 – LICENSING

Head 53 – Collective citation (Part 7)

Provide that:

Heads _ to _ and the Licensing Acts 1833 to 2011 may be cited together as the Licensing Acts 1833 to 2017, [and shall be construed together as one].

Head 54 – Requirements in relation to Planning Permission

Provide that:

1. The Circuit Court or District Court (as the case may be), shall not cause a certificate to be granted to an applicant unless it is satisfied, on the basis of confirmation by a suitably qualified person or persons, that—
 - (i) permission for development of the premises for the intended use to which the application relates has, where required under the Planning and Development Acts 2000 to 2014, been obtained from the relevant planning authority,
 - (ii) conditions (if any) attached to permission by such planning authority have been, and are being, complied with, and
 - (iii) applicable fire safety standards under the Building Control Acts 1990 to 2014 for the intended use of the premises have been, and are being, complied with.
2. Notwithstanding the granting of a declaration under section 15 of the Intoxicating Liquor Act 1960 by the Circuit Court or District Court (as the case may be), the court shall not cause a certificate to be granted to an applicant unless it is satisfied, on the basis of confirmation by a suitably qualified person or persons, that—
 - (i) permission for development of the premises for the intended use to which the application relates has, where required under the Planning and Development Acts 2000 to 2014, been obtained from the relevant planning authority,
 - (ii) conditions (if any) attached to the permission by the planning authority have been, and are being, complied with, and
 - (iii) applicable fire safety standards under the Building Control Acts 1990 to 2014 for the intended use of the premises have been, and are being, complied with.
3. Failure by a licensee to continue to comply with—
 - (i) conditions (if any) attached to the planning permission by the planning authority, and
 - (ii) applicable fire safety standards under the Building Control Acts 1990 to 2014

shall be considered as relating to the good character of the licensee for the purposes of the renewal under the Courts (No. 2) Act 1986 of the licence in respect of the licensed premises concerned.

4. Regulations made by the Minister for the Environment, Community and Local Government may prescribe a class or classes of persons who in the view of the Minister, having considered the qualifications, training, and expertise of such class or classes of persons by reference to the functions to be performed by members of such class pursuant to this section, are suitably qualified.

5. In this Head—

“certificate” means a certificate granted under the Licensing Acts 1833 to 2011 by the Circuit Court or District Court (as the case may be), which would entitle a person (in this section referred to as “the applicant”) to obtain a licence from the Revenue Commissioners in respect of the premises.

PART 8 – AMENDMENT OF THE LAND AND CONVEYANCING LAW REFORM ACT 2009

Head 55 - Amendment to Land and Conveyancing Law Reform Act 2009

Provide that:

In the absence of an express or implied agreement to the contrary, it shall be presumed that a deposit paid by or on behalf of an intending purchaser of land to a person in connection with such purchase shall be held by that person as stakeholder and not as agent for the vendor.

PART 9 – AMENDMENT OF THE COURTS SERVICE ACT 1988

Head 56 - Amendment of section 7 of the Courts Service Act 1998

Section 7 of the Courts Service Act 1998 is amended by the substitution for subsection (1) of the following:

“(1) Within six months after -

- (a) the commencement of the term of office of those elected members of the Board next elected after the date of coming into operation of this section and
- (b) each third anniversary of such commencement,

the Service shall prepare and submit to the Minister, for approval by the Minister with or without amendment, a strategic plan for the ensuing three year period.

(1A) The strategic plan in effect at the date referred to in paragraph (a) of subsection (1) shall, with such amendments thereto, if any, as the Board may for that purpose make and the Minister may approve, with or without further amendment, be deemed to cover the period up to the commencement of the period covered by the strategic plan next prepared and submitted after that date, and subsection (3) shall apply to the strategic plan where so amended and approved.”

Head 57 - Functions of Courts Service – Amendment of the Courts Service Act 1988

The Courts Service Act 1998 is amended by –

- (a) the insertion in section 9 after “this Act” of “or any other enactment”,
- (b) the substitution of the following [subsection] for subsection (1) of section 13:
“(1) The functions of the Board shall be—
- (a) to consider and determine policy in relation to the Service,
 - (b) to oversee the implementation of that policy by the Chief Executive,
 - (c) subject to section 20A, to determine—
 - (i) which of the functions of the Service specified, or referred to, in section 5 and 29(1) are to be performed by it and which of those functions are to be performed by the Chief Executive, and
 - (ii) which of the powers of the Service specified, or referred to, in section 6 are to be exercised by it and which of those powers are to be exercised by the Chief Executive,
 - (d) to perform such functions as it determines are to be performed by it under paragraph (c) and
 - (e) to perform a function or exercise a power referred to in section 20A, subject to and in accordance with that section .”
- (c) the substitution of the following subsection for subsection (1) of section 20:
“(1) Notwithstanding any other enactment, the Chief Executive shall—
- (a) manage and control generally the staff, administration and business of the Service, including the functions of County Registrars insofar as such functions relate to a function of the Service,
 - (b) perform such functions of the Service as the Board determines are to be performed by the Chief Executive under section 13(1)(c),
 - (c) perform such other functions as may be conferred on him or her by or under this Act or by the Board,
 - (d) perform a function referred to in section 20A, subject to and in accordance with that section, and
 - (e) exercise a power referred to in section 20A, subject to and in accordance with that section.”, and
- (d) the insertion of the following section after section 20:
“20A Where, after the commencement of this section, a function is conferred on or power is vested in the Service under any enactment, the function concerned shall be performed and (as the case may be) the power concerned shall be exercised :-
- (a) by the Chief Executive -

- (i) unless the enactment concerned otherwise provides,
- (ii) where the enactment does not so provide, until such time (if any) as the Board determines that the function is to be performed or (as the case may be) the power is to be exercised by it;

by the Board, where the Board makes a determination referred to in paragraph (a)''.

Head 58 - Administration of oaths etc. by Courts Service staff

No member of staff of the Courts Service who is for the time being authorised to administer any oath or take any affidavit or statutory declaration shall seek or accept any fee, charge, or payment of expenses for or in connection with administering any oath or taking any affidavit or statutory declaration.

PART 10 – AMENDMENT OF THE LEGAL SERVICES REGULATION ACT

Head 59 – Amendment of section 160 of the Legal Services Regulation Act 2015

Provide along the following lines:

To amend section 160(2)(a) of the Legal Services Regulation Act 2015 by the substitution of “section 163” for “section 166”.

Head 60 – Amendment of section 172 of the Legal Services Regulation Act 2015

Head to correct omission of President of the Court of Appeal from the Advisory Committee on the grant of Patents of Precedence

Provide along the following lines:

To amend section 172 of the Legal Services Regulation Act 2015–

- (a) in subsection (2), by the insertion of the following paragraph after paragraph (a):

“(aa) the President of the Court of Appeal;”, and

- (b) by the insertion of the following subsection after subsection (6):

“(6A) On the death or retirement of the President of the Court of Appeal, the senior ordinary judge of the Court of Appeal who is for the time being available shall be a member of the Committee until the appointment of a President of the Court of Appeal”.

