

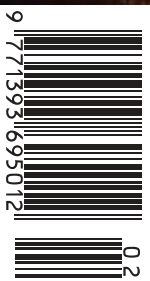
Law Society Gazette

100th volume, issue 1

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Jan/Feb 2006

This month,
the *Gazette*
celebrates the
publication of
volume 100,
number 1

See page 16





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COVER PIC: roslyn@indigo.ie



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The *Gazette* broke out the champagne this month to celebrate the magazine's publication of its 100th volume. Mark McDermott takes a look at the very first *Gazette*, printed in 1907.

20 Seen but not heard

The All-Party Oireachtas Committee on the Constitution has recommended that the constitution should be amended to improve the rights of children. Geoffrey Shannon explains why reform is necessary.

24 Auditory nerves

With more Revenue audits of CAT returns than ever, it's not just accountants who need to know how the process works, writes Catherine McGrath.

28 Blind justice

Although the *in camera* rule was modified in March of last year to allow some reporting of family law cases, it's unlikely that there will be a steady stream of case reports from the family law courts, argues Jennifer O'Brien.

32 Location, location, location

Damien McHugh sheds some light on the relatively obscure piece of law that allowed the recent conviction of a man in England for a murder that was committed in Ireland.



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Upholding fundamental rights

It has been a particularly busy few weeks. Much has happened that concerns the profession. Since taking up office, I have visited a range of solicitors in different types of legal practice, which has been for me most worthwhile. I look forward very much to meeting many more colleagues during the year.

In July 2004, the Competition Authority introduced regulations under which it purported to give itself the right to restrict freedom of choice of solicitor for parties it was investigating. The Society believes that freedom of choice of solicitor is fundamental in a democracy and it called on the authority to repeal its new regulations.

When the authority refused to do so, the Society instituted judicial review proceedings, which culminated in a two-day hearing in the High Court, in the course of which the Society's legal arguments were supported by the attorney general.

On 21 December, Mr Justice Iarflaith O'Neill delivered some light with a judgment which found, as the Law Society had contended, that the Competition Authority's actions had been unconstitutional and in breach of the *European Convention on Human Rights*. Costs were subsequently awarded to the Society.

I hope that the Society and the solicitors' profession will always seek to uphold such fundamental rights.

Civil litigation costs

On 10 January, the Minister for Justice, Equality and Law Reform, Michael McDowell, unveiled a reform package which, when implemented, will change the basis on which civil litigation costs are determined and assessed.

The main recommendation involves the replacing of the existing taxation-of-costs system with a new system of assessment, predicated on the formulation of recoverable-cost guidelines made by a regulatory body. The cost guidelines will be based on work actually and appropriately done. The recommendations are examined in more detail elsewhere in this issue of the *Gazette* and I would again encourage solicitors to review the Haran report and send any comments or ideas you may have to Aidan O'Reilly, Secretary to the Society's Cost Review

Task Force. The appropriate e-mail is: a.oreilly@lawsociety.ie

The Society's preliminary assessment is that there are many positive aspects to this report. In particular, we are pleased to see that the report accepts that rigid scales of costs would, as the Society had argued, have led to reduced access to justice and favoured those with deep pockets.

We are also pleased to note that the working group adopted many of the Society's recommendations for structural and procedural reforms to make the courts more efficient.

There is much work yet to be done to implement the Haran report proposals and the Society wishes to engage fully with this process in the future, as it has done in the past.

Legal Services Ombudsman

Minister McDowell also announced his plan to introduce a 'Legal Services Ombudsman' with an oversight role in the handling of client complaints by the Law Society, for solicitors, and by the Bar Council, for barristers; and a separate role in monitoring access to the professions. The minister acknowledges that this ombudsman is largely based on the Law Society's office of independent adjudicator, which has existed since 1997.

Subject to sight of the detail of what would be involved, the Society has welcomed the decision to appoint an ombudsman.

We will continue to closely monitor and, where possible, influence change, but there is nothing in principle to fear from change itself.

The changes proposed, I believe, will be welcomed by a solicitors' profession which, contrary to what many people think of it, is modern, confident, innovative and progressive.

Michael G Irvine
President



“There is nothing in principle to fear from change itself”

NATIONWIDE

News from around the country

■ LAOIS

Mistaken identity

The newly appointed Laois county registrar is Paul Fetherstonhaugh, who qualified as a solicitor in 1980 and has been practising in Mountrath. We incorrectly reported in the last issue that the new registrar would be John Fetherstonhaugh. John, who qualified in 1977, continues his successful practice in Mountmellick.

"I am delighted to be appointed and I am looking forward to working with judges, colleagues, staff and the public in my new role here," said the new registrar, who took up his position on 9 January. One of Paul's ambitions is to reduce the size of the lists in criminal and family matters. He is very confident of success and of help and cooperation from solicitors and all other parties.

■ WEST CORK

Collaborative effort

Collaborative law is fast becoming an exciting development that could be greatly beneficial to clients, according to Anne O'Neill of the West Cork Bar Association. It may seem similar to mediation, but it is very much more.

"This is a very interesting development in family law that has grown in recent months. It involves round-table meetings, with the affidavits of means and welfare already on the table before any proceedings issue," Anne says.

There is then an open and frank exchange to try to reach agreement among the parties. The approach is positive, with a view to helping the parties reach a resolution of the issues facing them. It is a problem-solving approach with the necessary tools in hand.

Built into the collaborative process are various professionals,

**Poetry in motion**

Among those attending this year's *Hibernian Law Journal* debate were (l to r): TP Kennedy, the Law Society's Director of Education, Jennifer Tuite, Julia Emikh, Claire O'Callaghan, Caitriona McCarthy (editor), Geoffrey Robertson QC (guest speaker), Paul Ryan, John Hugh Colleran and Robert Marshall (chair of this year's lecture)

including psychologists and accountants, who, of course, would not be involved in mediation. Their role is similar to that of *amicus curiae*, a friend of the court. The collaborative process, which began life in the US, is much broader and more empowered than mediation.

The system is new in Ireland but is already generating a definite buzz and has developed significantly in recent months, Anne says. An association has been formed, called the Association of Collaborative Practitioners. Its website is www.acp.ie.

Another point worth noting is that if the collaborative process fails, the solicitors acting for the parties cannot go onto represent the parties before the courts. The solicitors will have had to sign an agreement to this effect before the process begins. So, there are incentives all round to make it happen.

We're off

Meanwhile, just to show that life is not all serious, the thoughts of solicitors west of Cork City are inclining toward their annual conference in Rome for four days from 29 March. "We will be organising a full working and

social programme, including possibly an introduction to the Italian legal system," Anne O'Neill says.

The visit will include a trip to the Irish Mission to the Holy See and a reception to be hosted by the Irish Ambassador, Philip McDonagh. "Trips like this are an important event in our social calendar and are a great way for solicitors to get to know each other in a fast-growing profession," she added.

■ DUBLIN

The devil's in the detail

Given the costs of running a law office, they are never too far from our thoughts. A costs seminar will always draw a crowd. And so a large gathering attended a recent DSBA seminar on a recent report on legal costs.

A working group, headed by DSBA council member and litigation solicitor Stuart Gilhooly and legal costs accountant Declan O'Neill, explained the key recommendations of the recent Haran report to the government and gave an overview as to how the profession might best embrace these changes.

"But these things are never simple and the devil will very

much be in the detail," Stuart said. The picture will become clearer when the promised guidelines underpinning the recommendations are published. We will wait and see.

The Italian job

Rome will be the venue for the DSBA conference in early September. But, of course, Leaside colleagues will have got there first. Some observers might have reckoned that DSBA President Brian Gallagher would have favoured Spain, so that he could bring his Spanish wife home for a few days. Or maybe for too many colleagues with properties in Iberia, it would be just too much like going home.

So Rome it is then. Relaxed mid-afternoon strolls along the Piazza di Campitelli will have to do. According to rumours spread by Kevin O'Higgins, the hotel puts the Merrion in the shade. Then there will be all the social events, after the intensive seminars. Stand by for a full seminar and social programme.

■ SLIGO

Do it right

Another reason to get it right was mentioned to us recently by Ita Lyster, secretary of the Sligo Bar Association. There have recently been two unexpected spot checks by the Revenue Commissioners conducting stamp duty audits on two firms of solicitors in the Sligo area. One involved a first-time buyer and the other involved a voluntary conveyance that had been submitted with an adjudication warrant. So, Ita warns, yet another reason for us to do it right and keep our records. **G**

Nationwide is compiled by Pat Igoe, principal of the Dublin law firm Patrick Igoe & Co.

Law Society victory in 'choice of lawyer' case

The High Court has upheld a challenge by the Law Society to a decision issued by the Competition Authority in August 2004. That decision sought to reserve to the authority the power to veto the choice of lawyer made by a party to a Competition Authority investigation, where that lawyer is also acting for another person in the same matter.

The High Court announced its judgment on 21 December. It found that the decision of the Competition Authority was unconstitutional and in breach of the *European Convention on Human Rights*.

In finding for the Law Society, Mr Justice Iarfhlaith O'Neill said: "I am satisfied that a person facing a tribunal in respect of which it is appropriate to have legal



Mary Keane: "The public interest has been well-served by today's decision"

representation does, as an incident or aspect of the right to fair procedures, have a constitutional right pursuant to article 40.3 of the constitution to freely select the lawyers that will represent him or her, from the relevant pool of lawyers willing to accept instructions."

He went on to say: "I am of the opinion that the respondents have impermissibly reversed the

presumption, as an essential aspect of the right to fair procedures, in favour of a freedom of choice of legal representatives, and in so doing impermissibly infringed the right of a person appearing before them, either under investigation or as a witness, to choose their own legal representatives."

Welcoming the court's ruling, Law Society Deputy Director General, Mary Keane, said: "The right to be represented by a lawyer of your choice is a fundamental tenet of any democracy. The authority's attempt to restrict that freedom of choice was an alarming move. The public interest has been well-served by today's decision."

Both the Society and the attorney general were awarded their costs on 19 January 2006.

National Archives' agreement online

The chairman of the government's National Archives' Advisory Council sub-committee, Dr Eamonn Hall, has been in contact to advise us that the sub-committee has produced its 'Agreement' document on the deposit of archive documents.

Titled *Agreement in relation to the deposit in the National Archives or with a Local Authority Archive Service of documents by solicitors' offices*, the document is now available for viewing on the Law Society website (www.lawsociety.com).

"This agreement document offers a proposed agreement between the individual solicitor and the local authority, or the National Archives, on depositing documents with them," says Eamonn.

It is designed to assist solicitors with old documents

that might be of interest to archivists and historians. Old letters and documents might appear insignificant, but could, in fact, be of huge interest. The famous and historically significant letters of Roger Casement were among the old files in the offices of Ignatius Houlihan Solicitors. A client had donated them. They were later donated by the firm to Clare County Council and are

now part of the state's documentary records.

It is important to reassure solicitors that documents will remain the property of the solicitor. The depositing solicitor must be informed before any person is allowed to copy the documents, or even to take notes on them, Eamonn told the *Gazette*. He asks colleagues to carefully check before discarding old files.

'LEAP' INTO LAW

A new project being funded by EU EQUAL, through the Department of Enterprise, Trade and Employment, is attempting to encourage students from disadvantaged communities to consider a legal career. The Legal Education for All Project (LEAP) will introduce students to the legal process and assist them in developing routes into legal education and information. Up to 20 participants will be recruited and linked to law centres. They will be able to avail of intense support in order to help them fast-track to legal education. Ten participants will come from the Traveller community.

RETIREMENT TRUST SCHEME

Unit prices: 1 January 2006
Managed fund: €5.51013
All-equity fund: €1.26218
Cash fund: €2.63031
Long bond fund: €1.3916

SYS CONFERENCE FOR 'MARBLE CITY'

The Society of Young Solicitors Ireland (SYS) will hold its Spring Conference 2006 from 31 March to 2 April at the five-star Lyrath Estate Hotel, Dublin Road, Kilkenny (www.lyrath.com). See the SYS website for details (www.sys.ie). Attendance at lectures can be counted against CPD requirements. The conference fee is €300 pps (that is, €600 per room) for two nights' accommodation (with breakfast), reception, gala dinner (black tie) and conference materials. For more information, see advert on page 10. All applications must be sent by ordinary prepaid post. Only applications exhibiting a postmark dated 17 February 2006 or after will be considered.

NEW CHAIRMAN FOR ARTHUR COX

Arthur Cox partner, Eugene McCague, is to succeed James O'Dwyer as chairman of the firm when he retires on 30 April. Eugene is a partner in the firm's corporate department, is a former managing partner of the firm and is the incoming president of Dublin Chamber of Commerce. A native of Clones, Co Monaghan, he studied law at UCD. He qualified from the Law Society in 1982, joined Arthur Cox in 1987 and has been a partner at the firm since 1988.

DNA BILL GETS GO-AHEAD

On 25 January, the government approved the preparation of a bill to provide for the establishment of a DNA database. Minister for Justice, Equality and Law Reform, Michael McDowell TD, said: "I believe that a database will result in improved detection levels as well as improved efficiency in the use of Garda resources." The minister expects to publish the bill later this year.

Judging Judges wins verdict in Law Society Awards

Judging Judges, a one-hour *PrimeTime Investigates* special report, has been named 'Overall Winner' of the Law Society's *Justice Media Awards* competition. The report focused on the apparent sentencing lottery that exists in the Irish District Court system. The awards are aimed at rewarding outstanding journalism in the print and broadcast media that contributes to the public's understanding of the law, the legal system or any specific legal issue.

At a ceremony in the Law Society's Blackhall Place headquarters on 13 December, immediate past-president of the Law Society, Owen Binchy, presented the prize to the *PrimeTime Investigates* team of Mike Milotte and Niamh O'Connor. As overall winners, they received a Dublin Crystal vase and a cheque for €1,500.

Explaining the judges' decision, Law Society Director General, Ken Murphy, said: "The premise of *Judging Judges*



Mike Milotte and Niamh O'Connor of *PrimeTime Investigates* are presented with the 'Overall Winner' award for their one-hour special, *Judging Judges*

is that the sentence you get in our District Courts depends on the judge you get. In the absence of official statistics on the 600,000 cases heard by the District Courts each year, *PrimeTime* did its own research and discovered massive discrepancies in sentences handed down for similar offences by different judges. The conclusion: 'Different criteria are applied by different

judges – when there should be consensus.' The telling point is that the legislature urgently needs to bear in mind the cumulative effect that all these judgments are having on the overall legal and democratic system.

"*Judging Judges* was all their own work, their own research and their own comparisons, clearly showing the dividing line between judges sitting in

different districts," continued Ken Murphy. "The programme identified what is clearly a real problem. The *PrimeTime* team, led by Mike Milotte and Niamh O'Connor, deserves great credit for the amount of people interviewed for this programme who were willing to go on camera and give their views. *Judging Judges* is a very worthy winner of the Overall Justice Media Award."

The winners in each of the four other categories in the competition won a Justice Media Award, comprising a Dublin Crystal Joyce plate (and a €750 cheque). The runners-up received a certificate of merit (and a cheque for €250).

Daily newspapers

The winner in the daily newspapers category was Conor Lally of *The Irish Times* for his four-part series highlighting the issue of recidivism in the Irish prison system.

Certificates of Merit went to Niamh Nolan of the *Irish*

ONE TO WATCH: NEW LEGISLATION

Land Act 2005

This act will have particular relevance for solicitors who act for people owning land that is still subject to Land Commission annuities. It provides for the writing off of outstanding annuities that are under €200 per annum, which will benefit around 4,300 farmers. In respect of the remaining 2,400 annuities over €200 per annum, section 3 makes a final offer or redemption on favourable terms. It provides that annuitants can buy out at a discount of 25%, provided that all arrears are paid up to date. Some of this group will need the assistance of their solicitors to get their titles in order, so that they can raise the money to avail of this offer, which expires on 30 June 2006.

The Land Act 2005

(Commencement) Order 2005 commenced the entire act except s5 on 4 November 2005, and section 5 was commenced on 2 December. By the *Land Purchase Annuities Redemption Scheme Regulations 2005*, the agriculture minister established a scheme under section 3, which may be availed of between 1 January and 30 June.

Annuities write-off

Section 2 writes off annuities under €200 per annum, plus arrears. On application, the Land Registry is obliged to register a discharge relying on this act. One of the main reasons for this gift to farmers is that the collection of these small payments was no longer economically worthwhile.

Redemption special offer

In relation to annuities of over €200 per annum, a total of €18 million could be collected if all annuities were redeemed and arrears paid, according to the agriculture minister. Section 3 provides for a redemption scheme at a discount of 25%, subject to any arrears being paid off and redemption of the annuity in a single payment.

Subsection 3 provides that the minister (with the consent of the finance minister) may make a scheme to allow such applications to be made. The scheme may set certain conditions, including closing dates by which time applications must be received and payments must be made. The minister is authorised to prescribe a form for applications, which

applicants must use.

The minister has designed a scheme and all 2,400 annuitants concerned were written to before Christmas. The window for availing of the scheme is between 1 January and 30 June 2006. After that period, the offer is no longer open. Solicitors may be required to prepare or certify titles to enable money to be borrowed to pay off annuities. A clear title is not required by the minister, but is likely to be required by lending institutions.

After suspending registrations of title on the ground of adverse possession as the result of the decision in the *Pye* case in Strasbourg (see last *Gazette*, p7), the Land Registry has resumed registrations. This may assist some of those affected. There

ciety media awards

Examiner for her three-part series *Rape: the forgotten crime* and Caroline O'Doherty of the *Irish Examiner* for her article *Jury's out on special court*.

Non-daily newspapers

The winners in the non-daily newspapers category were John Burns and Dearbhail McDonald of *The Sunday Times* for their article *Getting away with murder*. Certificates of merit went to John Burke of *The Sunday Tribune* for his article entitled *Fathers the silent victims of unfair family law system*, and Siobhan Maguire and Dearbhail McDonald of *The Sunday Times* for their story, *Tying up teacher*, which focused on the growing litigation problem in our schools.

Books

Damian McHugh's *Buying and Selling a Home in Ireland* won the top award in the books category. It details, in layman's terms, the many steps a seller or purchaser must take when



The television award was presented to RTÉ's Mary Wilson and Joyce Jackson for their three-part series, *Juvenile Justice*

getting on, or moving up, the property ladder.

Radio

The winner in the radio category was Philip Boucher-Hayes for his series of reports on the Brian Rossiter case for RTÉ. His reports encouraged the minister for justice to move forward with the investigation into Brian Rossiter's death while in garda custody in Clonmel.

Television

The Justice Media Award for Television was presented to RTÉ's Mary Wilson and Joyce Jackson for their three-part series, titled *Juvenile Justice*.

A Certificate of Merit went to Keelin Shanley and Niamh O'Connor for the *PrimeTime Investigates* programme, *Deportees*, which investigated the refugee asylum system as it operates in Ireland.

TRIM SOLICITOR NAMED TO BCC
Trim solicitor Ms Phil Brady has been named as one of nine members of the new **Broadcasting Complaints Commission (BCC)**. The commission was recently announced by Minister for Communications, Marine and Energy Resources, Noel Dempsey.

PROFESSIONAL NOTICE RATES

From the next issue (vol 100, no 2) the notice rates in the Professional Information section will increase by 4% in 2006, in line with the price inflation index as notified by the Director of Finance of the Law Society. The new rates will be as follows:

- **Lost land certificates:** €126 (incl VAT at 21%)
- **Wills:** €126 (incl VAT at 21%)
- **Title deeds:** €126 per deed (incl VAT at 21%)
- **Employment/miscellaneous:** €126 (incl VAT at 21%)

PARASKEVA TO MOVE

Janet Paraskeva is to leave her role as chief executive of the Law Society of England and Wales to succeed Baroness Usha Prashar as the first civil service commissioner.

may be a temporary increase in the number of applications for section 49 (adverse possession) registrations because of people availing of the favourable offer in section 3 of the *Land Act 2005*.

Arrears control

In future, there will be much more efficient collection of arrears. The minister has given emphatic assurances that the new powers in sections 4 and 6 would be used very carefully, and only as a last resort. These mean, however, that farmers can no longer take it for granted that arrears will be allowed to accumulate.

If a landowner owes arrears on his or her land-purchase annuity, section 4 gives authority to the department to withhold money that is otherwise due to that

owner and to set it against the arrears. Many farmers are in receipt of payments such as the single farm payment, and they may now be set against arrears owing.

Section 5 provides that the Land Registry will not be allowed to register any transactions in relation to the land (except for transfers into joint tenancy with a spouse) without a certificate from the minister certifying that all arrears have been paid. Such a certificate must be dated no more than four months prior to the transaction. The minister has said that if land was being passed to another family member for no consideration – for example, if a site were being transferred to a child to enable him or her to build a home – then the matter of

arrears could be discussed with the department.

Section 6 enables the minister to institute proceedings for the attachment of debts owing to the defaulter, to institute garnishee proceedings, and to seek the appointment of a receiver by way of equitable execution. The minister may now get an order requiring payment of arrears from a farmer's milk cheque or other payment.

Sports fields and cow parks

Land held by trustees for GAA clubs, cow parks (common areas for grazing cows) and turbary (the right of digging and taking away turf as fuel from another's land) may now be transferred by the minister to the clubs and other appropriate persons, such as local

authorities. The minister gave an undertaking that conditions would be inserted to ensure that such lands were preserved for appropriate purposes. There are around 500 such trusts, and the trustees of around 200 expressed interest in the land being transferred. Such transfers will allow investment and development that was inhibited by the organisations not owning the land themselves.

Section 12 provides that consents to the subdivision of holdings are no longer required for anyone, which should reduce costs and delays in some cases. **G**

Alma Clissmann is the Law Society's parliamentary and law reform executive.

Law Society launches legal e-zine

In early January, the Law Society launched the first of two specific communication initiatives. Each member received a personalised circular containing a set of stickers with a unique login to the members' area of the Society's website. Members were requested to place these stickers prominently on their monitor or keyboard so that the information necessary to access the members' area was available at all times.

The Society's new legal e-zine – the legal newsletter for the solicitors' profession – and the second and most recent communication initiative was launched to members on 17 January.

While the Society's website continues to contain a wealth of information of benefit to solicitors in their practices, the e-zine is designed to flag topical issues of interest to practitioners and to prompt the reader to consider these issues in more depth at their leisure.

The e-zine will issue on a bi-monthly basis and will bring news and information directly to members at their desktop, in the form of either a html or text-only email. Members will be able to read all articles online or avail of the 'printer-friendly' option to print out any chosen articles of interest.

Although in its early days, the statistical data from the first issue of the e-zine suggests that



E-zine editor Petrina Lonergan and deputy director general Mary Keane celebrate the launch of the e-zine to the Society's 7,700 members



JANUARY'S 'TOP FIVE' MOST POPULAR ARTICLES

- 1) Law Society wins judicial review against Competition Authority
- 2) New Year's resolution for sole practitioners
- 3) CPD scheme – complete your record cards online!
- 4) Beg, buy or borrow – a selection of new Irish law books
- 5) Land Registry resumes registration of applications based on adverse possession

it has been very well received by the profession. Nearly 60% of recipients opened and read the first issue. This readership figure is extraordinarily high,

since the average response rate for a newsletter of its type is closer to 21%. On average, most members read at least two articles, with members

returning to re-read the e-zine, on average, three times.

If you did not receive the first e-zine, this means that the Society does not have your email address. To ensure that you receive all future issues of the e-zine directly to your desktop, follow these steps:

- 1) Log on to the members' area of the Law Society's website (go to: www.lawsociety.ie and click on the 'members and students login' link at the top right-hand side of your screen).
- 2) At the login page, enter your surname and solicitor number (as provided on your personalised set of stickers).
- 3) You will know that you are logged in to the members' area because your name will appear at the top right-hand side of the screen.
- 4) Click on the second link on the left of this screen – 'new e-zine for members'.
- 5) Click on the small graphic of what the e-zine looks like.
- 6) Enter your personal email address in the 'subscribe' box, and submit. Follow the simple confirmation instructions to ensure that all future issues of the e-zine are delivered to you.

If you have any technical difficulties, comments or suggestions in relation to the e-zine, please contact the editor, Petrina Lonergan, at ezine@lawsociety.ie.

Law School intake rises 83% in three years

The Law School saw a record intake of students in 2005. This year, 650 students have started the Professional Practice Course. This is in marked contrast to the 355 students who joined the school in 2002 – a remarkable increase of 83% in just three years.

This is the youngest intake ever to enter the Law School. A

large majority, 90% of students, are aged between 21 and 30. This is up from 83% in 2001.

The predominance of women students continues – they make up 63% of the total. This is consistent with figures over the last five years.

The training contracts are spread over the country. In previous years, a larger number

were from Dublin. In 2001, 75% of all new training contracts were Dublin-based. This fell to 61% last year and remains at the same level for 2005. Other counties with larger concentrations of trainees are Cork (9%), Galway (5%), Limerick (4%) and Donegal (3%).

The majority of trainees are law graduates (67%). Of this

number, the largest proportion has attended UCD (32%). University of Limerick and NUIG provide 19% each of law graduates and UCC 18%. TCD and Portobello College contribute 6% of law graduates. The single largest number of students on the PPC I from a single law degree are from the BCL in UCC (79).

Freedom to choose legal representation: *Law Society of Ireland v Competition Authority*

Alma Clissmann reports on developments in relation to the practical application of the European Convention on Human Rights

A recent High Court case has established that there is a strong presumption in favour of people having freedom to choose their legal representatives, but that if such a choice was shown to be likely to result in frustrating or impeding the tribunal in discharging its lawful function, it could be interfered with.

The Competition Authority published a notice stating that it took the general view that the integrity of its processes was likely to be compromised if the same lawyer represented more than one person (whether a person under investigation or a witness) and that, as a general matter, it would not permit a lawyer to represent more than one person. However, if satisfied that representation of more than one person would not compromise the integrity of its processes, multiple representation would be allowed on application by the lawyer concerned.

The Law Society took judicial review proceedings.

Power to issue the notice

The authority argued that the interference with the choice of lawyer was *de minimis*, as it did not seek to deny legal representation, limit the number of legal representatives, nor assert a general power of veto.

However, O'Neill J found that the notice had the effect of preventing a client from having the legal representative of his or her choice and that this was a significant interference with the client-lawyer relationship, which could not be discounted as being *de minimis*.

He found that the statutory provisions relied on were not intended to be used for such a purpose, but held that the authority did have a power, incidental to and arising from the functions and powers conferred on it, to publish notices of the kind complained of, and that the notice was therefore not *ultra vires* the authority.

Constitutionality

O'Neill J considered whether there was an absolute right to be represented by the lawyer of one's choice as part of the fair procedures provided for under article 40.3 and concluded, after considering Irish and US authorities, that:

- It was not an absolute right,
- There was a strong presumption in favour of freedom of choice of representation, but
- The tribunal concerned retained a discretion to deny that freedom of choice where it was apparent that to permit a particular lawyer to act would have the likely result of frustrating or impeding the tribunal discharging its lawful function.

He held that the problems anticipated by the authority did not justify the general prohibition of the kind contained in its notice and that it had impermissibly reversed the presumption in favour of freedom of choice of legal representative.

Article 6 of the ECHR

Although the constitutional decision was sufficient to dispose of the application,



Mr Justice Iarfhlaith O'Neill

O'Neill J also considered the application of article 6 of the ECHR.

First, he held that the notice issued by the authority was a 'statutory provision' within section 1(1) of the *ECHR Act 2003* and that therefore such a notice could be declared to be incompatible under section 5 of that act.

