

**General Scheme of the
Courts and Civil Law (Miscellaneous Provisions) Bill 2021**

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Long Title of Bill

A Bill to amend the law in relation to courts and court officers; to amend the Court Officers Act 1926; to amend the Courts of Justice Act 1936; to amend the Offences Against the State Act 1939; to amend the Court Officers Act 1945; to amend the Gaming and Lotteries Act 1956; to amend Courts (Supplemental Provisions) Act 1961; to amend the Courts Act 1964; to amend the Guardianship of Infants Act 1964; to amend the Family Law (Maintenance of Spouses and Children) Act 1976; to amend the Juries Act 1976; to amend the Bankruptcy Act 1988; to amend the Courts and Court Officers Act 1995; to amend the Civil Legal Aid Act 1995; to amend the Courts Service Act 1998; to amend the Civil Liability and Courts Act 2004; to amend the Land and Conveyancing Law Reform Act 2009; to amend the Immigration Act 2004; to amend the International Protection Act 2015; to amend the Legal Services Regulation Act 2015; to amend the Judicial Council Act 2019; to amend the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020; to amend the Licensing Acts 1833 to 2018; and to provide for related matters.

PART 1 - PRELIMINARY AND GENERAL

Head 1: Short title and commencement

Provide that:

- (1) This Act may be cited as the Courts and Civil Law (Miscellaneous Provisions) Act 2021.
- (2) This Act shall come into operation on such day or days as the Minister for Justice 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 specified 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 Court¹;
- (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 2009²,

(ii) for the purpose of this definition, a district probate registry shall be deemed to be an office attached to the High Court³;

‘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”⁴;

¹ See footnote 3 below.

² A combined court office is deemed an office of one or more courts in the circumstances referred to in section 18, Courts and Court Officers Act 2009.

³ Cf section 13, Courts and Court Officers Act 2009. It should also be noted that Section 5(1), Court Officers Act 1951 provides that “[e]very district probate registry shall, for the purposes of section 9 of the [Courts and Court Officers Act 1945], be deemed to be an office attached to the High Court.”

⁴ Cf definition of “electronic communication” in section 2(1), Electronic Commerce Act, 2000.

‘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 transmitted⁵;

⁵ This definition is taken from section 917EA(1), Taxes Consolidation Act 1997, inserted by section 164, Finance Act 2003, which enabled subordinate legislation to require filing of delivery of specified tax returns by electronic means by specified persons.

Head 3 - Centralised court offices

Provide that:

(1) Notwithstanding any other enactment, the Courts Service may specify –

- (a) any court office and
- (b) any office of the Courts Service⁶,

as a “centralised court office”.

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

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

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

(3) The Courts Service shall, as soon as may be after a centralised court office is specified 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 specification of the centralised office concerned.⁷

(4) Where the selection and summoning of persons for service as jurors has been specified under subsection (2) –

- (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
- (b) 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.

⁶ The concept of an “office of the Courts Service” (as opposed to an office of a court or courts) was introduced by section 1, Courts (No. 3) Act 1986, as substituted by section 49, Civil Liability and Courts Act 2004. The power vested in the Courts Service is to be found in section 6 of the Courts Service Act 1998, as amended by the Courts and Court Officers Act 2009.

⁷ Cf section 14(3), Courts and Court Officers Act 2009.

Head 4 - Variation of functions or dissolution of a centralised court office⁸

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 specify 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) Head 3(3) shall apply with any necessary modifications, when the Courts Service exercises its powers under subsection (1) or (2).

⁸ Cf section 15, Courts and Court Officers Act 2009.

Head 5 - Consultations⁹

Provide that:

Before making a specification 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.

⁹ Cf section 16, Courts and Court Officers Act 2009.

Head 6 - Centralised court office - deemed powers and functions¹⁰

Provide that:

Where any court office or office of the Courts Service has been specified 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.

¹⁰ Cf section 18, Courts and Court Officers Act 2009.

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.¹¹

¹¹ Cf section 21, Courts and Court Officers Act 2009.

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 Head 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 3¹²;
- (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;¹³
- (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 specified¹⁴;
- (d) an officer attached to, or member of staff employed in, the Office of the Registrar of the Court of Appeal;
- (e) an officer attached to , or member of the staff employed in, the Office of the Registrar of the Supreme Court.

¹² Cf section 22(1)(a), Courts and Court Officers Act 2009. The above provision is more explicit in referring to one or more district court areas so as to make clear that the centralised office may handle business related to any territorial unit of the District Court, which latter is, of course, a court of local and limited jurisdiction.

¹³ See preceding footnote.

¹⁴ Cf section 22(1)(b), Courts and Court Officers Act 2009.

Head 9 - Continuity of administration of justice not to be affected¹⁵

Provide that:

(1) The continuity of the administration of justice shall not be interrupted by the

(a) specification 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.¹⁶

¹⁵ Cf section 23, Courts and Court Officers Act 2009.

¹⁶ Cf 23(2) of the 2009 Act, para.(a) of which is somewhat different in its approach. It may be desirable to regulate in the rules of court concerned the extent to which transactions in proceedings already instituted in an existing court office may thereafter be conducted in the centralised court office.

Head 10 – Immunity from suit

Provide that:

Civil or criminal proceedings shall not lie in any court against the Courts Service, an officer of the court or member of staff of the Courts Service in respect of anything said or done in good faith by the Courts Service, officer of the court or member of staff in the course of the performance or purported performance of a function of the Courts Service, officer of the court or member of staff.

Head 11 - Electronic Registers

Provide that:

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 specify,

and whether in respect of -

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

Head 12 – 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 “dormant account of the funds of suitors of the High Court”:

“‘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 of the following for the definition of “fully indemnified”:

“‘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 13 – 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.