PART 11 AMENDMENT OF THE INTERNATIONAL PROTECTION ACT 2015

Head 61 - Amendment of section 52 of the International Protection Act 2015

Provide along the following lines:

To amend section 52 of the International Protection Act 2015 by the insertion of the following after subsection (8):

“(8A) The jurisdiction conferred on the Circuit Court by this section shall be exercised by the judge for the time being assigned to the Dublin Circuit.

(8B) A decision of the Circuit Court under this section shall be final, save that, by leave of that Court, an appeal shall lie to the High Court on a point of law.”.

Head 62 - Amendment of section 70 of the International Protection Act 2015

Provide along the following lines:

To amend section 70 of the International Protection Act 2015, in subsection (7)(b)(ii) by the substitution of “a notice under section 17(5)” for “a notice under section 17(7)”.

PART 12 – AMENDMENT OF THE IMMIGRATION ACTS

Head 63 - Amendment of section 3 of the Immigration Act 1999 and section 5 of the Immigration Act 2003

Provide that:

Section 3 of the Immigration Act 1999 is amended by (a) the substitution of “subsection 13” for “section 5 (prohibition of refoulement) of the Refugee Act,1996”

And (b) by the insertion of the following after subsection 12:

(13) A person shall not be expelled or returned in any manner whatsoever to the frontier of a territory where, in the opinion of the Minister—

(i) the life or freedom of the person would be threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion, or

(ii) there is a serious risk that the person would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

Section 5 of the Immigration Act 2003 is amended by (a) the substitution of “subsection 15” in subsection (1) for “section 5 (prohibition of refoulement) of the Refugee Act,1996”

And (b) by the insertion of the following after subsection (14):

(15) A person shall not be expelled or returned in any manner whatsoever to the frontier of a territory where, in the opinion of the Minister—

(i) the life or freedom of the person would be threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion, or

(ii) there is a serious risk that the person would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

PART 13 – GAMING, RAFFLES AND LOTTERIES

Head 64: Amendment of section 2 of the Gaming and Lotteries Act 1956

Section 2 - Definitions.

Provide along the following lines:

2.—In this Act—

“gaming” means playing a game or games (whether of skill or chance or partly of skill and partly of chance) for stakes hazarded by the players;

“gaming machine” means a machine that:

- (i) is constructed or adapted for gaming, and
- (ii) the player pays to play the machine whether by the insertion of a coin or token or in some other way, and
- (iii) the outcome of the game is determined by the action of the machine, whether or not provision is made for manipulation of the machine by the player, and

a gaming machine which provides more than one individual playing position shall, for the purposes of this section, be treated as a number of gaming machines equal to the number of individual playing positions provided on the machine.

A gaming machine which, when played by a player once and successfully, affords that player no more than an opportunity to play again (once or more often) without paying to play shall be deemed not to be a gaming machine.

“gaming permit” means a permit issued under section 9A;

“interactive channels” means communications over the internet that use any device from which the internet is able to be accessed;

“lottery permit” means a permit issued under section 27;

“raffle permit” means a permit issued under section X3;

“raffle licence” means a licence issued under section X5;

"Superintendent" means a Superintendent of the Garda Síochána and, in relation to a district, means a Superintendent who is in charge of the district and includes an inspector of the Garda Síochána who is in charge of the district in the Superintendent's absence.

Head 65: Amendment of section 4 of the Gaming and Lotteries Act 1956

Section 4 - Unlawful gaming, lottery or raffle activity

Provide along the following lines:

- Section 4 is substituted by the following section.

Section 4 Unlawful gaming, lottery or raffle promotion

4. – (1) It shall be an offence to engage in the promotion or assist in the promotion or to provide facilities for any kind of gaming, lottery or raffle unless a permit or licence has been issued in accordance with the relevant sections of this Act.

(2) It shall be an offence to breach a condition of a permit or licence issued in accordance with the relevant sections of this Act.

(3) Subsection (1) shall not apply to a lottery as provided for under the National Lottery Act 2013.

Head 66: Repeal of section 6 of the Gaming and Lotteries Act 1956

Section 6 – Gaming at circus or travelling show

Provide along the following lines:

Section 6 of the Act of 1956 is repealed.

Head 67: Repeal of section 7 of the Gaming and Lotteries Act 1956

Section 7 – Gaming at carnivals

Provide along the following lines:

Section 7 of the Act of 1956 is repealed.

Head 68: Repeal of section 8 of the Gaming and Lotteries Act 1956

Section 8 - Residence qualifications for promoters of gaming.

Provide along the following lines:

Section 8 of the Act of 1956 is repealed.

Head 69: Repeal of section 9 of the Gaming and Lotteries Act 1956

Section 9 – Gaming on licensed premises

Provide along the following lines:

Section 9 of the 1956 Act is repealed.

Head 70: Insertion of section 9A of the Gaming and Lotteries Act 1956

Section 9A – Gaming promoted under permit

Provide along the following lines:

- The Act of 1956 is amended by the insertion of the following section after section 9.

Section 9A Gaming promoted under permit

“9A. (1) Gaming promoted:

- (a) at a circus or other travelling show, or
- (b) at a carnival, bazaar, sports meeting, local festival, exhibition or other like event,
or
- (c) on a licensed premises

shall not be unlawful gaming if a permit has been issued in accordance with this section.

(2) An application for the issue of a permit in accordance with this section shall be made to the Superintendent of the district where it is intended to promote gaming under subsection (1).

(3) The Superintendent may require of the applicant such information, and additional information, as he or she determines is necessary to process the application.

(4) In determining an application for a permit under this section, the Superintendent may consider the following:

- (a) the character of the applicant,
- (b) the number of permits already issued in the locality,
- (c) whether the gaming is to be promoted for a charitable or philanthropic purpose or for the benefit of the promoter.

(5) A permit shall not be issued to a person to promote or assist in promoting or provide facilities for any kind of gaming in which by reason of the nature of the game, the chances of all the players, including the banker, are not equal.

(6) A permit issued under this section shall:

- (i) not be transferred to another person,
- (ii) be valid for a maximum period of one year from date of issue, or

(iii) be valid for such defined period, not exceeding ten days, as determined by the Superintendent of the Garda Síochána of the district as required for the promotion of the particular gaming, or

(iv) be valid for such defined period, not exceeding ten days, as requested by the promoter, or

(v) in the case of subsection (1)(c), be valid for a period not exceeding 24 continuous hours, or

(v) set out the type of gaming that will be covered by said permit, or

(vi) state whether the gaming is to be promoted for a charitable or philanthropic purpose, or for the benefit of the promoter.

(7) The following conditions shall apply to any gaming promoted under a permit issued under this section:

(a) the stake in each game is not more than €10 for each player,

(b) no stake is hazarded by the players with the promoter or banker other than a charge for the right to take part or continue to take part in the game.

(c) no player may win more than the value of €3,000 in each game, whether that game is conducted in a single or multiple event,

(d) if more than one of the same game is promoted at the same time, the total value of the prizes for all games at the event shall not exceed €3,000.

(e) the promoter shall be entitled to recover a maximum of 5% of the total ticket sales with regard to expenses incurred in the promotion of the games.