Second, he considered at what point in the investigative process a person could be considered to be potentially at risk of a criminal charge. Article 6 provides for a person's right "to defend himself in person or through legal assistance of his own choosing" in respect of criminal proceedings, but was an investigation the same as criminal proceedings?

Under the *Competition Act 2002*, there could be three relevant consequences of an investigation: prosecution by the authority, reference of the matter to the DPP who could prosecute, or civil proceedings to restrain breaches of the act.

He held that authority investigations were essentially criminal investigations, and that a 'charge' for the purposes of article 6(1) arose in the context of investigative proceedings at

the point where a person was made aware of an allegation that he or she committed an offence, which could be very early in the investigation. He held that article 6 was engaged in Competition Authority investigations, whether likely to result in criminal or even civil proceedings.

Citing the case of *Croissant v Germany* (16 EHRR 135), he held that the convention required that the freedom of choice of legal representation should be respected and not interfered with, except for the gravest and most compelling of reasons, which must necessarily, in his view, establish that the choice of lawyer made would, for whatever reason, grossly impede the conduct of the proceedings in question.

O'Neill J stated: "I would be of the opinion that, as a general proposition, article 6(1) requires that persons before tribunals which have a jurisdiction to determine rights and impose liabilities either in the primary hearing before them or to cause decisive events to occur which materially affect the determination in secondary proceedings, consequent upon the primary proceedings, have the right to choose their legal representatives, subject only to the tribunal having a discretion to interfere with that choice, as discussed above."

As another legal remedy was available, in that the notice was ruled unconstitutional, he made no order under section 5 of the *ECHR Act*. **G**

Alma Clissmann is the Law Society's parliamentary and law reform executive.

Haran Report to 'transform

The report of the Working Group Reviewing the Costs of Civil Litigation – the 'Haran report' – is now in the public domain. Published on 10 January, the Minister for Justice, Equality and Law Reform, Michael McDowell TD, has announced that the government has accepted the recommendations of the Legal Costs Working Group. The minister will now take the necessary steps to implement them.

On the same day, Mr McDowell announced plans to establish a Legal Services Ombudsman.

The Legal Costs Working Group was established by the minister in 2004 to look at ways of reducing civil legal costs. It was chaired by Mr Paul Haran, the former Secretary General of the Department of Enterprise, Trade and Employment.

Speaking at Trinity College prior to a debate by the College Historical Society on the motion 'That regulation of the legal profession should be reformed', the minister said: "I intend to empower the consumer of legal services – the client – and give him or her the information they need



Paul Haran, chairman of the Legal Costs Working Group

to make informed choices. I intend to transform the way in which legal costs are determined and, where legal costs are disputed, how costs are to be assessed.

'Significant change'

Minister McDowell said that the recommendations in the Haran report were wide-ranging and represented significant change in the manner in which legal costs are determined and assessed. The recommendations span the operational, policy and legislative areas.

"It is clear that a great deal of preliminary work will be required before the new systems can be put in place," he said. "I am therefore pleased that the noted accountant and businessman, Mr Desmond Miller FCA, has agreed to chair a team to work out an implementation plan and timescale."

The 'work done' principle

The report recommends that costs guidelines should be based on an assessment of the amount and nature of work required to be done in a case. The 'work done' principle is central to the report's

LEGAL SERVICES OMBUDSMAN

The ombudsman will oversee the handling by the Law Society and Bar Council of three classes of complaint against solicitors and barristers, namely: inadequate services, excessive fees and misconduct. The ombudsman's key functions will be:

- To provide a forum of appeal for clients of solicitors and barristers who are dissatisfied with the outcome of a complaint made to the Law Society or Bar Council,
- An overseeing role by examining a selection of complaints files each year taken on a random basis,
- Monitoring access to the professions and reporting to the minister and the Oireachtas on the adequacy of numbers admitted annually to each profession.

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Sunday 2 April

12.00: Check out

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determination of legal costs'

recommendations. Recovery of costs for 'work agreed to be done but not done' will end, Haran says.

This will be achieved by the replacement of the existing taxation-of-costs system (by the taxing masters) with a new regime that would comprise the establishment of:

- A legal costs regulatory body to formulate recoverable cost guidelines. These will be based on an assessment of the amount of work reasonably required to be done in typical cases,
- A written assessment process, based on the recoverable cost guidelines prescribed by the regulatory body. This will be carried out by a Legal Costs Assessment Office where legal bills are disputed, and
- An oral appeals process, conducted by an 'appeals adjudicator'.

The group recommends that the solicitor's instructions fee be broken down into its component parts. A similar approach should also be adopted in relation to the counsel's brief fee. All fees should be itemised and it must be clear to the client what they are being charged, why they are being charged, and the basis upon which they are being charged.

Competitive prices

The minister said that it was his intention to radically strengthen the law in relation to the charging of percentage deductions from awards by solicitors and barristers. "Once the new costs arrangements have been put in place and have bedded into the legal system, the market for civil legal services will become more predictable, consistent and transparent to consumers.



Desmond Miller will chair the implementation team



Minister McDowell: "recommendations are wide-ranging and significant"

INITIAL REVIEW

The Law Society's Costs Review Task Force has undertaken an initial review of the Haran report. Its preliminary assessment is that there are many positive aspects to it.

The Society has long recognised that major change is politically inevitable in this area. However, it is pleased to note that the report accepts that rigid scales of costs would – as the Society had argued – lead to reduced access to justice and favour the strong over the weak.

Many of the recommendations on structural and procedural reforms made by the Society in

its submissions to the working group throughout 2005 have been adopted. The Society's Council studied the report at its meeting on Friday 13 January 2006.

The Society's task force is now encouraging members of the Law Society to submit insights on their analysis of the working group's report and recommendations. You should email your views to Aidan O'Reilly, secretary to the Costs Review Task Force, at: a.oreilly@lawsociety.ie

Gerard Griffin, Chairman, Law Society Costs Review Task Force

This transparency will also make it easier for consumers to recognise competitive prices for the services they require and facilitate access to the state's system of justice," he said.

Given the recommendation that costs should primarily be recoverable by reference to work done, the group also considers that the "almost universal" practice whereby junior counsel is paid two-thirds the rate of senior counsel is unacceptable and unfair, given its arbitrary nature.

Legal Services Ombudsman

The minister also confirmed that the government has approved his plans to establish a Legal Services Ombudsman to strengthen the mechanisms for dealing with complaints against solicitors and barristers.

The Legal Services Ombudsman will effectively subsume the Law Society's existing office of Independent Adjudicator and carry out the same functions in respect of both solicitors and barristers.

Provision for the Legal Services Ombudsman will be included in a *Civil Law (Miscellaneous Provisions) Bill* that is currently being drafted and is likely to be published in the spring with a view to enactment before the end of this year.

The minister said: "Replacement of the Law Society's adjudicator with a Legal Services Ombudsman will enhance transparency and accessibility and introduce proper accountability to the system. There is a clear public interest in ensuring a high level of confidence in how the professions regulate their affairs and the ombudsman will contribute to this."

ON THE WEB

The Haran report can be downloaded at the following link: www.justice.ie/80256E010039C5AF/vWeb/pcJUSQ6KRJQJ-en

To read the press release from the Department of Justice, Equality and Law Reform, go to: www.justice.ie/80256E01003A02CF/vWeb/pcJUSQ6KXE2G-en

To view the minister's speech to the Historical Society at Trinity College Dublin, go to: www.justice.ie/80256E01003A02CF/vWeb/pcJUSQ6KXFX7-en

In defence of the law and its

Why do people love to hate lawyers? Donncha O'Connell says it's time for lawyers to defend their profession – and the legitimate purposes of litigation

This week I attended a lecture given by an internationally renowned businessman. He spoke with real concern about how major corporate scandals had led to the fetishising of corporate governance to the detriment of enterprise and innovation. More to the point, he appeared to be exasperated that, in surveys of public trust, businessmen were now ranked lower than journalists, politicians and – this is the one that got the big laugh – lawyers!

I laughed too, in the way that one does in response to an unsurprising joke that might be at your own expense, if only to look like you don't take yourself too seriously. Maybe every profession goes through this kind of thing, although when I googled 'engineer jokes' and 'dentist jokes' there weren't half as many hits as when I keyed in the words 'lawyer jokes'.

So why do people love to hate lawyers?

The self-serving answer is that they are jealous of our wealth, sceptical about our intelligence, resentful of our

arrogance and deeply covetous of our cars. At another level of special pleading, we blame the media. We state the obvious in pointing to the fact that they are not interested in good news stories and are only interested in perpetuating myths and dodgy stereotypes about lawyers. We bemoan the absence of tabloid headlines proclaiming: "Judge shows massive compassion to undeserving litigant" or "Solicitor diverts fee income to the homeless".

Consumers of justice

Perhaps the most valid but less overt resentment comes from those who might be described, meaninglessly, as the 'consumers of justice' – those who appear, whether as litigants or witnesses, before the courts. Because court cases involve winners and losers, at least half of the consumers of justice will feel resentment towards the institution that they think shafted them – and a good proportion of the other half may remain unhappy that the shafting wasn't good

enough. This is especially the case in courts of local and limited jurisdiction, where the luxury of abstract rumination on grand issues of constitutional and human rights is less frequent.

As an outside but semi-attached observer, it seems to me that the legal profession spends too much time dealing with the foregoing kinds of caricature and not half enough time explaining the good work done by lawyers living in communities and earning a decent living from that. Even if efforts are made to explain such good work, it is usually in a defensive context by way of apology for the bad deeds of the few.

I know, from involvement at board level with the Free Legal Advice Centres, that almost every solicitor and barrister in this country contributes financially to the work of that organisation by not ticking the box requiring a contribution to the organisation to be withheld. An impressive number of others work on a voluntary

basis in legal advice centres coordinated by FLAC throughout the country and all of the cases taken by barristers on behalf of FLAC are taken on a *pro bono* basis.

Of course, the heroic work done by solicitors working for the Legal Aid Board hardly ever gets mentioned and is lost in general criticisms of the legal-aid scheme.

Professional adolescence

Much of the work – lucrative and otherwise – done by solicitors in small and large firms would, in other jurisdictions, be described as public-interest litigation. This form of litigation dare not speak its name in this country because of a predominant view that the courts ought not to be used to resolve difficult questions of public policy with a significant public-expenditure implication.

Thus, it becomes a truism to presume that the army deafness cases (and, indeed, other class actions) were universally without merit, that cases taken



Letters

'Staggering condition of the non-jury list' – the Pre

From: Mr Justice Joseph Finnegan, President of the High Court

As I bear ultimate responsibility for the state of the High Court lists, I would like to put the letter from Angela McCarthy (*Gazette*, December 2005, p11) in context, while accepting that the state of the non-jury list and also the chancery and judicial review lists is not satisfactory.

Four years ago, virtually every High Court list was subject to

unacceptable delay. This resulted from inadequate resources in terms of judges, courtrooms and support staff, coupled with a year-on-year increase in the volume, complexity and duration of cases. Over the past four years, with the appointment of additional judges and the provision of extra courtrooms, it has been possible to make considerable progress in relation to a number of lists.

- *Central Criminal Court*. The number of judges assigned to the court has been increased from three to four, resulting in a reduction of the period between a case being ready for hearing and the hearing date from two years to eight months.
- *Court of Criminal Appeal*. Sittings have been increased from one day per week to three days per week and delay has been virtually eliminated.
- *Special Criminal Court*. The period between a case being ready for hearing and the hearing date has been reduced from almost two years to less than six months.
- *Personal injury list*. The position whereby a date for hearing is available in Dublin within three weeks of the parties being ready for hearing has been maintained. Out of Dublin at provincial venues, the delay is three to

legitimate business

by parents of disabled children are diverting funds that might otherwise be spent on services for the disabled and that all redress mechanisms and tribunals become bonanzas for greedy lawyers.

These views become all the more difficult to stomach when proffered by former lawyers who are now prominent politicians who proclaim a passion for politics as if their previous legal career was an embarrassing period of professional adolescence.

Jurisprudential casinos

This is the key challenge to the legal profession now. If we acquiesce to the political view – and it is a profoundly political view – that the courts are not an appropriate deliberative forum in which to settle any questions of social and economic justice, then we reduce the courts to mere mechanisms of dispute resolution, decentralised agencies of punishment and, at the upper end, jurisprudential casinos for the rich.

There is nothing wrong with having recourse to the courts to vindicate rights, whether those



Guest speaker, Donncha O'Connell (left), pictured with Fiona McAllister (President of the Mayo Solicitors' Bar Association) and vice-president Pat O'Connor

rights are civil and political or social and economic in nature. If we begin to view judicial redress as legitimate for one class of rights, but not the other, we institutionalise a particular view of the just society that is intrinsically unjust.

It is now fashionable to believe that an expansive view of what courts are *not* for is required by a proper understanding of the separation of powers. Of course, we forget

that the separation of powers serves a higher aim, that of the rule of law, not the other way around. In any democratic society, the values of freedom and equality are interconnected. Effecting a balance between these values is, of course, the business of politics but it is also – *legitimately* – the business of the law.

Human diversity

The solicitors' profession in Ireland is a lot more open, in

terms of merit-based and life-long entry, than is the case in relation to other professions. In the coming years, it will experience considerable change through the impact of more than a critical mass of women within the profession and through the emergence of other forms of human diversity within its ranks. It is true that this does not get noticed to the extent that we might like, but perhaps it's time that the profession explained itself in these factual terms, instead of reacting to caricatures and stereotypes that paint only half the picture.

George Bernard Shaw was right when he said that all professions were conspiracies against the laity. But it is not the case that all conspiracies are, in and of their nature, bad ones. Let us conspire to continue to live greatly in the law! **G**

Donncha O'Connell is dean of the Faculty of Law at NUI Galway. This is an edited version of the speech he presented at the Mayo Solicitors' Bar Association Annual Dinner Dance in Westport on 9 December 2005.

President of the High Court responds

six months, with the exception of Cork.

- *Jury list.* Virtually all cases in respect of which a date is sought are given a date for the following term.
- *Garda compensation list.* Cases are given a date for the same or the following term.
- *Family law list.* Cases are given a date for the same or the following term.
- *Asylum list.* While there are a large number of cases

awaiting hearing, in a large number of these a date for hearing is not sought. When three existing vacancies in the High Court are filled, additional resources will be allocated to this list.

- A number of jurisdictions of the High Court require an early hearing, examples being *Hague* and *Luxembourg Convention* cases, European arrest warrant and extradition. These are

accorded a hearing date as soon as the parties are in a position to proceed.

- Urgent cases are always accommodated with an early hearing date. In the two weeks preceding the last general election, three cases were instituted, heard and determined. Applications for an early hearing are made on a daily basis and, where urgency is shown, an early date is accorded.

- *The Commercial Court.* The court accords an early hearing. This benefits other lists, particularly the non-jury and chancery lists, in that complex and lengthy cases are removed, reducing the delay that would otherwise be experienced.

The improvement across lists has been achieved by concentrating on one list at a time. At present, the

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concentration is on the judicial review list. It had been anticipated that two appointments to the High Court would have been in place by October last, and the intention was that these resources would be used primarily to bring the non-jury and chancery lists up to date. It is now anticipated that these two appointments, together with a third appointment, will be made by mid March next, when it will be possible to allocate additional resources to the non-jury and chancery lists. I would expect a very significant reduction in delay by the end of this calendar year without any adverse effect on other lists.

Additional judicial resources alone will not solve the difficulties created by the year-on-year increase in the number, duration and complexity of cases coming before the High Court. Case management on a wider scale will be essential. Procedures require to be kept constantly under review. Additional courtrooms and registrars will be required. The lead-in for the provision of courtrooms is long, and the solution to present and future accommodation problems will most likely have to await the completion of the criminal courts complex, when a redistribution of space within the Four Courts can be undertaken.

The improvements that have been achieved in waiting times have placed a very heavy burden on judges, and particularly those dealing with lists where it is necessary to reserve judgment. It is no longer appropriate to expect judges engaged in such cases to attend to the same in the evenings, at weekends and during vacation, and it is necessary to allow judges some time out of court to deal with the same. A prompt hearing without a prompt judgment is of little value. With the additional resources, it will be possible to minimise delay.

By way of a short reply to your correspondent, I and the judges of the High Court are

acutely aware of problems where they exist. Significant improvements have been made and will continue to be made. Improvement should become apparent in the non-jury, chancery and judicial review lists over this calendar year.

Finally, the picture in the non-jury list, while unacceptable, is not quite as bleak as your correspondent believes. The list to fix dates for the two weeks 7 February to 17 February 2006 taken on 19 January 2006 contained 21 actions, the average delay between the certificate of readiness and the list to fix dates being some one year and ten months.

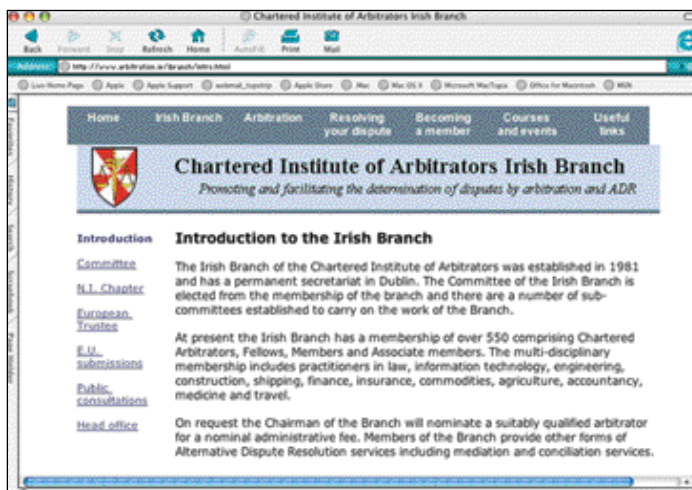
Choosing an arbitrator comes with a health warning

From: John G Murphy, John A Sinnott & Co, Wexford

The Chartered Institute of Arbitrators, Irish Branch, website tells us: "Any person may be an arbitrator – the law does not set any minimum qualifications."

The same website tells us: "In appointing an arbitrator, it is advisable to ensure that the person appointed is properly trained and knowledgeable in the arbitral process and in the technical field of commerce or law in, or likely to be in, issue."

And now for the health warning! The website tells us that "parties are advised to ensure that the appointed arbitrator has demonstrated a competence as an arbitrator in the particular field". I describe this last quotation as a 'health warning' because I fear that most of us, when we seek a list



of arbitrators, might make an entirely foolish assumption that every proposed arbitrator on the list is competent.

Some time ago, I became involved in the 'tail end' of an arbitration concerning one house in an estate. The buyers had refused to complete on

what could only be described as relatively minor matters. They were cash buyers and so, at least in that regard, the purchasers' solicitor was not concerned with certification to a building society or bank.

The matter was proposed for arbitration in early 2004,

and the first submission was made in mid 2004. A plethora of directions and further submissions and letters and telephone conferences then trundled along to what was proposed as a final hearing in late 2005, following which a final award was to issue and then further submissions were to be made etc on costs.

The entire 'cost' of the arbitration process will be approximately €20,000 for the arbitrator and approximately €35,000 claimed as claimants' costs (plus respondents' costs).

Take a deep breath – the purchase price of the house was in the region of €150,000.

I recall Pdraig McCartan SC wrote an article, possibly 20 years ago, which concluded: "The state pays the judge, the parties pay the arbitrator."

Be warned. **G**

SLAUGHTER AND MAY

FED UP WITH TARGETS?

SEE OUR AD ON PAGE 72

Speaking

The *Law Society Gazette* celebrates this month with the publication of volume 100, number 1. Mark McDermott takes a look at the very first *Gazette* and at the magazine's history – discovering some wonderful nuggets there

MAIN POINTS

- First *Gazette* published in May 1907
- History of the *Gazette*
- Editorial advances

It's a strange but wonderful feeling, opening up the very first volume of the *Law Society Gazette*. You get the strong sense that you're opening a door into history – not just of this esteemed publication, but also of the Society in general.

The very first *Gazette* was published in May 1907. A 12-page publication, it announced a schedule of ten issues a year – a publishing rota that continues to this day.

The opening words of volume 1, number 1 state: "The Council have decided to issue the members of the Society monthly (except in the months of September and October) a *Gazette*, the contents of which will consist chiefly of statements of work done by the Council during the previous month, notes of decisions of professional interest, and announcements as to examinations and admissions of apprentices. The Council will be glad to receive from members notes of matters of interest to the Profession for publication; but the Council reserve the right to reject or modify such notes..."

"*The Gazette* is not intended to be in competition with the existing Law journals or periodicals.

"Correspondence will not be published in *The Gazette*."



William S Hayes, the Society's president in 1907

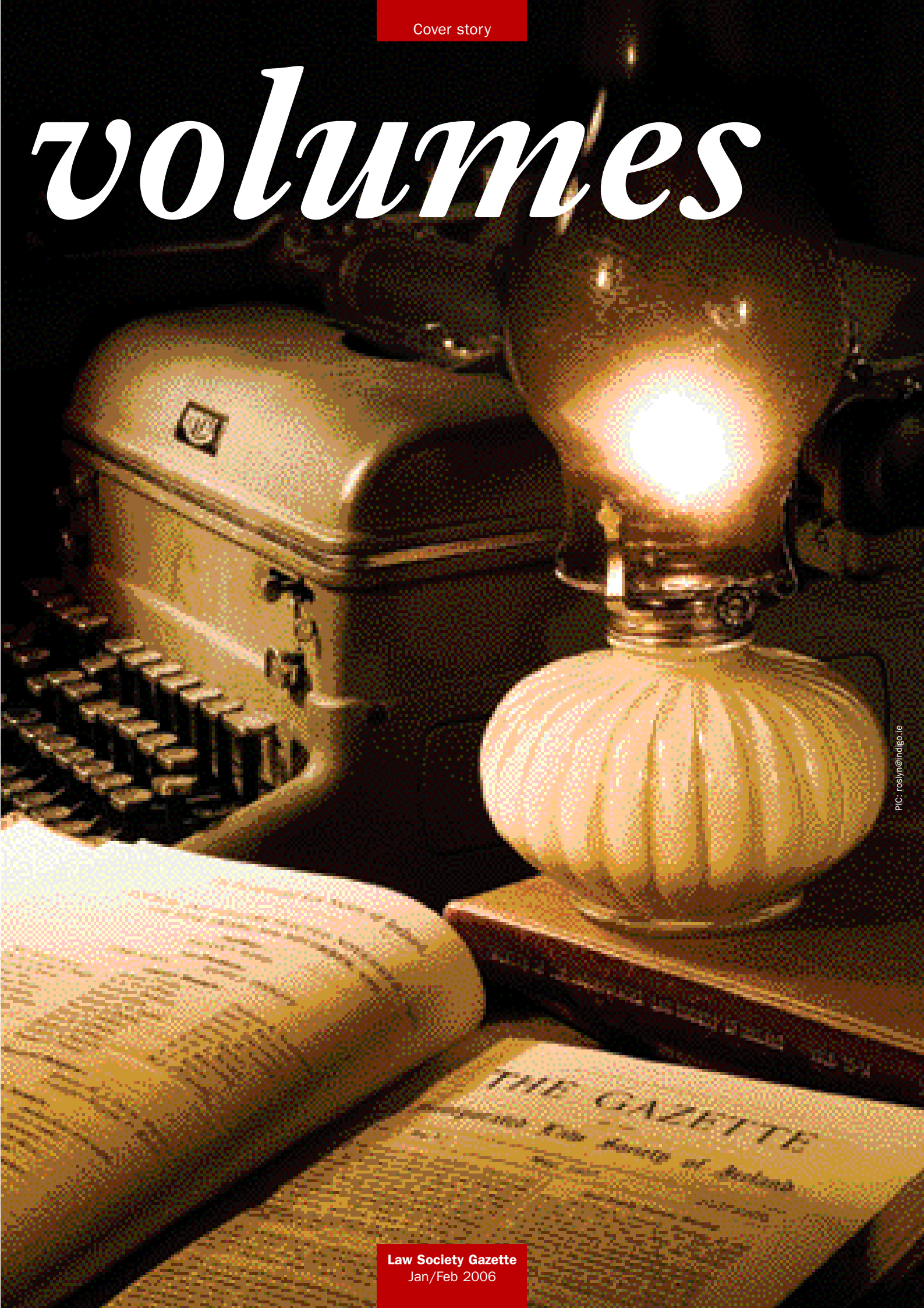
Contact details were given for telegrams: 'Law Society, Dublin', while the telephone number was 2607 (two lines).

The president of the Law Society in 1907 was William S Hayes, while vice-presidents were James

THAT WAS THE YEAR THAT WAS 1907

- 2 January – A new system of rail cars running from Amiens Street in Dublin to Howth is inaugurated.
- 5 January – The first motor show, under the auspices of the Irish Automobile Club, opens in the RDS Dublin.
- 6 January – The Sunday provisions of the new *Licensing Act* come into operation in Dublin and four other cities. Sunday opening hours will be from 2 to 5pm.
- 26 January – Large sections of the audience boo a performance of *The Playboy of the Western World* at the Abbey Theatre. Two days later, the play is interrupted by the audience who continue to boo, hiss and shout.
- 4 February – In a public debate at the Abbey Theatre, the poet William Butler Yeats denies trying to suppress audience distaste during a performance of *The Playboy of the Western World*.
- 13 May – Daphne Du Maurier, author of *Rebecca*, *Jamaica Inn* and other novels, was born in London.
- 6 July – Irish State Jewels, valued at £50,000, are stolen from the safe in Dublin Castle.
- 4 September – An Irish Parliamentary Party meeting in the Mansion House is disrupted by Sinn Féin, which holds a demonstration outside.
- 17 October – The Marconi transatlantic wireless telegraphy service between Galway and Canada is opened. Messages are exchanged without a hitch.
- 9 November – The Irish International Exhibition ends after six months. An estimated 3 million people visit, including a large number from abroad.

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Henry and Henry J Synnott. Two knights were included among the list of ordinary members of the council: Sir George Roche and Sir Augustine F Baker. The secretary of the Society was William George Wakely.

Annual subscription

Members of the Law Society were reminded in the first issue that the annual subscription became due on 1 May. Town members “and such country members as vote at election of ordinary members of Council” had to pay £1, while “other country members” were asked to pay ten shillings, as well as annual press rentals (five shillings).

Elsewhere, we read that “The Lord Chancellor has appointed Mr Edward Drew MacLaughlin, LLB, TCD, Solicitor, to be Chief Clerk to the Lord Chancellor, in room of Mr William Graham Brooke, BL, deceased.” Mr MacLaughlin was president of the Incorporated Law Society of Ireland from 1903 to 1905.

Another item of interest was the notice of the Solicitors’ Apprentices’ Debating Society about a meeting in the Ancient Concert Rooms, Great Brunswick Street, Dublin, at 8pm, Mondays. Motions included: ‘Should the Parliamentary Franchise be Extended to Women?’; ‘Is the present attempt to revive the Irish language deserving of support?’; ‘Is the Victorian literature superior to that of the Elizabethan age?’; and ‘That the case of McBride, Appellant; McGovern, Respondent (1906) 2 IR page 181, was rightly decided’.

Look and feel

The *Gazette*’s ‘look and feel’ was smaller than its current A4 size. It was printed in black and white by Ponsonby and Gibbs, at the University Press. Photos did not appear until June 1971, in an advertisement for the 3M 253 dry copier. The first staff member to make a photographic appearance was Willie O’Reilly, while the first president of the Society to feature was TV O’Connor in 1973.

According to *The Law Society of Ireland, 1852-2002: Portrait of a Profession*, the publication’s format and focus was changed under the advice of the Society’s public relations consultant, Maxwell Sweeney, “a journalist of wide experience”. Colour printing started to become more affordable. In 1972, a colour drawing of the Four Courts made its appearance on the front cover – and remained there for several years.