(2) 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 –

- (i) the dormant account of the funds of suitors of the Circuit Court, and
- (ii) 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 14 – 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 15 – Amendment of section 38 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 38:

1. The Accountant shall establish and maintain a register of funds of suitors (in this section referred to as the “register”).
2. The register shall contain the following particulars in respect of all funds paid into the dormant accounts of the funds of suitors of the High Court, of the funds of suitors of the Circuit Court, and of the funds of suitors of the District Court respectively.
 - (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 the dormant accounts concerned
 - (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.
3. Funds registered under section 38 of Civil Liability and Courts Act 2004, which have been registered prior to the commencement of this section, continue to have effect, and such registration shall be deemed to form part of the register maintained under *subsection (1)*

PART 4 – OTHER COURT AMENDMENTS

Head 16 - Amendment of section 7 of the Courts Service Act 1998

Provide that:

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

“(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 17 - Amendment of the Courts Service Act 1998

Provide that:

The Courts Service Act 1998 is amended by –

- (a) the insertion in section 9 after “this Act” of “or any other enactment”¹⁷,
- (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 function¹⁸ 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:

¹⁷ Section 9 currently provides:

“9.—No function conferred on or power vested in the Service, the Board or the Chief Executive, under this Act shall be exercised so as to interfere with the conduct of that part of the business of the courts required by law to be transacted by or before one or more judges or to impugn the independence of—

(a) a judge in the performance of his or her judicial functions,

or

(b) a person other than a judge in the performance of limited functions of a judicial nature conferred on that person by law.”

¹⁸ Under section 21(2), Interpretation Act 2005, “functions”, in an enactment which comes into operation after the commencement of that Act, includes powers and duties, and references to the performance of functions include, with respect to powers and duties, references to the exercise of the powers and the carrying out of the duties, and this is the meaning intended for the new reference to “function” in the proposed amendment. The existing provisions of the Courts Service Act 1998 make a distinction between “functions” and “powers”: it would be a matter for Parliamentary Counsel as to whether the existing approach of the 1998 Act in this regard should be maintained insofar as the new reference is concerned.

“(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 the Courts Service under any enactment, the function concerned shall be performed:-

(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;

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

Head 18 – Amendment to the Court Service Act 1998 - Administration of oaths etc. by Courts Service staff

Provide that:

A person who, while acting as a member of staff of the Courts Service, is for the time being authorised to administer any oath or take any affidavit or statutory declaration shall not 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.

Head 19 – Amendment of schedule 8 of the Courts (Supplemental Provisions) Act 1961

Provide that:

The following is substituted for paragraph 17 of the eighth schedule to the Act:

Qualification for Master of the High Court.

17. No person shall be appointed under this Act to be Master of the High Court unless at the time of his appointment he or she is either—

- (a) a barrister of not less than ten years standing who is then actually practising, or
- (b) has acted as Deputy Master of the High Court, for a period of [time frame to be determined].

Head 20 – 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) A person shall not be appointed to be a Deputy Master of the High Court unless at the time of his or her appointment he or she—

- (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 21 – Amendment of Section 35 of the Court Officers Act 1926

Section 35 of the Court Officers Act 1926 is amended along the following lines:

The Government may at any time remove the County Register from office if-

- (a) in the opinion of the Government, he or she has become incapable through ill-health of performing the functions of the office;
- (b) he or she has committed stated misbehaviour ;
- (c) he or she has failed without reasonable cause, in the opinion of the Government, to perform the functions of the office for a continuous period of at least 3 months beginning not earlier than 6 months before the day of removal;
- (d) he or she has contravened to a material extent a provision of the Ethics in Public Office Acts 1995 and 2001 that, by virtue of a regulation under section 3 of the Ethics in Public Office Act 1995 , applies to him or her;
- (e) he or she is guilty of any misconduct or gross default in connection with or affecting the business of the Office of County Registrar;
- (f) he or she becomes bankrupt or makes any arrangement or composition with creditors;
- (g) he or she becomes of unsound mind;
- (h) he or she is convicted of any criminal offence.

Head 22 - Amendment of section 65 of the Courts of Justice Act 1936

Provide that:

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] 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], and

(iii) where subsequently received shall be paid into or disposed for the benefit of the Exchequer as the Minister may direct.”

Head 23 – Amendment of section 39 of the Offences Against the State Act 1939

Provide that:

Section 39 of the Offences Against the State Act 1939 is amended 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 24 - 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 (other than appeals from the Court) are instituted.

Head 25 – 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 without lawful authority, wilfully–

- (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.”

Head 26 – Amendment of the Juries Act 1976

Provide that:

The Juries Act 1976 shall be amended –

(a) by the substitution in section 10 of that Act of “Subject to Head 3(2) of the Courts and Civil Law (Miscellaneous Provisions) Bill 2021, for the purpose of enabling county registrars”, for “For the purpose of enabling county registrars”

(b) by the substitution in section 11 and section 12(1) of that Act of “Subject to Head 3(2) of the Courts and Civil Law (Miscellaneous Provisions) Bill 2021, each county registrar” for “Each county registrar”,

(c) by the substitution of the following paragraphs for paragraphs (a) and (b) of section 13(3) of that Act

“(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 or her 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 as the case may be, the registrar or officer or member of staff of the Courts Service or member of the Garda Síochána 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,”.

Head 27 - Amendment of section 9 of the Courts and Court Officers Act 1995

Provide that:

The following is substituted in place of section 9 of the Court and Courts Officers Act 1995:

“9. (1) The number of ordinary judges of the High Court shall not be more than 42.

