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Number 31 of 1995

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## COURTS AND COURT OFFICERS ACT, 1995

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AN ACT TO AMEND AND EXTEND THE [COURTS OF JUSTICE ACT, 1924](#) ,  
THE [COURTS OF JUSTICE ACT, 1936](#) , THE [COURT OFFICERS ACT, 1945](#) ,  
THE [COURTS \(ESTABLISHMENT AND CONSTITUTION\) ACT, 1961](#) , THE COURTS  
(SUPPLEMENTAL PROVISIONS) ACTS, 1961 TO 1991, THE [COURTS ACT, 1973](#) ,  
THE [COURTS ACT, 1981](#) , THE [COURTS-MARTIAL APPEALS ACT, 1983](#) , TO  
ESTABLISH A JUDICIAL APPOINTMENTS ADVISORY BOARD AND TO MAKE  
PROVISION IN RESPECT OF THAT BOARD, TO FACILITATE JUDICIAL TRAINING,  
TO AMEND AND EXTEND THE POWERS OF THE MASTER OF THE HIGH COURT,  
THE TAXING MASTERS OF THE HIGH COURT AND THE COUNTY REGISTRARS,  
TO EXTEND THE POWERS OF THE SUPERIOR COURTS RULES COMMITTEE AND  
CIRCUIT COURT RULES COMMITTEE, TO PROHIBIT THE WEARING OF WIGS BY  
BARRISTERS OR SOLICITORS IN COURT, TO AMEND AND EXTEND THE  
CHARITIES ACTS, 1961 AND 1973, AND TO PROVIDE FOR RELATED MATTERS.  
[15th December, 1995]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

### PART I

#### Preliminary and General

Short title, commencement, collective citation and construction.

1.—(1) This Act may be cited as the Courts and Court Officers Act, 1995.

(2) [Sections 3](#) (2), [4](#) , [5](#) and [44](#) shall come into operation on such day as the Government may fix by order after consultation with the Chief Justice and the President of the High Court.

(3) The collective citation “the Courts (Supplemental Provisions) Acts, 1961 to 1991”, shall be deemed to include the [Courts Act, 1991](#) , and the [Courts \(Supplemental Provisions\) \(Amendment\) Act, 1991](#) .

(4) This Act, in so far as it amends or extends the Courts (Supplemental Provisions) Acts, 1961 to 1991, shall be construed as one therewith and those Acts and this Act may be cited together as the Courts (Supplemental Provisions) Acts, 1961 to 1995.

(5) This Act, in so far as it amends or extends the Court Officers Acts, 1926 to 1991, shall be construed as one therewith and those Acts and this Act may be cited together as the Court Officers Acts, 1926 to 1995.

(6) Except where the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, extended, adapted or applied by or under any subsequent enactment, (including this Act).

Definitions.

2.—In this Act—

“the Act of 1961” means the [Courts \(Supplemental Provisions\) Act, 1961](#) ;

“Court of Justice” means the Court of Justice of the European Communities;

“the Minister” means the Minister for Justice.

Repeals.

3.—(1) The enactments mentioned in *column (2)* of [Part I](#) of the [First Schedule](#) to this Act are hereby repealed to the extent mentioned in *column (3)* of that Schedule.

(2) Subject to *subsection (3)* of this section the enactments mentioned in *column (2)* of [Part II](#) of the [First Schedule](#) to this Act are hereby repealed to the extent mentioned in *column (3)* of that Schedule.

(3) [Section 44](#) (2) of the [Offences Against the State Act, 1939](#) , shall apply and have effect for the purposes of that subsection notwithstanding the repeal of [sections 28](#) and [29](#) of the [Courts of Justice Act, 1924](#) and section 12 of the Act of 1961.

## PART II

### Supreme Court

Vesting of powers of Court of Criminal Appeal in Supreme Court.

4.—(1) There shall be vested in the Supreme Court all powers, jurisdiction and functions which, before the coming into operation of an order under [section 1](#) (2) of this Act, are vested in or are capable of being exercised by the Court of Criminal Appeal.

(2) Any application or other matter that is pending before the Court of Criminal Appeal on or before the coming into operation of an order under [section 1](#) (2) of this Act including cases listed for hearing by that Court and any notice of appeal or notice of application for leave to appeal to the Court of Criminal Appeal shall be heard by the Supreme Court.

(3) References to the Court of Criminal Appeal in any statute or statutory instrument shall be construed as references to the Supreme Court.

Courts-Martial Appeal Court.

5.—(1) There shall be vested in the Supreme Court all powers, jurisdiction and functions which, before the coming into operation of an order under [section 1](#) (2) of this Act, are vested in or are capable of being exercised by the Courts-Martial Appeal Court.

(2) Any application or other matter that is pending before the Courts-Martial Appeal Court, on or before the coming into operation of an order under [section 1](#) (2) of this Act, including cases listed for hearing by that Court and any notice of appeal or notice of application for leave to appeal to the Courts-Martial Appeal Court shall be heard by the Supreme Court.

(3) References to the Courts-Martial Appeal Court in any statute or statutory instrument shall be construed as references to the Supreme Court.

Number of judges of Supreme Court.

**6.**—(1) [Section 1](#) of the [Courts \(Establishment and Constitution\) Act, 1961](#) , is hereby amended by the substitution of the following subsection for subsection (2):

“(2) The Supreme Court shall be constituted of the following judges—

(a) the president thereof, namely, An Príomh-Bhreitheamh (The Chief Justice),  
and

(b) not more than seven ordinary judges (each of whom shall be styled ‘Breitheamh den Chúirt Uachtarach’ (‘Judge of the Supreme Court’)).”.

(2) Section 14 (1) (a) (i) of the [Law Reform Commission Act, 1975](#) , shall be construed as if “eight” were substituted for “five” in that section.

Sittings of Supreme Court.

**7.**—Section 7 of the Act of 1961, is hereby amended by the substitution of the following subsections for subsections (3) and (4):

“(3) The Supreme Court may sit in two or more divisions and they may sit at the same time.

(4) Subject to subsection (5) of this section, the Chief Justice or, in his or her absence the senior ordinary judge of the Supreme Court for the time being available, may determine that an appeal to or other matter cognisable by the Supreme Court may be heard and determined by a division of five or three judges of the Supreme Court, including judges who are by virtue of subsection (3) or (4) of section 1 of the Principal Act, additional judges of the Supreme Court.