In August 1976, the first cover photo appeared. It featured a group involved in planning the Society’s new education programme and their Australian consultant, Kevin O’Leary. The magazine went full colour in 1985.

In the hot seat!

The *Gazette* was edited anonymously until 1969, when Colum Gavan Duffy, the librarian to the Society, was formally appointed as editor. The editorial board first made its appearance in 1978.



Mahatma Gandhi outside his law practice in South Africa, 1907. Born in India, he would return there to fulfil his destiny

“We aim to celebrate this centenary year by producing a page in each issue of volume 100 that dips into the history of the Society”

A number of part-time editors followed, until the appointment of executive editor, Mary Gaynor (now deputy librarian), between 1980-91. The Society’s public relations officer, Barbara Cahalane, took over in 1991 and was succeeded by Catherine Dolan and Mary Kinsella in a part-time capacity.

The magazine got its first full-time editor in Conal O’Boyle in 1996. The transformation in the *Gazette* was immediate and effective. A new designer, Nuala Redmond, joined the team and promptly won the 1997 *Irish Independent/Communicators in Business Award* for the *Gazette*’s design, while Conal was named ‘Editor of the Year’.

The *Gazette* continues to go from strength to strength. The team now consists of editor Mark McDermott (appointed last September), deputy editor Garrett O’Boyle, designer Nuala Redmond, and editorial secretaries Catherine Kearney and Valerie Farrell.

We aim to celebrate this centenary year by producing a page in each issue of volume 100 that dips into what is, effectively, the history of the Society during a time of major change for our nation.

In keeping with its aim to be the definitive source of news and information for the solicitors’ profession – and for anyone with an interest in the law – the *Gazette* will undergo a redesign from the next issue. Our aim is to update the design and to introduce new content ideas. As usual, your comments on the ‘new, improved’ *Gazette* will be most welcome. **G**

The All-Party Oireachtas Committee on the Constitution has recommended that the constitution should be amended to ‘improve the constitutional rights of the child’. Geoffrey Shannon discusses recent developments on children’s rights and explains why constitutional reform is necessary

MAIN POINTS

- Children as possessions
- The child as a legal person
- Articles 41 and 42 of the constitution

One of the founding documents of the state – the Proclamation of Easter 1916 – promised to cherish all the children of the nation equally. Equality of treatment, however, can hardly be said to characterise the treatment of children in Ireland today. Injustice, inequality, hypocrisy and the denial of human rights occur in many areas of child law. How many of the laws, structures, institutions and practices established to protect children and their welfare actually do so?

It is only with difficulty that the law has advanced from regarding children as possessions. The focus in Irish law today is not on actively promoting the welfare interests of the child, but merely with ensuring that such interests are not seriously impaired.

The current constitutional position in Ireland embodies a ‘seen but not heard’ approach to children. The paramount importance of parental rights in Irish child custody, separation and divorce proceedings is in marked contrast to the relative invisibility of children in such proceedings. Often, where neither adult seems incontestably correct, parents seem locked in a power struggle with the other, using children as weapons and trophies while ignoring their needs.

The *Constitution of Ireland* fails to recognise the child as a legal person and lacks a child focus. Under the constitution, parents have inalienable and imprescriptible rights, rights that cannot be lost by the passage of time. By contrast, child rights are subordinate to parental rights. Indeed, our constitution insists on preserving rights in married parents in circumstances where those rights have been constantly abused or, even more absurd, where the parents have displayed little interest in the exercise of those rights. The only manner in which the state can interfere in family life with a view to protecting the rights and interests of the child is through the mechanism in article 42.5 of the

SEEN *but not*





PIC: VOISIN/PHANIE/REX FEATURES

constitution, which provides: “In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the state, as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.”

This provision can only be invoked in exceptional circumstances, which impacts on child-protection work and policy-making.

Nobody's child

The wording of article 42.5 of the constitution also deprives some children of the stability and security of a second family. For example, for a significant number of children in long-term foster care, rehabilitation with their biological marital family is an unattainable goal. These children, although they no longer have contact with their biological marital parents, nevertheless legally ‘belong’ to them and are not free for adoption. They can only be freed for adoption if it can be proven that the marital parents of the child have so comprehensively abandoned their parental duties in such a manner as indicates that the child is unlikely ever to receive even minimal care from them. Of necessity, then, due to the constitution, these children live in a twilight world between a family that is unable to care for them and a family that is prevented from fully caring for them in a legal sense.

Four recent Supreme Court decisions (see panel, p22) indicate that the climate may be changing for children’s constitutional rights and that the courts will not be the refuge of last resort that they once were. The recent judicial trend is to veer away from enumerating children’s rights by holding that the government is responsible for articulating the rights of children. The Supreme Court judgments concern children in society who are most in need: children who are dependent on the state for their welfare, education, health and citizenship. Such children now inhabit a legal twilight zone, in that there is a

HEARD

SUPREME COURT DECISIONS

Four recent decisions of the Irish Supreme Court have placed clear limitations on the courts' power to order the state to meet its legal obligations to children. This approach can be gleaned from *North Western Health Board v H and CW*,¹ *Sinnott v Minister for Education and Others*,² *TD v Minister for Education and Others*³ and *Lobe and Osayande v Minister for Justice, Equality and Law Reform*.⁴

While the *Sinnott* case did not concern a child as such (the applicant Jamie Sinnott being 23 at the time of the Supreme Court hearing), the issue in the case concerned the scope of the constitutional right to education, the only express right guaranteed to children under the constitution. The Supreme Court set aside the order of Barr J in the High Court that the applicant, diagnosed as being autistic at an early age, was entitled to free primary education for so long as he was capable of benefiting from such education.

In *TD v Minister for Education and Others*, the Supreme Court held that the courts have power to make mandatory orders against the state directing the supply of services to vindicate the constitutional rights of children, but only when the state failed in its duty in an "exemplary fashion".

In *North Western Health Board v HW and CW*, the parents refused to allow their newborn son to undergo the PKU (or heel-prick) test. The Health Service Executive sought, among other

things, a declaration that it be permitted to carry out the test. While the Supreme Court acknowledged that having the PKU test was undoubtedly in the best interests of the child, it could only intervene in the affairs of the family in exceptional circumstances, in the interests of the common good where the parents had failed for physical or moral reasons in their duty to the child. The parents' decision in this case may have been "unwise and disturbing", but as Murphy J stated, state intervention only arises "where either the general conduct or circumstances of the parent is such as to constitute a virtual abdication of his or her responsibility or, alternatively, the disastrous consequences of a particular parental decision are so immediate and inevitable as to demand intervention and perhaps call into question either the basic competence or devotion of the parents".

In *Lobe and Osayande v Minister for Justice, Equality and Law Reform*, the Supreme Court addressed the position of the child of non-national parents. The effect of the decision was that children born to non-national parents enjoyed the right to the care and company of their family, but did not enjoy the automatic right to the care of their parents within the state for an indefinite period, simply by reason of their Irish citizenship. It appears that children born to non-national parents have a lesser entitlement to the protection of the constitution compared with children born to Irish citizens.

vacuum in the current constitutional framework where children's rights are concerned.

If the state fails to protect the rights of individual children, and the Supreme Court refuses to step in as guardian of the constitution (save in exceptional circumstances) to uphold such rights, who is now responsible? Given these recent developments at Supreme Court level, the time is now ripe to place the child at the centre of the constitution. Without a fundamental overhaul of the current constitutional position, the rights of children in Ireland will never be truly recognised, nor will Ireland live up to the standards set by international law.

The rights of children should be taken seriously. Despite protestations to the contrary, the law in the area of child rights in Ireland still falls far short of our international obligations, including the requirements of the *United Nations Convention on the Rights of the Child 1989* (CRC). Ireland ratified the CRC without reservation on 21 September 1992. However, our dualist approach to international law means that the provisions of the CRC do not form part of Irish law and are, therefore, not enforceable through the courts. By ratifying the CRC without reservation, Ireland made a commitment to uphold the rights of children defined in this agreement.

Destiny's child

In spite of a period of sustained economic growth in Ireland since the early 1990s, 8% of children are living in 'consistent poverty' while 24% are living in 'relative income poverty'. This current high level of child poverty in Ireland rests uneasily with the

fundamental right of the child under the CRC "to a standard of living adequate for the child's physical, mental, spiritual, moral and social development". Poverty in childhood can prevent children from reaching their full potential development, negatively affecting their health, education and life chances.

Ireland must now reflect in its fundamental law the series of explicit rights that the CRC protects, so that every child in this country has equal and adequate protection according to the terms of the CRC. At a European Union level, as part of its work programme for 2006, the EU Commission will formulate an action plan to help the European Union and the member states to fulfil their obligations vis-à-vis the CRC.

Of special significance in discussing our international obligations towards children are the relevant provisions of the *European Convention on Human Rights and Fundamental Freedoms* (ECHR). The ECHR was incorporated into Irish law on 31 December 2003 with the coming into effect of the *European Convention on Human Rights Act 2003*. It is not child-focused in the same way as the CRC. However, there is an increasing awareness that the ECHR has potential as an important resource in the promotion and protection of children's rights. It has been used very effectively to protect children. In *A v UK*, for example, a case concerning the caning of a nine-year-old boy by his stepfather, the European Court of Human Rights concluded that the UK had failed to protect the applicant child from punishment amounting to inhuman or degrading treatment within the meaning of article 3 of the ECHR.

The ratification of international instruments is only a beginning: it is a signal of a commitment to the recognition of children's rights, which requires implementation in practice. In fact, unimplemented domestic and international laws create false promises and expectations and do children more harm than good. It should also be stated that rights without resources are meaningless.

Motherless children

Over the past decade, particularly since the broadcasting of the RTÉ series *States of Fear* and the publication last year of the Ferns Report, a picture has emerged as to how Ireland has failed to protect children from exploitation, neglect and abuse. Yet, as a country that sees itself as child-loving, we continue to fail to address the rights of children adequately in our constitution. This is surprising, given the fact that the future of the country rests with the children of Ireland. Childhood does not stand still pending detailed consideration of whether or not to amend the constitution.

In 1993, the Kilkenny Incest Investigation Committee recommended to the government that an amendment be made to articles 41 and 42 of the constitution. The investigating committee stated as follows: "[C]onsideration [should] be given by the government to the amendment of articles 41 and 42 of the constitution so as to include a statement of the constitutional rights of children. We do not ourselves feel competent to put forward any particular wording and we suggest that study might be made of international documents such as the *United Nations Convention on the Rights of the Child*."

In 1996, the *Report of the Constitution Review Group* highlighted the need for a review of articles 41 and 42 of the constitution. The review group indicated the need to: "...put into the constitution an express obligation to treat the best interests of the child as a paramount consideration in any actions relating to children".

In his speech at the launch of the All-Party Oireachtas Committee on the Constitution Report on the Family on 24 January 2006, Taoiseach Bertie Ahern said: "...in proceedings before any court in relation to the upbringing of a child under the *Guardianship of Infants Act*, the courts must regard the welfare of the child as 'the first and paramount consideration'.

"This is a formula often followed in legislation. It reflects our society's particular objective to cherish all the children of the nation equally. If there is a need to further our commitment to that objective by proposing a constitutional protection of the rights and interests of children, then we will consider that recommendation very sympathetically."

In 1998, the United Nations Committee on the Rights of the Child, in its concluding observations on Ireland's implementation of the CRC, emphasised that the recommendations of the *Report of the Constitution Review Group* would reinforce "the status of the child as a full subject of rights". The All-Party

Oireachtas Committee on the Constitution last December recommended that a new clause be inserted in article 41 of the constitution dealing with the rights of children as follows: "All children, irrespective of birth, gender, race or religion, are equal before the law. In all cases where the welfare of the child so requires, regard shall be had to the best interests of that child."

Sweet child o' mine

A decade after the Kilkenny investigation and the *Report of the Constitution Review Group*, and eight years after the recommendations of the Committee on the Rights of the Child, there has been no constitutional referendum to safeguard and promote the rights of children in Ireland. Childhood is for a brief period and does not, as previously mentioned, stand still, which makes the delay in acting on the recommendations of various expert groups unacceptable.

Through our signature of international instruments, we espouse the concept of protecting children. Recommendation 1286 (1996) of the Council of Europe on a European Strategy for Children recommends that states should guarantee children's rights through explicit recognition in constitutional texts. One such fundamental right alluded to by the council is the right to protection against all forms of abuse. In reality, the weak constitutional position of children in Ireland denies them the basic protection they are afforded under international instruments. The present constitutional position of children's rights is beset with a number of uncertainties. Therefore, what is now needed is both a reformulation and a clarification of children's rights in the constitution.

The constitution should be amended to contain a specific declaration on the rights of children to ensure that the right of children to have their welfare protected is given the paramountcy it deserves. Such an amendment to the constitution would consolidate the four main aims of the CRC – the standard-setter on children's rights – which have been identified as prevention, protection, provision and participation.

We need to put children at the centre of the Irish constitution, which will necessitate discarding the shackles of the Irish adult-centred past. Only then will we be in a position to demonstrate that we are a country that really does cherish all the children of the nation equally.

Footnotes

- 1) [2001] 3 IR 622.
- 2) [2001] 2 IR 598.
- 3) [2001] 4 IR 259.
- 4) Unreported, Supreme Court, January 23, 2003. **G**

Geoffrey Shannon is a solicitor and deputy director of education with the Law Society of Ireland. He is author of the recently published Child Law (Thomson Round Hall) and is the Irish expert on the Commission on European Family Law.

"The rights of children should be taken seriously. Despite protestations to the contrary, the law in the area of child rights in Ireland still falls far short of our international obligations"

audit NERVES

With more CAT returns than ever being reviewed, Revenue audit is no longer the exclusive domain of accountants. Solicitors also need to have a good understanding of the process, writes Catherine McGrath

MAIN POINTS

- Revenue audit process
- Disclosure and settlement
- Interest and penalties

Solicitors routinely submit capital acquisitions tax returns on behalf of their clients, but the words ‘revenue audit’ can still strike terror into the heart of a seasoned practitioner, or at least produce a few beads of cold sweat. As with much else in life, a little demystification of the process may go a long way towards dispelling any such trepidation. The more we, as practitioners, can understand the internal workings of the Revenue Commissioners and the audit process itself, the better we can advise and guide our clients through the ordeal.

Thankfully, we are greatly helped in this quest by Revenue’s recent and ongoing reinvention of itself as a much more user-friendly entity than the one of old.

What is a Revenue audit?

The statutory basis for Revenue audit in general is a relatively harmless-looking section of the *Taxes Consolidation Act 1997* (TCA), section 899, which entitles an inspector to “make such enquiries or take such action within his powers as he ... considers necessary to satisfy himself ... as to the accuracy or otherwise of any return”.

The powers within which he must act stretch across many sections of the act and are extremely wide in scope. The 1999 *Finance Act* applied virtually all of these powers to CAT, where previously only a limited number had applied.

In a nutshell, Revenue audit is the means by which Revenue patrols the self-assessment system. It is simply an examination by Revenue to measure the degree of voluntary compliance by a taxpayer as reflected in his returns, and to impose penalties where

tax defaults are uncovered. Under the Revenue Audit Code of Practice (see panel, p26), any transaction (as opposed to a return) may also be audited.

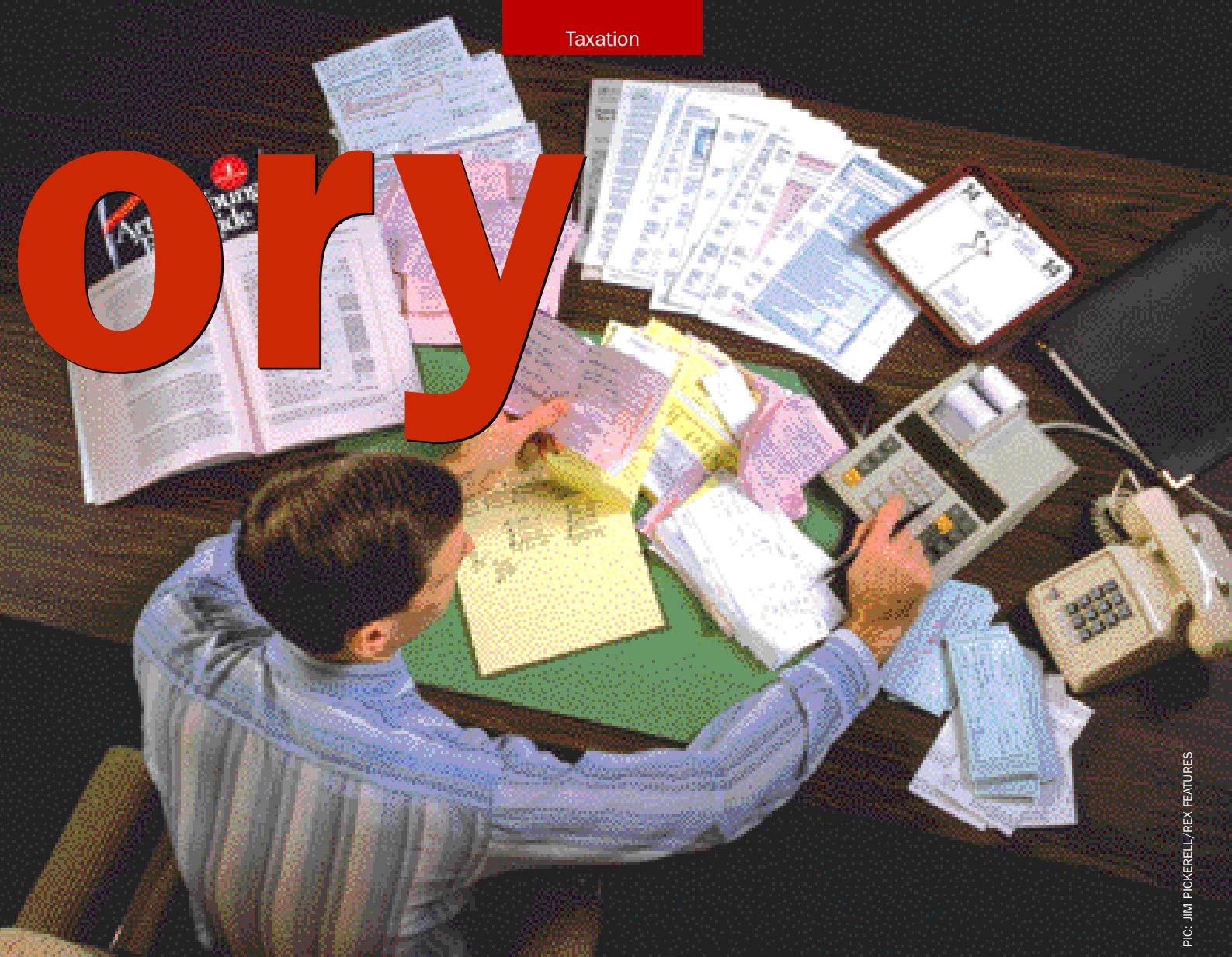
Every aspect of a Revenue Audit is governed by the code, which outlines the procedure to be followed, guarantees the rights of the taxpayer, deals comprehensively with the audit settlement and penalties, and outlines review procedures. However, every Revenue enquiry does not automatically constitute an audit. For example, Revenue may make assurance checks (either desk or field) that operate outside the code. In order for the code to apply, a clearly stated ‘Revenue audit notification’ must be sent by Revenue to the taxpayer and to his adviser, where relevant.

An audit can be either a desk audit, which would be conducted by phone, post and email, or a field audit, where an inspector comes to the taxpayer’s premises. CAT and stamp duty audits are usually for verification purposes, mostly taking the form of a desk audit, but can subsequently involve fieldwork. In either case, the rights guaranteed by the charter apply and the facility to make a disclosure is key (see below).

As a matter of policy, Revenue does not disclose the reason why a particular return or transaction is being audited. Sometimes selection is on a random basis. Sometimes it follows Revenue assessment of risk. As far as recent CAT audits are concerned, the aim is often to verify that reliefs that have been claimed (for example, agricultural relief or business property relief) have been properly claimed.

As most CAT audits are desk audits, the areas with which solicitors are mostly concerned, apart from the notification of audit itself, are the issues of disclosure

Worry



PIC: JIM PICKERELL/REX FEATURES

and settlement. However, an understanding of the entire process is necessary (see 'procedure' panel).

Looking at the typical audit procedure, you might be thinking that there's nothing earth shattering here. And you would be absolutely right. The whole procedure is relatively straightforward and, as long as all records and payments are in order, there should be nothing to worry about. But what if they are not?

Interest and penalties

First let's look at the worst-case scenario. The audit process has been completed and the inspector has discovered some defaults in your client's CAT return(s). Some of the consequences provided for are as follows:

- Interest: this is chargeable at a daily rate of 0.0322% (approximately 12% per annum) from the date on which the tax was due to the date of payment.
- Penalties: there are numerous penalties for various tax offences provided for in the *Taxes Consolidation Act* as well as in the *CAT Act*. However, for the purposes of this article, we are concerned with the penalty structure outlined in the code, as part of the Revenue audit procedure. This is a tax-geared system where penalties are expressed as a percentage

of the tax found during the audit to be due (see table, p27). The code breaks down tax default into three categories: deliberate default; gross carelessness; and insufficient care. It then imposes penalties accordingly, based on the amount of tax that is owed. Note that, under the code, penalties will never apply in the case of innocent error or where a self-correction is made. The self-correction procedure is outside the scope of this article.

- Publication: the TCA provides for the publication of the personal details of tax defaulters in *Iris Oifigiúil*, under certain circumstances.

The question now is: what can be done to avoid this scenario? This is where the concept of disclosure and the mitigation provisions of the code come in.

Disclosure – the tricky bit

Let's rewind to the point where you were preparing the audit with your client. You realise that there has been a tax default along the way. You are now into the whole area of disclosure, which is the tricky bit of Revenue audit.

The key points to grasp are that:

- Making a disclosure of discrepancies to the

RECENT DEVELOPMENTS IN THE CONTEXT OF CAT

- 1988/89: introduction of self-assessment.
- 1988: introduction of Taxpayers' Charter of Rights, which set out the rights of a taxpayer in dealing with Revenue. These included courtesy, a presumption of honesty, and confidentiality.
- 2002: formulation of the new Revenue Audit Code of Practice, which incorporated the charter and extended to the audit process to CAT and stamp duty for the first time.
- 2003/04: reorganisation of Revenue into four geographic regions, plus a Large Cases Division that deals with all tax affairs (including CAT) of certain high-net-worth individuals. CAT compliance of all other taxpayers is dealt with on a regional basis. However, some functions have, to date, been centralised in Dublin, including CAT audit, discretionary trust tax and the Customer Information Unit.
- 2004: replacement of the charter with the Customer Service Charter, which sets out the mutual commitments of Revenue and the taxpayer. Although it does not refer to taxpayers' rights, Revenue has confirmed that these rights are in no way diluted in the new document.
- Ongoing: increasing reallocation of Revenue resources to the audit process and the introduction of the National Audit Programme. With this has come a large increase in the number of CAT audits being carried out. In 2003, 112 CAT audits were completed, while in 2004 this number rose to 1,324.
- Ongoing: increasing use of information systems by Revenue for the administration of audits and the assessment of risk, as well as the development of the Revenue On-line System for compliance.

inspector in advance of the audit can, during the settlement phase, mitigate the penalties. In all other respects, the audit follows standard procedure.

- There are two parallel systems of disclosure provided for – one under the TCA and one (incorporating two types of disclosure) under the code. The taxpayer can choose the system under which he wishes to make his disclosure.
- Disclosure is not an automatic choice. The risks and benefits must be considered carefully in each individual case.
- Even where a disclosure is made, the tax due, plus interest on it, will always be payable.

The three types of possible disclosure are as follows:

- Voluntary disclosure – provided for in, and regulated by, the TCA. A voluntary disclosure can be made orally or in writing, and at any time before the opening meeting or at the opening meeting itself. In order to be successful in mitigating penalties, it must be a complete disclosure, that is, covering all tax heads for all periods.
- Prompted qualifying disclosure – provided for in the code. 'Prompted' refers to the notification of audit. 'Qualifying' signifies that it comes within the rules of the code for mitigation of penalties. This type of disclosure must be in writing, signed by or on behalf of the taxpayer and made within 14 days of receipt of the notice, or in writing at the opening meeting. The taxpayer then has 60 days' grace to make his prompted qualifying disclosure. Again, the disclosure must be complete in order to be effective. The following details must be stated: (a) any undisclosed tax liabilities for the tax head under enquiry and the period under enquiry, (b) similar related underpayments in other periods, (c) the knock-on effect of undisclosed liabilities on other tax heads and for other periods, and (d) any deliberate defaults under any tax head for any period.
- Unprompted qualifying disclosure – also provided for in the code. This is a disclosure made by the taxpayer where no notice of audit has been received and no enquiry has been made by Revenue. All the above provisions relating to prompted qualifying disclosure apply, except (a) the 60-day period is triggered by the taxpayer signalling his intention to make a disclosure, as opposed to by a notification of audit, and (b) Revenue may or may not follow up with a verification.

It is clear that a voluntary disclosure is wider in scope but is less procedural than a qualifying disclosure. Also, in the case of a qualifying disclosure, the taxpayer gets 60 days' grace to prepare his disclosure.

What about the relative advantages of each?

REVENUE AUDIT PROCEDURE

A full audit would typically unfold as follows:

- 1) Revenue audit notification is received by the taxpayer –
 - a) It must be in writing and specify that it is such;
 - b) Usually 21 days notice of the audit is given;
 - c) It usually includes the following information:
 - A statement of the areas being audited, for example, single tax head/fiduciary taxes/comprehensive audit/transaction audit;
 - A statement of the period that is being audited;
 - The date, time and venue of the audit;
 - Relevant Revenue powers, for example, inspection/removal of documents etc.
 - Relevant taxpayer's rights, for example, appeal/representation by an agent etc.
- 2) The taxpayer meets with his adviser(s) to prepare the audit.
- 3) An opening meeting takes place between the inspector, the taxpayer and possibly the taxpayer's adviser, during which the inspector

outlines the audit procedure, his own powers, the taxpayer's rights, possible penalties and the benefits of disclosure (relevant in the case of a field audit only).

- 4) The inspector carries out his investigation of documents and records, either on-site or in his own office. He has the power to take records away with him. He may raise queries during the course of the audit that will need to be dealt with by the taxpayer or his adviser. The audit will focus on the period specified in the notice, but the inspector may get approval from his manager to open earlier or later years should issues arise requiring it. The length of this phase obviously depends on the complexity of the case.
- 5) A closing meeting takes place at which the inspector presents his findings to the taxpayer and his adviser (relevant in the case of a field audit only). If there has been an underpayment of tax, there may be some opportunity for negotiation with the inspector before the final determination of tax and interest due and the possible imposition of penalties.

An effective disclosure made before the audit begins can have the following effects during the settlement phase:

1) Mitigation of monetary penalties:

- Qualifying disclosures. The table, from the audit settlement chapter of the code, shows how a taxpayer can use qualifying disclosures to reduce the monetary penalties payable in the aftermath of an audit.
- Voluntary disclosures. As regards voluntary disclosures, mitigation reduces the penalties to a lesser extent than a qualifying disclosure – the relevant percentages being 95%, 50% and 15% for the three categories of default; further reduced to 75%, 30% and 5% where there is co-operation.

It is important that any disclosure is completely accurate first time around, as penalty mitigation is reduced for subsequent disclosures.

2) Non-publication. Both voluntary disclosure and qualifying disclosures entitle the taxpayer to non-publication.