PART 5 - AMENDMENT OF THE LEGAL SERVICES REGULATION ACT 2015

Head 28 - Amendments to Section 1 of the Legal Services Regulation Act 2015

Provide that:

- (a) Section 1(2) of the Legal Services Regulation Act is amended by the deletion of “, other than *section 100*, “ after ‘This Act’.
- (b) Section 1(3) is deleted.

Head 29 - Substitution of section 95

Provide that:

The following is substituted in place of section 95 of the Act:

Levy to be paid by Law Society, Bar Council and certain barristers

(1) Subject to section 97, the following shall, in accordance with this Part, pay to the Authority in each financial year a levy in the amount determined in accordance with this section:

- (a) the Law Society;
- (b) the Bar Council;
- (c) each barrister who is not a member of the Law Library.

(2) For the purposes of this Part -

- a) ‘budgeted expenditure for the Authority’ means the difference between the approved expenses of the Authority, calculated in accordance with subsection (6)(a) and (b), for the preceding financial year and the budgeted net expenditure for the Authority for the financial year;
- b) ‘budgeted expenditure for the Disciplinary Tribunal’ means the difference between the expenses of the Disciplinary Tribunal, calculated in accordance with subsection (8)(a) and (b), for the preceding financial year and the budgeted net expenditure for the Disciplinary Tribunal for the financial year;
- c) ‘effective date’ means the 31st December
- d) ‘financial year’ means the 12 month period beginning 1st January and ending 31st December;
- e) ‘proportion’ means, in relation to subsections (10), (13) and (16) of this section, a reasonable and approximate proportion calculated by the Authority using proxy measures and cost accounting methodologies, pursuant to regulation or with the consent of the Minister.

(3) For the purposes of this Part and liability to pay the levy under section 95(1) –

the practising status of a barrister, as a member of the Law Library or as a barrister who is not a member of the Law Library, will be by reference to his or her practising status on the roll of practising barristers on the effective date.

where a barrister has been removed from the roll of practising barristers, in the preceding financial year prior to the effective date, the barrister will be liable for the levy pursuant to subsection (1) on the basis of their practising status on the roll of practising barristers, as a member of the Law Library or as a barrister who is not a

member of the Law Library, immediately prior to his or her removal, save for where subsection (19)(b) or section 97 applies.

(4) At the beginning of each financial year, the Authority shall, with the consent of the Minister, determine for the purposes of this section—

(a) “approved expenses of the Authority” which are:

(i) the operating costs and administrative expenses that are properly incurred in the preceding financial year by the Authority in the performance of its functions under this Act, and

(ii) the budgeted expenditure for the Authority for the financial year that is reasonably expected to be incurred in the financial year by the Authority in the performance of its functions under this Act and

(b) “expenses of the Disciplinary Tribunal” which are:

(i) the operating costs and administrative expenses incurred in the preceding financial year by the Disciplinary Tribunal in the performance of its functions under this Act, and

(ii) the budgeted expenditure for the Disciplinary Tribunal for the financial year that is reasonably expected to be incurred in the financial year by the Disciplinary Tribunal in the performance of its functions under this Act.

(5) The approved expenses of the Authority include the following —

(a) in respect of the preceding financial year:

(i) the remuneration (including allowances for expenses) of the members of the Authority,

(ii) the remuneration (including allowances for expenses and superannuation benefits) of inspectors and members of the staff of the Authority,

(iii) any superannuation contributions paid in respect of the members of the staff of the Authority out of moneys provided by the Oireachtas,

(iv) fees due to consultants and advisers appointed under section 17,

(v) the cost of office premises, and

(vi) any costs or expenses, not referred to in paragraphs (i) to (v), incurred by the Authority in the performance of its functions under Part 6, in the preceding financial year, and

(b) the budgeted expenditure for the Authority, which includes the expenses in (a)(i) - (vi), which are reasonably expected to be incurred in the financial year.

(6) The approved expenses of the Authority are to be calculated –

- (a) After deduction of any income earned and amounts recovered elsewhere by the Authority,
- (b) By the addition of any repayments to the Department of any advances made under section 32, and any surplus or deficit in respect of budgeted expenditure in accordance with (8)(a) - (c), and
- (c) By the addition or deduction of budgeted expenditure for the Authority for the financial year.

(7) The expenses of the Disciplinary Tribunal include the following –

- (a) In respect of the preceding financial year –
 - i. The remuneration (including allowances for expenses) of the members of the Disciplinary Tribunal,
 - ii. The remuneration (including allowances for expenses and superannuation benefits) of inspectors and members of staff of the Disciplinary Tribunal,
 - iii. Any superannuation contributions paid in respect of the members of the staff of the Disciplinary Tribunal out of moneys provided by the Oireachtas,
 - iv. Fees due to consultants and advisers appointed under section 17,
 - v. The cost of office premises, and
 - vi. Any costs or expenses, not referred to in (i) – (v), incurred by the Disciplinary Tribunal in the performance of its functions under Part 6, in the preceding financial year, and
- (b) the budgeted expenditure for the Authority, which includes the expenses at (a)(i) - (vi), which are reasonably expected to be incurred in the financial year.

(8) The expenses of the Disciplinary Tribunal are to be calculated –

- (a) After deduction of any income earned and amounts recovered elsewhere by the Disciplinary Tribunal,
- (b) By the addition of any surplus or deficit in respect of budgeted expenditure in accordance with (9)(a) - (c), and
- (c) By the addition or deduction of budgeted expenditure for the Disciplinary Tribunal for the financial year.