(8) The Superintendent who issues a permit under this section shall:

(a) maintain a record of all permits issued, suspended, revoked or surrendered,

(b) make such record open to inspection by the public, at all reasonable times, including by electronic means, and

(c) arrange to publish such record on an annual basis.

(9) Where a Superintendent becomes aware or is notified of a possible breach of the conditions of a permit issued under this section, he or she may take action to investigate such possible breach, including by engagement with the person who is the holder of a gaming permit

(10) It shall be an offence to promote or facilitate gaming under this section by use of a gaming machine.

(11) The Minister may, from time to time, by regulation specify

- (i) such other amounts that may apply to the maximum value of a stake and of prizes in the games allowed under permit under this section,
- (ii) such other conditions under which a permit may be issued

(12) Before the Minister makes any regulations under this section he or she shall, in so far as it is possible to do so, consider and take account of the consequences of any proposed alteration on-

- (a) gaming conducted under this Act,
- (b) the number of gaming permits currently issued, or
- (c) the impact of gaming on society generally.

(13) Every regulation made by the Minister for Justice and Equality under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

Head 71: Insertion of section 11A of the Gaming and Lotteries Act 1956

Section 11A – Notice of application for a gaming permit

Provide along the following lines:

- The Act of 1956 is amended by the insertion of the following section after section 11.

Section 11A Notice of application for a gaming permit

11A. (1) An applicant for a gaming permit under section 9A shall apply by way of the prescribed form to the Superintendent for the district in which the gaming is to be organised.

(2) The application shall be submitted at least twenty-eight days prior to the intended date of promotion of the gaming.

(3) The Minister may, from time to time, by regulation, prescribe:

- (i) the form for application for a gaming permit,
- (ii) a fee to accompany the application for a permit under (i), and
- (iii) the form of the permit to be issued.

(4) Every regulation made by the Minister for Justice and Equality under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

Head 72: Amendment of section 14 of the Gaming and Lotteries Act 1956

Section 14 – Licensed amusement hall and funfair

Provide along the following lines:

Section 14 of the Act of 1956 is repealed and is substituted by the following section.

Section 14 – Licensed amusement hall and funfair

14.— (1) The following conditions shall apply to any gaming carried out under a licence issued under section 19:

- (a) the stake in each game is not more than €10 for each player, and
- (b) no player may win more than the value of €750 in each game.

(2) The Minister may, from time to time, by regulation, specify such other amounts that may apply to the maximum value of a stake and of prizes for gaming carried out under licence.

(3) Before the Minister makes any regulations under this section he or she shall, in so far as it is possible to do so, consider and take account of the consequences of any proposed alteration on-

- (a) gaming conducted under this Act,
- (b) the number of gaming permits and licenses currently issued, or
- (c) the impact of gaming on society generally.

(3) Every regulation made by the Minister for Justice and Equality under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

Head 73: Amendment of section 15 of the Gaming and Lotteries Act 1956

Section 15 – Certificate for gaming licence

Provide along the following lines:

- The Act of 1956 is amended in section 15 by the substitution of subsection (3) by the following subsection and subsequent subsections to be renumbered.

(3) The Court may attach to the certificate conditions limiting the hours during which gaming may be carried on, restricting the kinds of gaming and the extent to which particular kinds of gaming may be carried on.

Head 74: Insertion of section 19A of the Gaming and Lotteries Act 1956

Section 19A – Register of gaming licences issued

Provide along the following lines:

- The Act of 1956 is amended by the insertion of the following section after section 19.

Section 19A – Register of gaming licences issued

(1) The Revenue Commissioners shall establish and maintain a register of all gaming licences issued to a person under section 19 as the licensee of a licensed amusement hall or funfair.

(2) The Revenue Commissioners shall enter the following particulars in the register of gaming licences:

- (a) the name and trading name (if different) of each licensee;
- (b) the address at which each licensee ordinarily resides or the address of his principal office or place of business;
- (c) the address of the registered premises (if any) at which the licensee carries on the business of a licensed amusement hall or funfair;
- (d) in the case of a licensee that is a body corporate, the names of the relevant officers of the body corporate; (e) such other particulars as may be prescribed.

(3) If a gaming licence is revoked or surrendered, the Revenue Commissioners shall remove all entries in relation to the licensee concerned from the register of gaming licences:

(4) The Revenue Commissioners shall cause the register of gaming licences: to be published on the internet or in such other manner as they consider appropriate.

Head 75: Insertion of new Part IVA of the Gaming and Lotteries Act 1956 (dealing with Raffles)

New Part IVA

Provide along the following lines:

That a new Part be inserted into the Act of 1956 after Part IV as follows:

Part IVA

Raffles

Section X1 Definition

X1. For the purposes of this Part, a raffle includes all competitions where prizes of any or all of money, goods or services are distributed according to a draw that takes place after all participants have entered.

Head 76: Insertion of section X2 of the Gaming and Lotteries Act 1956

Section X2 Promotion of raffles where no permit is required

X2 (1) The promotion of a raffle shall not be unlawful, nor require a permit under section X3 where:

- (i) the prizes offered have a total value of €1,000 or less,
- (ii) the ticket cost, either single or cumulatively to a purchaser shall be no more than €5,
- (iii) the maximum number of tickets allowed to be sold is 1,000,
- (iv) the raffle is promoted for charitable purposes only, and the charitable organisation or organisations concerned shall be registered with the Charities Regulatory Authority and noted on the ticket,
- (v) the raffle is promoted for a philanthropic purpose or purposes, this shall be clearly stated in writing in the application,
- (vi) only one raffle is promoted in any six months' period by the promotor, or a person or organisation or society connected with the promotor,
- (vii) the promotor or a person or organisation or society connected with the promotor shall derive no personal profit, save as purchaser of a prize winning ticket,
- (viii) the promotor shall be entitled to recover a maximum of 5% of the total ticket sales with regard to expenses incurred in the promotion of the raffle

(2) Tickets for raffles under this section may be sold through interactive channels.

Head 77: Insertion of section X3 of the Gaming and Lotteries Act 1956

Section X3 Raffle promoted under permit

X3. (1) The promotion of a raffle shall not be unlawful if it is held under a permit issued in accordance with this section.

(2) A Superintendent, on the application of any person residing in his district, may issue a permit for the promotion of a raffle under this section.

(3) The Superintendent may require of the applicant such information, and additional information, as he or she determines is necessary to process the application.

(4) A permit issued under this section shall be for the conduct of one raffle only and shall not be transferred to another person.

(5) No permit shall be issued for the conduct of a raffle promoted by the licensee of a licensed amusement hall or funfair as part of the entertainment therein unless such raffle is conducted for charitable or philanthropic purposes.

(6) Each raffle shall comply with the following conditions:

- (a) it shall only be promoted for charitable or philanthropic purposes,
- (b) where the raffle is promoted for a charitable purpose or purposes, the charitable organisation or organisations concerned shall be registered with the Charities Regulatory Authority,
- (c) where the raffle is promoted for a philanthropic purpose or purposes, this purpose or purposes shall be clearly stated in writing in the application,
- (d) the promotor or a person or organisation or society connected with the promotor shall derive no personal profit, save as purchaser of a prize winning ticket, and
- (e) the promotor shall be entitled to recover a maximum of 5% of the total ticket sales with regard to expenses incurred in the promotion of the raffle.