3) Non-prosecution. In the case of a complete qualifying disclosure, there is a Revenue assurance that it will not initiate a prosecution. However, there is a risk that the information obtained by Revenue could become available to other government bodies. In the case of a voluntary

Category of tax default	Tax-geared penalty	Net penalty after mitigation where there is:		
		Co-operation only	Co-op & PQD	Co-op & UQD
Deliberate default	100%*	75%	50%	10%
Gross carelessness	40%	30%	20%	5%
Insufficient care	20%	15%	10%	3%

*This is the maximum penalty – 100% of the tax owed.

disclosure, there is no such assurance of non-prosecution, but Revenue can accept a monetary settlement in *lieu*.

Working with Revenue

In the current tax climate, the emphasis is on your client – the taxpayer – taking responsibility for his own compliance, even after a tax return has been submitted. The mechanisms set out above, as well as some others that are outside the scope of this article, have been put in place to help him achieve this. A good understanding of these mechanisms will enable you, as the adviser, to work with Revenue on your client's behalf, thus maximising compliance and minimising sleepless nights. **G**

Catherine McGrath, solicitor, runs a practice that provides tax support and revenue audit advice to solicitors and other professional advisers.



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BLIND J

Family lawyer Jennifer O'Brien says that the modifying of the *in camera* rule in March 2005 is unlikely to result in a steady stream of case reports from our family law courts

MAIN POINTS

- *Civil Liability and Courts Act 2004*
- *In camera* rule
- Family law reporting

The *Civil Liability and Courts Act 2004* is a departure from the strict interpretation by our courts of the requirement that family law cases be heard “*otherwise than in public*”. The modifying of the *in camera* rule, which came into operation in March 2005, is unlikely to result in a steady stream of case reports from our family law courts. At present, written judgments are common in High Court family law cases. While setting precedent, these cases are usually of more relevance to those with ample resources.

In terms of statistics, in 2004 the High Court received 48 applications for judicial separation and 34 applications for divorce. The vast majority of family law cases are heard in the Circuit Family Court, with 1,654 applications for judicial separation and 3,880 applications for divorce in 2004.

The Circuit Family Court has overseen an era of monumental change in Irish family life since the enactment of the *Judicial Separation and Family Law Reform Act 1989* and the enactment of the *Family Law (Divorce) Act 1996*. The non-lawyer could be forgiven for assuming that either a court officer or another trusted individual is charged with the task of keeping an accurate record of the cases that are opened to the court. One might even assume that a register is kept of the court's decisions in each case. At the very least, one might expect that a stenographer would be present, in the event of a future dispute arising as to what was said in court by the parties, their lawyers and the judge. Many are shocked to discover the permanent record of a four-day hearing, for example, comprises two A4 pages containing the orders made by the court, without setting out the reasons for its decision. These two pages of information, even with identifying material deleted, are not generally available to anyone other than the parties to the proceedings and their respective legal teams.

Reporting proceedings

As of 31 March 2005, a barrister, a solicitor, a researcher or specialist working in the area can prepare and publish a report of proceedings taken under certain family law legislation. In addition, it is

now possible for the court to publish its decision. A report or decision must not contain any information that would enable the parties to the proceedings, or any child, to be identified. As such, a barrister, a solicitor, a researcher or a specialist may attend court subject to any directions the court may give. It is open to one of the spouses to apply to court seeking exclusion of the reporter, although the legislation does not set out the grounds on which such an application can be made.

The legislation fails to address provision of adequate resources within our family law court system to ensure that an individual reporter is available to carry out the reporting function on a routine basis. It seems unlikely that a barrister or solicitor will take on such a function without remuneration, while reporting carried out by researchers and other interest groups is likely to provide insight into random cases of particular interest, rather than covering a broad spectrum of cases. While such data will be an improvement on the pre-existing situation, it falls well short of an organised structure for reporting one of the most important social phenomena of our times – marital breakdown and its consequent impact on spouses and, more importantly, their children. The ripple effect of each and every break-up fundamentally alters our society. Yet, how can individual citizens expect to understand the true nature of their marital rights and obligations when the decisions of the courts governing these cases are not readily available?

Untold story

The impact of our family law system on children is, quite literally, untold. This is likely to remain the case under the new provisions, which do not extend to cases under the *Guardianship of Infants Act 1964* (unless ancillary to divorce or separation), the *Child Care Act 1991*, the *Child Abduction and Enforcement of Custody Orders Act 1991* and the *Adoption Acts*. In short, the new provisions do not extend to legislation dealing with the welfare of children, particularly where their parents are unmarried.

With clever drafting of proceedings in divorce and

JUSTICE



separation cases, it will be possible to exclude application of the new reporting provisions in almost every family law case concerning children. The welfare of children – an issue the courts are obliged to regard as the first and paramount consideration – is somewhat side-stepped in this first attempt at introducing a more transparent family law system. The introduction of family law reporting, without

inclusion of all issues pertaining to children, could be said to be akin to introducing a weather-warning system that does not forecast tornadoes.

It is probably more appropriate to characterise the new provisions as the first step towards a more transparent system. Slow progress may be the wisest course in a highly sensitive and often difficult area. Adequate reporting would quickly reveal the



ACCOUNTANCY MERGER ANNOUNCED

Hilary Haydon & Company Chartered Accountants and Woods Sweetman have announced the merger of the two firms as from 1st January 2006.

The combined firm comprising a professional team of 53 staff will continue to operate from offices in Dundrum and Balbriggan in Dublin.



Joe Woods, Hilary Haydon, Fiona Cottell and Owen Sweetman in Balbriggan

The enlarged firm will continue to provide a quality professional service to its existing client base which is primarily comprised of small to medium sized business with a strong emphasis on family business.



Front: Gordon Wilson, Yvonne McCormack & Rory Fahey.
Back: Fiona Cottell & Hilary Haydon

Hilary Haydon & Company Chartered Accountants – Woods Sweetman are also pleased to acknowledge the appointment of the following directors to the firm:

- Gordon Wilson – Corporate Finance
- Yvonne McCormack – Audit
- Rory Fahey – Wealth Management

These appointments will greatly assist and enhance the development of the firm now that it is established among the top 20 accountancy firms in Ireland.



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inordinate task undertaken by members of our judiciary and court officers in handling ever-increasing caseloads with limited resources. We might also see the effective denial of access to the courts by an under-resourced civil legal aid scheme, where litigants often have to wait upwards of six months for a first consultation.

It might also reveal the stark reality of marriage in a post-Celtic Tiger era: the pressure lines in modern family life, where often both parents hold down successful careers, battling for every second of time, and where sometimes the constitutional promise to mother and child seems all but lost. The outlook for fathers, married and unmarried, can sometimes be bleak where the system seems to conspire with those whose sole objective is to make the other parent miserable.

Contentious issues

Fairness, transparency and consistency are all important in the financial issues that arise, such as: who will remain resident in the family home, division of income, and protection of business assets. Solomon-like wisdom is required by the court in addressing contentious issues concerning the welfare of children and arrangements to be made between separating parents.

With more information available to judges, lawyers and citizens using the system, it should be possible to discern strands of principle that might in turn assist resolution of other cases without having to resort to fully-contested court applications. The current situation allows each case to be determined in something of a vacuum and can, from time to time, exacerbate the difficulties between the parties.

A possible solution would involve introduction of enough resources for our judges and court officers, including secretarial and other support staff, to enable production of written judgments, containing

non-identifying material, in every Circuit Family Court case. These decisions could then appear on the Court Service's website and, as such, would be available to lawyers, academics and to the general public. The new provisions, if broadened to include all issues pertaining to children, allow for such a development but will unfortunately remain somewhat academic unless adequate resources are introduced.

Objective standpoint

A proper reporting system will enable us to assess our family law system from an objective standpoint. It is easy to criticise the failures of those who took responsibility for the welfare and interests of children in the past. As a society we must remain vigilant and take positive steps to protect children today. This requires proper regulation and enforcement of child-protection measures in any organisation or institution that has responsibility for children. It is imperative in a court system that makes determinations that impact on a child's entire childhood.

There are, undoubtedly, some immediate concerns about the existence of a family court system that does not employ a welfare officer, charged with the specific task of protecting children's rights and ensuring that appropriate services are available where required. Adequate reporting might reveal to the general public the impact of this considerable gap in the court's armoury.

At some future point in time, will we plead the *in camera* rule while claiming ignorance of the impact of this system on children's lives? As things stand, how do we know whether the voice of the child is being heard by our courts in accordance with our obligations under the UN *Convention on the Rights of the Child* and the *Human Rights Act 2004*? **G**

Jennifer O'Brien is a partner in Arthur O'Hagan Solicitors and is a specialist family lawyer.

“The introduction of family law reporting, without inclusion of all issues pertaining to children, could be said to be akin to introducing a weather-warning system that does not forecast tornadoes”



date: Friday 24th February 2006

time: 11.00am to 7.00pm

venue: Imperial Hotel, South Mall, Cork.

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Imperial Hotel, South Mall, Cork

From 2pm to 5.30pm. Seminar fee: €130

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This seminar looks at the impact of technology on two important areas of practice – litigation and conveyancing. As we increasingly store materials and files in electronic formats, how does this impact on litigation practice? In particular, the sessions will examine how existing rules of discovery apply to electronic files and how new practices have evolved to deal with protection of and access to materials stored in electronic form. The seminar also examines the possible ways in which electronic commerce may impact on the conveyancing process.

Location, location

MAIN POINTS

- Location of murder trial
- Jurisdiction
- Offences *Against the Person Act 1861, section 9*

The law that allowed a man to be convicted in England for a murder committed in Ireland has merely been referred to as “an old law”. Damian McHugh sheds some light on this obscure piece of legislation

The trial of Englishman Christopher Newman in the Inner London Crown Court, on a charge of murdering Co Wicklow woman Georgina Eager, received considerable media attention – not just for the horrific details of her death, but for the fact that this was a murder trial held in an English court for a crime committed in Dublin. It was unique.

It took just a few minutes to establish the source of the law the Crown Prosecution Service used to prosecute Newman. It was the very well-known *Offences Against the Person Act 1861* and, in particular, section 9 of that act. The criminal lawyers’ bible, *Archbold’s Criminal Pleading, Evidence and Practice*, is an invaluable tool when it comes to research. A look at the word ‘murder’ in the index threw up the interesting word ‘abroad’. There it was in paragraph 2463: “Section 9 – murder or manslaughter abroad – venue”.

It went on to list a small number of cases, mostly immersed in the cobwebs of history, but one of fairly recent origin, *R v Page* ([1954] 1QB 170; 37 Cr App R 189), gave a good clue to the operation of section 9. A British soldier who killed an Egyptian national in Egypt was held by the Courts Martial Appeal Court to have been rightly convicted of murder by a court martial.

The appeal court ruled that the law laid down by section 9 could be applied by a court martial, which could, subject to certain exceptions, try a person subject to military law for any offence – wherever committed – that would be an offence against the law of England. (In *R v Bernard* [1858] 8 St Tr (NS) 887, the question was raised whether a foreigner resident in England could be indicted as accessory, by means of acts done by him in England, to a murder committed

by a foreigner or foreigners in France. Such a case is now covered by section 4 of the 1861 act.)

The operative part of section 9 of the 1861 act reads: “*Where any Murder or Manslaughter shall be committed on Land out of the United Kingdom, whether within the Queen’s Dominions or without, and whether the Person killed were a Subject of Her Majesty or not, every Offence committed by any Subject of Her Majesty, in respect of any such Case, whether the same shall amount to the Offence of Murder or of Manslaughter ... may be dealt with, inquired of, tried, determined and punished ... in England or Ireland ... provided, that nothing herein contained shall prevent any Person from being tried in any Place out of England or Ireland ... in the same Manner as such Person might have been tried before the passing of this Act.*”

The words “land out of the United Kingdom” in the first line of section 9 are important from an Irish perspective; so also are the words “a subject of Her Majesty,” “any subject of Her Majesty” and “England and Ireland” further down the section.

Home and away

In 1973, the government introduced a statutory instrument, which remains on the Irish statute book: the *Offences Against the Person Act 1861 (Section 9) Adaptation Order 1973*.

The instrument provides that the *Interpretation Act 1937* applied to the order and then goes on to state that section 9 of the 1861 act should be construed and have effect as if: “(a) the reference to land out of the United Kingdom, whether within the Queen’s dominions or without, were a reference to land outside the area of application of the laws of the state, (b) the reference to a subject of Her Majesty were a reference to a citizen of Ireland and the reference to

location

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The scales of justice: iconic London landmark

any subject of Her Majesty were a reference to any citizen of Ireland, and (c) the first reference to England and Ireland were a reference to the area of application of the laws of the state.”

Essentially, the reasoning behind the order was to enable section 9 of the 1861 act (which applies in the state) to have full force and effect. It clearly applies to the state. Therefore, it should not have been such a

surprise that the Crown Prosecution Service should, in the absence of a request for Newman’s extradition, decide to prosecute him after his arrest in England by British police.

As recently as 16 December 1997, the House of Lords pronounced that section 9 of the 1861 act was an exception to the rule of the common law and that the jurisdiction of the criminal courts of the UK was

DEATH ABROAD

In April 2001, the Association of Chief Police Officers' Homicide Working Group in Britain produced a paper, entitled *Death Abroad*. It offers advice to British police in relation to criminal investigation. Specifically, the paper refers to section 9 of the *Offences Against the Person Act 1861* and says that caution should be exercised in interpreting it "as it has the potential to suggest that a British police officer has the right to get involved in s9 cases".

It added: "The British police can help, but in practise would only do so when asked to do so by the foreign authority in whose jurisdiction the crime took place."

The report suggests that, although legally possible, the trial in Britain of a British citizen for a murder that took place abroad was "extremely unlikely".

Two reasons were advanced for this:

- "We extradite our nationals so that even if the alleged attacker is in the UK, he can be extradited to the country where the offence took place", and
- "The difficulty in obtaining evidence abroad that would be admissible in a UK court – a murder or manslaughter trial would almost certainly require witnesses from abroad – on the grounds of simplicity if it is presumed to be easier to have the trial in the country where the crime took place. The possible exception is where we have refused to extradite a person but are then asked to prosecute them in the UK. An officer may then be involved in obtaining evidence at the scene of the crime."

In view of what has since transpired with the trial of Christopher Newman, the Homicide Working Group will have to revise its thinking with regard to the practicalities involved in putting somebody on trial in Britain for a murder or manslaughter committed by British nationals abroad. We know from the Newman trial that several witnesses, including the state pathologist, Dr Marie Cassidy, travelled from Ireland to the trial to give their testimony. There was no judicial obstacle to the admissibility of their evidence.

"If there had been extradition – and I won't say whether that would have been appropriate or not – there could have been immense legal delays"

confined to crimes committed within the territory of the court. The case was *R v Martin*, in which Lord Craighead spoke on the probable policy behind the enactment of section 9. He said a similar provision was made for Scotland by section 11 of the *Criminal Procedure (Scotland) Act 1995*, which re-enacted previous legislation.

No indication was given in either of sections 9 or 11 of the criteria that were to be applied in reaching a decision as to whether a murder committed abroad was to be prosecuted in this way, nor was any provision made for the procedure that had to be gone through.

Grave offences

Lord Craighead said: "It seems to me that a more likely explanation is that the legislation was enacted to ensure that the grave offences with which it deals should not go unpunished when committed abroad by a British citizen. It has to be recognised that cases may arise from time to time where the civil authorities abroad are unable or unwilling to prosecute these crimes in their own courts. The authorities in this country have a clear interest in dealing with such offences, especially when both the victim and the alleged perpetrator are British citizens. So the provision to enable this to be done is a valuable addition to our criminal procedure."

He also said that the circumstance where section 9 had a clear purpose was where the offender had

returned to Britain without being apprehended abroad for the offence, and the question was whether he should be sent back to the country where the offence was committed or be prosecuted instead in Britain. Tragically, as we now know, this was to be the background to the Newman case, when he fled from Ireland after murdering Ms Eager and was subsequently arrested in Britain.

The fact that there was a paucity of cases prosecuted under section 9 of the 1861 act and a similar absence of appeals that the House of Lords could review in the *R v Martin* case did not help. In fact, no cases were shown to Britain's highest court of appeal, where decisions as to whether or not to prosecute under section 9 had been brought under review by the English courts. Nor were any examples cited of prosecutions in England for murders or manslaughters committed abroad.

Lord Craighead said he was aware of a case that had been prosecuted a few years previously in Scotland. The offence was alleged to have been committed in a Spanish holiday resort. The accused, whose home was in Scotland, was said to have pushed his wife to her death over the balcony of their hotel. Having inquired into the incident, the Spanish authorities took the view that it was probably an accident and the accused was allowed to return home. Because the victim's family were not satisfied it was an accident, the lord advocate conducted further inquiries and decided to prosecute the accused in Scotland under the extended jurisdiction that was available to him under the statute.

"This was an example of the utility of the provision in a case where the crime was not to be proceeded with abroad and it might have gone otherwise unpunished. In the event, he was acquitted, so the question as to the fairness of the proceedings did not require to be considered by the appeal court," he added.

'Good legal grounds'

The decision of the Crown Prosecution Service to prosecute Newman was a controversial one, raising as it did the question as to why his extradition to Ireland to face trial in this jurisdiction was not sought. Family members of the late Ms Eager raised one of the main bones of contention. They rightly complained that they had been placed under an unreasonable and heavy financial burden by having to travel to London from Ireland and to pay for their hotel accommodation during the trial.

Immediately after the trial, justice minister Michael McDowell said the decision to prosecute Newman in England was made for good legal grounds. It had nothing to do with lack of interest on behalf of the legal authorities.

"If there had been extradition – and I won't say whether that would have been appropriate or not – there could have been immense legal delays," the minister was quoted as saying in *The Irish Times*. **G**

Damian McHugh is an author and barrister.

Tech trends

Don't say we didn't warn you

There is increasing awareness of the vulnerability of solicitors' firms to monkey-related mishap. But the question must be asked: what would your firm do if, during the night, a troop of baboons broke in the back way, intent on some simian sabotage of your storage systems?

At the very least, you can ensure that your files are protected. Many firms do perform some sort of data backup for their servers and PCs, but the backup files are rarely taken off the premises and so remain in danger from

hairy little hands.

Well, Meath-based company Document and File Storage may well have the answer. They provide an online backup service where the data is compressed, encrypted and uploaded via the internet to a secure data centre (in Ireland) where it can be accessed 24 hours a day. The restoration process works in a similar manner, allowing the customer to select specific files to restore. It is also possible for the customer to restore sets of data from specific dates.

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Bono VOX could be good for you, too

Be honest: your desk is littered with post-it notes and scraps of paper with scrawled messages and contact details, isn't it? If only there was some way to organise it all.

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called, and so on. Every call is logged and cannot be deleted. The process happens automatically once you pick up the phone, so there is no need to keep a separate log of your calls.



When used with the built-in address book and reporting functions, the VOX Office-SE can provide detailed reports of all contacts with a client, regardless of whether they were called on their office phone, home phone or mobile.

Other features include the ability to label calls as, for example, billable, contentious or private; the ability to add notes to a call; and the ability to record calls.

So if you haven't seen the wood of your desk in months, this might be just the ticket. Contact Soft Telecom on tel: 01 250 0075 or visit www.soft-telecom.com/voxs.

Saved by the hair of my chinny chin chin

The debate on the issue of harmful gamma radiation from mobile phones is still unresolved. But with alleged side effects such as excessive hair follicle stimulation, it would be a brave man who kept a mobile clamped to the side of his face for very long.

But there may be light at the end of the tunnel. Dr Hanson Koch, of the Bremer Institut für Unechte und Unsinnige Forschung, is in the process of developing a tungsten filament aerial with composite nylon fibre insulation that he claims

disperses microwave radiation from your phone safely and without side effects. The strangely shaped device, which clips securely to the front of your phone, is still at the prototype stage, but is expected to be in production in the next 18 months.



new books from

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1. Older People in Modern Ireland: Essays on Law and Policy

This book, edited by Eoin O'Dell, is important, as it is the first book to look at legal issues affecting older people in Ireland. It is also timely as it directly addresses the two recent and still ongoing nursing home controversies. A wide range of experts comprehensively cover a broad range of topics.

Price: €145

2. A Legal Guide for Clubs and Associations

Written in plain and concise English, this book, which is now available, explains the full process involved in setting up a Club or Association and the law regulating it.

Demot McManera's publication is as relevant to solicitors advising clients as it is to individuals setting up a club and it provides precedent object clauses, and a complete specimen of club rules. It puts Club Committees and Secretary Managers in a better position to understand their obligations to their members and also informs members of their various rights. No other reference source will contain all the information that this guide has.



Price: €58.00



3. Litigation Against Schools: Implications for School Management

This book, by William Binchy and Dymphna Glendenning, BL, examines the most recent developments in the law relating to such themes as:

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- Bullying
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- Students with special needs

Price: €39.95

4. 2005 Judgment Digest

In the course of 2005 First Law will have reported over 450 judgments from the Superior Courts. Additionally there will be more than 80 Employment Appeal Tribunal determinations.

2005 Judgment Digest, which is arranged by subject category, includes all these cases reproduced with their full headnote in a convenient single volume.



Price: €175

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Book reviews



Case Digest 2004

Thomson Round Hall (2005), 43 Fitzwilliam Place, Dublin 2. ISBN: 1-85800-411-X. Price: €199 (paperback).

I hope Thomson Round Hall will forgive me. The incremental accumulation of the judgments of our courts is putting an enormous intellectual strain on even the most gifted of lawyers. The English historian, Henry Hallam (1777-1859), in his book, *The Middle Ages* (1818), sums up the inevitable and continuing frustration of many lawyers: “We accumulate statute upon statute, and precedent upon precedent, till no industry can acquire, nor any intellect digest the mass of learning that grows upon the panting student and our jurisprudence seems unlikely to be simplified.”

Are we reporting too many cases? What will be the

consequence? The great US Supreme Court justice, Benjamin Cardozo, in *The Growth of the Law* (1924), wrote that the fecundity of our case law would “make Malthus stand aghast”.

Remember, Hallam was writing in 1818 and Cardozo in 1924.

I referred above to the inevitable growth of our case law. There is no relief in sight. Although the reporting of a case has the potential of giving a judge ‘a ticket to immortality’, only certain judgments will survive. In practical terms, few judgments will be quoted beyond a 20-year period.

Case Digest 2004 contains head notes of cases that were extracted from the *Irish Current*



Law Monthly Digests and the *Irish Law Reports Monthly* (ILRM) for 2004.

Thomson Round Hall presents a summary of the facts and the decision of the court,

together with a note of the cases referred to in the judgment. The names of the barristers involved in the ILRM cases are specified but not the solicitors. There is a useful subject index included. There are also tables of Irish and European legislation, statutory instruments and the *Rules of the Superior Courts* that are referred to in the cases.

Case law is and will remain an inevitable part of our system of governance. Thomson Round Hall has, yet again, delivered a law book of substance upon which many lawyers will rely. **G**

Eamonn Hall is the chief solicitor of Eircom Group plc.

Family Law Negotiations: An Alternative Approach

Kevin Liston. Thomson Round Hall, 43 Fitzwilliam Place, Dublin 2. ISBN: 1-85800-403-9. Price €192 (hardback).

Couples whose relationships have broken down find themselves in uncharted waters and expect their lawyers to guide them to a safe haven. The inadequacy of the court route has encouraged a move towards alternative dispute resolution (ADR) and prompted initiatives such as ‘collaborative law’ (described in the book, in which the author proposes a process and set of ground rules, and it is a very valuable addition to the family lawyer’s toolbox). Mrs Justice Catherine McGuinness, in the foreword, states: “While I appreciate the advantages of ADR in many cases, years of experience as a family lawyer and later a

family law judge has convinced me that Kevin Liston is right in the emphasis he puts on the value of well-prepared and structured negotiations within the traditional framework.”

Concrete guidelines are offered on how to achieve an early resolution of disputes in a non-confrontational way, which are lawyer-led. Negotiations can be tailored to each case – for example, meetings can be on the standard ‘shuttle’ basis or with the two lawyers and both clients present, as in the collaborative law model.

There are chapters on the bargaining phase, formalising the agreement reached, and managing the conflict.

Chapter 10 contains an example of an information leaflet that is designed to explain to the client the function and purpose of structured negotiations. (This could be adapted to give very useful general information to family-law clients.)

Kevin Liston’s book is a breath of fresh air. It is written in a fluid, clear style and is full of ideas, suggestions, critical evaluations and nuggets of useful information for the family lawyer (for example, the difference between making an agreement a rule of court and an order of the court, the distinction between liberty to apply and re-enter, the relative enforceability of separation

agreements and consent orders).

Managing the conflict can be the key to a successful resolution. As lawyers, we are familiar with conflict behaviour, though we can fall short on understanding its nature and management and sometimes “can communicate with the other side in a manner that reflects and exacerbates the confrontational exchanges” of the parties themselves. The author gives examples of the contents of a destructive initial letter (including, for instance, an inappropriate heading – ‘Anne Murphy v You’, references to ‘intolerable behaviour’ and the threat of judicial separation proceedings), and examples of

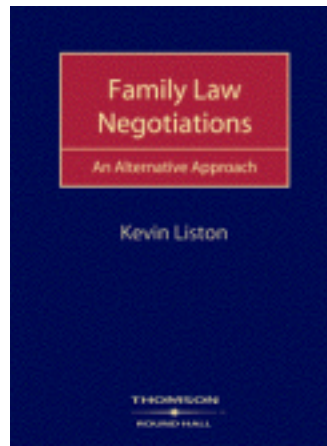
non-confrontational letters to the other side. There is a section on the dynamics of conflict. We are reminded also of the need to be aware of and manage our own behaviour and prejudices.

The present family court and structures are evaluated, with suggestions for improvement, for example, by judicial case management and extending the courts' mandate to take responsibility for actively facilitating constructive negotiations. The sections in the book on pleadings will hopefully come to the attention of rules committees. The unfortunate and often unnecessarily confrontational language in pleadings "increases polarisation and brings about conflict expansion", with negative consequences on attempts to negotiate. Again,

the author goes the extra mile, with draft suggestions for pleadings that would be intelligible and less threatening to the receiving party. He also makes a strong case for appropriate forms in consensual divorce applications.

The use of plain language is topical and supported by the author (and, in this reviewer's opinion, particularly appropriate in family cases). There is an example of the standard form written in plain language that is "client friendly and intelligible to the layperson" – in recognition of its importance as "a working document for the husband and wife in their post-separation relationship".

The alternative form uses wording typical of mediated agreements. There are two chapters on mediation: the



first is a very useful description of the process that family lawyers will benefit from reading. The bargaining techniques in mediation and the climate it encourages sit well with the author's structured approach to family law negotiations. The second deals with the strengths and weaknesses of family mediation and would form a

useful backdrop for discussions between lawyers and mediators.

Chapter 9 deals with ethical considerations, including responsibilities to the unrepresented child, with a thoughtful examination of the Law Society's family law code of practice and its significant recommendations that there be a non-adversarial approach and a search for fair solutions.

General practitioners, trainee solicitors, mediators and others who want a general overview of the principles and on-the-ground practice of family law will find the book most readable and informative. For those of us who claim to be family lawyers, this book is essential reading. **G**

Phil Armstrong is vice-chair of the Law Society's Family Law and Civil Legal Aid Committee.