(9) For the purposes of (6)(b) and (8)(b) above -

- (a) in the event that the total expenditure in a financial year is greater than the approved expenses of the Authority and the expenses of the Disciplinary Tribunal, the Authority may –
 - i. apply the surplus to the levy payable in the next financial year and
 - ii. reduce the levy in relation to the next financial year accordingly;
- (b) in the event that the total expenditure in a financial year is greater than the approved expenses of the Authority and the expenses of the Disciplinary Tribunal, the Authority may, with the consent of the Minister, retain any such surplus, or portion thereof, as a reserve.
- (c) in the event that the total expenditure in a financial year is less than the approved expenses of the Authority and the expenses of the Disciplinary Tribunal, the Authority may
 - i. make good the deficiency by including the shortfall as part of the budgeted expenses, and
 - ii. ensure that the sum received by the Authority in the following financial year fully makes up any shortfall.

(10) The Authority shall determine—

- (a) the proportion of the approved expenses of the Authority—
 - i. under Part 6, and
 - ii. under this Act, other than Part 6,

and

- (b) in relation to the approved expenses of the Authority referred to in paragraph (a)(i), the proportion of those expenses that was incurred by the Authority, in the consideration and investigation of—
 - i. complaints in respect of solicitors,
 - ii. complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, members of the Law Library, and
 - iii. complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, not members of the Law Library.

(11) The proportion referred to at subsection (10)(a) is a reference to the proportion of the approved expenses of the Authority that was incurred by the Authority in the performance of its functions in the preceding financial year.

(12) The proportion referred to at subsection (10)(b) is a reference to the proportion of the approved expenses incurred by the Authority in the preceding financial year in the consideration and investigation of –

- (i) complaints in respect of solicitors,
- (ii) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, members of the Law Library, and
- (iii) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, not members of the Law Library.

(13) The Authority, in consultation with the Disciplinary Tribunal, shall determine, in relation to the expenses of the Disciplinary Tribunal, the proportion of those expenses that was incurred by the Tribunal in the consideration of applications brought before it that concerned—

- (a) complaints in respect of solicitors,
- (b) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, members of the Law Library, and
- (c) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, not members of the Law Library.

(14) The proportion referred to at subsection (13) is a reference to the proportion of the expenses of the Disciplinary Tribunal that was incurred by the Disciplinary Tribunal in the preceding financial year in the consideration of applications brought before it that concerned –

- (i) complaints in respect of solicitors,
- (ii) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, members of the Law Library, and
- (iii) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, not members of the Law Library.

(15) The amount of the levy payable in each financial year shall be the sum of—

- (a) the approved expenses of the Authority, and
- (b) the expenses of the Disciplinary Tribunal.

(16) The liability for payment of the amount referred to in subsection (15) shall be apportioned as follows:

- (a) in the case of the proportion of the approved expenses of the Authority referred to in subsection (10)(a)(i) —

- i. 10 per cent of that amount shall be apportioned pro rata between the Bar Council and the practising barristers who are not members of the Law Library, according to the number of barristers whose names were on the roll of practising barristers in the preceding financial year as members of the Law Library and the number of practising barristers whose names are on that roll who are not such members, respectively,
 - ii. 10 per cent of that amount shall be apportioned to the Law Society, and
 - iii. the remaining 80 per cent of that amount shall be apportioned pro rata among the Law Society, the Bar Council and the practising barristers who are not members of the Law Library, respectively, according to the proportion, calculated under paragraph (b) of subsection (10), of those expenses that were incurred by the Authority in the preceding financial year in the consideration and investigation of complaints in respect of each category of legal practitioner referred to in subparagraphs (i), (ii) and (iii) of that paragraph;
- (b) the proportion of approved expenses referred to in subsection (10)(a)(ii) shall be apportioned pro rata among the Law Society, the Bar Council and the practising barristers who are not members of the Law Library, respectively, according to the number of practising solicitors, the number of practising barristers on the roll of practising barristers who are members of the Law Library and the number of practising barristers on that roll who are not such members, in the preceding financial year;
- (c) in the case of the expenses of the Disciplinary Tribunal—
- i. 10 per cent of that amount shall be apportioned pro rata between the Bar Council and the practising barristers who are not members of the Law Library, according to the number of practising barristers whose names were on the roll of practising barristers in the preceding financial year as members of the Law Library and the number of practising barristers whose names are on that roll who are not such members, respectively,
 - ii. 10 per cent of that amount shall be apportioned to the Law Society, and
 - iii. the remaining 80 per cent of that amount shall be apportioned pro rata among the Law Society, the Bar Council and the practising barristers who are not members of the Law Library, respectively, according to the proportion, calculated under subsection (13), of those expenses that was incurred in the consideration of applications brought before the Tribunal in the preceding financial year that concerned complaints in respect of each category of legal practitioner referred to in paragraphs (a), (b) and (c) of that subsection.

(17) The Authority shall—

- (a) calculate, in accordance with subsection (16), the proportion of the amount referred to in subsection (15) that is payable by—
 - i. the Law Society,

- ii. the Bar Council, and
 - iii. the practising barristers who are not members of the Law Library,
- and

(b) apportion the amount calculated under paragraph (a)(iii) equally among all practising barristers who are not members of the Law Library.

As soon as practicable after the beginning of each financial year, the Authority shall provide a notice (in this Act referred to as a “levy assessment notice”) to each of the bodies or persons referred to in subsection (1).