(5) An appeal to or other matter cognisable by the Supreme Court under Article 12 or Article 26 of the Constitution or a question of the validity of any law having regard to the provisions of the Constitution shall be heard and determined by not less than five judges of the Supreme Court including judges who are, by virtue of subsection (3) or (4) of section 1 of the Principal Act, additional judges of the Supreme Court.”.

Administration of Supreme Court.

**8.**—Notwithstanding [section 18](#) (1) (a) of the [Courts Act, 1981](#) , it shall be the function of the Chief Justice or in his or her absence the senior ordinary judge of the Supreme Court to arrange the distribution and allocation of the business of the Supreme Court.

### PART III

#### Numbers of Judges of High Court, Circuit Court and District Court

Number of ordinary judges of High Court.

**9.**—(1) The number of ordinary judges of the High Court shall not be more than 19.

(2) The following paragraph shall be substituted for paragraph (b) (inserted by the [Courts Act, 1991](#) ) of [section 14](#) (1) of the [Law Reform Commission Act, 1975](#) :

“(b) in case on being so appointed he or she is the President of the High Court or an ordinary judge of the High Court, then for so long as he or she continues to hold the judicial office held by him or her on so being appointed—

- (i) the number of ordinary judges of the High Court shall not be more than 20, and
- (ii) the reference in [section 9 \(1\)](#) of the *Courts and Court Officers Act, 1995*, to 19 shall be construed as a reference to 20, and”.

Number of ordinary judges of Circuit Court.

**10.**—The number of ordinary judges of the Circuit Court shall not be more than 24.

Number of judges of District Court.

**11.**—(1) The number of judges of the District Court in addition to the President of the District Court shall not be more than 50.

(2) Paragraph 2 (1) (b) of the Sixth Schedule to the Act of 1961 (as amended by the [Courts Act, 1991](#) ) is amended by the substitution of “12” for “11”.

## PART IV

### Judicial Appointments

Interpretation of [Part IV](#) .

**12.**—In this Part—

“the Board” means the Board established under [section 13](#) of this Act;

“judicial office” means an office being the office of ordinary judge of the Supreme Court, ordinary judge of the High Court, ordinary judge of the Circuit Court or judge of the District Court (other than the President of the District Court).

Judicial Appointments Advisory Board.

**13.**—(1) For the purposes of identifying persons and informing the Government of the suitability of those persons for appointment to judicial office, there shall be established a body to be known as the Judicial Appointments Advisory Board (in this Part referred to as “the Board”).

(2) The Board shall consist of—

(a) (i) the Chief Justice, who shall be the chairperson of the Board,

(ii) the President of the High Court,

(iii) the President of the Circuit Court,

(iv) the President of the District Court,

(v) the Attorney General,

(b) (i) a practising barrister who shall be nominated by the Chairman for the time being of the Council of the Bar of Ireland,

(ii) a practising solicitor who shall be nominated by the President for the time being of the Law Society of Ireland,

and

(c) not more than three persons appointed by the Minister who shall be persons engaged in, or having knowledge or experience (being knowledge or experience that the Minister considers appropriate) of commerce, finance, administration or persons who have

experience as consumers of the services provided by the courts that the Minister considers appropriate.

(3) A person appointed to be a member of the Board by virtue of the provisions of *subsection (2) (b) and (c)* of this section shall be a member of the Board for a period not exceeding 3 years, and any such person so appointed shall be eligible for re-appointment to the Board.

(4) The Board may act notwithstanding a vacancy in its membership.

Procedures of Board.

**14.—**(1) The Board may adopt such procedures as it thinks fit to carry out its functions under this Act and may establish sub-committees of the Board to assist it.

(2) Without prejudice to the generality of *subsection (1)* of this section, the Board may—

(a) advertise for applications for judicial appointment,

(b) require applicants to complete application forms,

(c) consult persons concerning the suitability of applicants to the Board,

(d) invite persons, identified by the Board, to submit their names for consideration by the Board,

(e) arrange for the interviewing of applicants who wish to be considered by the Board for appointment to judicial office, and

(f) do such other things as the Board considers necessary to enable it to discharge its functions under this Act.

Death or retirement of member of Board.

**15.—**(1) On the death or retirement of the Chief Justice, the senior ordinary judge of the Supreme Court who is for the time being available shall be a member of the Board until the appointment of a Chief Justice.

(2) On the death or retirement of the President of the High Court, the senior ordinary judge of the High Court who is for the time being available shall be a member of the Board until the appointment of a President of the High Court.

(3) On the death or retirement of the President of the Circuit Court, the senior judge for the time being available of the judges of the Circuit Court permanently assigned to the Dublin Circuit shall be a member of the Board until the appointment of a President of the Circuit Court.

(4) On the death or retirement of the President of the District Court, the senior judge of the District Court for the time being available of the judges of the District Court permanently assigned to the Dublin Metropolitan District shall be a member of the Board until the appointment of a President of the District Court.

Submission of names to Minister.

**16.—**(1) A person who wishes to be considered for appointment to judicial office shall so inform the Board in writing and shall provide the Board with such information as it may require to enable it to consider the suitability of that person for judicial office, including information relating to education, professional qualifications, experience and character.

(2) Subject to [section 17](#) of this Act, on a request made by the Minister, the Board shall—

- (a) where a judicial office stands vacant, or
- (b) before a vacancy in a judicial office arises,

submit to the Minister the name of each person who has informed the Board of his or her wish to be considered for appointment to that judicial office and the Board shall recommend to the Minister at least seven persons for appointment to that judicial office.

(3) The Board shall provide the Minister with particulars of the education, professional qualifications, experience and character of the persons whom it recommends under this section.

(4) Where fewer than seven persons inform the Board of their wish to be appointed to a judicial office or where the Board is unable to recommend to the Minister, pursuant to *subsection (2)* of this section, at least seven persons, the Board shall submit to the Minister the name of each person who has informed the Board of his or her wish to be considered for appointment to judicial office and the Board shall recommend to the Minister for appointment to that office such of those persons as it considers suitable for appointment.