(7) The following conditions shall apply to any raffle carried out under a permit issued under this section:

- (a) the determination or draw for all prizes shall be open to the public,
- (b) the total value of the prizes in the raffle shall be not more than €5,000,
- (c) the value of each prize shall be stated on every ticket or coupon,
- (d) the price of a ticket, either single or cumulative, in each raffle is not more than €10 for each player.

- (8) Tickets for raffles under this section may be sold through interactive channels.
- (9) Notwithstanding subsection (6A), every ticket, coupon, counterfoil and notice relating to a raffle shall bear the name and address of the holder of the permit, or, if the permit is in the name of more than one person, of one of them, and of the printer, and of the beneficiary or object, and shall state it is being carried on under a permit and the Superintendent who granted the permit.
- (10) In determining an application for a permit under this section, a Superintendent may consider the following:
- (a) the character of the applicant,
 - (b) the number of permits already issued in the locality,
- (11) The Superintendent who issues a permit under this section shall:
- (a) maintain a record of all such permits issued, suspended, revoked or surrendered,
 - (b) make such record open to inspection by the public, at all reasonable times, including by electronic means, and
 - (c) arrange to publish such record on an annual basis.
- (12) The Minister may, from time to time, by regulation specify:
- (i) such other conditions for the issue of a permit and,
 - (ii) such other amounts that may apply to the maximum value of a ticket and of prizes in a raffle under this section.
- (13) Every regulation made by the Minister for Justice and Equality under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.
- (14) Before the Minister makes any regulations under this section he or she shall, in so far as it is possible to do so, consider and take account of the consequences of any proposed alteration on:
- (a) any other raffles or lotteries conducted under this Act,
 - (b) any other raffle or lottery conducted in accordance with law, and
 - (c) charitable or philanthropic giving in society generally.

Head 78: Insertion of section X4 of the Gaming and Lotteries Act 1956

Section X4. Notice of application for raffle permit

X4. (1) An applicant for a raffle permit under section X3 shall apply by way of the prescribed form to the Superintendent for the district in which the promotor of the raffle is normally resident.

(2) The application shall be submitted at least twenty-eight days prior to the intended date of promotion of the raffle.

(3) The Minister may, from time to time, by regulation, prescribe:

- (i) the form for application for a raffle permit,
- (ii) a fee to accompany the application for a permit under (i), and
- (iii) the form of the permit to be issued.

(4) Every regulation made by the Minister for Justice and Equality under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

Head 79: Insertion of section X5 of the Gaming and Lotteries Act 1956

Section X5. Raffle promoted under licence issued by the District Court

X5. (1) The District Court may grant a licence for the promotion of a raffle in accordance with this section.

(2) A licence issued under this section shall not be transferred to another person to promote a raffle.

(3) No more than one license may be issued to a promoter, related person or organisation in a twelve-month period.

(4) The raffle shall comply with the following conditions:

- (a) it may only be promoted for charitable or philanthropic purposes,
- (b) where the raffle is promoted for a charitable purpose or purposes, the charitable organisation or organisations concerned shall be registered with the Charities Regulatory Authority,
- (c) where the raffle is promoted for a philanthropic purpose or purposes, this purpose or purposes shall be clearly stated in writing in the application to the District Court,
- (d) the promotor or promoters shall derive no personal profit from the raffle, save as purchaser of a prize winning ticket,

(5) The total value of the prizes shall not be more than €30,000 or such other amount that, for the time being, stands specified in lieu of that amount in regulations made by the Minister.

(6) The value of each prize shall be stated on every ticket or coupon.

(7) Tickets for raffles under this section may be sold through interactive channels.

(8) The gross proceeds of the raffle shall be allocated as follows:

- (i) not less than 35% to the purpose or purposes under subsection (4),
- (ii) not more than 50% to prizes, and
- (iii) not more than 15% to the expenses of promotion, including commission and any free entry for the raffle shall be deemed to be a payment of commission to the extent of its value.

(9) The Minister may, from time to time, by regulation, provide for such conditions and such other prize amounts and distribution of proceeds in a raffle.

(10) Every regulation made by the Minister for Justice and Equality under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

(11) Before the Minister makes any regulations under this section he or she shall, in so far as it is possible to do so, consider and take account of the consequences of any proposed alteration on;

- (i) any raffles or lotteries which are conducted under this Act,
- (ii) any other raffle or lottery conducted in accordance with law, and
- (iii) charitable or philanthropic giving in society generally.

Head 80: Insertion of section X6 of the Gaming and Lotteries Act 1956

Section X6 - Notice of application for a raffle licence

X6. (1) The intending applicant for a raffle licence under section X5 shall give twenty-eight days' notice in writing of his intention to the Superintendent of the Garda Síochána for the district in which the raffle is to be organised.

(2) The notice of application shall, subject to the provisions of section X5, state the kind of raffle proposed to be carried on, the purpose of the raffle, the amount, or proportion of the proceeds, intended to be devoted to the remuneration of agents, ticket-sellers and other persons employed in connection with it, and the value of the prizes.

(3) The notice shall state the name and address of any agent engaged by the licensee to promote the raffle, including where the agent is a body corporate, the beneficial owner or owners.

Head 81: Insertion of section X7 of the Gaming and Lotteries Act 1956

Section X7 Hearing of an application for a raffle licence

X7. (1) In considering an application under section X5 for a raffle licence, the court shall have regard to-

- (a) the character of the applicant,
- (b) the number of raffles or periodical lotteries already in operation in the locality,
- (c) the purpose of the raffle, and
- (d) the character of any agent to be engaged for the promotion of the raffle.

(2) The provisions of subsection (1)(d) shall not apply to any voluntary agents or occasional ticket sellers who receive no payment or only a token payment.

(3) At the hearing, the Superintendent and any other person who appears to the Court to be interested may appear and may adduce evidence in relation to the application.

Head 82: Repeal of section 22 of the Gaming and Lotteries Act 1956

Section 22 - Advertisement of lotteries

Provide along the following lines:

The Act of 1956 was amended by the inserted by section 51(1) of the National Lottery Act 2013.

This provision is now to be repealed.

Head 83: Repeal of section 22A of the Gaming and Lotteries Act 1956

Section 22A Advertisement of lotteries

Provide along the following lines:

The Act of 1956 was amended by the inserted by section 51(1) of the National Lottery Act 2013.

This provision is now to be repealed.

Head 84: Amendment of section 23 of the Gaming and Lotteries Act 1956

Section 23 – Private lotteries

Provide along the following lines:

The Act of 1956 is amended by the substitution of the following for section 23.

Section 23 – Lotteries promoted under permit

23.—(1) A lottery shall not be unlawful if it is promoted under a permit issued in accordance with section 27.

(2) The following lotteries may be held under permit:

(a) a lottery promoted as part of a carnival, bazaar, sports meeting, local festival, exhibition or other like event on a day on which gaming is permitted.

(b) a lottery promoted as part of a dance, concert or other like event.