(18) A levy assessment notice shall specify—

- a) the approved expenses of the Authority,
- b) the approved expenses of the Authority, as per subsection (2)(a)(i),
- c) the approved expenses of the Authority, as per subsection (2)(a)(ii)(d),
- d) the proportion of the approved expenses referred to in subparagraphs (i) and (ii) of subsection (10)(a),
- e) the proportion, calculated under subsection (10)(b), of the expenses referred to in subsection (10)(a)(i) that was incurred in the consideration and investigation of complaints in respect of each category of legal practitioner referred to in subparagraphs (i), (ii) and (iii) of paragraph (b) of subsection (10),
- f) the expenses of the Disciplinary Tribunal,
- g) The expenses of the Disciplinary Tribunal, as per subsection (2)(b)(i),
- h) The expenses of the Disciplinary Tribunal, as per subsection (2)(b)(ii),
- i) the proportion, calculated under subsection (13), of the expenses of the Disciplinary Tribunal that was incurred in the consideration of applications brought before it concerning complaints in respect of each category of legal practitioner referred to in paragraph (a), (b) and (c) of that subsection,
- j) the amount of levy payable by the professional body or person concerned, calculated in accordance with subsection (16) and, where applicable, subsection (17)(b),
- k) the date by which the levy becomes payable, and
- l) the rate of interest payable if all or part of the amount specified under paragraph (f) is not paid by the date referred to in paragraph (g).

The levy referred to in subsection (1) shall be collected and retained by the Authority to be used to meet the costs it incurs in carrying out its functions under this Act.

(19) For the purposes of this section—

- (a) a reference to the number of barristers whose names are on the roll of practising barristers shall be construed as a reference to the number of barristers whose names are on that roll during the financial year to which the expenses concerned relate, less the number of such barristers to whom section 97 applies and less the number of barristers who have died and have been removed from the roll of practising barristers, and
- (b) a reference to the number of practising solicitors is a reference to the number of solicitors holding a practising certificate in the financial year to which the expenses concerned relate, less the number of such solicitors to whom section 97 applies.

(20) In this Part—

“barrister who is not a member of the Law Library” means a barrister whose name, in the financial year to which the expenses concerned relate, is on the roll of practising barristers, where the entry concerned specifies that he or she is not a member of the Law Library, and “barrister who is a member of the Law Library” shall be construed accordingly;

“superannuation benefits” means pensions, gratuities and other allowances payable on resignation, retirement or death.

(21) For the purposes of subsections (10) and (13)—

- (a) a barrister is not a member of the Law Library at a given time, if, at that time, his or her name is on the roll of practising barristers, where the entry concerned specifies that he or she is not a member of the Law Library, and
- (b) a barrister is a member of the Law Library at a given time, if, at that time, his or her name is on the roll of practising barristers, where the entry concerned does not include the specification referred to in paragraph (a).”

Head 30 - Amendment of Section 96

Provide that:

The following is inserted after subsection (5):

“(6) For the purposes of subsection (3), where the Authority removes the name of a barrister from the roll of practising barristers for non-payment of the levy, any subsequent application for entry on the roll of practising barristers, pursuant to section 134, by the said barrister will not be processed until such time as any and all outstanding levy and interest payments have been received by the Authority.

(7) Where an application for voluntary removal from the Roll is received by the Authority pursuant to section 135(3) and where a Levy Assessment Notice has issued to that person and the levy has not, on the date of receipt of the application for voluntary removal, been paid the said application for voluntary removal will be processed and recorded as a removal for non-payment of the levy until such time as any levy and interest payments have been made to the Authority.”

Head 31 - Amendment of section 97

Provide that:

The following is inserted after subsection (2):

“(3) A legal practitioner shall be regarded as a legal practitioner in the full-time service of the State if and while he or she is required to devote the whole of his time to the service of the State as a legal practitioner and is remunerated in respect of such service wholly out of moneys provided by the Oireachtas.”

Head 32 - Amendment of section 98

Provide that:

- i. Subsection 1(e) onwards is replaced with the following:

“(e) the proxy measures and cost accounting methodologies to be used in respect of the proportion referred to in section 95(2), (10), (13) and (16),

(f) such other matters as are necessary for, or incidental to, the imposition, payment and collection of the levy,

- ii. New sections 1A and 1B are inserted; as follows -

(1A) Before making regulations under 98(1)(e), the Authority shall consult, in such manner as it considers appropriate, with –

- i. the Law Society;
- ii. the Bar Council;
- iii. such other interested parties, including barristers who are not members of the Law Library, and the Minister

as the Authority considers appropriate.

(1B) The Authority shall –

- a) Not later than 3 years after the coming into operation of any regulations made under subsection (e) of section 98(1), commence a review of the said regulations.
- b) In conducting a review under subsection (a), the Authority shall consult, in such manner as it considers appropriate, with
 - i. the Law Society;
 - ii. the Bar Council
 - iii. such other interested parties, including barristers who are not members of the Law Library and the Department of Justice,

as the Authority considers appropriate.

Head 33 - Amendment of section 133

Provide that:

Section 133 is amended by inserting the following after subsection (4):

“(4A) It shall be the responsibility of every practising barrister whose details are entered on the roll to update the Authority immediately in the event of a change to any of the details previously provided to the Authority, which includes contact details, whether he or she is a member of the Law Library and whether he or she is in the full time service of the State and it shall be misconduct for a practising barrister to fail to so comply.”

PART 6 - AMENDMENT OF THE BANKRUPTCY ACT 1988

Head 34 – Amendment of Section 3

Provide that:

The Bankruptcy Act 1988 is amended in section 3 as follows:

- by substituting the following for the definition of ‘Bankruptcy Inspector’:
 - “ ‘Bankruptcy Inspector’ means a person standing appointed for the time being—
 - (i) to the position of Bankruptcy Inspector in the Office of the Official Assignee in Bankruptcy on the day before the coming into operation of section 29 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013, or
 - (ii) to a position of Bankruptcy Inspector pursuant to section 12 of the Personal Insolvency Act 2012; ” .