(5) Where more than one judicial office in the same court stands vacant, or in advance of more than one vacancy arising in the same court, at the request of the Minister, the Board shall submit to the Minister the name of each person who has informed the Board of his or her wish to be considered for appointment to judicial office and shall recommend to the Minister the names of at least seven persons in respect of each vacancy or such lesser number of names as the Minister shall specify following consultation with the Board.

(6) In advising the President in relation to the appointment of a person to a judicial office the Government shall firstly consider for appointment those persons whose names have been recommended to the Minister pursuant to this section.

(7) The Board shall not submit or recommend the name of a person to the Minister under this section unless the person satisfies the requirements of section 5 (2) (as amended by this Act) of the Act of 1961 (in the case of an appointment to the Supreme Court or High Court), section 17 (2) (as amended by this Act) of the Act of 1961 (in the case of an appointment to the Circuit Court) or section 29 (2) and (3) of the Act of 1961 (in the case of an appointment to the District Court), as regards the proposed appointment, and the Board shall not recommend the name of a person to the Minister unless, in the opinion of the Board, the person—

- (a) has displayed in his or her practice as a barrister or solicitor, as the case may be, a degree of competence and a degree of probity appropriate to and consistent with the appointment concerned,
- (b) is suitable on grounds of character and temperament,
- (c) is otherwise suitable, and
- (d) complies with the requirements of [section 19](#) of this Act.

(8) Notice of an appointment to judicial office shall be published in the *Iris Oifigiúil* and the notice shall, if it be the case, include a statement that the name of the person was recommended by the Board to the Minister pursuant to this section.

Advice on appointment of judge to judicial office.

**17.**—Where the Government proposes to advise the President to appoint to judicial office a person who is for the time being a judge of the High Court, Circuit Court, District Court or who

is eligible for appointment to the Supreme or the High Court under the provisions of paragraphs (c) and (d) of section 5 (2) (as inserted by [section 28](#) of this Act) of the Act of 1961, the provisions of [section 16](#) of this Act shall not apply.

Advice on appointment of Attorney General to judicial office.

**18.—**(1) Subject to *subsections* (2) and (3) of this section, the Board shall not submit to the Minister the names of any of its own members or recommend for appointment to judicial office any of its own members.

(2) The Board may recommend the Attorney General for appointment to judicial office.

(3) Where the Attorney General wishes to be considered for appointment to judicial office, he or she shall withdraw from any deliberations of the Board concerning his or her suitability for judicial office.

Undertaking to be given by applicants for judicial office.

**19.—**A person who wishes to be considered for appointment to judicial office shall undertake in writing to the Board his or her agreement, if appointed to judicial office, to take such course or courses of training or education, or both, as may be required by the Chief Justice or President of the court to which that person is appointed.

Confidentiality of communications.

**20.—**All proceedings of the Board and all communications to the Board shall be confidential and shall not be disclosed except for the purposes of this Act.

Staff of and assistance to Board.

**21.—**The Minister may make available to the Board such services, including staff, as the Minister may determine from time to time with the consent of the Minister for Finance.

Expenses.

**22.—**The expenses incurred in the administration of this Part of this Act shall be paid out of moneys provided by the Oireachtas.

Appointment of Chief Justice, etc.

**23.—**Where the Government proposes to advise the President on an appointment to the office of Chief Justice, President of the High Court, President of the Circuit Court or President of the District Court it shall have regard first to the qualifications and suitability of persons who are serving at that time as judges in courts established in pursuance of Article 34 of the Constitution.

## PART V

### Master of High Court

Powers of Master of High Court.

**24.—**The Master of the High Court is hereby authorised by law to exercise limited functions and powers of a judicial nature within the scope of Article 37 of the Constitution.

Hearings by Master of High Court.

**25.—**(1) Subject to *subsection* (2) of this section and [section 26](#) of this Act, the Master of the High Court may, in all such applications made *ex parte* or by motion on notice whether interlocutory or otherwise and in all such applications for judgement by consent or in default of

appearance or defence as may from time to time be allocated for hearing by the Master of the High Court by the President of the High Court, exercise all the functions, powers and jurisdiction which a judge of the High Court exercises from time to time.

(2) Without prejudice to the powers of the Master of the High Court under the [Jurisdiction of Courts and Enforcement of Judgments \(European Communities\) Act, 1988](#) , the Master of the High Court shall not exercise any function, power or jurisdiction in respect of any of the following matters:

- (a) matters relating to criminal proceedings;
- (b) matters concerning the liberty of the person, including attachment;
- (c) the granting of injunctions;
- (d) bail;
- (e) the trial of any issue before the trial of an action;
- (f) conditional or other orders in State Side matters, or any other form of application for judicial review, save orders for enlargement or abridgement of time;
- (g) any cause or matter concerning a Ward of Court;
- (h) any matter relating to custody of children;
- (i) approval of settlements in cases in which damages are claimed on behalf of infants;
- (j) applications under [section 63](#) of the [Civil Liability Act, 1961](#) .

(3) All the functions, powers and jurisdiction exercised by the Master of the High Court immediately before the passing of this Act by virtue of any statute or rule of court may continue to be exercised by the Master of the High Court save in so far as the same are inconsistent with the exceptions mentioned in *subsection (2)* of this section.

(4) The Master of the High Court may exercise such further or other functions and powers in relation to matters arising before the trial of an action as may from time to time be conferred on the Master of the High Court by rules of court.

(5) All orders of the Master of the High Court shall be subject to appeal to the High Court.

(6) Rules of court may be made by the Superior Courts Rules Committee, with the concurrence of the Minister in relation to any function, power or jurisdiction conferred on the Master of the High Court under this section.

Sittings of Master of High Court.

**26.**—It shall be the function of the President of the High Court, or where the President of the High Court is not available the senior ordinary judge of the High Court who is for the time being available, to arrange the sittings of the Master of the High Court and the allocation of business of the High Court to the Master of the High Court for the purposes of [section 25](#) of this Act.

## PART VI

### Taxing Master of High Court

Additional powers of Taxing Master of High Court.