(c) a lottery promoted by the licensee of a licensed amusement hall or funfair as part of the entertainment therein,

(3) The promoters of a lottery held under subsection (2):

(a) may derive no personal profit from the lottery save as a purchaser of a prize winning ticket,

(b) shall limit the sale of tickets to the patrons present at such locations, events or premises and any notice or announcement relating to the lottery shall not be made outside the premises, and

(c) may not sell tickets through interactive channels.

(4) The following lotteries may be held under permit:

(a) a lottery promoted on a licensed premises, whether by the licensee or otherwise,

(b) a lottery promoted as part of a circus or other travelling show on a day on which gaming is permitted,

(c) a lottery whereby the sale of chances is confined to:

(i) the members of one or more society established and conducted for purposes not connected with gaming, wagering or lotteries, or

(ii) persons all of whom reside on the same or connected premises, or

(iii) persons all of whom work at a single or connected workplaces.

(5) The promoters of a lottery held under subsection (4):

(a) may derive personal profit from the lottery,

(b) may sell tickets through interactive channels, and

(c) shall

(i) confine the sale of tickets to the patrons present at the locations in subsection (4) (a) and (b) and any notice or announcement relating to the lottery shall not be made outside those locations, and

(ii) shall confine the sale of tickets and any notice or announcement relating to the lottery to the persons concerned at subsection (4) (c) (i), (ii) and (iii).

Head 85: Repeal of section 24 of the Gaming and Lotteries Act 1956

Section 24 – Lotteries at circus or travelling show

Provide along the following lines:

Section 24 of the Act of 1956 is repealed.

Head 86: Repeal of section 25 of the Gaming and Lotteries Act 1956

Section 25 – Lotteries at carnivals and other events

Provide along the following lines:

Section 25 of the Act of 1956 is repealed.

Head 87: Repeal of section 26 of the Gaming and Lotteries Act 1956

Section 26 - Lotteries under permit or licence.

Provide along the following lines:

Section 26 of the Act of 1956 is repealed.

Head 88: Amendment of section 27 of the Gaming and Lotteries Act 1956

Section 27 – Permits

Provide along the following lines:

The Act of 1956 is amended by the substitution of the following for section 27.

Section 27 Lottery promoted under permit

“27. (1) A Superintendent, on the application of any person residing in his district, may issue a permit for the promotion of a lottery provided for in Section 23 in accordance with this section.

(2) The Superintendent may require of the applicant such information, and additional information, as he or she determines is necessary to process the application.

(3) A permit issued under this section shall:

- (i) not be transferred to another person,
- (ii) be valid for a maximum period of one year from date of issue, or
- (iii) be valid for such defined period as determined by the Superintendent as required for the promotion of the particular gaming, or
- (iv) be valid for such defined period as requested by the promoter.

(4) The following conditions shall apply to any lottery carried out under a permit issued under this section:

- (a) the determination or draw for all prizes in the lottery shall be open to the public;
- (b) The total value of the prizes for those lotteries held under section 23 (2) (a), (b) and (c), shall be not more than €5,000 or, if more than one lottery is held, the total value of the prizes shall not be more than €5,000;
- (c) The total value of the prizes for those lotteries held under section 23 (4) (a), (b) and (c), shall be not more than €3,000 or, if more than one lottery is held, the total value of the prizes shall not be more than €3,000;
- (d) the value of each prize shall be stated on every ticket or coupon;
- (e) the price of a ticket in each lottery is not more than €10.
- (f) the promotor shall be entitled to recover a maximum of 5% of the total ticket sales with regard to expenses incurred in the promotion of the lottery.

(5) In determining an application for a permit under this section, a Superintendent may consider the following:

- (a) the character of the applicant,
- (b) the number of permits already issued in the locality,

(6) The Superintendent who issues a permit under this section shall:

- (a) maintain a record of all such permits issued, revoked, suspended or surrendered,
- (b) make such record open to inspection by the public, at all reasonable times, including by electronic means, and
- (c) arrange to publish a record of all permits issued an annual basis.

(7) The Minister may, from time to time, by regulation specify such conditions and such other amounts that may apply to the maximum value of a ticket and of prizes in the lottery.

(8) Every regulation made by the Minister for Justice and Equality under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

(9) Before the Minister makes any regulations under this section he or she shall, in so far as it is possible to do so, consider and take account of the consequences of any proposed alteration on-

- (a) raffles and lotteries which are conducted under this Act,
- (b) any other lottery conducted in accordance with law, and
- (c) charitable or philanthropic giving in society generally.

Head 89: Insertion of section 27A of the Gaming and Lotteries Act 1956

Section 27A – Notice of application for lottery permit

Provide along the following lines:

The Act of 1956 is amended by the insertion of the following section after section 27.

27A Notice of application for lottery permit

27A (1) An applicant for a lottery permit under section 27 shall apply by way of the prescribed form to the Superintendent for the district in which the lottery is to be organised.

(2) The application shall be submitted at least twenty-eight days prior to the intended date of promotion of the lottery.

(3) The Minister may, from time to time, by regulation, prescribe:

- (i) the form for application for a lottery permit,
- (ii) a fee to accompany the application for a permit under (i), and
- (iii) the form of the permit to be issued.

(4) Every regulation made by the Minister for Justice and Equality under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

Head 90: Amendment of section 28 of the Gaming and Lotteries Act 1956

Section 28 – Lottery licence

Provide along the following lines:

The Act of 1956 is amended by the substitution of the following for section 28.

Section 28 Lottery promoted under licence issued by the District Court

28.-(1) The District Court may grant a licence for the promotion, during such period, not exceeding one year, as shall be specified in the licence, of periodical lotteries in accordance with this section.

(2) A licence issued under this section shall not be transferred to another person.

(3) Each series of lotteries shall comply with the following conditions:

(a) where the lottery is promoted for a charitable purpose or purposes, the charitable organisation or organisations concerned shall be registered with the Charities Regulatory Authority;

(b) where the lottery is promoted for a philanthropic purpose or purposes, this purpose or purposes shall be clearly stated in writing in the application to the District Court;

(4) The licensee shall derive no personal profit from the lottery save as through purchase of a prize winning ticket.

(5) The total value of the prizes-

(i) on any occasion shall not be more than €30,000 or such other amount that, for the time being, stands specified in lieu of that amount in regulations made by the Minister, and

(ii) if more than one lottery is held in any week, the total value of the prizes for the week shall not be more than €30,000 or such other amount that, for the time being, stands specified in lieu of that amount in regulations made by the Minister;

(6) The value of each prize shall be stated on every ticket or coupon;

(7) Tickets for lotteries under this section may be sold through interactive channels.

(8) The gross proceeds of the lottery shall be allocated as follows:

(i) not less than 25% to the purpose or purposes under paragraph (a) or (b),

(ii) not more than 50% to prizes, and

(iii) not more than 25% to the expenses of promotion, including commission and any free entry for the lottery shall be deemed to be a payment of commission to the extent of its value.

(9) The District Court shall:

(a) maintain a record of all such permits issued, revoked, suspended or surrendered,

(b) make such record open to inspection by the public, at all reasonable times, including by electronic means, and

(c) arrange to publish a record of all permits issued an annual basis.