Head 35 – Amendment of Section 11

Provide that:

The Bankruptcy Act 1988 is amended in section 11 as follows:

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

“(d) (i) the debtor’s centre of main interests is situated in the State, or

(ii) the debtor’s centre of main interests is situated in another specified Member State [of the European Union] and the debtor has an establishment within the State, or

(iii) the Insolvency Regulation does not apply to the proceedings, and the debtor (whether a citizen or not) is domiciled in the State; or, within 3 years before the date of the presentation of the petition, has ordinarily resided or had a dwelling-house or place of business in the State, or has carried on business in the State personally or by means of an agent or manager; or is, or within the said period has been, a member of a partnership which has carried on business in the State by means of a partner, agent or manager.”

Head 36 – Amendment of Section 17

Provide that:

The Bankruptcy Act 1988 is amended in section 17 as follows:

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

“(2) The Court shall cause notice of the adjudication to be given as soon as may be, and within seven days of adjudication at latest, by the publication of the notice on the website of the Insolvency Service of Ireland.”

Head 37 – Amendment of Section 46

Provide that:

The Bankruptcy Act 1988 is amended in section 46 as follows:

- by substituting the following subsection for subsection (1):

“(1) Where, according to law, any conveyance of land is required to be registered and such land vests in the Official Assignee under this Part, a certificate shall be issued by the Official Assignee on foot of the order of adjudication, certifying that the assets of the bankrupt vest in him, and he shall cause the certificate to be registered as soon as may be as if it were a conveyance, and registration of the certificate shall have the like effect to all intents and purposes, as registration of a conveyance would have had.”

Head 38– Amendment of section 56

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 39 - 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, receive and process information about the financial affairs of a debtor or bankrupt.

- (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 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 40 – Amendment of section 82

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 referred to in subsection (2) 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 (2) .”

- 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 41 – Amendment of Section 85D

Provide that:

The Bankruptcy Act 1988 is amended in section 85D as follows:

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

“(3) Subject to subsections (3A) and (3B):

(a) an order made under subsection (1) shall have effect for no longer than 3 years from the date of the order coming into operation, save that in circumstances where the bankrupt has not complied with the order, it shall have effect until such time as the order has been complied with, and

(b) where, during the order’s validity, the Court has varied the order under subsection (5), such variation shall not cause the order to have effect for a period of more than 3 years, save that in circumstances where the bankrupt has not complied with the varied order, that varied order shall have effect until such time as it has been complied with. ” ;

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

“(3B) Where the Court has made an order under section 85A(4) -

(a) a bankruptcy payment order made under subsection (1) shall have effect for no longer than 5 years from the date of that bankruptcy payment order coming into operation, save that in circumstances where the bankrupt has not complied with the bankruptcy payment order, that order shall have effect until such time as it has been complied with, and

(b) where, during that bankruptcy payment order’s validity, the court has varied that order under subsection (5), such variation shall not cause that order to have effect for a period of more than 5 years, save that in circumstances where the bankrupt has not complied with the varied order, that varied order shall have effect until such time as it has been complied with.”

Head 42 - 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 shall not be longer than 3 years from the date on which the agreement is made, save that in circumstances where the bankrupt has not fully complied with its terms, the agreement shall continue to have effect until such time as its terms either have been fulfilled by the bankrupt, or have been varied in accordance with this section. (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 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.”

Head 43 - Interpretation - Part 3

Provide that:

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

PART 7 - Amendment of Irish Nationality and Citizenship Act 1956

Head 44 – Amendment of section 15 of Irish Nationality and Citizenship Act 1956: Children born in the State

Provide that:

Section 15 of the Irish Nationality and Citizenship Act 1956 (as substituted by section 4 of the Irish Nationality and Citizenship Act 1986, and amended by section 8 of the Irish Nationality and Citizenship Act 2004 and section 33(b) of the Civil Law (Miscellaneous Provisions) Act 2011) is amended—

(a) by the substitution, in subsection (1), of the following paragraph for paragraph (c):

“(c) (i) being of full age, has had a period of one year’s continuous residence in the State immediately before the date of the application and, during the eight years immediately preceding that period, has had a total residence in the State amounting to four years, or

(ii) being a minor born in the State, has had a period of one year’s continuous residence in the State immediately before the date of the application and, during the eight years immediately preceding that period, has had a total residence in the State amounting to two years;”, and

(b) by the substitution of the following for subsection (3):

“(3) (a) An application for a certificate of naturalisation in respect of a minor shall be made on the minor’s behalf by the parent or guardian of, or person who is in loco parentis to, the minor.

(b) An application for a certificate of naturalisation may be made on behalf of a minor in accordance with paragraph (a) by an individual only where that individual has had a period of one year’s continuous residence in the State immediately before the date of the application and, during the eight years immediately preceding that period, has had a total residence in the State amounting to two years.

(c) The declaration and undertaking referred to in subsection (1)(e) shall, where an application for a certificate of naturalisation is made in respect of a minor, be made on the minor’s behalf by the parent or guardian of, or person who is in loco parentis to, the minor”.