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Law Society of Ireland

CONFLICT RESOLUTION: PEACE & RECONCILIATION



Annual Conference 2006 • 19th to 23rd April

Dubrovnik

Bank of Ireland



Solicitors' Mutual Defence Fund Limited

MESSAGE FROM THE PRESIDENT

Dear Colleague,

I have pleasure in inviting you to join me at the Society's Annual Conference in Dubrovnik from 19th to 23rd April, 2006.

This year the theme of the Conference will be Conflict Resolution: Peace & Reconciliation. This theme is very appropriate to the Balkans, where conflict has recently taken place and reconciliation is of paramount importance.

We are most grateful to our sponsors - Bank of Ireland, Jardine Lloyd Thompson Ireland Limited and Solicitors' Mutual Defence Fund - for their continued generous support of the Law Society's Conference.

I thank all of you who have made advance bookings and I hope those who have not yet booked will now do so. We look forward to a memorable conference which we hope will be enjoyed by all.

Michael Irvine
President



PACKAGE A based on Charter Flight - €1190.00 Per Person

The cost includes return flights, taxes, transfers, four nights' bed and breakfast at the Grand Villa Argentina (5 Star), Welcome Reception, Conference Seminar and Gala Banquet. Surcharges could apply in respect of changes in air fares or increases in insurance premiums or VAT/tax rates in respect of the hotel.

CHARTER FLIGHTS

19th April, 2006 departure from Dublin – morning flight – times to be confirmed.

23rd April, 2006 departure from Dubrovnik – afternoon flight – times to be confirmed.

(Times are subject to Air Traffic Control restrictions. However, we are endeavouring to secure morning departure and afternoon return flight times so that we may facilitate those wishing to travel from Cork, Shannon, etc. Exact times will be detailed in your booking confirmations. The charter flight will be allocated strictly in order of bookings received).

Those delegates not allocated to the charter flight will be accommodated on scheduled flights which will incur a supplemental charge and transfer charges. Note: Connecting flights from Cork, Shannon etc. can be arranged by Ovation Group. Please complete relevant section on the reservation form.

PACKAGE B based on Scheduled Flights

Delegates travelling on scheduled flights will travel via various European cities and will have the option to pre or post extend their stay subject to airline and hotel availability. Price will be direct from Dublin or based on the charter package but will not include airport transfers and may incur airline and hotel surcharges. Delegates intending to travel on scheduled flights should return a completed reservation form as soon as possible with details of their preferred travel arrangements.

REGISTRATION FEE €100

Payable by delegates only and not accompanying persons. Please complete the reservation form and return with full payment to Ovation Group (see contact details overleaf). Closing date for receipt of bookings is 20th February 2006.

Online Booking available at www.lawsociety.ie Online Booking available at www.lawsociety.ie

ACCOMMODATION

All delegates will be accommodated in the Grand Villa Argentina (5 Star). The property offers a picturesque setting with stunning views of Dubrovnik's medieval town and the crystal waters of the Adriatic - all of which can be savoured while enjoying the facility of the hotel's private beach. The location is within easy walking distance of the historic centre and provides comfortable accommodation in its spacious rooms. The hotel's Energy Clinic will offer guests the opportunity to indulge themselves in a variety of beauty and therapy treatments which can also be complimented by an invigorating session in the gym.

SOCIAL PROGRAMME

The conference will open on **Wednesday** evening with a **Welcome Reception** for all participants at the Grand Villa Argentina.

On **Thursday**, there will be two optional tours:

Option 1: Full-day tour to Mostar, Bosnia-Herzegovina:

The historic town and unofficial capital of Bosnia-Herzegovina straddles the emerald banks of the Neretva River. The city has a long and complex history dating back to the Austro-Hungarian period. It has long been known for its old Turkish houses and Old Bridge; Stari Most which suffered badly during the 1990 conflict. The Old Bridge area, with its pre-Ottoman, eastern Ottoman, Mediterranean and western European architectural features is an outstanding example of a multicultural urban settlement. The reconstructed Old Bridge and Old City act as a symbol of reconciliation, international cooperation and of the coexistence of diverse cultural, ethnic and religious communities. **Passport Required.** (NB The driving time by coach to Mostar will be approx 3 hours)

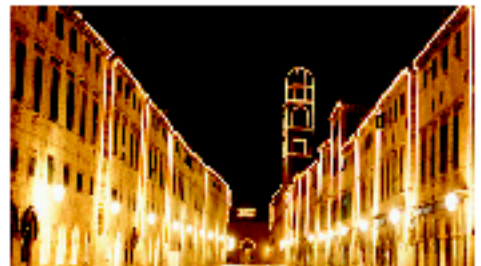
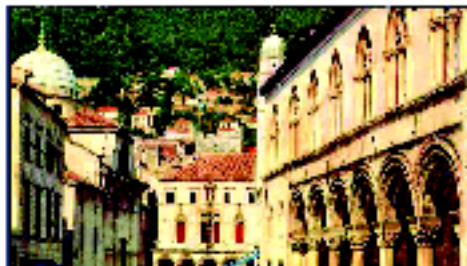
Option 2: City walking tour, Dubrovnik

Listed as a World Cultural Heritage site by UNESCO, Dubrovnik is best explored on foot to capture fully its intimate walled setting. Explore the whitewashed walls of this medieval city and discover the treasures that lie hidden amongst its narrow streets and alleyways. Things to see include a Franciscan monastery, cathedral, the Onofrio fountain and Europe's oldest functioning pharmacy, established in 1391. All the while you will be absorbing the daily social activity of the city and witnessing the locals as they gather at their favourite meeting place, Orlando Column.

On **Friday**, there will be a second opportunity to do the City walking tour of Dubrovnik.

Friday evening will include a **Drinks Reception and Gala Dinner** at the Revelin Fort. Originally built to provide protection during the fall of Bosnia under Turkish rule, it was more recently used as the administrative centre of the Republic. The setting will serve as the perfect backdrop to this Gala event.

On **Saturday** there will be an optional full-day tour of Montenegro. A turbulent history has shaped this land of historic treasures and monuments. Less than an hour's drive from Dubrovnik, you will experience a landscape of incomparable natural beauty. Our trip will include a spectacular drive along the Bay of Kotor; winding through the towns of Risan and Perast. Our descent will then take us to Cetinje, the one-time seat of Montenegrin rulers, now a city museum, where we will explore the sights of the city. Lunch will be enjoyed at Budva before taking our return trip to Dubrovnik by ferry across the bay. **Passport Required.** (NB The driving time by coach to Kotor will be approx 2.5 hours)



PROGRAMME AT A GLANCE

WEDNESDAY, 19th April 2006

Afternoon: Arrive Dubrovnik Airport. Transfer to hotel for check-in.

Evening: Welcome Reception for all participants

Venue: Grand Villa Argentina Hotel

Afternoon: Optional City walking tour of Dubrovnik

Evening: Drinks Reception & Gala Dinner

Venue: Revelin Fort (Dress: smart informal)

THURSDAY, 20th April 2006

Morning & Afternoon: Optional full-day tour to Mostar including lunch or optional City walking tour of Dubrovnik

Evening: At leisure

SATURDAY, 22nd April 2006

Morning: Optional full-day tour to Montenegro including lunch

Evening: At leisure

FRIDAY, 21st April 2006

Morning: Conference Business Session – Conflict Resolution: Peace & Reconciliation

Venue: Grand Villa Argentina Hotel

SUNDAY, 23rd April 2006

Afternoon: Departure

Online Booking available at www.lawsociety.ie

Online Booking available at www.lawsociety.ie

CONTACT DETAILS

If you would like any further information please contact any member of the Organising Team:

Evelyn O'Sullivan or Niamh Mc Crystal (Ovation Group)	Tel: (01) 280 2641	Email: lawsociety@ovation.ie
James McCourt (Chairman)	Tel: (01) 660 6543	Email: j.mccourt@ongm.securemail.ie
Gerakline Clarke	Tel: (01) 474 4300	
Geny Griffin	Tel: (01) 490 1185	
Simon Murphy	Tel: (021) 427 3305	
Mary Keane	Tel: (01) 672 4800	

For information on extending your stay please contact Ovation Group:

Law Society Annual Conference 2006, Ovation Group, 1 Clarinda Park North, Dun Laoghaire, Co. Dublin, Ireland.

BOOKING / CANCELLATION

Online Booking available at www.lawsociety.ie
Terms & Conditions

1. The Conference Secretariat must receive notification of all cancellations in writing (by e-mail or fax) to Evelyn O'Sullivan / Niamh Mc Crystal, Ovation Group, 1 Clarinda Park North, Dun Laoghaire, Co. Dublin.
2. Cancellations received up to and including 31st December 2005 will be subject to a 10% cancellation fee.
3. Cancellations received from 1st January 2006 to 19th February 2006 will be subject to a 50% cancellation fee.
4. No refunds will be given after 20th February 2006.
5. Cancellation should be communicated in writing or by e-mail. Transfer of registration fee to another delegate will be accepted. Please inform the Conference Secretariat of any changes as soon as possible.
6. Travel insurance will be automatically invoiced unless delegates indicate otherwise.
7. No contract shall arise until full payment has been received and a Booking Form (which will be sent with written confirmation of acceptance of the reservation) has been signed and returned.
8. Travel agent reserves the right to allocate all bookings on flights.

The organisers reserve the right to alter any of the arrangements for this conference, including cancellation of the event should unforeseen circumstances require such action. The organisers accept no responsibility for resulting costs and inconvenience to delegates who are advised to have their own travel insurance in place. The currency exchange rate to be applied in the case of payments and refunds will be based on the available exchange rate at the time of the transaction. Ovation Group is not responsible for any changes in exchange rates which may cause any differences or any other additional fees levied by your bank or card processor. By registering for the Law Society of Ireland Annual Conference, delegates give permission for their contact details to be used for official purposes and to be included in the list of participants.



Practice notes

Rules of the Superior Courts (Competition Proceedings) 2005, SI no 130 of 2005

New court rules for competition proceedings were introduced in March 2005. These rules (order 63B of the *Superior Court Rules*) establish a competition list of the High Court. 'Competition proceedings' as defined in the rules are now dealt with in this list and Mr Justice McKechnie has been assigned as the judge in charge of the list. These new rules are modelled on the Commercial Court rules that have operated successfully for the past two years. There are, however, some important differences between the two, arising mainly from the fact that council regulation (EC) no 1 of 2003 introduces important procedural changes regarding the enforcement of competition law, and the new rules are designed in part to address those changes.

The rules provide that any case that comes within the definition of 'competition proceedings' shall be dealt with in the competition list. If proceedings are not assigned to the competition list at the outset or if competition issues arise during the course of a case, any judge can transfer a case to the competition list with the consent of the judge in charge of that list.

The term 'competition proceedings' includes the following types of cases or applications:

- Private actions instituted by a person aggrieved as a result of breaches of the *Competition Act, 2002* (the 2002 act),
- Enforcement actions initiated by the Competition Authority (the authority) in respect of breaches of the 2002 act or in respect of breaches of articles 81 and 82 of the *EC Treaty*,
- Statutory appeals against declarations or determinations of the authority made pursuant to the 2002 act and proceedings seeking judicial review of a decision of the authority,
- Proceedings concerning the applications of articles 81 or 82 of the *EC Treaty* and proceedings concerning the application of the state aid rules of the *EC Treaty*.

In addition to case-management procedures encompassing initial directions hearings, case conferences and pre-trial conferences, the new rules address a number of issues peculiar to competition proceedings. Part III of the rules implement article 15(3) of council regulation (EC) no 1 of 2003 by enabling the authority and/or the

European Commission to make observations on matters that are before the High Court. The authority and the commission can make written observations to the court; however, if they wish to submit oral observations, they must seek leave of the court to do so. The rules also provide that the authority may be invited to make written or oral submissions on the judge's own motion or on the application of any of the parties to the proceedings. The rules provide that parties have an opportunity to review and respond to observations made by the authority or the commission.

Practitioners will be aware that council regulation (EC) no 1 of 2003 introduced new rules regarding communications between member state courts and the European Commission in respect of competition proceedings. In particular, the regulation provides that when a national court proposes to make certain findings in relation to EC competition matters, the proposed decision must be communicated to the commission. The regulation also provides that national courts can seek an opinion from the commission in any case involving the application of community law.

The competition list rules contain provisions that, in some cases, *enable* and in other cases *require* High Court judges to provide parties to proceedings with a copy of any communications between it and the European Commission.

The rules also provide for the appointment of assessors on the application of a party or of the court's own motion to assist the court in understanding or clarifying expert evidence. With a view to ensuring that fair procedures are safeguarded, the rules provide that, where an expert provides advice or other information to the court, the court shall, where it considers it appropriate in the interests of justice, inform the parties of such advice or information and afford them an opportunity to make submissions in respect of it. This should allay concerns that information, opinions or views may be conveyed by an assessor to the court without the parties having an opportunity to comment on them. The rules provide that the court can appoint its own expert or one nominated by the parties and they anticipate that the payment terms of the expert will be dealt with on appointment.

Business Law Committee

EU Savings Directive

The *EU Savings Directive* imposes certain obligations on 'paying agents' (which include solicitors) who make or secure interest payments in the course of their business for the benefit of individuals. A return must be submitted to Revenue by 31 March in each tax year in respect of relevant payments. Practitioners are reminded that the first such return, covering the period from 1/7/05 to

31/12/05, must be submitted to Revenue by **31 March 2006**. Practitioners are urged to begin the process of collating the necessary information in early course, in order to meet the Revenue deadline. The information required includes, *inter alia*, the paying agent's name, address and tax reference number; details of the type of interest payment made and when it was paid; the amount of the interest

payment and the currency it was paid in; either the account number associated with the interest payment or information identifying the asset giving rise to the interest payment, if there is no account number. (A more detailed outline of the directive is available in the 'Practice Note' section of the July 2005 issue of the *Gazette*.)

Returns can be made online via the Revenue On-line Service

(www.revenue.ie) or a hard-copy form of return can be obtained from the VIMA Office, Government Offices, Millennium Centre, Dundalk, Co Louth. Further information in relation to completion of returns is available from: Direct Taxes Interpretation and International Division, Stamping Building, Dublin Castle, Dublin 2. Telephone: 01 674 8016 or 01 674 8018.

Taxation Committee

LEGISLATION UPDATE: 15 NOVEMBER 2005 – 16 JANUARY 2006

Details of all bills, acts and statutory instruments since 1997 are on the library catalogue – www.lawsociety.ie (members' and students' area) – with updated information on the current stage a bill has reached and the commencement date(s) of each act.

ACTS PASSED

Appropriation Act 2005

Number: 29/2005

Contents note: Appropriates to the proper supply services and purposes sums granted by the *Central Fund (Permanent Provisions) Act 1965*; makes provision in relation to deferred surrender to the central fund of certain undischarged appropriations by reference to the capital supply services and purposes as provided for by section 91 of the *Finance Act 2004* and makes provision in relation to financial resolutions passed by Dáil Éireann on 7/12/2005; amends section 3 of the *Appropriation Act 1999* to provide for the payment to the Health Service Executive of excise duties collected under section 2 of the *Finance (Excise Duty on Tobacco Products) Act 1977*.

Date enacted: 16/12/2005

Commencement date: 16/12/2005

Coroners (Amendment) Act 2005

Number: 33/2005

Contents: Amends the *Coroners Act 1962* in relation to two matters: the number of medical witnesses who can evidence at an inquest and the remedies available to a coroner where a person refuses to attend and give evidence at an inquest.

Date enacted: 21/12/2005

Commencement date: 21/12/2005

Development Banks Act 2005

Number: 34/2005

Contents note: Provides for Ireland's membership of the Asian Development Bank; amends the *European Bank for Reconstruction and Development Act 1991* to take account of the EBRD's resolution to

extend the bank's activities to Mongolia; amends existing legislation governing Ireland's membership of a number of multilateral financial institutions to allow for changes to administrative and financial arrangements by Dáil resolution rather than by primary legislation – in this context amends the *Bretton Woods Agreements Act 1957*, the *International Development Association Act 1960*, the *Multilateral Investment Guarantee Agency Act 1988*, the *European Bank for Reconstruction and Development Act 1991* and the *Council of Europe Development Bank Act 2004*.

Date enacted: 21/12/2005

Commencement date: 21/12/2005 for certain sections; see act for other commencement provisions

Health and Social Care Professionals Act 2005

Number: 27/2005

Contents note: Provides for the establishment and functions of the Health and Social Care Professionals Council and of registration boards for certain designated health and social care professions; provides for the registration of persons qualifying to use the title of a designated profession and for the determination of complaints relating to their fitness to practise, and provides for related matters.

Date enacted: 30/11/2005

Commencement date: Commencement order(s) to be made (per s2 of the act)

Railway Safety Act 2005

Number: 31/2005

Contents note: Introduces a new regulatory framework for railway safety that will apply to all railways to which the public has access (including the Iarnród Éireann network, the Luas and proposed metro lines and heritage railways), and to those parts of industrial railways that have a connection to the public railway network or cross a public road. Provides for the establishment of the Railway Safety Commission and the Railway

Safety Advisory Council; provides for the general duties of railway undertakings and persons working on railways; provides for matters relating to the carrying out of works on public roads in the vicinity of railways; repeals certain provisions of the *Regulation of Railways Acts 1840 to 1893* and other enactments relating to railways, and provides for related matters.

Date enacted: 18/12/2005

Commencement date: 18/12/2005 for all sections other than part 9 (ss84-91) and part 10 (ss92-112), for which commencement order(s) will be made (per ss84 and 92 of the act); 1/1/2006 appointed as the establishment day for the establishment of the Railway Safety Commission under part 2 (ss7-35) (per SI 841/2005)

Social Welfare Act 2005

Number: 30/2005

Contents note: Provides for increases in the rates of social insurance and social assistance payments and improvements in the family income supplement, maternity and adoptive benefit and supplementary welfare allowance schemes, and provides for related matters.

Date enacted: 16/12/2005

Commencement date: Various – see act

Social Welfare Consolidation Act 2005

Number: 26/2005

Contents note: Consolidates the *Social Welfare Acts* – the *Social Welfare (Consolidation) Act 1993* together with all of the acts that amend that act, enacted from 1993 to 2005 inclusive.

Date enacted: 27/11/2005

Commencement date: Commencement order(s) to be made (per s366); 6/4/2012 for paragraph 3 of schedule 6 (per s366(2)(c))

Statute Law Revision (Pre-1922) Act 2005

Number: 32/2005

Contents note: Provides for the

repeal of 90 acts pre-dating the foundation of the state that are no longer in force and are considered to be spent, or are still in force but have become unnecessary.

Date enacted: 18/12/2005

Commencement date: 18/12/2005

Transfer of Execution of Sentences Act 2005

Number: 28/2005

Contents note: Gives effect to: (a) article 2 of the 1997 Additional Protocol to the 1983 Council of Europe *Convention on the Transfer of Sentenced Persons*, which sets out the rules applicable to the transfer of execution of sentences where sentenced persons have absconded from the sentencing state to his/her state of nationality, and (b) articles 67-69 (ie chapter 5 of title III) of the 1990 *Schengen Convention* dealing with the transfer of enforcement of criminal judgments.

Date enacted: 13/12/2005

Commencement date: Commencement order(s) to be made (per s 14(2) of the act)

SELECTED STATUTORY INSTRUMENTS

Adoptive Leave Act 2005

(Commencement) Order 2005

Number: SI 724/2005

Contents note: Appoints 28/11/2005 as the commencement date for the *Adoptive Leave Act 2005*, other than sections 9 and 10. Sections 9 and 10 insert new sections 11C and 11D respectively into the *Adoptive Leave Act 1995*, providing for the postponement of leave in certain circumstances.

An Bord Bia (Amendment) Act 2004 (Commencement) Order 2005

Number: SI 804/2005

Contents note: Appoints 1/1/2006 as the commencement date for sections 21 and 22 of the act.

Building Regulations (Amendment) Regulations 2005

Number: SI 873/2005

Contents note: Amend part L (con-

ervation of fuel and energy) of the second schedule to the *Building Regulations 1997* (SI 497/1997) to provide for the introduction of a building energy performance assessment methodology for new buildings where work commences on or after 1/7/2006, as required by articles 3, 4 and 5 of the *EC Energy Performance of Buildings Directive* (2002/91). Also amend part L to set higher thermal performance/insulation standards for non-domestic buildings where work commences on or after 1/7/2006.

Commencement date: 1/7/2006, subject to exceptions – see article 3 of the regulations

Civil Legal Aid (Refugee Appeals Tribunal) Order 2005

Number: SI 730/2005

Contents note: Prescribes the Refugee Appeals Tribunal as a tribunal for the purposes of s27(2)(b) of the *Civil Legal Aid Act 1995*.

Commencement date: 1/12/2005

Civil Registration Act 2004 (Commencement) Order 2005

Number: SI 764/2005

Contents note: Appoints 5/12/2005 as the commencement date for the following provisions of the act: (a) section 4 and the second schedule, insofar as they repeal the enactments specified in the schedule to this order; (b) part 1 (ss1-6), other than section 4; (c) part 2 (ss7-17), other than paragraphs c and (e) of s13(1); (d) part 3 (ss18-30), insofar as it is not already in operation; (e) part 5 (ss36-44); (f) part 8 (ss60-73), other than s73, insofar as it is not already in operation; (g) parts 1, 2 and 5 of the first schedule.

Civil Registration (Short Birth Certificate) Regulations 2005

Number: SI 771/2005

Contents note: Provide for the issue of short birth certificates.

Commencement date: 5/12/2005

Civil Service Regulation (Amendment) Act 2005 (Commencement) (Section 8) Order 2005

Circuit Court Rules (European Enforcement Orders) 2006

Number: 1/2006

Contents note: Insert a new order 35A, 'European enforcement orders', into the *Circuit Court Rules 2001* (SI 510/2001)

to provide for the operation of regulation 805/2004 creating a European enforcement order for uncontested claims, as amended by regulation 1869/2005.

Commencement date: 7/2/2006

District Court (Children) Rules 2006

Number: SI 5/2006

Contents note: Amend order 84 of the *District Court Rules 1997* (SI 93/1997) to prescribe procedures in relation to the *Child Care Act 1991* as amended by the *Children Act 2001*.

Commencement date: 7/2/2006

District Court (European Enforcement Orders) Rules 2006

Number: SI 2/2006

Contents note: Insert a new order 53B, 'European enforcement orders', into the *District Court Rules 1997* (SI 93/1997) to provide for the operation of regulation

805/2004 creating a European enforcement order for uncontested claims, as amended by regulation 1869/2005.

Commencement date: 7/2/2006

District Court (Small Claims) (Amendment) Rules 2006

Number: SI 4/2006

Contents note: Amend rule 1 of order 53A, 'small claims procedure', of the *District Court Rules 1997* (SI 93/1997) to increase the award limit for small claims to 2000, and amend rule 3 of order 53A to increase the application fee from €9 to €15.

Commencement date: 7/2/2006

Number: SI 763/2005

Contents note: Appoints 6/10/2005 as the commencement date for section 8 of the act (appointment of civil servants beyond retirement age).

Companies (Auditing and Accounting) Act 2003 (Commencement) (No 2) Order 2005

Number: SI 791/2005

Contents note: Appoints 13/12/2005 as the commencement date for the following sections of the act: sections 4, 5, 6, 7, 8, 11, 12, 13, 14, 15 (other than s15(2)), 16, 17, 18, 19, 20, 21, 22, 30, 31, 33, 48, 49, 50, 51, 58.

Derelict Sites (Urban Areas) Regulations 2005

Number: SI 813/2005

Contents note: Prescribe areas, as listed in the schedule to the regulations, in the administrative counties of Cork, Kilkenny, Limerick, Meath, Roscommon, Sligo, South Dublin, South Tipperary, Waterford and Westmeath to be

urban areas for the purposes of the *Derelict Sites Act 1990*.

Commencement date: 14/12/2005

Diplomatic and Consular Fees (Amendment) Regulations 2005

Number: SI 391/2005

Contents note: Amend the *Diplomatic and Consular Fees Regulations 2001* (SI 117/2001) (as amended by the *Diplomatic and Consular Fees (Amendment) Regulations 2004* (SI 82/2004)) to provide for the issuing of a passport free of charge to a person over 65 years and to provide for changes in the fees for other miscellaneous consular services.

Commencement date: 1/8/2005

Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Chile) Order 2005

Number: SI 815/2005

Contents note: Gives the force of law in Ireland to the double taxation convention with Chile, which is set out in the schedule to the order.

Commencement date: See article 27 (entry into force) of the convention

Double Taxation Relief (Taxes on Income) (Portuguese Republic) Order 2005

Number: SI 816/2005

Contents note: Gives the force of law in Ireland to the 2005 protocol amending the 1993 double taxation convention and its protocol between Ireland and Portugal. The 2005 protocol is set out in the schedule to this order.

Commencement date: See article 4 of the protocol

Education for Persons with Special Educational Needs Act 2004 (Commencement) (No 2) Order 2005

Number: SI 636/2005

Contents note: Appoints 1/10/2005 as the commencement date for sections 45 to 49 of the *Education for Persons with Special Educational Needs Act 2004*.

European Communities (Adjustment of Non-Comparable Amounts in Accounts and Distributions by Certain Investment Companies) Regulations 2005

Number: SI 840/2005

Contents note: Amend the *Companies (Amendment) Act 1986*, the *Credit Institutions Regulations 1992* (SI 294/1992), the *Insurance Undertakings Regulations 1996* (SI 23/1996) and the *Companies (Amendment) Act 1983* as amended by the *European Communities (International Financial Reporting Standards and Miscellaneous Amendments) Regulations 2005* (SI 116/2005) consequential on changes in accounting practice for financial years beginning on or after 1/1/2005.

Leg-implemented: Dir 77/91 (second council directive), dir 78/660 (fourth council directive), dir 83/349 (seventh council directive), dir 86/635, dir 90/605, dir 91/674

Commencement date: 20/12/2005

European Communities (Energy Performance of Buildings)

Regulations 2005**Number:** SI 872/2005**Contents note:** Amend section 3(2) of the *Building Control Act 1990* to provide for the implementation of directive 2002/91 on the energy performance of buildings.**Commencement date:** 21/12/2005**Garda Síochána Act 2005 (Commencement) (No 2) Order 2005****Number:** SI 801/2005**Contents note:** Appoints 9/12/2005 as the commencement date for the following provisions: sections 24, 63 to 66, 67(3), 67(4), 67(5), 68 to 72, 76 to 80, 121(2)(b), schedule 2 (insofar as it relates to a person transferred under section 72 of the act to the commission), and schedule 4.**Garda Síochána Ombudsman Commission (Establishment Day) Order 2005****Number:** SI 802/2005**Contents note:** Appoints 12/12/2005 as the establishment day for the establishment of the Garda Síochána Ombudsman Commission under part 3 of the *Garda Síochána Act 2005*.**Health Act 2004****(Commencement) Order 2005****Number:** SI 796/2005**Contents note:** Appoints 12/12/2005 as the commencement date for sections 42 and 79 of the *Health Act 2004*.**Housing (Mortgage Subsidy) Regulations 2005****Number:** SI 914/2005**Contents note:** Provide for payment of a mortgage subsidy under the affordable housing scheme and set out the income bands and mortgage subsidy amounts payable.**Commencement date:** 30/12/2005**Housing Regulations 1980 (Amendment) Regulations 2005****Number:** SI 913/2005**Contents note:** Provide for increases in loan limits, increases in income eligibility limits and the application of an administration and mortgage protection insurance**Rules of the Superior Courts (European Enforcement Orders) 2006****Number:** SI 3/2006**Contents note:** Insert a new order 42B, 'European enforcement orders', into the *Rules of the Superior Courts* (SI 15/

1986) to provide for the operation of regulation 805/2004 creating a European enforcement order for uncontested claims, as amended by regulation 1869/2005.