**27.—**(1) On a taxation of costs as between party and party by a Taxing Master of the High Court, or by a County Registrar exercising the powers of a Taxing Master of the High Court, or on a taxation of costs as between solicitor and client by a Taxing Master of the High Court, the Taxing Master (or County Registrar as the case may be) shall have power on such taxation to examine the nature and extent of any work done, or services rendered or provided by counsel (whether senior or junior), or by a solicitor, or by an expert witness appearing in a case or any expert engaged by a party, and may tax, assess and determine the value of such work done or service rendered or provided in connection with the measurement, allowance or disallowance of any costs, charges, fees or expenses included in a bill of costs.

(2) On a taxation of costs as between party and party by a Taxing Master of the High Court, or by a County Registrar exercising the powers of a Taxing Master of the High Court, or on a taxation of costs as between solicitor and client by a Taxing Master of the High Court, the Taxing Master (or County Registrar as the case may be) shall have power on such taxation to allow in whole or in part, any costs, charges, fees or expenses included in a bill of costs in respect of counsel (whether senior or junior) or in respect of a solicitor or an expert witness appearing in a case, or any expert engaged by a party as the Taxing Master (or County Registrar as the case may be) considers in his or her discretion to be fair and reasonable in the circumstances of the case, and the Taxing Master shall have power in the exercise of that discretion to disallow any such costs, charges, fees or expenses in whole or in part.

(3) The High Court may review a decision of a Taxing Master of the High Court and the Circuit Court may review a decision of a County Registrar exercising the powers of a Taxing Master of the High Court made in the exercise of his or her powers under this section, to allow or disallow any costs, charges, fees or expenses provided only that the High Court is satisfied that the Taxing Master, or the Circuit Court is satisfied that the County Registrar, has erred as to the amount of the allowance or disallowance so that the decision of the Taxing Master or the County Registrar is unjust.

(4) No standby or retainer fee shall be payable to any solicitor, counsel (whether senior or junior) or to any witness whether professional or otherwise, on a taxation of costs as between party and party, nor on a taxation of a solicitor and client bill of costs where the Taxing Master (or County Registrar as the case may be) deems the payment of such fee to be unreasonable in the circumstances of the case.

(5) On a taxation of costs as between solicitor and client it shall not be necessary to produce vouchers or receipts for the payment of any disbursements (including counsel's fees), but on the completion of the taxation no Certificate of Taxation shall issue until proper vouchers or receipts for disbursements have first been produced and vouched, and accepted by the Taxing Master or unless the parties agree or the Taxing Master decides that proper vouchers or receipts for disbursements need not be provided.

(6) Without prejudice to the provisions of Order 99, rule 29 (12) and (14) of the Rules of the Superior Courts, 1986, or without prejudice to any enactment regulating the charging of fees payable in the Taxing Master's Office on the taking up of a certificate of taxation, on the taxation of a bill of costs (whether on a solicitor and client or party and party basis) no solicitor or legal cost accountant or other cost drawer shall be entitled to any fees, disbursements, charges or expenses in relation to the taxation of costs as against the opposing party, but save as against the party who incurred such fees, disbursements, charges or expenses.

(7) On a review of taxation (whether on a solicitor and client or party and party basis) by the High Court, or the Circuit Court, no solicitor or legal costs accountant or other costs drawer retained to present the bill of costs to the Taxing Master or a County Registrar shall be entitled to be paid any fees, disbursements, charges or expenses for his or her attendance in court to give evidence in relation to the bill of costs, save as against the party who incurred such fees, disbursements, charges or expenses.

(8) The Taxing Master (or County Registrar as the case may be) may, at the request of the parties involved in any taxation of costs, tax part of a bill of costs where that part of the bill of costs only is in dispute including any item or items of cost which are in dispute between the parties.

(9) Where a Taxing Master (or County Registrar as the case may be) undertakes a partial taxation of costs under *subsection (8)* of this section the Taxing Master (or County Registrar as the case may be) shall be empowered to request any party to the taxation to provide such information or further information as the Taxing Master (or County Registrar as the case may be) may require in connection with the taxation, and to submit any documents or papers relating to the cause or matter that are in the possession of any such party, to him or her for consideration in connection with the taxation.

(10) Where part of a bill of costs has been taxed, the costs of taxation, including any duty payable, shall be based on such item or items in the bill of costs as were taxed.

(11) Legal costs arising from formal investigations under [section 466](#) of the [Merchant Shipping Act, 1894](#) , may be taxed by the Taxing Master of the High Court (or County Registrar as the case may be).

## PART VII

### Qualification of Judges

Amendment of section 5 of Act of 1961.

**28.**—Subsection (2) of section 5 of the Act of 1961 is hereby amended by the insertion of the following paragraphs:

“(c) For the purposes of paragraph (a) of this subsection, service as a judge of the Court of Justice, a judge of the Court of First Instance attached thereto or as an Advocate-General of the Court of Justice shall be deemed practice at the Bar.

(d) A judge of the Court of Justice, a judge of the Court of First Instance attached thereto or an Advocate-General of the Court of Justice shall on vacating any of those offices be qualified for appointment as a judge of the Supreme Court or the High Court: provided he or she has been a practising barrister of not less than 12 years standing by virtue of paragraph (c) of this subsection or otherwise.

(e) Notwithstanding paragraphs (a) and (b) of this subsection, a judge of the Circuit Court of four years standing shall be qualified for appointment as a judge of the Supreme Court or the High Court.”.

Amendment of section 14 of Courts of Justice Act, 1936.

**29.**— [Section 14](#) (1) of the [Courts of Justice Act, 1936](#) , is hereby amended by the insertion of “or practising solicitors” after “barristers”.

Amendment of section 17 of Act of 1961.

**30.**—The Act of 1961 is hereby amended by—

(a) the insertion in section 17 (2) (a) of “or a practising solicitor” after “barrister”, and

(b) the insertion in section 17 (2) of the following paragraph:

“(c) For the purposes of paragraph (a) of this subsection, service, in the case of a solicitor, as a judge of the District Court shall be deemed to be practice as a solicitor.”.

Amendment of section 2 of Courts Act, 1973.

**31.**—Section 2 (1) and [section 2](#) (2) of the [Courts Act, 1973](#) , are hereby amended by the insertion of “or practice as a solicitor” after “Bar” in each place where it occurs.

## PART VIII

### Circuit Court

Transfer of trials in criminal cases by judges of Circuit Court.