Head 45 - Amendment of the Irish Nationality and Citizenship Act 1956: Continuous residence condition for naturalisation

Provide that:

The Irish Nationality and Citizenship Act 1956 is amended by the insertion of the following new section after section 15A:

“Calculation of continuous residence for purposes of sections 15 and 15A

15B In this Act –

- (1) The following periods during which an applicant for a certificate of naturalisation or an individual making an application for a certificate of naturalisation on behalf of a minor was not present in the State shall be reckoned when calculating a period of one year’s continuous residence in the State for the purpose of section 15 or in the island of Ireland for the purpose of section 15A:
 - (a) a period not exceeding, or periods the aggregate of which do not exceed, 70 days, and
 - (b) an additional period not exceeding, or additional periods the aggregate of which do not exceed, 30 days, where the Minister is satisfied that the person’s not being present in the State during the period or periods was necessitated by exceptional circumstances set out in subsection (2).
- (2) Exceptional circumstances for the purposes of subsection (1) (b) mean—
 - a) the family or personal circumstances of the applicant;
 - b) health requirements of the applicant or a family member;
 - c) requirements in the course of employment, trade or profession of the applicant;
 - d) requirements in pursuance of a course of study or professional qualification of the applicant;
 - e) voluntary service by the applicant for humanitarian purposes;
 - f) humanitarian considerations relating to the applicant’s circumstances, or
 - g) any other circumstances resulting in the applicant’s presence outside of the State and which are considered by the Minister to be outside the applicant’s control.
 - h) where the applicant is a minor, the applicant’s presence outside the State results from any of the circumstances set out in paragraphs (a) to (g) applying to the parent or guardian of, or person who is in loco parentis to, the applicant.

(3) In this section –

“day” means a period of 24 consecutive hours commencing at midnight;

“family member” means-

- (a) a spouse, civil partner, or cohabitant,
- (b) a child, step-child, a person in respect of whom the applicant is or was a guardian or has or had parental responsibility, son-in-law or daughter-in-law,
- (c) a parent, step-parent, guardian, mother-in-law or father-in-law,
- (d) a brother, sister, step-brother, step-sister, brother-in-law or sister-in-law,
- (e) a grandparent or grandchild,
- (f) an aunt or uncle, or
- (g) a nephew or niece.”

Head 45A - Certificates of naturalisation granted before commencement of section [Head 45]

Provide that:

The Irish Nationality and Citizenship Act 1956 is amended by the insertion of the following section after section 16A:

“Certificates of naturalisation granted before commencement of section [Head 45] of Courts and Civil Law (Miscellaneous Provisions) Act 2021

16B. For the avoidance of doubt, where-

- (a) a certificate of naturalisation was granted before the commencement of section [Head 45] of the Courts and Civil Law (Miscellaneous Provisions) Act 2021, and
- (b) the certificate of naturalisation was granted on the basis that a person had had a period of one year’s continuous residence in the State or in the island of Ireland, as the case may be, immediately before the date of the application for the certificate, the requirement referred to in paragraph (b) shall, for the purposes of this Act, be deemed to have been complied with notwithstanding that the period concerned included a period or periods during which the person concerned was not present in the State or in the island of Ireland, as the case may be.”.

PART 8 - IMMIGRATION

Head 46 – Interpretation

Provide that:

In this Part, “Act of 2004” means the Immigration Act 2004;

Head 47 - Amendment of section 4 of Act of 2004

Provide that:

Section 4 of the Act of 2004 is amended—

- (a) in subsection (3), by the substitution of the following for paragraph (j):
 - “(j) that the non-national’s entry into, or presence in, the State could pose a threat to national security;
 - (ja) that the non-national’s entry into, or presence in, the State could be contrary to public policy;”, and
- (b) in subsection (7), by the substitution of “either on application therefor by the non-national concerned or on the initiative of the Minister or the immigration officer concerned” for “on application therefor by the non-national concerned”.

PART 9 – INTERNATIONAL PROTECTION

Head 48 – Interpretation

Provide that:

In this Part, “Act of 2015” means the International Protection Act 2015.

Head 49 - Amendment of section 5 of Act of 2015

Provide that:

Section 5 of the Act of 2015 is amended-

- (a) in paragraph (c), by the substitution of “at that address; or” for “at that address.”, and
- (b) by the insertion of the following paragraph after paragraph (c):
 - “(d) by electronic means, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given to, him or her in that manner.”.

Head 50 - Amendment of section 48 of Act of 2015

Provide that:

Section 48 of the Act of 2015 is amended in subsection (3) by the substitution of “30 days” for “5 days”.

Head 51 - Amendment of section 52 of Act of 2015

Provide that:

Section 52 of the Act of 2015 is amended 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.”.

PART 10 - MISCELLANEOUS

Head 52 – Amendment of collective citation of the Licensing Acts 1833 to 2018

Provide that:

The Licensing Acts 1833 to 2018 and Head 53 be cited together as the Licensing Acts 1833 to 2021, and shall be construed together as one.

Head 53 – Planning Permission and licences for the sale of intoxicating liquor

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 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 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

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.. 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.

“suitably qualified” means a person who is a member of a class or classes of persons prescribed by the Minister for Justice for the purposes of this section, having consulted with the Minister for Housing, Planning and Local Government.

Head 54 - Amendment to Land and Conveyancing Law Reform Act 2009

Provide that:

The Land and Conveyancing Law Reform Act 2009 is amended by the insertion of the following after section 54:

- (1) “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.”
- (2) Subsection (1) shall apply to any deposit paid after the commencement of this section.

Head 55 – 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.(1) 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 result of his or her membership of the superannuation schemes of the Legal Aid Board (Occupational Pension Schemes (Funding Standard) Regulations 1993 to 2013) had such schemes continued in existence and in accordance with the regulations of those schemes.

(2) With effect from the date of commencement of this Head, superannuation benefits mentioned in subsection (1) shall be payable by the Minister for Public Expenditure and Reform out of funds provided by the Oireachtas, and the pension contributions of all serving employees shall be remitted to the Minister for Public Expenditure and Reform.

Head 56 - Amendment of section 11B of the Guardianship of Infants Act 1964

Provide that:

Section 11B of the Guardianship of Infants Act 1964 (as inserted by section 9 of the Children Act 1997 and amended by section 55 of the Children and Family Relationships Act 2015) is amended, in subsection (3)—

- (a) by the substitution of “make an order under subsection (1)” for “grant leave under subsection (1)”, and
- (b) in paragraph (b), by the substitution of “an order” for “the application”.