(10) The Minister may, from time to time, by regulation, provide for such other conditions, prize amounts and distribution of proceeds.

(11) Every regulation made by the Minister for Justice and Equality under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

(12) Before the Minister makes any regulations under this section he or she shall, in so far as it is possible to do so, consider and take account of the consequences of any proposed alteration on:

(a) lotteries which are conducted under this Act,

(b) any other lottery conducted in accordance with law, and

(c) charitable or philanthropic giving in society generally.

Head 91: Repeal of section 28A of the Gaming and Lotteries Act 1956

Section 28A – Matters to take into consideration when making regulations under section 27 or 28

Provide along the following lines:

Section 28A (inserted by section 51(1)(e) of the National Lottery Act 2013) of the Act of 1956 is repealed.

Head 92: Amendment of section 29 of the Gaming and Lotteries Act 1956

Section 29 – Notice of application for licence

Provide along the following lines:

Section 29 of the Act of 1956 is substituted by the following section.

Section 29 – Notice of application for a lottery licence

29. (1) The intending applicant for a lottery licence under section 28 shall give twenty-eight days' notice in writing of his intention to the Superintendent for the district in which the lottery is to be organised.

(2) The notice of application shall, subject to the provisions of section 28,--

(a) state the kind of lottery proposed to be carried on,

(b) the purpose of the lottery,

(c) the amount, or proportion of the proceeds, intended to be devoted to the remuneration of agents, ticket-sellers and other persons employed in connection with it, and the value of the prizes and

(d) the notice shall state the name and address of any agent engaged by the licensee to promote the lottery, including where the agent is a body corporate, the beneficial owner or owners.

Head 93: Repeal of section 30 of the Gaming and Lotteries Act 1956

Section 30 – False statements on application for licence or permit

Provide along the following lines:

Section 30 of the Act of 1956 is repealed.

Head 94: Amendment of section 31 of the Gaming and Lotteries Act 1956

Section 31 – Hearing of an application

Provide along the following lines:

The Act of 1956 is amended by the substitution of the following section for section 31-

Section 31 – Hearing of an application for lottery licence

31. (1) In considering an application under section 28 for a licence, the court shall have regard to-

- (a) the character of the applicant,
- (b) the number of periodical lotteries already in operation in the locality,
- (c) the purpose of the lottery, and
- (d) the character of any agent to be engaged for the promotion of the lottery.

(2) The provisions of subsection (1)(d) shall not apply to any voluntary agents or ticket sellers who receive no payment or only a token payment.

(3) At the hearing, the Superintendent of the Garda Síochána and any other person who appears to the Court to be interested may appear and may adduce evidence in relation to the application.

Head 95: Amendment of section 33 of the Gaming and Lotteries Act 1956

Section 33 – Lottery tickets

Provide along the following lines:

Section 33 of the Act of 1956 is amended as follows:

- the title of the section be amended to “Lottery and raffle tickets”.
- the reference to section 23, 24 and 25 in subsection (1) is deleted, and
- by the addition of a new subsection (2):

(2) Every ticket, coupon, counterfoil and notice relating to a lottery or raffle held under permit or licence issued in accordance with this Act shall be made available or be capable of being made available in printed form.

Head 96: Amendment of section 37 of the Gaming and Lotteries Act 1956

Section 37 - Seizure of gaming instruments

Provide along the following lines:

Section 37 of the Act of 1956 is amended as follows:

- the title of the section be amended to “Seizure of gaming instruments and machines”
- Subsection (1) is substituted by the following subsection.

(1) A member of the Garda Síochána may seize;

(i) any gaming instrument, being a gaming instrument having any device by means of which it can be fraudulently operated or which he has reason to believe is being fraudulently operated or used for unlawful gaming, or

(ii) any gaming machine which he has reason to believe is being fraudulently operated or used for unlawful gaming.

Head 97: Repeal of section 41 of the Gaming and Lotteries Act 1956

Section 41 – Obstruction of Garda Síochána

Provide along the following lines:

Section 41 of the Act of 1956 is repealed.

Head 98: Amendment of section 44 of the Gaming and Lotteries Act 1956

Section 44 – Offences

Provide along the following lines:

The Act of 1956 is amended by the substitution of the following for section 44:

Section 44 Offences

44. (1) Any person who, in support of an application for a licence or permit under this Act, makes any statement or representation (whether written or oral) which is to his knowledge false or misleading in any material respect shall be guilty of an offence and shall on summary conviction thereof be liable to a Class C fine or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(2) Any person who obstructs or impedes a member of the Garda Síochána in the exercise of his powers under this Act or who, on being asked his name and address by such member, fails to give them or gives a name or address which is false or misleading shall be guilty of an offence and shall be liable on summary conviction to a Class D fine or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(3) Any person, whether acting on his or her own behalf or as agent for another person, who accepts a stake of money from or sells a ticket to a person under the age of eighteen years to engage in activities covered by this Act, shall be guilty of an offence and shall be liable:

(a) on summary conviction to a class A fine or imprisonment for a term not exceeding six months or both, or

(b) on indictment to a fine not exceeding €50,000 or imprisonment for a term not exceeding 2 years or both.

(4) Where a person is charged with having committed an offence in accordance with subsection (3), it shall be a good defence to such charge to prove that the person so charged believed and had reasonable cause for believing that the person in respect of whom such offence is alleged to have been committed was of or over the age of eighteen years.

(5) A person who contravenes any provision of this Act for which a penalty is not specifically provided shall be guilty of an offence and shall on summary conviction thereof be liable to a Class C fine or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Head 99: Insertion of Section 45A of the Gaming and Lotteries Act 1956

Section 45A – Breach of licence or permit conditions

Provide along the following lines:

The Act of 1956 is amended by the insertion of the following section after section 45:

Section 45A – Breach of licence or permit conditions

45A (1) Where a Superintendent becomes aware or is notified of a possible breach of the conditions of a licence or permit issued under this Act, he or she may take action to investigate such possible breach, including by engagement with the person who is the holder of such licence or permit.

(2) Where a Superintendent determines that a breach of the conditions of a licence or permit has occurred, he or she may apply to the District Court for an order in accordance with section 46 (1).

Head 100: Amendment of section 46 of the Gaming and Lotteries Act 1956

Section 46 – Suspension or Revocation of licences and permits

Provide along the following lines:

- Section 46 is substituted by the following section:

Section 46 Suspension or Revocation of licences and permits

46. (1) Where a person who is the holder of:

- (a) a raffle licence or permit, or
- (b) a gaming licence or permit, or
- (c) a lottery licence or permit

issued in accordance with this Act, is convicted of an offence under this Act, the District Court may by order:

- (a) suspend the permit or licence for a period not exceeding 6 months, or
- (b) revoke the permit or licence,

as appropriate.

(2) An appeal shall lie to the Circuit Court from an order issued in accordance with subsection (1). The decision of the Circuit Court shall be final.

Head 101: Insertion of section 46A of the Gaming and Lottery Act 1956

46A - Surrender of licence or permit issued under this Act

Provide along the following lines:

- The Act of 1956 is amended by the insertion of the following section after section 46

46A Surrender of licence or permit issued under this Act

46A. (1) The holder of a licence or permit issued under this Act may surrender such licence or permit by giving at least 1 months' notice in writing to the Revenue Commissioners, the District Court or the Superintendent as the case may be who had issued the licence or permit.