**32.**—(1) Where a person (in this section referred to as “the accused”) has been sent forward for trial to the Circuit Court, sitting other than within the Dublin Circuit, the judge of the Circuit Court before whom the accused is triable may, on the application of the prosecutor or the accused, if satisfied that it would be manifestly unjust not to do so, transfer the trial to the Circuit Court sitting within the Dublin Circuit and the decision to grant or refuse the application shall be final and unappealable.

(2) Provision may be made by rules of court for the giving of notice of intention to make an application under *subsection (1)* of this section and of the grounds on which such application will be based.

(3) Where—

(a) two or more accused are sent forward for trial to the Circuit Court sitting other than within the Dublin Circuit and it is proposed to try them together, and

(b) an application by one or more, but not all, of the accused under *subsection (1)* of this section is granted,

an application, without notice to the accused, by the prosecutor to the judge who granted the application to have the trial of one or more of the remaining accused transferred to the Circuit Court sitting within the Dublin Circuit shall be granted.

*Ex officio* judge of Circuit Court.

**33.**—The President of the District Court shall be an *ex officio* judge of the Circuit Court.

Hearings by County Registrar.

**34.**—(1) Without prejudice to any powers, authorities, duties or functions that may be exercised by or conferred by statute or by rules of court on a County Registrar, a County Registrar may make any of the orders mentioned in the [Second Schedule](#) to this Act.

(2) All orders of a County Registrar shall be subject to appeal to the Circuit Court.

Amendment of section 9 of Court Officers Act, 1945.

**35.**—The [Court Officers Act, 1945](#) , is hereby amended by the substitution for subsection (1) of section 9 of that Act, of the following subsection:

“9.—(1) (a) Where there is a vacancy in an office attached to any court or the holder of an office attached to any court is absent or incapacitated, the Minister may, subject to subsection (2) of this section, require and authorise any officer attached to that or any other court to perform, during a specified period or until otherwise directed by the Minister, the duties (in addition to his or her own duties) of such office.

(b) Notwithstanding the provision of paragraph (a) of subsection (1) of this section, the Minister may, where the Minister considers it appropriate, require and authorise a County Registrar to perform, during a specified period or until otherwise directed by the Minister, the duties (in addition to his or her own duties) of any other County Registrar.”.

**36.**— [Section 2](#) of the [Courts Act, 1977](#) , is hereby amended—

Amendment of section 2 of Courts Act, 1977.

(a) by the substitution of the following paragraphs for paragraph (a) (inserted by the [Courts Act, 1991](#) ) of subsection (1):

“(a) There shall be ten judges of the Circuit Court permanently assigned to the Dublin Circuit.

(aa) There shall be three judges of the Circuit Court permanently assigned to the Cork Circuit.”,

and

(b) by the substitution of the following subsection for subsection (2) (inserted by the [Courts Act, 1991](#) ):

“(2) Where a judge of the Circuit Court is appointed, the Government shall permanently assign him or her—

(a) to the Dublin Circuit if at the date of the appointment there are less than ten judges permanently assigned to that circuit, or

(b) to the Cork Circuit if at the date of the appointment there are less than three judges permanently assigned to that circuit, or

(c) to any other circuit to which at the date of appointment there is no judge permanently assigned.”.

## PART IX

### District Court

Temporary assignment of judge of district court.

**37.**—Paragraph 3 (1), (2) and (3) of the Sixth Schedule to the Act of 1961 are hereby amended by the substitution of the following therefor:

“3.—(1) A judge of the District Court who is permanently assigned to a particular district may, with his or her consent, from time to time be temporarily assigned by the

President of the District Court to another district, but such temporary assignment shall be without prejudice to the exercise and performance by him or her of the privileges, powers and duties for the time being conferred or imposed on him or her by law in relation to the district to which he or she is permanently assigned.

(2) A judge of the District Court who is not for the time being permanently assigned to a district may from time to time be assigned by the President of the District Court to any district.

(3) A temporary judge of the District Court may from time to time be temporarily assigned by the President of the District Court to any district.”.

Amendment of section 39 of Act of 1961.

**38.**—Section 39 of the Act of 1961, is hereby amended by the substitution of the following section therefor:

“Number of judges permanently assigned to districts.

39.—The Minister may after consultation with the President of the District Court, determine the number of judges in the District Court to be assigned permanently to the Dublin Metropolitan District or other District Court District and may from time to time, as the Minister thinks fit, after consultation with the said President, alter the number of judges to be assigned to a particular District.”.

Amendment of section 42 of Act of 1961.

**39.**—The Act of 1961 is hereby amended by the substitution of the following paragraph for paragraph (a) of subsection (1) of section 42:

“(a) arrange for the distribution of the business of the District Court in the Dublin Metropolitan District or in such other District Court District where more than one judge is permanently assigned amongst the judges of the District Court assigned to the Dublin Metropolitan District or to such other District Court District, and”.

Amendment of section 44 of Act of 1961.

**40.**—The Act of 1961 is hereby amended by the substitution of the following section for section 44:

“*Ex officio* members of District Court Rules Committee.

44.—The *ex officio* members of the District Court Rules Committee established by section 71 of the Act of 1936, as applied by [section 48](#) of this Act, shall be the President of the District Court (who shall be chairperson of the Committee) and such one of the district court clerks as the Minister shall nominate in that behalf, who shall be secretary of the Committee.”.

Amendment of section 79 of Courts of Justice Act, 1924.

**41.**— [Section 79](#) of the [Courts of Justice Act, 1924](#) , is hereby amended by the insertion of the following subsections:

“(2) On the coming into operation of [section 41](#) of the *Courts and Court Officers Act, 1995*, where a judge for the time being assigned to a District Court District is unavailable, any judge of the District Court may exercise jurisdiction, subject to

subsection (3) of this section, in respect of such District in a criminal case in any place in the State.

(3) A judge of the District Court exercising jurisdiction under subsection (2) of this section shall not have jurisdiction to conduct a preliminary examination under the provisions of the [Criminal Procedure Act, 1967](#) , unless that jurisdiction is exercised in the District Court District—

(a) where the crime was committed, or

(b) where the accused resides or was arrested.

(4) Where a person accused of a criminal offence is before a judge of the District Court in a District other than the District in which the crime has been committed or where the accused resides or was arrested, the judge may, on his or her own motion or on the application of the accused or the prosecution, transfer the case to the District Court District where the offence was committed or where the accused resides or was arrested.