Commencement date: 7/2/2006**Solicitors' Accounts (Amendment) Regulations 2005****Number:** SI 719/2005**Contents note:** Provide that the reporting accountant's report in relation to each solicitor's practice that is furnished to the Law Society will include a form of acknowledgement by the sole practitioner or the compliance partner in the partnership concerned of the obligations of the solicitor's practice under the *Solicitors' Accounts Regulations 2001-2005*. Require solicitors who are in partnership to notify the society annually of the name of the compliance partner nominated by the partnership who will be responsible for completing and signing the form of acknowledgment.**Commencement date:** 1/12/2005**Solicitors (Adjudicator) (Amendment) Regulations 2005****Number:** SI 720/2005**Contents note:** Amend the *Solicitors (Adjudicator) Regulations 1997* (SI 406/1997) to provide for the adjudicator's functions extending to the receiving and examining of complaints by clients of solicitors concerning decisions of the Law Society relating to the making of a grant, or the refusal to make a grant, out of the compensation fund to clients of solicitors or relating to the quantum of any such grants. Provide for the appointment of an acting adjudicator in certain circumstances.**Commencement date:** 1/12/2005

charge for loans made prior to 1/7/1986 and from 1/7/1986.

Commencement date: 30/12/2005**Housing (Rent Subsidy) Regulations 2005****Number:** SI 915/2005**Contents note:** Provide for payment of a rent subsidy under the shared ownership scheme and set out details of income bands and rent subsidy amounts payable.**Commencement date:** 30/12/2005**Housing (Site Subsidy) Regulations 2005****Number:** SI 916/2005**Contents note:** Provide for payment of a site subsidy and set out site subsidy amounts payable in cities, the Dublin metropolitan area and other areas.**Commencement date:** 30/12/2005**Land Purchase Annuities Redemption Scheme Regulations 2005****Number:** SI 830/2005**Contents note:** Provide for a scheme whereby, provided that there are no arrears outstanding, a land purchase annuity may be redeemed at 75% of the nominal redemption price if paid in a lump sum not later than 30/6/2006.**Commencement date:** 19/12/2005**Railway Safety Act 2005 (Part 2) (Establishment Day) Order 2005****Number:** SI 841/2005**Contents note:** Appoints 1/1/2006 as the establishment day for the establishment of the Railway Safety Commission under part 2 (ss7-35) of the act.**Registration of Adoptions and Marriages (Abridged Certificate) Regulations 2005****Number:** SI 770/2005**Contents note:** Provide for the issue, in respect of an entry in a register of marriages or in the adopted children register in which corrections have been made, of a certificate incorporating the particulars as corrected without the inclusion of the correction or marginal note appearing in the entry**Commencement date:** 5/12/2005**Social Welfare (Revised Agreement with Australia on Social Security) Order 2005****Number:** SI 799/2005**Contents note:** Gives effect to the revised bilateral agreement on social security made between Ireland and Australia, which comes into effect from 1/1/2006. Provides that the *Social Welfare Acts* and relevant regulations will be modified to take account of the provisions of the agreement. Revokes the *Social Welfare (Agreement with Australia on Social Security) Order 1992* (SI 84/1992). The agreement provides that periods of insurance in Ireland and residence in Australia may be taken into account, where necessary, by either state in order to qualify for certain benefits and pensions. In the case of Ireland, the agreement covers old age (contributory) pension, retirement pension, widow's and widower's (contributory) pension, orphan's (contributory) allowance and bereavement grant. The agreement also contains provisions that allow workers in one state, who are sent temporarily by an employer to work in the territory of the other state, to remain attached to the social security system of the first state for a period of four years.**Commencement date:** 1/1/2006**Veterinary Practice Act 2005 (Establishment Day) Order 2005****Number:** SI 598/2005**Contents note:** Appoints 1/1/2006 as the establishment day for the purposes of the *Veterinary Practice Act 2005*.

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SOLICITORS DISCIPLINARY TRIBUNAL

These reports of the outcome of Solicitors Disciplinary Tribunal inquiries are published by the Law Society of Ireland as provided for in section 23 (as amended by section 17 of the *Solicitors (Amendment) Act 2002*) of the *Solicitors (Amendment) Act 1994*

Record no 2005 no 36 SA

In the matter of Sean Bourke, a solicitor practising as Sean Bourke, 29 Upper Fitzwilliam Street, Dublin 2, and in the matter of the Solicitors Acts 1954-2002

Law Society of Ireland

(applicant)

Sean Bourke

(respondent solicitor)

On 11 July 2005, the president of the High Court ordered:

- 1) That the name of Sean Bourke, the respondent solicitor, be struck off the roll of solicitors;
- 2) That the respondent solicitor do pay to the applicant the costs of the proceedings before the Disciplinary Tribunal and also the costs of and incident to the society's motion and order, to be taxed in default of agreement, and that execution on foot of said order be stayed for a period of six months from the date of the order;
- 3) That the respondent solicitor do pay to the complainants named in the application to the High Court the costs of rectifying their title to the premises named in the application – said costs to be taxed in default of agreement;
- 4) Liberty to apply.

The president had before him the report of the Solicitors Disciplinary Tribunal dated 4 May 2005. The tribunal had found that there had been misconduct on the part of the respondent solicitor in respect of the following complaints for the following reasons:

- a) Failed to stamp and register the purchase document of his clients in a timely fashion;
- b) Retained and did not submit to the Revenue a 'particulars delivered' form completed by the vendor's solicitor and showing that the date of the

- c) Incorrectly dated the deed 16 October 2002 to avoid the imposition of interest and penalties by the Revenue Commissioners;
- d) Misled the society in a letter dated 24 April 2003, in which he represented that the deed of conveyance had been "fully stamped" when it had not;
- e) Failed to make full disclosure to his former clients in relation to his failure to properly stamp and register their title deed;
- f) Engaged in correspondence with the society which was disingenuous and calculated to conceal his own default in relation to the stamping and registration of his clients' deed;
- g) Failed to take steps to remedy the situation up to the date of the swearing of the affidavit of the society, sworn the 7 October 2003.

In the matter of John G Casey, a solicitor practising as Casey & Company Solicitors at North Main Street, Bandon, Co Cork, and in the matter of an application by the Law Society of Ireland to the Solicitors Disciplinary Tribunal and in the matter of the Solicitors Acts 1954 to 2002 [5355/DT482/04]

Law Society of Ireland

(applicant)

John G Casey

(respondent solicitor)

On 13 October 2005, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he had:

- a) Failed to advise a named complainant that the notice of appeal served on the complainant on behalf of his client on 24 October 2003 had in fact not been filed and could

- not be filed;
- b) Despite this and having received a letter from the named complainant's office on 6 November 2003 requesting him to withdraw the appeal, the solicitor still did not advise the named complainant that the appeal had not been successfully filed and failed to respond to his letter;
- c) Despite having received the notice of motion and support papers by registered post on 19 November 2003, the solicitor made no attempt to advise the named complainant of his failure to have his notice of appeal filed.

The tribunal ordered that the respondent solicitor

- i) Do stand censured,
- ii) Pay the whole of the costs of the Law Society of Ireland (including the complainant's expenses of attending the tribunal) as taxed by a taxing master of the High Court in default of agreement.

In the matter of Stephen Maher, a solicitor practising as Stephen Maher Solicitors at 6 The Courts, Newbridge, Co Kildare, and in the matter of an application by the Law Society of Ireland to the Solicitors Disciplinary Tribunal and in the matter of the Solicitors Acts 1954 to 2002 [5135/DT34/05]

Law Society of Ireland

(applicant)

Stephen Maher

(respondent solicitor)

On 3 November 2005, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that the solicitor breached regulation 21(1) of the *Solicitors' Accounts Regulations*, SI no 421 of 2001, in failing to ensure that there was furnished to the society an

accountant's report covering his financial year ended 30 July 2003 within six months thereafter, that is, by 31 January 2004.

The tribunal ordered that the respondent solicitor:

- a) Do stand advised and admonished,
- b) Pay a sum of €1,500 to the compensation fund,
- c) Pay the whole of the costs of the Law Society of Ireland as taxed by a taxing master of the High Court in default of agreement.

In the matter of Brendan McManus, a solicitor, of 35 Beaufield Manor, Stillorgan, Co Dublin, and in the matter of an application by the Law Society of Ireland to the Solicitors Disciplinary Tribunal and in the matter of the Solicitors Acts 1954 to 2002 [4089/DT39/05]

Law Society of Ireland

(applicant)

Brendan McManus

(respondent solicitor)

On 3 November 2005, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he is in breach of the provisions of the Professional Indemnity Insurance Regulations and in particular the provisions of SI 312 of 1995 as amended by SI no 362 of 1999, having failed to renew run-off cover for the year 2005 in accordance with the requirements of those regulations.

The tribunal ordered that the respondent solicitor do stand censured.

In the matter of Derek Stewart, a solicitor practising as Stewart & Co at 12 Parliament Street, Temple Bar, Dublin 2, and in the matter of an application by the Law Society of Ireland to the Solicitors Disciplinary Trib-

unal and in the matter of the Solicitors Acts 1954 to 2002 [4498/DT31/05]

Law Society of Ireland
(applicant)
Derek Stewart
(respondent solicitor)

On 3 November 2005, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he had failed to file an accountant's report for the year ended 29 February 2004 with the society in a timely manner or at all, in breach of regulation 21(1) of the *Solicitors' Accounts Regulations 2001*, statutory instrument no 421 of 2001, having only filed same on 25 May 2005.

The tribunal ordered that the respondent solicitor:

- a) Do stand censured,
- b) Pay a sum of €250 to the compensation Fund,
- c) Pay a contribution of €500 to the Law Society of Ireland in respect of its costs.

In the matter of Sean T O'Reilly, a solicitor practising as Sean T O'Reilly Solicitors at Bantry House, 2/3 Jocelyn Street, Dundalk, Co Louth, and in the matter of the Solicitors Acts 1954 to 2002 [8657/DT18/05]

Law Society of Ireland
(applicant)
Sean T O'Reilly
(respondent solicitor)

On 17 November 2005, the

Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he had:

- a) Misled his clients by issuing to them a cash account on 22 July 2004 indicating that he had settled their actions with the Bank of Ireland for €6,000 and with Bank of Ireland Finance for €6,000, when in fact those settlements were for €5,000 each;
- b) Misled his clients by advising them that the settlement reached with Bank of Ireland Credit Card Services was €1,800, when in fact that settlement was €1,200;
- c) Failed to explain the costs situation to his clients or to issue a section 68 letter in a timely manner or at all;

d) Until challenged by the clients, the solicitor wrongfully withheld the difference between the actual settlement amount of €5,000 in two cases and €1,200 in a third case and the amount advised to his client of €6,000 in two cases and €1,800 in the third case.

The tribunal ordered that the respondent solicitor:

- a) Do stand censured,
- b) Pay a sum of €5,000 to the compensation fund,
- c) Pay the whole of the costs of the Law Society of Ireland and any person appearing before the tribunal, as taxed by a taxing master of the High Court in default of agreement. **G**

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3. Walk 30 min, jog 3-5 min

WEEK 2, 20 FEBRUARY

1. Walk 20 min, jog 5-7 min, walk 10 min
2. Walk 20 min, jog 5-7 min, walk 15 min
3. Walk 25 min, jog 7 min, walk 10 min

WEEK 3, 27 FEBRUARY

1. Jog 5 min, walk 25 min, jog 5 min
2. Jog 5 min, walk 25 min, jog 7 min
3. Walk 20 min, jog 7-10 min, walk 10 min

WEEK 4, 6 MARCH

1. Walk 30 min, jog 7-10 min
2. Jog 7-10 min, walk 30 min, jog 5-7 min
3. Jog 7-10 min, walk 30 min, jog 5-7 min

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CONTRACT

Commercial law

Interlocutory injunction – terms and conditions – exclusive distribution agreement – principles to be applied – where balance of convenience lies – whether undertaking as to damages favours granting of injunction – whether disruption to plaintiff favours grant of injunction.

The defendant had purchased its service station from the plaintiff and entered into an exclusive distribution agreement for three years. However, that contract was unclear in its terms as to the exclusive distribution agreement. The defendant purported to enter into a contract with another oil company for the sale of its products at the garage. The plaintiff sought an interlocutory injunction restraining it from doing so. The defendant contended, among other things, that the terms of any distribution agreement with the plaintiff had not been agreed definitively and, at most, there was merely an agreement to agree.

Mr Justice Clarke granted the injunction, holding that, as the failure to grant an injunc-

tion at the interlocutory stage would potentially lead to the possibility that a permanent injunction might, despite success, be impracticable but also to an impairment of the ability of the plaintiff to manage its territorial coverage and that, as the defendant had the benefit of the plaintiff's undertaking as to damages, the balance of convenience favoured the plaintiff.

Irish Shell Ltd v JH McLoughlin Ltd, High Court, Mr Justice Clarke, 4/8/2005 [FL11509]

CRIMINAL

Appeal

Murder conviction – whether conviction should be set aside – Criminal Justice Act 1984, section 8.

The applicant was convicted of murder by a jury in the Central Criminal Court. The applicant applied for leave to appeal that conviction on the basis, among other things, that the interview conducted by the gardaí was unfair in as much as it continued after he indicated his unwillingness to answer further questions and that he subsequently discov-

ered that the interpreter was a Chinese police officer. He also contended that section 8 of the *Criminal Justice Act 1984* applied to evidence taken by the gardaí and should be destroyed, as he had been initially charged but, as the wrong procedures had been followed, was released and recharged.

The Court of Criminal Appeal refused the applicant leave to appeal, holding that the primary importance of video recordings of interrogations was that a court could subsequently rule upon the fairness of the questioning and the demeanour of the person being questioned in a manner that was more reliable than reading a transcript of what took place, and what the video showed was that there was no impropriety in relation to the interpreter or the conduct of the interview. The court also held that, as the original charges against the applicant were proceeded with, he had not been discharged in relation to them and therefore section 8 of the *Criminal Justice Act 1984* did not apply and the gardaí were under no obligation to destroy fingerprint or other evidence that they had taken.

People (DPP) v Yu Jie, Court of

Criminal Appeal, 28/7/2005 [FL11697]

Defence

Unlawful carnal knowledge of girl under 15 – whether defence of reasonable belief as to age of complainant available – Criminal Law (Amendment) Act 1935.

The appellant was charged with unlawful carnal knowledge of a girl under the age of 15, contrary to s1(1) of the *Criminal Law (Amendment) Act 1935*. He applied by way of judicial review for, among other things, a declaration that a reasonable belief as to the age of the complainant was a defence. The High Court held that a *bona fide* mistake as to age, whether reasonable or otherwise, was not a defence.

The Supreme Court (Denham, Hardiman, Geoghegan, Fennelly and McCracken JJ) dismissed the appeal, holding that it was clear that the Oireachtas did not intend that such a defence should be available. It was appropriate to give further consideration to the question of the constitutionality of the section and to receive further submissions and hear argument on that question. ***C v Ireland, Supreme Court, 12/6/2005*** [FL11515]

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Delay

Constitutional law – judicial review – order of prohibition – sexual offences – psychological evidence – whether real or serious risk of unfair trial – whether order prohibiting trial should be granted – Bunreacht na hÉireann, *article 38.1.*

The applicants were brothers and had been charged with sexual offences against the complainant, K(A), allegedly committed some years previously, mainly while the complainant worked on a farm owned by the applicants' parents. Both applicants brought applications seeking to prohibit their trials from proceeding. The applicants both claimed that the lapse of time between the commission of the alleged offences and the date of trial was so great that it gave rise to an unavoidable and incurable presumption of prejudice against them. Furthermore, it was claimed that the delay in charging and prosecuting the applicants was by itself or in conjunction with the lapse of time since the date of the alleged commission so great as to be oppressive, unjust and unfair to the applicants and in breach of the constitutional right to a fair trial. Psychological evidence was tendered regarding the complainant's delay in reporting the alleged abuse and her attempts to deal with the issues. The psychologist submitted that there was no evidence that the complainant suffered from a psychiatric illness associated with delusions about her past and had sufficiently recovered from her experiences to confront the alleged past abuse.

Ó Caoimh J refused the relief sought, holding that the complainant had explained the reason for the delay in making the complaints; the evidence of the psychologist was of further assistance to the court in its assessment; the absence of certain witnesses did not give rise to a situ-

ation where a fair trial could not be held in circumstances where the offences were allegedly committed in private; and, notwithstanding the difficulties that the applicants might face, they had failed to demonstrate that there was a real and serious risk that they would not obtain a fair trial. **R(K) v DPP, R(P) v DPP, High Court, Mr Justice Ó Caoimh, 30/1/2004** [FL11639]

Evidence

Judicial review – CCTV camera footage not preserved – delay in seeking judicial review – duty to preserve evidence – relevance of alleged inculpatory statement – eve of trial applications.

The applicant was charged with the unlawful seizure of a vehicle in the forecourt of a filling station. His solicitor wrote to the gardaí, requesting a copy of the CCTV video recording of the events. The gardaí replied that the footage did not cover the area where the robbery took place and, since it was of no evidential value, they did not retain possession of it. The applicant applied for judicial review for an order restraining the continuance of the prosecution against him on the grounds that the failure of the gardaí to preserve the video recording amounted to a breach of the state's common law obligation to preserve evidence potentially relevant to the issue of guilt or innocence.

The Supreme Court (Murray CJ, McGuinness and Hardiman JJ) dismissed the appeal, holding that the lapse of time between the charging of the applicant and his application for relief on the eve of his trial was, in all the circumstances of the case, excessive. While the gardaí's view that the video was of no use was independently corroborated and unchallenged, it seemed both prudent and fair to preserve the

videotape. The facts of another case might well lead to a different result following a decision to dispose of a videotape.

Per curiam: If it were necessary to make a very late application, the reasons for this necessity should be specifically addressed in the statement of grounds, or the affidavit verifying it, so that the court could consider whether, in the exercise of its discretion, it should grant a very late application for leave.

Scully v DPP, Supreme Court, 16/3/2005 [FL11536]

Witness protection programme

Accomplice evidence – Courts of Justice Act 1924 – whether evidence that was obtained from witnesses under a witness protection programme was improperly admitted at the trial of the applicant.

The applicant, who was found guilty by the Special Criminal Court of certain drugs offences, was refused leave to appeal against his conviction by the Court of Criminal Appeal (CCA). However, the CCA certified that its decision involved points of law of exceptional public importance and that it was desirable that an appeal be taken to the Supreme Court on that decision. The applicant challenged the reliability and credibility of three witnesses, who were accomplices, on a number of grounds, including the fact that each of the three witnesses and their families were in a witness protection programme (WPP) and consequently were financially dependent on the state for their future, and it was submitted that each man had tailored his evidence to please the authorities so as to obtain a better future for themselves and their families. The points of law certified related to the admissibility of evidence obtained from witness under a

WPP and whether corroboration was required in respect of the testimony of accomplice witnesses who had participated in a state WPP.

The Supreme Court (Denham, McGuinness, Geoghegan, Fennelly, Macken JJ) dismissed the appeal, holding that:

- 1) In order to ensure a fair trial, evidence given by a witness in a WPP should be approached in the same manner as evidence given by an accomplice. There was no rule of law to the effect that the uncorroborated evidence of a person in or going into a WPP must be rejected. However, the trier of fact must clearly bear in mind and be warned that it is dangerous to convict on the evidence of such witnesses in the absence of corroboration.
- 2) The trial court had ample opportunity to consider the evidence of the witnesses and their demeanour and to assess their reliability, and decided to only act upon evidence that was corroborated. The ordinary rules as to the admissibility of evidence applied to the evidence from the witnesses in this case and the trial court did not err in admitting the evidence of the witnesses in the WPP.

DPP v Gilligan, Supreme Court, 23/11/2005 [FL11674]

PLANNING AND DEVELOPMENT**Local government**

Planning permission granted by An Bord Pleanála contrary to recommendations of its inspector – adequacy of reasons and considerations for departing from inspector's recommendation – adequacy of environmental impact statement – whether substantial grounds made out by applicants – Planning and Dev-



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elopment Act 2000 (*no 30*), s 50. The applicants sought leave to apply for an order of *certiorari* by way of judicial review, pursuant to s50 of the *Planning and Development Act 2000*, to quash a decision made by the respondent granting planning permission for a retail development. They alleged, among other things, that the respondent had not proffered sufficient reasons for departing from its inspector's recommendation that the environmental impact statement prepared by the notice party was inadequate and that the respondent was therefore precluded from considering granting permission and that the said environmental impact statement itself was inadequate.

Mr Justice Kelly granted leave to apply for judicial review, holding that the reasons given by a decision maker had to be clear and cogent and that the statement of considerations taken for a particular reason had to be sufficient to give an applicant such

information as was necessary for him to consider whether he had a reasonable chance of succeeding in appealing or judicially reviewing the decision, arm himself for such hearing or review, know if the decision maker had directed its mind adequately to the issues that it had considered or was obliged to consider and enable the courts to review the decision.

Mulholland v An Bord Pleanála, High Court, Mr Justice Kelly, 4/10/2005 [FL11626]

TORT

Damages

Discretionary trusts – plaintiff obtained significant sum from defendant in respect of injuries received – application to make plaintiff ward of court pending – father of plaintiff applying to have sum settled on him as discretionary trustee – whether order settling damages award on father as trustee appropriate in cir-

cumstances – Trustee (Authorised Investments) Act 1958, section 1 – Lunacy Regulation (Ireland) Act 1871, section 12.

The plaintiff obtained €3,200,000 plus costs in damages for injuries he received as a result of an accident. The High Court directed that that sum was to be placed on a joint deposit account in the names of the plaintiff's parents and Matheson Ormsby Prentice Solicitors, pending an application to have the plaintiff made a ward of court. By notice of motion, the plaintiff sought an order approving the setting up of a private discretionary trust, involving a settlement by the next friend, to administer his affairs and otherwise approving the terms of the proposed trust and directing payment into the said trust of the settlement monies and an order approving the appointment of the proposed trustees.

Mr Justice Finnegan refused to make the orders sought, proceeding on foot of section 12 of the

Lunacy Regulation (Ireland) Act 1871, holding that it was the intention that the trust fund and income thereof should be applied for the benefit of the beneficiary but it was in the nature of a discretionary trust that the trustees were not bound to follow that intention. The investment provisions of the trust extended beyond those authorised under section 1 of the *Trustee (Authorised Investments) Act 1958*. Having regard to the age, life expectancy and capacity of the plaintiff, the deed of trust was not appropriate.

Pierce (a minor) v Kelleher, High Court, Mr Justice Finnegan, 4/5/2005 [FL11696] G

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News from the EU and International Affairs Committee

Edited by TP Kennedy, Director of Education, Law Society of Ireland

Reform of EC procurement rules: the *Public Sector Directive*

In spring 2004, the long-awaited revamping of EC public procurement rules culminated in the adoption of two new directives, one concerning procurement in the public sector and the other relating to entities operating in the utilities sector. Given that the reforms to EC rules governing procurement by utilities are less wide-ranging, this article concentrates on the major changes introduced by directive 2004/18/EC of the European Parliament and the Council of Ministers of 31 March 2004 on the co-ordination of procedures for the award of public works contracts, public supply contracts and public service contracts (the *Public Sector Directive*). The state had until 31 January 2006 to implement this directive.

EC public procurement rules govern the award of written contracts regarding the purchasing of goods, services and works by public bodies and utilities. The purpose of these rules is to allow the fullest possible competition for public contracts, enabling contracting authorities to obtain quality products, works or services at the lowest or most economically advantageous cost. These rules appear to have had an effect. The European Commission published a working document in 2004 that estimates that the application of public procurement rules appears to reduce prices paid by public bodies for goods and services by up to 30%. Recognising that there is room for further improvement, the commission began the reform process in May 2000 with a proposed package of amendments. Nearly four years later, the *Public Sector Directive* was adopted. The

new legislation aims to simplify and modernise EC public procurement law with a view to further reducing the cost of public procurement, thus resulting in further savings for taxpayers.

Simplification

At present, the award of a public contract satisfying the relevant financial thresholds is subject to one of four EC *Public Procurement Directives*. (Contracts below those thresholds are governed by Irish guidelines generally set down in the Department of Finance's 1994 *Green Book*, as supplemented in May 2004 by the department's *Public Procurement Guidelines on Competitive Process – Supplies and Services*.) The directives have been implemented into Irish law by way of statutory instrument and cover public works contracts, public supply contracts, public service contracts and procurement by utilities. The 2004 reform has merged the directives regarding each of works, supplies and services into the *Public Sector Directive* with a view to making the rules more 'user-friendly'. Moreover, certain anomalies between the existing three texts have been eliminated. The structure of the *Public Sector Directive* aims to guide both contracting authorities and bidders through all the relevant stages of a procurement process in chronological order, from contract inception right through to selection of the winning bidder. In addition, the financial thresholds are all expressed in euro.

Modernisation

The European Commission was keen that the award procedures should be updated to satisfy the

administrative requirements of the electronic age. It is also anxious that both bidders and contracting authorities should be able to take advantage of the possibilities provided by the recent improvements in information technology by allowing for new methods of procurement.

The *Public Sector Directive* therefore encourages the use of e-procurement, particularly regarding frequent contracts for good and services. The new rules also offer the choice of a new award procedure (known as competitive dialogue) to contracting authorities that are unable to identify the relevant legal or technical criteria regarding particularly complex projects. Public bodies may continue to use the open, restricted or negotiated procedures. Social and environmental considerations have also been recognised in the new rules. Finally, the directive provides for the use of framework agreements.

Scope

The directive applies to contracts between a contracting authority (other than in the utilities sector) for the execution, or for both the design and execution, of general building and civil engineering work, construction, installation and building completion work (that is, public works contracts). This new legislation also deals with the award of contracts between a public authority and a supplier for the purchase, lease, rental or hire purchase of products (other than those in the utilities sector). Finally, the directive applies to contracts between a contracting

authority and a service provider (other than in the utilities sector) for services.

As stated above, the relevant financial thresholds (excluding VAT) in the *Public Sector Directive* are expressed in euro rather than special drawing rights (SDRs) or European currency units (ECUs). Once the directive enters into force, the value of the thresholds will be €5,923,000 for public works contracts, €154,000 for services/supplies procured by various central government authorities such as government departments, and €236,000 for services/supplies procured by other public bodies. Fortunately, the new thresholds show little more than a marginal increase from the current values. The biggest change in real terms is the threshold value for public works contracts, which increases by just over 5%.

Competitive dialogue

This new award procedure is perhaps one of most significant changes introduced by the *Public Sector Directive*. Its primary purpose is to provide more flexibility in tendering processes in markets that are "particularly complex". Although the directive does not define this term, the European Commission suggests that this complexity must be capable of objective justification by the contracting authority.

First, the public body must announce its intention to award the contract and indicate that it will be awarded under the competitive dialogue procedure. Once it has assessed the initial submissions of the various interested parties, the contracting

authority will enter into dialogue with the pre-qualified candidates. Through this process, the public body will seek to identify solutions that meet its requirements. The contracting authority may provide for the procedure to take place in successive stages in order to reduce the number of solutions or proposals being discussed. This reduction must be achieved on the basis of the relevant award criteria. At this stage, the public body may discuss all aspects of the project, including pricing. It is likely that the contracting authority will reduce the number of participants at various stages during the competitive dialogue phase. This is because fewer candidates will reduce the time investment by public bodies. Moreover, bidders are more likely to devote sufficient resources to the selection process if (in numeric terms at least) they have a greater chance of winning.