(2) No notice of surrender of a license or permit shall be made prior to:

(i) the completion of a raffle, game or lottery covered by the licence or permit,
and

(ii) the satisfaction of any outstanding liabilities to any person as a result of the promotion or carrying on of an activity covered by the licence or permit.

(3) Upon giving notice under subsection (1), and having regard to subsection (2), the licence or permit holder shall surrender to the Revenue Commissioners, the District Court or the Superintendent the licence or permit issued.

(4) A person who contravenes subsection (3) is guilty of an offence and liable on summary conviction to a Class B fine.

Head 102: Amendment of section 47 of the Gaming and Lotteries Act 1956

Section 47 - Forfeiture of gaming instruments

Provide along the following lines:

- Section 47 is amended in the title by the addition of “and machines”
- in subsection (1) by the addition of the words “or machine” after instrument where it occurs.

Head 103: Amendment of section 50 of the Gaming and Lotteries Act 1956

Section 50 – Records, accounts and returns.

Provide along the following lines:

- Section 50 is amended by the replacement of subsection (1) by the following subsection.

50.(1) The Minister may make regulations providing for the keeping of accounts and other records in relation to permits and licences issued under this Act, and the furnishing of returns and information relating thereto.

Head 104: Repeal of section 51 of the National Lottery Act 2013

Section 51 of the National Lottery Act 2013

Provide along the following lines:

Section 51 of the National Lottery Act 2013 - Amendment of section 27 and 28 of Gaming and Lotteries Act 1956, etc. - is repealed.

Head 105: Amendment of the Totalisator Act 1929 (new section 4A)

Provide along the following lines:

- The Totalisator Act of 1929 is amended by the insertion of the following section after section 4:

Minimum age of placing of stake on a totalisator

4A. (1) Any person working a totalisator shall not accept a stake of money from a person under the age of eighteen years.

(2) If any person working a totalisator contravenes subsection (1) he or she shall be guilty of an offence under this section and shall be liable:

(a) on summary conviction to a class A fine or imprisonment for a term not exceeding six months or both, or

(b) on indictment to a fine not exceeding €50,000 or imprisonment for a term not exceeding 2 years or both.

(3) Where a person is charged with having committed an offence under this section it shall be a good defence to such charge to prove that the person so charged believed and had reasonable cause for believing that the person in respect of whom such offence is alleged to have been committed was of or over the age of eighteen years.

PART 14 – AMENDMENT OF THE PROPERTY SERVICES (REGULATION) ACT 2011

Head 106 – Amendment of section 2 of the Property Services (Regulation) Act 2011 (Definition of major sanction)

Provide along the following lines:

1. Section 2(1) of the Property Services (Regulation) Act 2011 definition of major sanction to include:
 - a. A direction by the Authority to the licensee, that an oversight arrangement be put in place as prescribed by the Authority for a specified duration.
 - b. The full cost of the oversight regime to be provided for by the licensee.
2. Amend section 2(1), Part (f) of the definition of major sanction to provide for the new definition of a major sanction forming part of the combined sanction which the Authority can impose.

Head 107 – Amendment of section 78 of the Property Services (Regulation) Act 2011 (Capping of payment from Property Services Compensation Fund)

Provide along the following lines:

- (1) The Authority shall make a grant not exceeding €500,000 to a client of a licensee from the Compensation Fund as provided for in section 78(1) of the Property Services (Regulation) Act 2011.
- (2) The Authority shall have a discretion to make a grant to a client of a licensee from the Fund, exceeding €500,000 as provided for in section 78(2) of the Property Services (Regulation) Act 2011 in exceptional circumstances where grave hardship would be caused if such grant of a larger amount was not made.

PART 15 –CHARITIES

Head 108 - Amendment of section 48 of the Charities Act 2009

Provide that –

Section 48 of the Charities Act 2009 is amended –

(a) in subsection (1), by the insertion of “, which is not a company,” after “a charitable organisation”,

(b) in subsection (3) (a)-

(i) *by the insertion of “referred to in subsection (1)” after “a charitable organisation”,*

(ii) by the substitution of “€250,000” for “€100,000”,

(c) by the insertion of the following subsections after subsection (3):

“(3A) A charitable organisation that is a company shall prepare an annual statement of accounts in accordance with any requirements relating to the form and content of such statements as may be prescribed by regulations made by the Minister in consultation with the Minister for Jobs, Enterprise and Innovation.

(3B) Regulations under subsection (3A) specifying requirements relating to the form and content of an annual statement of accounts of a charitable organisation that is a company shall be limited to requirements which are additional to those which apply to the charitable organisation under the Companies Act.”

and

(d) in subsection (6), by the deletion of paragraph (a).

Head 109 - Amendment of section 50 of the Charities Act 2009

Provide that –

Section 50(13) of the Charities Act 2009 is amended by the substitution of the following for paragraph (a):

“(a) to a charitable organisation that is a company, unless it has availed of the audit exemption provided for in section 360 of the Companies Act 2014.”.

Head 110 - Amendment of section 52 of the Charities Act 2009

Provide that –

Section 52(5) of the Charities Act 2009 is amended by the deletion of paragraph (b).

Head 111 - Amendment of Charities Act 2009 (new section 32A)

To amend the Charities Act 2009 by the insertion of the following section after section 32:

“Disclosure of information by Revenue Commissioners

32A. (1) In addition to information referred to in section 40 –

- (a) for the purpose of enabling the Authority to perform its functions under this Act, the Authority may request the Revenue Commissioners to provide it with all such information as is in the possession of the Revenue Commissioners, and
- (b) the Revenue Commissioners may provide the Authority with any information that, in the opinion of the Revenue Commissioners, is reasonably required for the purpose of enabling the Authority to perform its functions under this Act.

(2) Information disclosed to the Authority under this section shall not be used for any purpose other than the performance by the Authority of its functions under this Act.”.

Head 112 – Amendment of section 851A of the Taxes Consolidation Act 1997

To amend section 851A of the Taxes Consolidation Act 1997–

- (a) in subsection (1), by the insertion of the following definition:

“ ‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing in respect of this section;”
- (b) in subsection (8) –
 - (i) in paragraph (k), by the deletion of the word “and” where it last occurs,
 - (ii) in paragraph (l), by the substitution of “Minister for Agriculture, Food and the Marine, and” for “Minister for Agriculture, Food and the Marine.”, and
 - (iii) by the insertion of the following paragraph after paragraph (l):

“(m) where, in the opinion of an authorised officer, disclosure of information, including taxpayer information, is reasonably required for the purpose of enabling the Charities Regulatory Authority to perform its functions under the Charities Act 2009.”.