Head 57 - Amendment of Section 31 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 (New Offence)

Provide that:

In section 31 of the Act of 2020, insert new subsections (5A) and (5B) along the following lines:

(5A) A person who, in relation to a hearing conducted under this section—

- a) with the intention of frustrating the participation by a person in the hearing, interferes with or obstructs the electronic communications technology employed in the hearing, or
- b) makes, without the permission of the body conducting the hearing, any recording of the hearing,

shall be guilty of an offence and shall be liable—

- i. on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months, or both, or
- ii. on conviction on indictment, to a fine not exceeding €50,000 or to imprisonment for a term not exceeding 3 years, or both.

(5B) Proceedings for an offence—

- a) under subsection (5A), or
- b) committed, whether under subsection (5A) or otherwise, by a person in connection with his or her participation by in a hearing by remote means,

may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the State.

Head 58 - Amendment of section 9A of the Gaming and Lotteries Act 1956

Provide that:

Section 9A of the Gaming and Lotteries Act 1956¹⁹ is amended as follows:

- a. by the substitution of the following for subsection (8):

“Subject to subsection (8A), a person who holds a gaming permit shall not transfer that permit to any other person and any such purported transfer shall be void and of no effect.”

- b. by the insertion of the following after subsection (8):

“(8A) Notwithstanding the provisions of subsection (8), a gaming permit may be transferred to another person who has replaced the holder in the promotion of the gaming where the gaming is for charitable or philanthropic purposes only.”

¹⁹ As inserted by section 4 of the Gaming and Lotteries (Amendment) Act 2019

Head 59 – Amendment of section 27B of the Gaming and Lotteries Act 1956

Provide that:

Section 27B of the Gaming and Lotteries Act 1956²⁰ is amended as follows:

- a. by the substitution of the following for subsection (8):

“(8) Subject to subsection (8A), a person who holds a lottery permit shall not transfer that permit to any other person and any such purported transfer shall be void and of no effect.”

- b. by the insertion of the following after subsection (8):

“(8A) Notwithstanding the provisions of subsection (8), a lottery permit may be transferred to another person who has replaced the holder in the promotion of the lottery where the lottery is for charitable or philanthropic purposes only.”

²⁰ As inserted by section 11 of the Gaming and Lotteries (Amendment) Act 2019

Head 60 - Amendment of Family Law (Maintenance of Spouses and Children) Act 1976

Provide that:

The Family Law (Maintenance of Spouses and Children) Act 1976 is amended, in section 9A (inserted by section 31 of the Civil Law (Miscellaneous Provisions) Act 2011)—

(a) in subsection (13), by the substitution of “Subject to subsections (14) to (17), this section” for “This section”, and

(b) by the insertion of the following after subsection (13):

“(14) This subsection applies to—

(a) a decision to which Regulation 8(1) or Regulation 23(1) of the European Communities (Maintenance) Regulations 2011.(S.I. No. 274 of 2011) applies,

(b) an order to which section 14(2)(a) of the Maintenance Act 2004 applies,

(c) an enforceable maintenance order within the meaning of section 4 or section 20A of the Jurisdiction of Courts and Enforcement of Judgments Act 1998,

(d) an enforceable maintenance order, within the meaning of the European Communities (Maintenance) Regulations 2011.(S.I. No. 274 of 2011), and

(e) an enforceable maintenance order to which Regulation 14(4) of the European Union (Hague Maintenance Convention) Regulations 2019 (S.I. No. 594 of 2019) applies.

(15) Subsections (9), (10), (12) and (13) shall not apply to an antecedent order to which subsection (14) applies.

(16) The court may adjourn the hearing of a summons relating to an order referred to in subsection (14)(a) to give the maintenance debtor the opportunity to apply for a review of the decision under Article 19 of Council Regulation (EC) 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

(17) Where on the hearing of a summons relating to an antecedent order to which subsection (14) applies, having given to the maintenance debtor the explanations referred to in subsection (8), having given the maintenance debtor an opportunity to apply for legal advice and legal aid, and having heard such evidence as may be adduced by the maintenance creditor and the maintenance debtor, the judge is satisfied that the maintenance debtor has failed to make a payment due under the antecedent order, the judge may treat the failure by the maintenance debtor to make the payment concerned as constituting contempt of court and the judge may deal with the matter accordingly.”

Head 61 – Amendment of section 55 of the Judicial Council Act 2019

Provide that:

1(a) The Judicial Conduct Committee may from time to time nominate in writing another ex officio member or elected member of the Judicial Conduct Committee to perform the functions of a judicial member of the Complaints Review Committee during such period or on such occasion or occasions as are specified in the nomination and references in this Act to such judicial member of the Complaints Review Committee shall, during such period or in respect of such occasion or occasions, include references to member of the Judicial Conduct Committee so nominated.

1(b) The Judicial Conduct Committee may from time to time nominate in writing another lay member of the Judicial Conduct Committee to perform the functions of the lay member of the Complaints Review Committee during such period or on such occasion or occasions as are specified in the nomination and references in this Act to that lay member of the Complaints Review Committee shall, during such period or in respect of such occasion or occasions, include references to a lay member so nominated.

2(a) Where a member of the Complaints Review Committee is the subject of a complaint or otherwise a conflict of interest arises in respect of a member relating to a matter before the Committee, then that person shall take no part in the performance by the Committee of its function in relation to the complaint or matter

2(b) Where the circumstance provided for under paragraph (a) apply, the Judicial Conduct Committee shall make the nomination referred to in subhead (1) (a) or (b) as the case may be.