

Summary of the Civil Law (Miscellaneous Provisions) Act 2008

Changes to **courts legislation** deal mainly (though by no means exclusively) with areas for technical change identified by the Courts Service and include—

- precedence of judges now takes account of absences on service e.g. on international courts.
- powers and functions can be conferred on e.g. Master of the High Court and County Registrars by regulations under the European Communities Act 1972 as well as by statute or rules of court.
- President of District Court may appoint judges to deal with urgent signing of warrants etc where the District Judge assigned to the relevant District Court District is unavailable.
- management of the collection and accounting of courts fees is modernised.
- revised pension arrangements for judges who retire early through permanent infirmity.
- revised qualifications for appointment to certain court officerships.
- restatement of law on membership of Courts Rules Committees.
- modernising the law on service of court documents.
- provision made for the use of videoconferencing in civil proceedings where those facilities are available and the case is suitable.
- A court in civil proceedings may order the anonymity of a party or witness where that person is suffering from a medical condition and it would cause that person undue stress to be identified as having that condition.
- A blind or partially sighted party or lawyer may have an assistant in court, notwithstanding e.g. the "in camera" rule.
- Maximum number of District Judges increased by three.

Changes in the **Solicitors Acts** include—

- revised rules for membership of Law Society committees; in particular any committee dealing with disciplinary matters must have a majority of lay persons.
- amendments clarifying the Law Society's powers to investigate and to initiate the investigation of complaints against solicitors, as well as to be heard by the High Court in relation to disciplinary matters relating to solicitors and to direct a solicitor to pay compensation for inadequate legal services provided to a client.
- a solicitor may contract with a client to limit their liability, but not below the minimum insurance cover that solicitors generally are required to carry.

Landlord and Tenant law is being changed to enable business tenants generally to opt out of the entitlement that the law gives to a tenant who has held such a lease for at least five years to a renewal of the lease for up to a further 20

years. The ability to opt out in this way is at present available only to office tenants. The effect of the extension will be to ease the situation of business tenants on short (less than five years) leases whose landlords might otherwise have been unwilling to renew a lease for fear of committing themselves for a tenancy longer than they might wish.

The law on **statutory declarations** is changing in two important respects:

- a person wishing to make a statutory declaration can now identify himself or herself to the person attesting the declaration using a passport or other similar document; hitherto, the declarant had to be personally known to the attestor or identified by someone personally known. This will make it easier in particular for foreign nationals to transact their business here.
- a person who needs for Irish law purposes to make a statutory declaration abroad will now have a range of processes available to do so. This is modelled on a Companies Act provision that deals with statutory declarations for Companies Acts purposes being made abroad.

The **Juries Act** changes in the new measure include—

- Removing the present upper age limit of 70 years for eligibility to serve on a jury. Such persons will now be eligible, but everyone over 65 can if called can excuse themselves if they wish.
- Bringing the maximum fines set in 1976 for offences under the Juris Act up to modern levels.
- Restating the law regarding ineligibility of those at present described as "incapable persons", including those who cannot read or are deaf. The new provision replaces that category with a new category of "other persons" ineligible to serve who have either an incapacity to read or an enduring impairment such that it is not practicable for them to perform the duties of a juror.

The **Bankruptcy Act** amendments are technical changes to certain procedural aspects.

In **succession**, the new Act makes provision for what is to happen when joint tenants of a property die or are deemed to have died simultaneously. At present, if a property is held jointly by two or more people (e.g. a family home held in the names of husband and wife) and one of them dies, the property does not form part of the estate of the deceased, but passes directly to the surviving joint owner or owners. The law hitherto was unclear as to what would happen if, in that example, both die in circumstances where it is not possible to say who died first. The new provision ensures that in such circumstances, the joint property is divided equally so as to form part of the estate of each deceased.

The **Video Recordings Act** is amended so as to—

- create an additional classification for video releases (fit for viewing by persons aged 12 years or more),

- create an offence of supplying a video to a person not in the correct classification,
- update maximum fines for offences, and
- enable lesser fees to be charged for classification of videos likely to be only of specialist interest or for charitable purposes.

The **Censorship of Films Act** is amended so as to—

- retitle the office of the Film Censor as the Irish Film Classification Office and the Film Censor as Director of Film Classification,
- add a further criterion ("likely to cause harm to children") to be considered when classifying films, and
- update maximum fines for offences.

The **Parental Leave Act** is amended so as to enable parents employed by the same employer, with the employer's consent, to transfer their parental leave to each other in whole or in part.

The **Civil Service Regulation Act** is amended so as to make the Minister for Justice, Equality and Law Reform the appropriate authority for civil servants of Principal Officer grade and higher who are civilian staff of the Garda Síochána.

Provision is made in **family law** for dealing with the registration of property adjustment orders made in divorce or legal separation cases after those orders have been complied with.

In the area of **equal status** legislation, provision is made to implement the EU Gender Goods and Services Directive in Irish law.

The **Civil Legal Aid Act** amendments included in the new Act include—

- provision to permit the Chief Executive of the Legal Aid Board to appear before Oireachtas Committees, including the Public Accounts Committee; hitherto, even though the Board is independent, the Secretary General of the Department of Justice, Equality and Law Reform has had to perform that function in respect of the Board,
- provision covering the giving of legal advice to a complainant in certain criminal cases involving prosecution for a range of sexual offences,
- clarifying the Board's powers to waive contributions from impecunious clients, and
- permitting the Legal Aid Centre in any particular case to be the solicitor on record.

The **Employment Equality** legislation is amended to permit the Equality Authority board to have up to 16 members.