(5) On the coming into operation of [section 41](#) of the *Courts and Court Officers Act, 1995*, notwithstanding anything contained in [section 16](#) (2) of the [Courts Act, 1981](#) , any judge of the District Court may make an order under the [Guardianship of Infants Act, 1964](#) , where he or she is satisfied that the circumstances require that such an order be made as a matter of urgency.”.

## PART X

### Miscellaneous

Amendment of section 34 of Courts of Justice Act, 1936.

**42.—** [Section 34](#) of the [Courts of Justice Act, 1936](#) , is hereby amended by the substitution of the following section therefor:

“The High Court on Circuit.

34.—(1) Twice in every year, at such times as shall be determined by the Chief Justice and the President of the High Court, the High Court shall sit in every county and county borough (other than the county of Dublin and the county borough of Dublin) to hear appeals from the Circuit Court and to transact such other business as shall lawfully be brought before it, and for that purpose one or more judges of the High Court shall travel each High Court Circuit and hold sittings of the High Court in such appeal towns where their attendance is required as determined by the President of the High Court.

(2) The High Court when sitting in an appeal town in pursuance of this section shall be known and is in this Act referred to as the High Court on Circuit, and the sittings of the High Court in any such appeal town in pursuance of this section shall be known and are in this Act referred to as sittings of the High Court on Circuit.

(3) The Chief Justice and the President of the High Court shall jointly determine, in respect of each twice-yearly sitting of the High Court on Circuit, the number of judges who shall travel and sit on a High Court Circuit for the purposes of sittings of

the High Court on Circuit and the day and hour at which such sittings shall commence in an appeal town on each such Circuit.

(4) Where—

(a) two or more judges are travelling a High Court Circuit for the purpose of holding therein any twice-yearly sittings of the High Court on Circuit, and

(b) the senior of the judges ascertains that there is no business to be transacted at such sittings in any particular appeal town for a county or county borough in that High Court Circuit,

the senior of the judges may direct in writing that it shall not be obligatory to hold such sittings in that appeal town.

(5) Where—

(a) one judge only is travelling a High Court Circuit for the purpose of holding therein any twice-yearly sittings of the High Court on Circuit, and

(b) the judge ascertains that there is no business to be transacted at such sittings in any particular appeal town for a county or county borough in that High Court Circuit,

the judge may direct in writing that it shall not be obligatory to hold such sittings in that appeal town.

(6) A direction under this section may be filed in the Circuit Court Office serving the appeal town to which the direction relates.

(7) The references in [sections 35](#) and [36](#) of the [Courts of Justice Act, 1936](#) , to ‘half-yearly’ shall be construed as references to ‘twice-yearly’.”.

Amendment of section 38 of Courts of Justice Act, 1936.

**43.**— [Section 38](#) of the [Courts of Justice Act, 1936](#) , is hereby amended by the insertion of the following subsection:

“(5) (a) Notwithstanding subsection (1) (b) of this section any party to an appeal may at any time apply to the High Court sitting in Dublin or to the High Court on Circuit for an order that the appeal be heard by the High Court sitting in Dublin or in another appeal town in the same circuit.

(b) The application may be made *ex parte* if it is made on the consent of all parties to the appeal.

(c) On the hearing of the application, the High Court may make such order as the justice of the case requires and the appeal shall be heard in the venue as directed by the High Court.”.

Right of appeal from Central Criminal Court.

**44.**—An appeal shall not lie to the Supreme Court from a decision of the Central Criminal Court to acquit a person, other than an appeal under [section 34](#) of the [Criminal Procedure Act, 1967](#) .

Further powers of Superior Courts Rules Committee and Circuit Court Rules Committee.

**45.**—(1) Notwithstanding any enactment or rule of law by virtue of which documents prepared for the purpose of pending or contemplated civil proceedings (or in connection with the obtaining or giving of legal advice) are in certain circumstances privileged from disclosure, the Superior Courts Rules Committee, or the Circuit Court Rules Committee as the case may be, may, with the concurrence of the Minister, make rules—

(a) requiring any party to a High Court or Circuit Court personal injuries action, to disclose to the other party or parties, without the necessity of any application to court by either party to allow such disclosure, by such time or date as may be specified in the rules, the following information, namely—

- (i) any report or statement from any expert intended to be called to give evidence of medical or para-medical opinion in relation to an issue in the case;
- (ii) any report or statement from any other expert of the evidence intended to be given by that expert in relation to an issue in the case;
- (iii) the names and addresses of all witnesses intended to be called to give evidence as to facts in the case;
- (iv) a full statement of all items of special damage together with appropriate vouchers, or statements from witnesses by whose evidence such loss would be proved in the action;
- (v) a written statement from the Department of Social Welfare showing all payments made to a plaintiff subsequent to an accident or an authorisation from the plaintiff to the defendant to apply for such information; and
- (vi) such other relevant information or documentation (as may be provided for by rules of court) so as to facilitate the trial of such personal injuries actions;

(b) providing for the imposition by the High Court, or the Circuit Court as the case may be, of a sanction for non-compliance with a requirement under *paragraph (a)* of this subsection including termination of an action, prohibition on a party from adducing such evidence as has not been disclosed without leave of the court, and penalties as to award of costs.

(2) Rules of court made for the purposes of this section may make different provisions for different classes of cases.

(3) References in this section to an expert report or to a report of statements from an expert are references to evidence in whatever form or a written report by a person dealing wholly or mainly with matters on which that person is qualified to give expert evidence.

(4) Notwithstanding the rule of law against the admission of hearsay evidence and the privilege attached to documents prepared for the purpose of pending or contemplated civil proceedings the Superior Courts Rules Committee or the Circuit Court Rules Committee may, with the concurrence of the Minister, make rules allowing for the admission in evidence in personal injuries actions in the High Court or the Circuit Court of information, documentation, reports or statements disclosed pursuant to *subsection (1)* of this section, subject to such conditions and procedures as may be necessary to protect the interests of the parties.

Scales of costs.



**46.—(1) Where—**

(a) a rules-making authority is requested by the Minister to submit for the concurrence of the Minister rules governing questions of costs including scales of solicitors' costs and counsels' fees, and

(b) either—

(i) the rules-making authority fails to submit such rules within three months of the request, or

(ii) such rules as have been submitted contain scales of either solicitors' costs or counsels' fees or both which are in the opinion of the Minister excessive,

the Minister may by regulation, prescribe appropriate scales of solicitors' costs and counsels' fees.