'Cherry-picking' is banned. In other words, a contracting authority may not, unless express permission is given, discuss a bidder's proposed solutions with the other participants. The competitive dialogue continues until the contracting authority has found a solution that is capable of satisfying its requirements. The contracting authority will then invite the remaining bidders to submit their final tenders. Unless the relevant bidders have consented, the participants must base their final tenders on their own respective solution (or possibly solutions).

Although post-tender negotiations are prohibited, the contracting authority may ask bidders to clarify or 'fine tune' their submissions. Like both the open and restricted procedures, such clarification or 'fine tuning' may not involve alterations to the basic features of the tender (particularly price), since such variations are likely to distort competition or have a discriminatory effect. The final bids are then assessed on the basis of the



award criteria and the most economically advantageous tender (MEAT) is identified. At this stage, the tender identified as having submitted the MEAT may be asked to clarify certain aspects or confirm certain commitments in its bid. Under the *Public Sector Directive*, this should not entail any negotiations. However, the likely lack of transparency regarding the solutions suggested by each of the bidders might 'permit' the public body to enter into discussions with the bidder identified as having submitted the MEAT.

As stated, the purpose of the competitive dialogue procedure is to give contracting authorities greater flexibility in seeking to identify solutions to its contractual needs. It is therefore likely that public bodies will interpret the concept of "particularly complex" contracts broadly. It remains to be seen whether the relevant enforcement authorities, for example, the European Commission or the High Court, will agree with this approach. If not, the introduction of this new procedure will be of limited benefit, in that few contracts will satisfy the strict requirement for its use.

Negotiated procedure

The current practice is for public bodies to award complex contracts (such as public/private partnership agreements) using the negotiated procedure with prior advertisement (the competitive negotiated procedure), as the limited scope for negotia-

tion under the open or restricted procedures makes them unsuitable for procuring major infrastructure projects. The use of the negotiated procedure is generally restricted to situations where the nature of the works, supplies or services, or the risks attaching thereto, do not permit prior overall pricing. (The competitive negotiated procedure must be distinguished from the non-competitive negotiated procedure or negotiated procedure without prior advertisement, which can only be used in exceptional circumstances.) The chief difference between competitive dialogue and the negotiated procedure is that, in the latter, detailed discussions may take place after the selection of the MEAT. Although the circumstances in which it may be used have not been extended, the *Public Sector Directive* confirms that contracting authorities may continue to provide for the competitive negotiated procedure. The new legislation also provides some additional guidelines on the steps to be followed during this procedure.

The first half of the process is the same as the restricted procedure and strict time limits apply. The contracting authority will subsequently invite selected tenderers to negotiate with a view to concluding the contract. As a final competitive stage, the contracting authority may invite best and final offers, or 'BAFOs', from the two or more remaining candidates. After the selection of

the preferred bidder, the contracting authority will negotiate with that bidder alone, with a view to finalising the contract. The directive confirms that public authorities may conduct the competitive negotiated procedure in successive stages, provided this is stated in the contract notice or the tender documents.

E-procurement

The *Public Sector Directive* allows contracting authorities to benefit from recent technological advances. For instance, contracting authorities may establish an entirely electronic process for making commonly used purchases, the characteristics of which meet the requirements of the public body. This process is known as an electronic dynamic purchasing system. This system may last for up to four years (unless exceptional circumstances allow) and is open to any business that satisfies the selection criteria and has submitted an indicative tender that satisfies the selection criteria. Public bodies should publish a contract notice on the internet inviting each admitted company to bid for each contract within at least 15 days, indicate details regarding the purchases to be made and offer full electronic access to the relevant contractual specifications.

The directive also enables contracting authorities to hold electronic auctions allowing bids to be submitted online. These auctions can be used for goods, services and works that can be defined with precision and the identity of bidders should remain secret. Finally, the new legislation promotes the use of electronic signatures and greater use of electronic means generally, in order to shorten the relevant selection processes.

Framework agreements

A framework agreement exists where a public authority and a bidder (or bidders) decide the terms of contracts (for example, pricing) to be awarded during a given period, usually no more

than four years. This option allows contracts to be awarded without having to complete a separate selection process each time. The contracting authority shall follow the general rules of the *Public Sector Directive* (for example, publication of contract notice etc) for all phases up to contract award. When awarding a contract based on a framework agreement concluded with one bidder, the public body must remain within the terms of the relevant agreement. Where a framework agreement is concluded with at least three bidders, the contract may be awarded within the terms of the relevant agreement. However, if the framework agreement is not complete, the competition should be re-opened to the same parties and awarded to the bidder that submits the best tender on the basis of the specifications of the framework agreement.

Social considerations

The integration of social and environmental considerations into the procurement process has been recognised by the European courts and is specifically included in the *Public Sector Directive*. The European Commission has published guidance notes so that contracting authorities might design procedures to take account of these considerations.

The *Guidelines on Social Considerations* explain how criteria such as access to buildings for disabled persons and the recruitment of disabled or unemployed persons may be integrated into the procurement process. This can be done before the award of the contract (as additional criteria in determining the MEAT) or on execution of the contract (a requirement for the successful tenderer to hire unemployed persons). A new class of

'reserved' contracts has been created under the directive, where contracting authorities may reserve the right to participate in award procedures to sheltered workshops or provide for contracts to be performed in the context of sheltered employment programmes.

The *Green Guidelines* and handbook suggest how contracting authorities might build environmental considerations into the assessment of their requirements and the establishment of technical specifications. They encourage life-cycle costing approaches and the use of functional rather than prescriptive specifications to allow for environmentally friendly variants. In developing the criteria for assessing MEAT, for example, a public body may award extra points for using less energy. Contract performance clauses could specify the use of environ-

mentally friendly packaging or methods of waste disposal.

Incidentally, the *Public Sector Directive* provides that when a contract is to be awarded to the MEAT, the contracting authority must specify the relative weighting of the relevant criteria in the contract notice or tender documents.

On the whole, the adoption of the *Public Sector Directive* is to be welcomed. Of course, a useful evaluation of the effectiveness of the new rules must be postponed until Irish public bodies operate the new legislation over a reasonable period of time.

Before this occurs, the directive must be implemented into Irish law. The Department of Finance currently expects that this will happen in advance of the 31 January deadline. **G**

Cormac Little is an associate with William Fry Solicitors.

Recent developments in European law

INSURANCE

Case C-537/03, *Katja Candolin and Others v Vahinkovakuutusosakeyhtio Pohjola and Jarno Ruokoranta*, 30 June 2005. In 1997, Ms Tanja Candolin, the mother of the applicant, was travelling with Mr Viljaniemi and Mr Paananen in the car of the latter, which was driven by Mr Ruokoranta. The car was involved in an accident that caused the death of Ms Candolin and serious injuries to the other passengers. The driver and all the other passengers were drunk. Mr Ruokoranta was sentenced to a term of imprisonment and ordered to pay compensation to the applicant, Mr Viljaniemi and Mr Paananen. The Finnish court hearing the dispute took the view that the passengers should have noticed that the driver was drunk. As a consequence, the court decided that none of them had the right under the Finnish law of

motor vehicle insurance to compensation by the insurance company. The Finnish Supreme Court asked the ECJ whether EC law precludes national rules that refuse or limit compensation paid by the compulsory motor vehicle insurance on the basis of the passenger's contribution to the occurrence of the damage or injury suffered, and whether the answer is different when the passenger is the owner of the vehicle. The ECJ held that the directives on civil liability insurance do not seek to harmonise the rules of the member states on civil liability. As EC law stands at present, the member states are free to determine the rules of civil liability applicable to road accidents. However, member states must exercise their powers in compliance with EC law and, in particular, with those directives that aim to ensure that compulsory motor vehicle insurance allows all passengers who are victims of an accident caused by a motor

vehicle to be compensated for the injury or loss they have suffered. National provisions that govern the compensation of road accidents cannot, therefore, deprive those provisions of their effectiveness. Such would be the case where national rules deny a passenger the right to be compensated by compulsory motor insurance or limit such a right in a disproportionate manner, solely on the basis of the passenger's contribution to the occurrence of his injuries. It is only in exceptional circumstances that the amount of the victim's compensation may be limited on the basis of an assessment of his particular case. The determination of whether those circumstances exist and whether the limit on the compensation is proportionate is a matter for the national court. The fact that the passenger seeking compensation is the owner of the vehicle the driver of which caused the accident is irrelevant.

TRADEMARKS

Case T-140/02, *Sportwetten GmbH Gera v Office for Harmonisation in the Internal Market (Trade Marks and Designs)*, 13 September 2005. Regulation 40/94 provides for a system of registration of community trademarks. A community trademark is to be declared invalid where it was registered contrary to public policy or to accepted principles of morality. In 1999, Intertops Sportwetten registered as a community trademark a figurative sign including the word 'intertops' in respect of bookmakers' services and betting services of all kinds. Sportwetten GmbH Gera, the holder at the time of the German word mark 'intertops sportwetten' in respect of the same services, sought a declaration that the community trademark was invalid, claiming that it was contrary to accepted principles of morality. In 2002,

the OHIM Board of Appeal dismissed the appeal of Sportwetten. The appellant sought annulment of that decision before the CFI, arguing that since Intertops does not hold the license necessary to offer the relevant services in Germany, it would not be authorised to offer those services there or to advertise them. The CFI held that the fact that Intertops did not hold such a licence in Germany did not mean that the community trademark is contrary to public policy or morality. The grounds for refusal set out in article 7 of regulation 40/94 refer to the intrinsic qualities of the trademark applied for and not to circumstances relating to the conduct of the applicant for the trademark. The absence of a licence in Germany does not relate to the intrinsic qualities of the trademark. The community trademark regime is an autonomous system that applies independently of any national system. Thus, whether a sign can be registered as a community trademark must be assessed only on the basis of community legislation.

Case C-418/02, *Praktiker Bau- und Heimwerkermärkte AG v Deutsches Patent- und Markenamt*, 7 July 2005. Praktiker had filed in Germany to register the trademark 'Praktiker' for the service of retail trade in building, home improvement, gardening and other consumer goods for the do-it-yourself sector. The German trademark office rejected the application on the basis that trademark protection could only be achieved in respect of the various goods marketed. The concept of retail trade did not denote inde-

pendent services having autonomous economic significance but related only to goods distribution as such. The economic activities that formed the core of goods distribution, in particular purchasing and selling, were not services for which a trademark could be registered. Praktiker appealed. As the German legislation was based on the *Directive on Trademarks*, the German Federal Patents Court referred to the ECJ for guidance on whether the concept of 'services' within the meaning of the directive includes services provided in connection with retail trade in goods and, if so, whether the registration of a service trademark in respect of such services is subject to the provision of certain details. The ECJ held that in the absence of a definition of 'services' in the directive, it fell to the court to interpret it. The objective or retail trade is the sale of goods to consumers. In addition to selling, this includes all activity carried out by the trader for the purpose of encouraging consumers to purchase. This involves selecting an assortment of goods offered for sale and offering a variety of services aimed at inducing the consumer to buy from the trader in question rather than from a competitor. No overriding reasons based on the directive or on general principles of EC law precludes those services from being covered by the concept of 'services' within the meaning of the directive. The ECJ therefore concluded that the trader is entitled to acquire protection of his trademark for services provided in connection with retail trade in goods. The court then turned to consideration of the details necessary for registration. It is not

necessary to specify in detail the services in question. To identify the services provided, general wording such as "bringing together of a variety of goods, enabling customers to conveniently view and purchase those goods" is sufficient. However, to make it easier to apply the provisions concerning cases of conflict with a trademark filed earlier and to determine the exclusive right conferred on the proprietor, the applicant must be required to specify the goods or type of goods to which those services relate by means of particulars, such as those contained in the application for registration filed by Praktiker.

Case C-353/03, *Société des produits Nestlé SA v Mars UK Ltd*, 7 July 2005. In 1995, the applicant applied for registration of the trademark "have a break". Mars, a competitor, filed an opposition to the application. The English Court of Appeal looked to the *Trademark Directive* (89/104/EEC). Under that directive, a mark devoid of distinctive character cannot be registered. However, a mark that is not inherently distinctive may acquire distinctive character through use. The court considered that the expression "have a break" is devoid of inherent distinctive character. It may be registered only if it has acquired distinctive character through use. As it was used as part of the mark "have a break ... have a Kit Kat" and not genuinely as an independent trademark, the Court of Appeal asked the ECJ whether the requisite distinctive character may be acquired from use as part of or in conjunction with another mark. The ECJ held that the distinctive character required for registration

of a mark may be acquired through use of that mark as part of or in conjunction with a registered mark. A mark has distinctive character when it is capable of distinguishing the goods or services of one undertaking from those of others. Distinctive character is assessed in relation to the goods or services in respect of which registration is applied for and in relation to the presumed expectations of an average consumer of the category of goods or services in question. To acquire distinctive character, the mark must be used as a trademark. However, that does not mean that the mark need necessarily have been used independently. It is merely necessary that, by consequence of use, the product or services designated exclusively by the mark are perceived as originating from a given undertaking. Such identification may be as a result both of the use, as part of registered trademark, of a component thereof and of the use of a separate mark in conjunction with a registered trademark. It is for the national court to determine whether "have a break" has come to identify the product concerned. Factors to be taken into account in doing so include the market share held by the mark; the intensity, the geographical spread, the widespread and longstanding use of the mark; the amount invested by the undertaking in promoting the mark; the proportion of consumers who, because of the mark, identify goods as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations. **G**

NOTICE

The Incorporated Council of Law Reporting for Ireland has available for sale some bound (and unbound) back volumes of *The Irish Reports* and *The Irish Digests* from 1838 to the present time.

The Irish Reports and *The Irish Digests* have been indispensable reading for the legal profession for generations. Compiled with precision and skill, the reports are cited authoritatively in courts and tribunals and constitute the most comprehensive series of reports available, covering decisions of major importance of the superior courts in Ireland. *The Irish Reports* are presented in an easy-to-read format, with high-quality headnotes summarising the judgments.

The *Digest* series (which contains a summary of the headnote of each reported case) is a truly comprehensive record of cases published in *The Irish Reports*, *The Northern Ireland Reports*, *The Irish Law Times Reports*, and *The Irish Law Reports Monthly*.

Contacts: Ciarán McCarthy, Business Manager, Law Reporting Council, Áras Uí Dhálaigh, 1st Floor, Four Courts, Inns Quay, Dublin 7. (Monday-Friday 9.15am to 1pm). Tel: (01) 8886871 / 8886571; email: ciaran@irishreports.ie

Jenny Aston, Law Books Ireland, 47 St. Kevin's Park, Dublin 6. Tel: (01) 4974385, Fax: (01) 4910964; email: jaston@iol.ie

Justice Media Awards winners

Winners of the Justice Media Awards on 13 December received their awards from immediate past-president, Owen Binchy, and

director general, Ken Murphy (see story, p6) at a ceremony held in the Law Society's headquarters in Blackhall Place, including: Conor Lally

of *The Irish Times* who won in the daily newspapers category; John Burns and Dearbhail McDonald of *The Sunday Times*, winner of the non-daily

newspaper category; Damian McHugh, winner in books; Philip Boucher-Hayes of RTÉ's *Five Seven Live* who scooped the radio award.



Conor Lally of *The Irish Times*



John Burns and Dearbhail McDonald of *The Sunday Times*



'Books' winner, Damian McHugh



Philip Boucher-Hayes of RTÉ



Taxing times

The Presidents' Hall was the venue for Diploma in Property Tax conferrals on 24 November. The guest speaker was Law Society Council member and member of the Society Trust and Estate Practitioners Ireland (STEP) Committee, John O'Connor. John spoke on the value of having a tax qualification in the current buoyant economy



100 years-a-growing!

Daniel J Reilly & Co (Trim, Co Meath) has celebrated the centenary of the firm's founding in 1905. Daniel was elected president of the Law Society in 1939. Three of his children went on to qualify as solicitors – Marie, Frank and Donal. The firm is now run by Frank's son-in-law, Joe Curran, making it a three-generation practice. At a golf classic held on 8 October to mark the occasion were (*back, l to r*) Joe Curran (senior partner), Suzanne Curran (grand-daughter of the founder), Irene Egan, Susan Fetherstone and Gerry Rowley (solicitor). (*Front, l to r*) Laura Cronin, Julia Fox (retired) and Ita Hughes. (Missing: Christine Murray and Patricia Wardick)



Sad to see you go

Tom Flanagan's colleagues at Blackhall Place lined the forecourt to welcome the head porter to his retirement function on 20 January. Tom served the Society for 25 years and never missed a single day. He saw 26 presidents come and go, the first being Moya Quinlan, who was present to wish him well. Addressing the large gathering of colleagues and friends, he told many stories of his working days and reminded them of his most vivid memory – the Stardust Tribunal that was held in the Presidents' Hall in 1981. Thanks for all the years of dedicated service Tom, for the 'news' each day, and for the great memories!



PIC: MICHAEL MCLAUGHLIN

Mayo Bar Association dinner dance

Attending the MSBA dinner dance at Hotel Westport were (*back, l to r*): Rory McShane, Pat O'Connor, Judge John Garrivan, Samantha Geraghty, Kevin O'Higgins (Dublin Solicitors' Bar Association), Caroline Barry (MSBA treasurer), Judge Geoffrey Brogan, Judge Barney Brennan and Louis Bourke (Galway Solicitors' Bar Association). (*Front, l to r*): Donncha O'Connell (Dean of Law, NUIG), Fiona Mc Allister (MSBA president), Michael Irvine (Law Society President) and Judge Raymond Rourke



CPD goes on the attack!

At the recent CPD seminar on 'Tools of Attack and Defence in Litigation' were (*l to r*) Barbara Joyce (Law Society), Mr Justice Michael Peart (the High Court), John Gordon SC, Michael Farrell (Senior Solicitor, FLAC), Roddy Bourke (McCann FitzGerald) and Patrick Groarke (Groarke and Partners, Longford)



Honorary Doctorate for Gordon

Gordon Holmes, founder and chairman of Holmes O'Malley Sexton (Solicitors), and his wife Hilary, at the presentation of an Honorary Doctorate of Laws by the University of Limerick



The IT people!

Minister for Communications Noel Dempsey was the main guest at recent conferrals for the Diploma in eCommerce at Blackhall Place. He is seen here celebrating with graduates, director general Ken Murphy, education committee chairman Stuart Gilhooly, and staff from the Law School and information technology section

**LOST LAND
CERTIFICATES****Registration of Title Act 1964**

An application has been received from the registered owners mentioned in the schedule hereto for the issue of a land certificate as stated to have been lost or inadvertently destroyed. A new certificate will be issued unless notification is received in the registry within 28 days from the date of publication of this notice that the original certificate is in existence and in the custody of some person other than the registered owner. Any such notification should state the grounds on which the certificate is being held.

(Register of Titles), Central Office, Land Registry, Chancery Street, Dublin
(Published 3 February 2006)

Regd owner: Eleanor Townsend; folio: 13749F; lands: Pollerton Big and barony of Carlow; **Co Carlow**

Regd owner: Michael and Margaret Brennan; folio: 8522F; lands: Pollerton Big and barony of Carlow; **Co Carlow**

Regd owner: Joseph (John) Conway and Bernadette Conway; folio: 30033F; lands: townland of Clonloghan and barony of Bunratty Lower; area: 0.2327 hectares; **Co Clare**

Regd owner: John Dolan; folio: 16251; lands: townland of Rosslevan and barony of Bunratty Upper; area: 1.1128 hectares; **Co Clare**

Regd owner: William Neylon; folio: 483; lands: townland of Eanty More and barony of Burren; area: 101.9500 hectares; **Co Clare**

Regd owner: Thomas and Fiona Trahe; folio: 24779F; lands: townland of Breaghva and barony of Islands; area: 0.162 hectares; **Co Clare**

Regd owner: Thomas J Kirwin and

Mary Catherine Kirwin; folio: 10978F; lands: townland of Kilcahill and barony of Clare; area: 0.2023 hectares; **Co Clare**

Regd owner: William and Stephanie Aylward; folio: 17706F; lands: Ballyfaudeen and barony of Corcomroe; area: 0.139 hectares; **Co Clare**

Regd owner: Jeanette Moran; folio: 26916F; lands: townland of Ballysallagh and barony of Corcomroe; area: 0.207 hectares; **Co Clare**

Regd owner: Pauline Ann Coyne; folio: 34289F; lands: plots of ground being part of the townland of Ballydaniel in the barony of Imokilly and county of Cork; **Co Cork**

Regd owner: Michael Anthony Hanley, Gortloughra, Kealkil, Co Cork; folio: 4167; lands: the property being part of the townland of Gortloughra and barony of Bantry and in the county of Cork; **Co Cork**

Regd owner: Cora Lynch; folio: 18121; lands: plots of ground being part of the townland of Kilpatrick in the barony of Kinalea and county of Cork; **Co Cork**

Regd owner: Patrick J McCarthy; folio: 45823F; lands: plots of ground being part of the townland of Currane in the barony of Carbery East (east division) and county of Cork; **Co Cork**

Regd owner: Jerry O'Riordan and Susan O'Riordan; folio: 15140L; lands: plots of ground being part of the townland of Kilworth in the barony of Condons and Clangibbon and county of Cork; **Co Cork**

Regd owner: Vincent O'Sullivan, Timothy A Murphy, Daniel Joseph Cronin, Cornelius O'Shea, Patrick O'Keeffe, Thomas Cronin, John C Collins, Owen Fitzgibbon, Patrick

McAuliffe, Nora MJ Kenneally, Joseph Kenneally, William Allen, Richard Lane and Alice Verling (as trustees of Newmarket Town Park); folio: 17053; lands: plots of ground being part of the townland of Gurraunwarrig Upper in the barony of Dunhallow and county of Cork; **Co Cork**

Regd owner: William DH Powell; folio: 14129; lands: plots of ground being part of the townland of Ballybrowney-mountain in the barony of Barrymore and county of Cork; **Co Cork**

Regd owner: Colm and Deirdre Kiely; folio: 53388F; lands: plots of ground being part of the townland of Ballyvorane North in the barony of Kinalea and county of Cork; **Co Cork**

Regd owner: Rose Diamond, Derryleny, Doochary, Co Donegal; folio: 1215; lands: Galwolie; area: 1.4164 hectares and 393.3443 hectares; **Co Donegal**

Regd owner: Annie Doherty, Drumnaskea, Ballymaleel, Co Donegal; folio: 28418F; lands: Loughagannon; **Co Donegal**

Regd owner: Thomas McCarron, Kerrykeel, Letterkenny, Co Donegal; folio: 12311F, 12312F; lands: Gortnatraw; area: 0.1659 hectares and 0.2500 hectares; **Co Donegal**

Regd owner: Desmond Joseph Brannigan; folio: DN8421F; lands: a plot of ground situate in the south of Riverside Grove in the parish and district of Coolock; **Co Dublin**

Regd owner: John Brien; folio: DN18471; lands: a plot of ground situate to the north side of Howth Road in the parish of Clontarf; **Co Dublin**

Regd owner: John Patrick Brosnan; folio: DN1087L; lands: property

known as no 184 Iveragh Road, Pairc na Gaeltachta, situate on the east side of St Mobhi Crescent in the parish and district of Clontarf; **Co Dublin**

Regd owner: Patrick A Collier and Nuala Collier; folio: DN34758L; lands: property situate in the north-east of Rathbeale Road in the parish and town of Swords, situate in the townland of Commons West and barony of Nethercross; **Co Dublin**

Regd owner: Herbert Doyle and Anne Doyle; folio: DN108486F; lands: property situate in the townland of Cooldrinagh and barony of Newcastle; **Co Dublin**

Regd owner: David John Foley; folio: DN35537F; lands: property known as 45 Elm Road, Beaumont, situate to the west side of the Malahide Road in the parish of Artaine, district of Artaine West; **Co Dublin**

Regd owner: Liam MacGloinn and Teresa MacGloinn; folio: DN17165L; lands: property situate in the townland of Kingstown and barony of Rathdown; **Co Dublin**

Regd owner: Dermot Reidy; folio: DN75216L; lands: property situate to the south west of Belgard Road in the town and parish of Tallaght; **Co Dublin**

Regd owner: Liam A O'Hara; folio: DN3666L; lands: the leasehold interest in the property situate to the west of Greenhills Road, being part of the townland of Greenhills and barony of Uppercross; **Co Dublin**

Regd owner: Declan White and Ann Dockrell; folio: DN3990F; lands: property situate in the townland of Knightstown and barony of Balrothery East; **Co Dublin**

Regd owner: Superquinn Limited (limited liability company); folio: DN9545; lands: property situate in the townland of Wilkinson and barony of Uppercross area; **Co Dublin**

Regd owner: Deirdre Hogan and Tony Lowe; folio: DN141792F; lands: a plot of ground known as 7 Bramblefield Crescent, off the Navan Road, Blanchardstown, being part of the townland of Huntstown and barony of Castleknock; **Co Dublin**

Regd owner: Thomas Cash; folio: DN11838; lands: property situate in the townland of Clondalkin and barony of Uppercross; **Co Dublin**

Regd owner: Avril Clare and John Clare; folio: DN146178F; lands: a plot of ground situate in the townland of Galloping Green North and barony of Rathdown; **Co Dublin**

FINAL COPIES

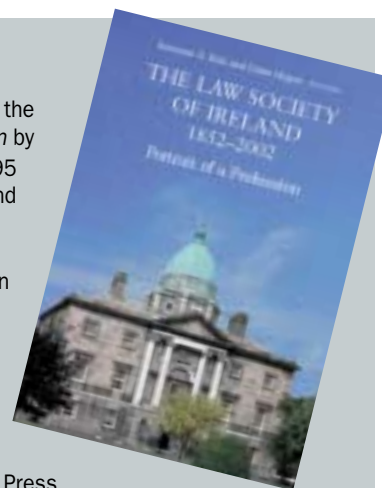
The publishers offer *Gazette* readers a final opportunity of obtaining the book *The Law Society of Ireland, 1852-2002: Portrait of a Profession* by Eamonn G Hall and Daire Hogan (eds) at the reduced price of €29.95 including postage. The book surveys the history of the profession and its extraordinary development in recent years.

Among the chapters is a description of the acquisition and development of the historic headquarters at Blackhall Place in Dublin and the struggle of women to be admitted to the legal profession.

The book also includes a chronological listing of the names of 8,200 solicitors admitted to the Roll between 1952 and 2002.

There are 304 pages in the book plus 48 pages of photographs (many in colour). A reviewer in *The Irish Times* wrote: "No Irish lawyer should be without it."

To avail of this offer, please contact the publishers, Four Courts Press, either by phone (01) 453 4668 or by email at info@four-courts-press.ie.