PART 16 – MISCELLANEOUS

Head 113 – Amendment of section 27 of the Court Officers Act 1926

Provide that section 27 of the Court Officers Act 1926 is amended by the substitution of the following for subsection (4):

“(4) No person shall be appointed under this section to be a Deputy Master of the High Court unless at the time of his appointment he—

- (a) possesses the qualifications prescribed by this Act for persons appointed to be Master of the High Court,
- (b) is a member of staff of the Courts Service serving in the Central Office of the High Court and who:
 - (i) is a barrister or solicitor, or
 - (ii) at any time prior to such appointment has been employed for a period of not less than 9 years, or for periods together totalling not less than 9 years, in an office or offices established under this Act, or
- (c) is a member of staff of the Courts Service who holds such other qualification or qualifications as the Courts Service, with the consent of the President of the High Court, determines to be appropriate for such appointment”.

Head 114 - Amendment of section 65 of the Courts of Justice Act 1936

Section 65 of the Courts of Justice Act 1936 is amended by the insertion of the following subsection after subsection (6):

“(7) Where a person, being a person by whom a fee chargeable is prescribed to be paid (in this subsection called “the accountable person”) , has not paid or (as the case may be) not fully paid the fee concerned on the occasion upon which such fee is prescribed to be paid—

- (a) the accountable person shall be liable, and where there is more than one such accountable person they shall be liable jointly and severally, for the payment of the fee unpaid or (as the case may be) the portion of the fee remaining unpaid
- (b) the fee or (as the case may be) the portion of the fee remaining unpaid
 - (i) shall be deemed to be a debt due by the accountable person to the [Minister for Finance] [Minister for Justice and Equality] for the benefit of the Exchequer and
 - (ii) shall be payable to such Minister and may (without prejudice to any other mode of recovery of the fee or portion of the fee remaining unpaid) be sued for and recovered [as a simple contract debt by action, or other appropriate proceedings, at the suit of the Attorney General or such Minister in any court of competent jurisdiction
 - (iii) where subsequently received shall be paid into or disposed for the benefit of the Exchequer as the Minister may direct.”

Head 115 – Amendment of section 39 of the Offences Against the State Act 1939

Provide that section 39 of the Offences Against the State Act 1939 by the substitution of the following for subsection (5):

“(5) The Courts Service may appoint from among the staff of the Courts Service such registrars for the purposes of any Special Criminal Court as it thinks proper, and every such registrar shall hold his office on such terms and conditions (including terms and conditions relating to remuneration) as are determined by the Minister for Public Expenditure and Reform.”.

Head 116 - Amendment of section 7(6) of the Courts Act 1964

Provide that:

Section 7(6)(a)(ii) of the Courts Act 1964 is repealed insofar as it relates to a document by which proceedings in the District Court are instituted.

Revised Head 117 – Interference with or disruption of court proceedings

The Criminal Justice (Public Order) Act 1994 is amended –

(a) by the insertion of the following section after section 9:

“9A -(1) Where a member of the Garda Síochána finds a person in a building or any area adjacent to a building in which a hearing in court proceedings before

- (a) a judge or
- (b) any officer of a court

and suspects, with reasonable cause, that such person, whether alone or in the company of other persons, is

- (i) without lawful authority or reasonable excuse wilfully interfering with or obstructing the conduct or holding of the hearing, or
- (ii) acting in a manner which gives rise to a reasonable apprehension for the safety of persons or the safety of property or for the maintenance of the public peace,

the member may direct the person so suspected to do either or both of the following, that is to say:

- (I) desist from acting in such a manner, and
- (II) leave immediately the vicinity of the place concerned in a peaceable or orderly manner.

(2) It shall be an offence for any person, without lawful authority or reasonable excuse, to fail to comply with a direction given by a member of the Garda Síochána under this section.

(3) A person who is guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding €1,000 or to imprisonment for a term not exceeding 6 months or to both.

(4) This section is without prejudice to a court’s power to order the arrest or committal of a person for contempt of court. ”, and

(b) by the insertion in section 24(5) after “8,” of “9A,”.

Head 118 – Costs etc. of adjudications upon costs

Provide that:

(1) Subsection (3) of section 27 of the Courts and Court Officers Act 1995 is amended by the substitution for that subsection of the following subsection:

“(3) The Circuit Court may review a decision of a County Registrar to allow or disallow any costs, charges, fees or expenses on a taxation by the County Registrar of costs provided only that the Circuit Court is satisfied that the County Registrar has erred as to the amount of the allowance or disallowance so that the decision of the County Registrar is unjust.”

(2) Subsection (6) of section 27 of the Courts and Court Officers Act 1995 is repealed.

(3) Section 154 of the Legal Services Regulation Act 2015 is amended by -

- (a) the deletion of “and” where it appears immediately before paragraph (d) of subsection (10),
 - (b) the substitution for the full stop at the end of paragraph (d) of that subsection of a comma, and
 - (c) the insertion in that subsection after paragraph (d) of the following:
 - “and
 - (e) the allowance or disallowance of, and fixing of liability for, the costs and expenses of an adjudication:
 - (i) by a legal costs adjudicator;
 - (ii) under a procedure prescribed by those rules;
- save for circumstances to which subsections (2) and (3) of section 158 apply.”

Head 119 – Amendment of section 37 of the Child Abduction and Enforcement of Custody Orders Act 1991

Provide that section 37 of the Child Abduction and Enforcement of Custody Orders Act 1991 is amended by the insertion of the following after subsection (1):

“(1A)(a) Based on the information available and in order to assess what is in the best interests of detain the child, the member, accompanied by such other persons as may be necessary, may, without warrant, enter (if need be by force) any house or other place (including any building or part of a building, tent, caravan or other temporary or moveable structure, vehicle, vessel, aircraft or hovercraft).

(b) Having assessed the child’s situation and if it is considered in the best interests of the child, the member will detain the child.”

Head 120 – Amendment of section 11 of the Civil Legal Aid Act 1995

Provide that:

The Civil Legal Aid Act, 1995 be amended by the insertion of the following subsection after Section 11 (5):

"(5A) Notwithstanding any order made under subsection (5), a solicitor of the Board who ceases employment with the Board prior to the coming into operation of any such order shall be designated as a civil servant in the Civil Service of the State solely in respect of superannuation benefits payable as a consequence of his or her service as a solicitor of the Board or in any other employment in the public service."

Head 121 - Amendment of section 17 of the Criminal Justice Administration Act 1914

Provide along the following lines:

To amend section 17 of the Criminal Justice Administration Act 1914 by the insertion of the following after subsection (3):

“(3A) Notwithstanding any direction made under subsection (3), where a person is in custody in a prison, any unexecuted warrants (whether existing or arising in the future) committing that person to a prison may be properly executed in the prison where the person is in custody (by or on behalf of the Governor of that prison) even if the warrant specifies that the person should be committed to another prison.”

Head 122 – Amendment of the Court Officers Act 1945

Provide that:

The Court Officers Act 1945 is amended by the insertion of the following section after section 12:

“12A. A person who –

- (a) obstructs or interferes with the Sheriff in the course of the performance by him or her of his or her functions or otherwise impedes the performance by the Sheriff of those functions, or
- (b) obstructs or interferes with a person to whom the Sheriff has delegated any of his or her functions in the course of the performance by that person of any such functions so delegated or otherwise impedes the performance by that person of those functions,

shall be guilty of an offence and shall be liable, on summary conviction, to a Class A fine or imprisonment for a term not exceeding 12 months, or both.”