(2) The consent of the Minister for Enterprise and Employment shall be required under the provisions of the Prices Acts, 1958 to 1972, for the exercise by the Minister of the power of the Minister under *subsection (1)* of this section.

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

(4) “Rules-making authority” means the Superior Courts Rules Committee, the Circuit Court Rules Committee or the District Court Rules Committee.

Retirement age of judge of Supreme Court and High Court.

**47.—(1)** Subject to *subsections (2) and (3)* of this section, the age of retirement of a judge of the Supreme Court and the High Court shall be 70 years.

(2) The age of retirement of a judge of the Supreme Court and the High Court who holds office at the time of the coming into operation of this section shall be 72 years.

(3) The age of retirement shall be 72 years for a person who holds office on or before the coming into operation of this section as a judge of the High Court, the Circuit Court, the District Court, the Court of Justice, the Court of First Instance attached thereto or an Advocate-General of the Court of Justice and who is subsequently appointed to be a judge of the Supreme Court or High Court.

Funds for training and education of judges.

**48.—**The Minister may, with the consent of the Minister for Finance, provide funds for the training and education of judges.

Court costume.

**49.—**A barrister or a solicitor when appearing in any court shall not be required to wear a wig of the kind heretofore worn or any other wig of a ceremonial type.

Claims for debts and liquidated sums.

**50.**—(1) Where, in the case of a claim in the High Court for a debt or a liquidated sum, an application is made for judgement in default of defence, the Master of the High Court may exercise the discretion to award interest conferred on a judge by [section 22](#) of the [Courts Act, 1981](#) .

(2) Where, in the case of a claim in the High Court for a debt or a liquidated sum, an application is made for judgement in default of appearance, the Registrar of the Central Office may exercise the discretion to award interest conferred on a judge by [section 22](#) of the [Courts Act, 1981](#) .

(3) Where, in the case of a claim in the Circuit Court for a debt or a liquidated sum, an application is made for judgement in default of appearance or defence, the County Registrar may exercise the discretion to award interest conferred on a judge by [section 22](#) of the [Courts Act, 1981](#) .

(4) A decision under *subsection (1)* or *subsection (2)* of this section may be appealed to a judge of the High Court.

(5) A decision under *subsection (3)* of this section may be appealed to a judge of the Circuit Court.

Amendment of section 35 of Court Officers Act, 1926.

**51.**—Section 35 (3) of the [Court Officers Act, 1926](#) , is hereby amended by the insertion of the following paragraph after paragraph (a):

“(aa) a barrister of not less than eight years standing who is then actually practising or has previously practised for not less than eight years, or”.

Amendment of section 29 of Charities Act, 1961.

**52.**— [Section 29](#) (as amended by the [Charities Act, 1973](#) ) of the [Charities Act, 1961](#) , is hereby amended by—

(a) the substitution of “£250,000 in value” for “twenty-five thousand pounds in value” in subsection (2) (b);

(b) the substitution of the following subsection for subsection (4):

“(4) Where—

(a) a scheme for the application of a charitable gift has been framed by order of a Court, and

(b) circumstances exist in relation to the scheme, being circumstances whose existence in relation to a charitable gift would enable the property comprised in the gift to be applied *cy-pres*, and

(c) the charitable gift does not exceed £250,000 in value,

the Board, if they think fit, may, for the application *cy-pres* of the property comprised in the charitable gift, by order revoke the scheme and frame, in lieu thereof, a new scheme or revoke the scheme in part or otherwise amend the scheme.”; and

(c) the insertion of the following subsections:

“(9) The Minister for Justice may, from time to time make an order varying the monetary amounts specified in subsections (2) and (4) of this section having regard to changes in the value of money generally in the State since the said monetary amounts were first specified.

(10) Every order made under subsection (9) of this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

Amendment of [section 30](#) of the [Judicial Separation and Family Law Reform Act, 1989](#) .

**53.—** [Section 30](#) of the [Judicial Separation and Family Law Reform Act, 1989](#) , is hereby amended by the insertion after “(j) the [Status of Children Act, 1987](#) ,” of “and includes proceedings relating to nullity of marriage”.

Amendment of [section 32](#) of the [Judicial Separation and Family Law Reform Act, 1989](#) .

**54.—** [Section 32](#) of the [Judicial Separation and Family Law Reform Act, 1989](#) , is hereby amended by the insertion after “Acts” of “and proceedings” and the section as so amended is set out in the Table to this section.

## TABLE

The Circuit Family Court shall sit to hear and determine proceedings instituted under this Act and under the Acts and proceedings referred to in [section 30](#) of this Act in a different place or at different times or on different days from those on which the ordinary sittings of the Circuit Court are held.

### FIRST SCHEDULE Enactments Repealed

[Section 3](#) .

#### PART I

Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 10 of 1924	<a href="#">Courts of Justice Act, 1924</a>	<a href="#">Section 12</a>
No. 32 of 1953	<a href="#">Courts of Justice Act, 1953</a>	<a href="#">Section 12</a>
No. 39 of 1961	<a href="#">Courts (Supplemental Provisions) Act, 1961</a>	<a href="#">Section 4</a> (1)
No. 11 of 1977	<a href="#">Courts Act, 1977</a>	<a href="#">Section 1</a> (2) <a href="#">Section 1</a> (3)
No. 11 of 1981	<a href="#">Courts Act, 1981</a>	<a href="#">Section 31</a>
No. 20 of 1991	<a href="#">Courts Act, 1991</a>	<a href="#">Section 17</a>

#### PART II

Number and Year	Short Title	Extent of Repeal
(1)	(2)	(3)
No. 10 of 1924	<a href="#">Courts of Justice Act, 1924</a>	<a href="#">Section 28</a> <a href="#">Section 29</a>
No. 15 of 1928	Courts of Justice Act, 1928	Section 5 (1), the words “or, on appeal, the Supreme Court” Section 5 (2), the words “or the Supreme Court”
No. 38 of 1961	<a href="#">Courts (Establishment and Constitution) Act, 1961</a>	<a href="#">Section 3</a>
No. 39 of 1961	<a href="#">Courts (Supplemental Provisions) Act, 1961</a>	<a href="#">Section 12</a>
No. 19 of 1983	<a href="#">Courts-Martial Appeals Act, 1983</a>	<a href="#">Section 3</a> , the expression “established by section 9” <a href="#">Section 9</a> <a href="#">Section 10</a> <a href="#">Section 11</a> <a href="#">Section 12</a> <a href="#">Section 14</a> <a href="#">Section 25</a> , the words “or a legal aid (Supreme Court) certificate” <a href="#">Section 29</a> <a href="#">Section 30</a> (3), the words “or a legal aid (Supreme Court) certificate”
No. 40 of 1993	<a href="#">Criminal Procedure Act, 1993</a>	<a href="#">Section 11</a>

## SECOND SCHEDULE

### Orders Which can be Made by County Registrars

#### [Section 34.](#)

1. A County Registrar may make any of the following orders:

- (i) Any order which may be made as of course.
- (ii) An order for a statement of the names of persons who may be co-partners in any firm suing or being sued in an action or matter.
- (iii) An order for enlargement of the time for doing any act or taking any step in an action or matter.
- (iv) An order for discovery, limited or general, or inspection of documents or real or personal property, or delivery of interrogatories.

- (v) An order for the appointment or the discharge of a receiver in uncontested applications.
- (vi) An order to dismiss an action with costs for want of prosecution or for failure to make an affidavit of discovery or to answer interrogatories.
- (vii) An order to strike out a defence with costs for failure to make an affidavit of discovery or to answer interrogatories.
- (viii) An order for the taking of evidence on commission.
- (ix) An order on an application for directions as to service in case of a civil bill or other originating document not *inter partes* or as to other procedure in any action or matter.
- (x) An order adding or substituting a party in any proceeding.
- (xi) An order giving liberty to intervene and appear,
- (xii) An order for the amendment of pleadings on consent.
- (xiii) An order to receive a consent and make the same a rule of court where the parties are *sui juris*.
- (xiv) An order under the Bankers' Books Evidence Acts, 1879 and 1959.
- (xv) An order for payment out of court of funds standing to the credit of an infant on attaining majority, or (if so authorised by order of a judge) for his or her benefit during minority.
- (xvi) An order in uncontested cases to have an account taken or inquiry made.
- (xvii) An order for the issue, for service outside the jurisdiction of a citation to see proceedings in contentious probate matters.
- (xviii) An order for the issue of a citation to lodge in court a grant of probate or letters of administration in contentious probate matters.
- (xix) An order giving liberty to file a supplemental affidavit of scripts.
- (xx) An order for the lodgement of scripts by any party.
- (xxi) An order appointing a receiver in a place of a receiver who has died or been discharged, including any necessary consequential directions as to the accounts of the deceased or discharged receiver.
- (xxii) A stop order on moneys or securities in court.
- (xxiii) An order for the issue of a *sub-poena* under Order 39, rule 30 of the Rules of the Superior Courts.
- (xxiv) An order to vacate a *lis pendens* on the application of the person who registered the same.
- (xxv) An order under Order 33, rule 1 of the Rules of the Superior Courts, on consent, settling the issues to be tried.
- (xxvi) An order giving liberty to issue execution in the name of or against the legal personal representative of a deceased party.

(xxvii) An order giving liberty to issue a new Order of Execution on the loss of the original.

(xxviii) An order for transfer of proceedings to the District Court on consent of the parties, including all ancillary orders for the transfer of monies lodged in Court.

(xxix) An order giving liberty to serve a third party notice on consent of the plaintiff.

2. A County Registrar may in any case, either on consent of all parties concerned or by order of the Court, assess any damages to which a party is entitled, or take any account.

3. A County Registrar may, with the consent of all parties concerned, try any issue of fact.

4. In any cases in which a County Registrar may make an order he or she may also make any supplementary or ancillary order and may give any necessary directions.

5. In any case in which a County Registrar may make an order the costs of the application shall be in the discretion of the County Registrar, who may direct payment of a sum in gross in lieu of payment of costs to be taxed.

6. A County Registrar may in his or her discretion transfer any case to the Court lists for hearing.

7. (a) A County Registrar shall for the purpose of any proceedings before him or her have full power to summon parties and witnesses, to administer oaths, to require the production of documents, to take affidavits, affirmations and acknowledgements, and examine parties and witnesses either upon interrogatories or *viva voce*.

(b) Parties and witnesses summoned to attend before a County Registrar shall be bound to attend and shall be liable to process of contempt in like manner as parties and witnesses are liable thereto in case of disobedience to any order of the Court.

8. Any party aggrieved by an order, including an order as to costs, made by a County Registrar may, within ten days from the perfecting of the same, or if made *ex parte* from the date of service of the order, or in the case of a refusal from the date of such refusal, apply to the Circuit Court to discharge such order or to make the order refused.

9. Counsel may be heard in any case before a County Registrar, but the costs of such counsel shall not be allowed unless certified for by a County Registrar.

10. A County Registrar may make any of the following side-bar orders:

(i) For plaintiff, lately an infant to proceed in his or her own name, he or she having attained his or her full age.

(ii) To proceed against a defendant, lately an infant, he or she having attained his or her full age.

(iii) To proceed notwithstanding the death of a party his or her rights surviving.

(iv) To proceed by or against a new Attorney General.

(v) That a party do furnish a rental.

(vi) That tenants do pay their rents to receiver, sequestrator, guardian or administrator *pendente lite*.

- (vii) That persons indebted to personal estate do pay the sums due by them to receiver or administrator *pendente lite*.
- (viii) For injunction to Sheriff to put purchaser into possession in the case of a County Registrar assigned to the Circuit Court offices for the counties of Dublin and Cork.
- (ix) For injunction to Sheriff to put tenant into possession in the case of a County Registrar assigned to the Circuit Court offices for the counties of Dublin and Cork.
- (x) To confirm sale absolutely.
- (xi) To receive a consent and make the same a Rule of Court where the parties are *sui juris*.
- (xii) To make a conditional order absolute on a certificate of no cause, and to make an order directing payment of such costs (if any) as were reserved on the making of the conditional order.
- (xiii) For judgement of ouster on a disclaimer,
- (xiv) To proceed compromise off.