Regd owner: Arun Bhan and Asha Bhan; folio: 8055F; lands: townland of Ballybaan More and barony of Galway; **Co Galway**

Regd owner: Mary Martina Geraldine Broderick; folio: 21331; lands: townland of Ballagh and barony of Galway; area: 0.1088 hectares; **Co Galway**

Regd owner: Michael Joyce (deceased); folio: 23247; lands: townland of Ardnasillagh and barony of Moycullen; area: 9.4975; **Co Galway**

Regd owner: Ellen Gilmore; folio: 16504; lands: townland of Rinmore and barony of Galway; **Co Galway**

Regd owner: Patrick Griffin (deceased); folio: 501L; lands: parish of St Nicholas and borough of Galway; area: 10 perches; **Co Galway**

Regd owner: Patrick Kerrill Hanlon and Mary Concarr; folio: 44533; lands: townland of Prospect (Athenry By) and barony of Athenry; area: 0.0830; **Co Galway**

Regd owner: Thomas J Kirwin and Mary Catherine Kirwin; folio: 10978F; lands: townland of Kilcahill and barony of Clare; area: 0.2023 hectares; **Co Galway**

Regd owner: Peter Mullen and Julia Mullen; folio: 16031F; lands: townland of Killeany and barony of Aran; area: 0.1942 hectares; **Co Galway**

Regd owner: TJ McCarron; folio: 12358; lands: townland of Ballyeagh and barony of Iraghticonnor and county of Kerry; **Co Kerry**

Regd owner: John Gerard Carr; folio: 14290F; lands: townland of Tipper West and barony of Naas North; **Co Kildare**

Regd owner: Michael Conway; folio: 1336L; lands: townland of Naas and barony of Naas North; **Co Kildare**

Regd owner: Aidan Kane; folio: 9827; lands: townland of Grangeford and barony of Kilkea and Moone; **Co Kildare**

Regd owner: Aidan Kane; folio: 10457; lands: townland of Roscolvin and barony of Kilkea and Moone; **Co Kildare**

Regd owner: Adrian Kelly; folio: 4788L; lands: townland of Clane and barony of Clane; **Co Kildare**

Regd owner: Patricia McSweeney; folio: 5476; lands: townlands of Drumsru and baronies of Offaly East; **Co Kildare**

Regd owner: Rachel Mellon and Laurence Mellon; folio: 6393L; lands: townland of Killhill and barony of South Salt; **Co Kildare**

Regd owner: Adrian Boyle and Jennifer Melia; folio: 7351F; lands: townland of Monasterevin and

Law Society
Gazette

PROFESSIONAL NOTICE RATES

FROM THE NEXT ISSUE (vol 100, no 2) the notice rates in the Professional Information section will increase by 4% in 2006, in line with the price inflation index as notified by the Director of Finance of the Law Society. The new rates will be as follows:

- **Lost land certificates** – €126 (incl VAT at 21%) • **Title deeds** – €126 per deed (incl VAT at 21%)
- **Wills** – €126 (incl VAT at 21%) • **Employment/miscellaneous** – €126 (incl VAT at 21%)

HIGHLIGHT YOUR NOTICE BY PUTTING A BOX AROUND IT – €30 EXTRA

All notices must be paid for prior to publication. **CHEQUES SHOULD BE MADE PAYABLE TO THE LAW SOCIETY OF IRELAND.** Deadline for March *Gazette*: 17 February 2006. For further information, contact Catherine Kearney or Valerie Farrell on tel: 01 672 4828 (fax: 01 672 4877)

barony of Offaly West; **Co Kildare**

Regd owner: Gerard Sweeney and Margaret Sweeney; folio: 23876F; lands: townland of Mylerstown (Naas South By) and barony of Naas South; area: 0.3030 hectares; **Co Kildare**

Regd owner: John Gallagher and Rose Gallagher, Kiltyclogher, Co Leitrim; folio: 2987F; lands: Buckode; area: 0.500 acres; **Co Leitrim**

Regd owner: Cassin Road Haulage Limited; folio: 5878L; lands: townland of Clondrinagh and barony of North Liberties; **Co Limerick**

Regd owner: Nicholas and Janet Grene; folio: 40887F; lands: townland of Ballybricken East and barony of Clanwilliam; **Co Limerick**

Regd owner: Matthew Ryan; folio: 3643; lands: Baskethill, Pallasgreen, **Co Limerick**

Regd owner: Thomas Campbell (ors Cambell), Aughanboy, Killoe, Co Longford; folio: 3080; lands: Aghaboy; area: 7.6384; **Co Longford**

Regd owner: Peadar Hynes, Ballygoly, Riverstown, Dundalk, Co Louth; folio: 1829F; lands: Bellurgan; area: 1.6389 hectares; **Co Louth**

Regd owner: Philip and Carmel Smith, Tallanstown, Dundalk, Co Louth; folio: 11721; lands: Rathbrist; area: 0.1720 hectares; **Co Louth**

Regd owner: Philomena Blacoe, c/o P Tallan and Company, Solicitors, 106 West Street, Drogheda, Co Louth; folio: 4568F; lands: Lagavooren; **Co Louth**

Regd owner: Michael Connell; folio: 12641; lands: townland of Graghill and barony of Erris; area: (1) 5.8755 hectares, (2) 80.3857 hectares (one undivided 42nd part); **Co Mayo**

Regd owner: John Gill and Mary Geraghty; folio: 2333F; lands: townland of Carrowbeg and barony of Murrisk; area: 0.0075 hectares; **Co Mayo**

Regd owner: Patrick Joseph Howley; folio: 1607F and 28053F; lands: townland of (1) Tullysleva, (2) Farrandeelion, and (3) Cloonturk and barony of Tirawley; area: (1) 4.9578 hectares, (2) 3.5332 hectares, and (3) 4.72 hectares; **Co Mayo**

Regd owner: Mary Convey; folio: 37603; lands: townland of Swinford and barony of Gallen; area: 0.1011 hectares; **Co Mayo**

Regd owner: Patrick Murray, Moymet, Trim, Co Meath; folio: 18151F; lands: Moymet; area: 26.021 hectares; **Co Meath**

Regd owner: Brendan Lynam, Confee, Leixlip, Co Kildare; folio: 17612; lands: Clonee; **Co Meath**

Regd owner: David Tallon and Oliver Tallon, 50 The Old Mill, Ratoath, Co Meath; folio: 2318; lands: Ginnets Great; area: 2.0108 hectares; **Co Meath**

Regd owner: Michael Brannigan, 8 Emmet Road, Carrickmacross, Co Monaghan; folio: 6139F; lands: Drummond Otra; **Co Monaghan**

Regd owner: Kathleen McArdle, Toome, Castleblayney, Co Monaghan; folio: 5410; lands: Toome; area: 3.3134 hectares; **Co Monaghan**

Regd owner: Patrick McCabe, Aughalaverty, Castleshane, Co Monaghan; folio: 14255; lands: Carrowkeel, Carrowkeel and Garran Otra; area: 4.2618 hectares, 1.4543 hectares and 1.3152 hectares; **Co Monaghan**

Regd owner: John Henry McQuaid, Mullan, Emyvale, Co Monaghan; folio: 9683; lands: Aghnagap; area: 5.1799; **Co Monaghan**

Regd owner: Michael Slowey

(deceased); folio: 171F; lands: Ballybruncullin and barony of Ballycowan; **Co Offaly**

Regd owner: Thomas Fitzgerald; folio: 4217F; lands: Magheramore and barony of Clonlisk; **Co Offaly**

Regd owner: Timothy Chapman; folio: 31799; lands: townland of Tully (ED Kilmore) and barony of Ballintober North; area: (1) 2.5394 hectares, (2) 0.0657 hectares, one undivided 7th part; **Co Roscommon**

Regd owner: Patrick Gilboy and Maria Gilboy; folio: 10116F; lands: townland of Cooladye and barony of Boyle; area: 4.78 hectares; **Co Roscommon**

Regd owner: Annie Meehan (deceased); folio: 3021F; lands: townland of Doonowney and barony of Carbury; area: 4.8610 hectares; **Co Sligo**

Regd owner: Owen McClean; folio: 12446; lands: townland of Drumiskabole and barony of Carbury; area: 11.4424 hectares; **Co Sligo**

Regd owner: Mary Scanlon (deceased); folio: 9914; lands: townland of Cartronabree and barony of Carbury; area: 5.9817 hectares; **Co Sligo**

Regd owner: Johanna O'Brien; folio: 1307; lands: townland of Barnora and barony of Iffa and Offa West; **Co Tipperary**

Regd owner: Roger Moloughney; folio: 6859; lands: townland of Laghile and barony of Owny and Arra; **Co Tipperary**

Regd owner: Annie Lyons; folio: 4072; lands: plots of ground being part of the townland of Knocknaboul in the barony of Coshmore and Coshbridge and county of Waterford; **Co Waterford**

Regd owner: Nigel Riordan and

Eileen Long; folio: 17411F; lands: plots of ground being part of the townland of Coxtown East in the barony of Gaultiere and county of Waterford; **Co Waterford**

Regd owner: Sean Queally; folio: 262; lands: plots of ground being part of the townland of Monkeal in the barony of Decies without Drum and county of Waterford; **Co Waterford**

Regd owner: Michael Egan, Ballard, Rathconrath, Co Westmeath; folio: 5637; lands: Ballard; area: 3.5308; **Co Westmeath**

Regd owner: Athlone Urban District Council, Townhall, Athlone, Co Westmeath; folio: 16095; lands: The Strand and Castlemaine Street; area: 0.0285 hectares and 0.7411 hectares; **Co Westmeath**

Regd owner: William Chapman; folio: 10159F; lands: Ballycarrigeen Lower and barony of Gorey; **Co Wexford**

Regd owner: James Codd and Frances Josephine Codd; folio: 4420; lands: Sheastown and barony of Bargy; **Co Wexford**

Regd owner: Joseph Kehoe (deceased); folio: 12326; lands:

Garrynisk (ED Castle Ellis) and barony of Ballaghkeen South; **Co Wexford**

Regd owner: Martin Sullivan; folio: 9775; lands: Clonmore and barony of Bantry; **Co Wexford**

Regd owner: Michael Kilbride; folio: 15354; lands: Gorteen (ED Newtownbarry) and barony of Scarwalsh; **Co Wexford**

Regd owner: Brendan Dwyer (deceased); folio: 14474; lands: Ballowen or Ramsfort Park and barony of Gorey; **Co Wexford**

Regd owner: Edmund Brennan and Frances Brennan; folio: 450; lands: townland of Threemilewater and barony of Arklow; **Co Wicklow**

Regd owner: Donal Leahy; folio: 20067F; lands: townland of Kilruddery Demesne West and barony of Rathdown; **Co Wicklow**

Regd owner: Michael Horner; folio: 7965; lands: townland of Lugatryna and barony of Talbotstown Lower; **Co Wicklow**

Regd owner: Harry McGuirk; folio: 789F; lands: townland of Humphrystown and barony of Talbotstown Lower; **Co Wicklow**

WILLS

Doris, Anne (deceased), late of 28 Windmill Avenue, Swords, Co Dublin (formerly of 8 Fairholme Court, Victoria Villas, off Rathgar Avenue, Dublin 6). Would any person having knowledge of a will executed by the above-named deceased, who died on 1 January 2000, please contact O'Donnell Waters Solicitors, Aengus House, Dock Street, Galway; tel: 091 568 880, fax 091 568 850

Griffin, John Patrick (deceased), late of Drumnahaogh, Letterkenny, Co Donegal. Would any person having any knowledge of the whereabouts of a will made by the above-named deceased please contact McInnes & Associates, Solicitors, 20 High Road, Letterkenny, Co Donegal; tel: 074 912 9355, email: info@irishlaw.com

Harris, Daniel (deceased), late of 91 Dundaniel Road, Kilmore, Dublin 5, and who died on 2 July 2005. Would any person having knowledge of a will made by the above-named deceased please contact Gaffney Halligan & Co, Solicitors, 413 Howth Road, Raheny, Dublin 5

Hensey, William (deceased), who died on 8 October 2005, late of Canning Place, Newbridge, Co Kildare. Would any person having knowledge of a will made by the above-named deceased please contact: Stephen Maher, Solicitors, Main Street, Newbridge, Co Kildare; tel: 045 432 220, fax: 045 434 203

Kent, John (deceased), late of Kilballyboy, Clogheen, Co Tipperary/Curraghologh, Clogheen, Co Tipperary/Curraghslagh, Mount-anglesby, Clogheen, Co Tipperary, who died on 13 October 2005. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Karen Kearney, solicitor, of MJ O'Callaghan & Son, Solicitors, Mitchelstown, Co Cork; tel: 025 24500

McNulty, Neil (deceased), late of Lecarrow, Lahardane, Ballina, Co Mayo. Would any person having knowledge of a will executed by the above-named deceased, who died on 15 November 2004, please contact Bourke Carrigg & Loftus, Solicitors, Teeling Street, Ballina, Co Mayo; tel:



FRIARYLAW & ADR GROUP – MEDIATION AND DISPUTE RESOLUTION IN IRELAND

FORTHCOMING PROGRAMMES

Family Mediation Programme: 22 – 27 February, Venue: Dublin
Civil and Commercial Mediation Programme: 22 – 25 March, Venue: Dublin

ADR (Alternative Dispute Resolution) has brought about a remarkable change in the solving of civil and commercial disputes worldwide. The latest statistics available from the US reveal the extraordinary impact of ADR, where civil and commercial litigation in the public *fora* of the courts is at a forty year low; similar trends are now emerging in the UK.

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Friaryl原因 & ADR Group provide the most comprehensive Mediation training and formal accreditation process available in this jurisdiction. We administer a structured pupillage programme for our accredited mediators. *Friaryl原因 & ADR Group* are committed to the development of the mediation practices of their mediation panel members both here and in the UK.

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- Develop a Mediation Practice

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- *ADR Group* was the first mediation trainer and service provider in the EU to receive ISO9002 accreditation
- The training course satisfies 35 hours of the Law Society of Ireland's CPD requirements.
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Friary Chambers, The Friary, Bow Street, Dublin 7.
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Email: admin@thefriary.ie. Web: www.friaryl原因.ie

096 21455, fax: 096 22336, email:
bcllaw@eircom.net

Naughton, Eileen (deceased), late of Roestown, Maynooth, Co Kildare, Cabra Park and Stewart's Hall, Dublin. Would any person having knowledge of a will made by the above named, who was born on 5 March 1945 and who died on 11 October 2005, please contact Gerry Naughton, 73 Willowbrook Lawns, Celbridge, Co Kildare or reply by email to falconfour2003@yahoo.co.uk

O'Brien, Margaret (deceased), late of Maytown, Tagoat, Co Wexford. Would any person having knowledge of a will executed by the above-named deceased, who died on 8 July 2005, please contact MJ O'Connor, Solicitors, Drinagh, Wexford; tel: 053 22555, fax: 053 24365, email: info@mjoc.ie

Prout, Edward (otherwise Ned) (deceased), late of 66 Lacey Avenue, Templemore, Co Tipperary and of Church Avenue, Templemore, Co Tipperary. Would any person having knowledge of a will executed by the above-named deceased, who died on 2 February 2005, please contact Paul A Cunningham, Cunningham Solicitors, 8 Emily Square, Athy at tel: 059 863 4444

Reilly, Patrick Joseph (otherwise Joe) (deceased), late of 3 Stockton Lawn, Castleknock, Dublin 15. Would any person having knowledge of a will made by the above-named deceased, who died on 11 November 2005, please contact Doyle and Company, Solicitors, 1 Main Street, Blanchardstown, Dublin 15, tel: 01 820 0666, fax: 01 822 0880

Sorenson, Alfred (deceased), late of Leefjell, Lee Road, Carrigrohane, Cork and formerly of 2 Rockgrove Terrace, Lower Glanmire Road, Cork or 3 Redclyffe, Western Road, Cork. Would any person having knowledge of a will made by the above-named deceased, who died on 14 December 2004, please contact Frank Buttimer & Company, Solicitors, 19 Washington Street, Cork; tel: 021 427 7330, fax: 021 427 2496

Stack, Mary (deceased), late of 20 Connaught Place, Wellington Road, Cork. Would any person having knowledge of a will executed by the above-named deceased, who died on 12 March 2005, please contact O'Sullivan O'Dowd, Solicitors, High Street, Trim, Co Meath; tel: 046 943 7480, fax: 046 943 7484, email: trim@osullivanodowd.com

MISCELLANEOUS

Northern Ireland agents for all contentious and non-contentious matters. Consultation in Dublin if required. Fee sharing envisaged. Contact Norville Connolly, D&E Fisher, Solicitors, 8 Trevor Hill, Newry; tel: 048 3026 1616, fax: 048 3026 7712, email: norville@danefisher.com

London solicitors will be pleased to advise on UK matters and undertake agency work. We handle probate, litigation, property and company/commercial. Parfitt Cresswell, 567/569 Fulham Road, London SW6 1EU; DX 83800 Fulham Broadway; tel: 0044 2073 818311, fax: 0044 2073 816723, email: arobbins@parfitts.co.uk

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TITLE DEEDS

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of 23, 24 and 24A Airfield Court, Donnybrook, Dublin 4: an application by Ann Kealy
Take notice that any person having any interest in the freehold estate of the following property: nos 23, 24 and 24A Airfield Court, Donnybrook, Dublin 4.

Take notice that Ann Kealy intends to submit an application to the county registrar for the county of the city of Dublin for acquisition of the freehold interest of the aforesaid properties, and any party asserting that they hold a superior interest in the aforesaid premises (or any of them) are called upon to furnish evidence of the title to the aforesaid premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, Ann Kealy intends to proceed

LADY SOLICITORS' GOLF SOCIETY

SPRING/SUMMER OUTING
PAT O'CONNOR TROPHY

Mount Juliet Golf Club
Friday 7 April 2006

Enquiries and entry forms from:

Deirdre O'Connor, The Lady Solicitors' Golf Society,
c/o DM O'Connor & Co, Solicitors, Cross Street, Galway.
Tel: 091 569170, fax: 091 569172,
email: info@dmoconnor.com

with the application before the county registrar at the end of 21 days of this notice and will apply to the county registrar for the county of the city of Dublin for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in each of the aforesaid premises are unknown or unascertained.

Date: 3 February 2006

Signed: Richard Black (solicitors for the applicant), Beechfield House, Clonee, Dublin 15

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of an application under section 17 of the Landlord and Tenant (Ground Rents) Act 1967
Description of property: all that the house, shop and premises with the appurtenance known as no 201 Crumlin Road, Crumlin, Dublin 12; an application by Patrick Kennedy and Agnes Kennedy.

Take notice that the applicants intend to submit an application to the county registrar for the county of the city of Dublin for acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of the title to the aforesaid premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, the applicants intend to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of the city of Dublin for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest

including the freehold reversion in the aforesaid premises are unknown or unascertained.

Date: 3 February 2006

Signed: Tom Collins & Co (solicitors for the applicant), 132 Terenure Road North, Terenure, Dublin 6W

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by James McDonald and Elizabeth Gallagher

Take notice that any person having any interest in the freehold estate of the following property: all that and those the dwellinghouse or tenement no 3 in Newcomen Place in the North Strand and now known as 44 North Strand Road, Dublin 3, held under indenture of lease dated 10 April 1839 and made between Lancelot Fisher of the one part and Catherine Arjo of the other part for a term of 300 years from 10 April 1839, subject to the yearly rent thereby reserved and to the covenants on the part of the lessee and conditions therein contained.

Take notice that James McDonald and Elizabeth Gallagher intend to submit an application to the county registrar for the city of Dublin for the acquisition of the freehold interest in the aforesaid premises, and any party asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of the title to the aforesaid premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, James McDonald and Elizabeth Gallagher intend to proceed with the application before the county registrar at the end of the 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as

may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in each of the aforesaid premises are unknown or unascertained.

Date: 3 February 2006

Signed: Martin C Ryan & Co (solicitors for the applicant), 132 Harold's Cross Road, Dublin 6W

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) Act 1967 and in the matter of the land situate at 14 Grants Row, Lower Mount Street, Dublin 2: an application by Owen Walsh (junior)

Take notice that any person having an interest in the freehold estate or the superior interest in the hereditaments and premises known as 14 Grants Row in the city of Dublin, which said premises are held under an indenture of lease dated 10 July 1863 and made between the Right Honourable Richard Charles Francis, Earl of Clanwilliam, of the one part, the Right Honourable George Robert Charles, Earl of Pembroke and Montgomery, of the second part and James Martin of the third part, the premises therein described were demised to the said James Martin to hold from 25 March 1863 for a term

of 150 years, subject to a yearly rent of £15 and to the covenants and conditions therein contained.

Take notice that the applicant, Owen Walsh junior, being the person entitled under sections 9 and 10 of the *Landlord and Tenant (Ground Rents) Act 1978*, intends to submit an application to the county registrar for the county and city of Dublin for the acquisition of the freehold interest in the aforesaid premises, and any party asserting that they hold a superior interest in the aforementioned premises are called upon to furnish evidence of title to the aforementioned premises to the below within 21 days from the date of this notice.

In default of any such notice being received, the applicants intend to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county and city of Dublin for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid premises are unknown or ascertained.

Date: 3 February 2006

Signed: Donal T McAuliffe & Co (solicitor for the applicant), 57 Merrion Square, Dublin 2

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-1978, as amended, and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: Karl Scully (applicant); unknown and unascertained persons, being the successors in title to the interest of John George Oulton, late of Clontarf Castle, Clontarf (respondent): notice of application

Take notice that any person having any interest in the freehold estate of or superior interest in the following premises: all that and those the plot of ground at Victoria Villas, situate in the parish of Clontarf and county of the city of Dublin, which said premises now consist of a garage premises known as number 14A Victoria Villas, Clontarf, Dublin 3, shown as to their position, dimensions and boundaries more particularly edged red on a map attached to a deed of assignment dated 5 December 1978 made between Derek Lee Sparkes of the one part and Patrick Kelly of the other part, being portion of the premises held under an indenture of lease dated 19 February 1932 and made between John George Oulton of the one part and Patrick J Claffey of the other part for a term of 250 years from the 29 September 1931, subject to the

yearly rent of £30 thereby reserved.

Take notice that the applicant, Karl Scully, being the person entitled under sections 9 and 10 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, intends to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the freehold interest and any intermediate interest in the aforesaid property, and any person asserting that they hold a superior interest in the aforesaid premises or any of them are called upon to furnish evidence of title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, Karl Scully intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of the city of Dublin for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid premises are unknown or unascertained.

Date: 3 February 2006

Signed: Maguire McClafferty (solicitors for the applicant), 8 Ontario Terrace, Portobello Bridge, Dublin 6



News from Law Society CPD

THE LAW SOCIETY IS PLEASED TO ANNOUNCE THE LAUNCH OF A NEW SCHEME CALLED:

CPD Plus

This is available to individual members and trainees from 1 March 2006 to 28 February 2007 at a fee of €150.

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SIGN UP BEFORE 1 MARCH 2006 AND RECEIVE ONE OF THE NEW CUP/CAVE/DOISH PUBLICATIONS.

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In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-1978*, as amended, and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*: Karl Scully (applicant); unknown and unascertained persons, being the successors in title to the interest of John George Oulton, late of Clontarf Castle, Clontarf (respondent): notice of application

Take notice that any person having any interest in the freehold estate of or superior interest in the following premises: all that and those the plot of ground at Victoria Villas, situate in the parish of Clontarf and county of the city of Dublin, which said premises now consist of a garage premises known as number 14B Victoria Villas, Clontarf, Dublin 3, shown as to their position, dimensions and boundaries as the remaining portion of land more particularly edged black on a map attached to the deed of assignment dated 5 December 1978 made between Dorothy P Sparkes of the one part and Patrick Kelly of the other part, being portion of the premises held under an indenture of lease dated 19 February 1932 and made between John George Oulton of the one part and Patrick J Claffey of the other part for a term of 250 years from 29 September 1931, subject to the yearly rent of £30 thereby reserved.

Take notice that the applicant, Karl Scully, being the person entitled under sections 9 and 10 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, intends to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the freehold interest and any intermediate interest in the aforesaid property, and any person asserting that they hold a superior interest in the aforesaid premises

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o.loughran@dial.pipex.com

or any of them are called upon to furnish evidence of title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, Karl Scully intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of the city of Dublin for such directions as may be appropriate on the basis that the person or persons



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European Legal Counsel

Critical Path is a leading supplier of messaging solutions for mobile, broadband and fixed-line service providers throughout the world. Critical Path is looking to recruit an in-house lawyer for its European headquarters in Dublin. Reporting to the General Counsel in the US, the European Legal Counsel will be responsible for all contractual and legal issues relating to Critical Path's European operations. Primary responsibilities will include the analysis, drafting and negotiation of a wide variety of commercial and technology agreements.

The ideal candidate will be an Irish qualified solicitor with a minimum of 4-5 years post qualification experience in a corporate or professional commercial environment. Candidates should have knowledge of commercial and contract law, and ideally with experience of technology / software licensing and intellectual property agreements.

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42-47 Lower Mount Street, Dublin 2. Email applications to: conal.mccourt@cp.net
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Candidates should be capable of producing high quality work in a flexible, fast paced environment and have the ability to work for clients located in all of Critical Path's European offices. They will also possess excellent interpersonal, organisational and communication skills. A willingness to undertake some travel will be required.

An attractive remuneration package will be offered to the right candidate and which shall include the following:

- Competitive base salary.
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beneficially entitled to the superior interest including the freehold reversion in the aforesaid premises are unknown or unascertained.

Date: 3 February 2006

Signed: Maguire McCafferty (solicitors for the applicant), 8 Ontario Terrace, Portobello Bridge, Dublin 6

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) Act 1967: an application by Justin McKenna and Clare McKenna

Take notice that any person having interest in the freehold estate of the following property: 39 North Summer Street, Dublin 1, more particularly described along with other property in an indenture of lease dated 12 January 1914 and made between James Simonton and Henry Walter Simonton of the one part and William Christopher Glendon of the other part for a term of 99 years from 1 December 1913, subject to a yearly rent of £29 and to the covenants on the lessees par and conditions therein contained.

Take notice that Justin McKenna and Clare McKenna intend to submit an application to the county registrar for the county/city of Dublin for the acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the aforementioned property to the below named within 21 days of the date of this notice.

In default of any such notice being received, Justin McKenna and Clare

McKenna intend to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county/city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the property aforesaid are unknown or unascertained.

Date: 3 February 2006

Signed: Partners at Law (solicitors for the applicant), 8 Adelaide Street, Dun Laoghaire, Co Dublin

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the premises situated at 48 Sundrive Road, Kimmage, Dublin 6: an application by Hartsea Limited

Take notice that any person having any interest in the freehold estate of the property known as 48 Sundrive Road, Kimmage, Dublin 6, with shops, yard, garden and out offices situate thereon, being part of the lands of Larkfield situate in the barony of Newcastle, formerly the county and now the city of Dublin, being part of the premises held under: (a) an indenture of lease dated 5 January 1934 and made between Michael J Cleary and Kevin Cleary of the one part and Mary W Kavanagh of the other part for the term of 175 years from 1 November 1933 at the yearly rent of £60 (old currency), and (b) an indenture of lease dated 5 January 1934 and made between

Michael J Cleary and Kevin Cleary of the one part and Mary W Kavanagh of the other part for the term of 175 years from 1 November 1933 at the yearly rent of £100 (old currency).

Take notice that Hartsea Limited intends to submit an application to the county registrar for the county of the city of Dublin for acquisition of the freehold interest in the aforesaid premises, and any party asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of the title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, the applicant intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar of the county of the city of Dublin for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in each of the aforesaid premises are unknown or unascertained.

Date: 3 February 2006

Signed: Tom O'Grady BCL, solicitor (solicitor for the applicant), Market Square, Mountrath, Co Laois

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-1994 and the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Pencader Investments Limited

Take notice that any person or persons for the time being entitled to or having an interest in the freehold estate in lands at Purcell Square, South Bray, in the town and urban district of Bray, barony of Rathdown and county of Wicklow, and otherwise known as numbers 7-14 Purcell Square, Bray, Co Wicklow, being part of the property held under a lease dated 25 May 1965 made between Bray Urban District Council of the one part and Owen McGarry of the other part for the term of 99 years from 1 June 1965, subject to an apportioned yearly rent of IR£10.

Take notice that Pencader Investments Limited, being entitled under sections 8-10 of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 to purchase the fee simple in the aforesaid property, intends to submit an application to the county registrar for the county of Wicklow for the acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property (or any of them) are called upon to furnish evidence of title to the aforementioned

premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, Pencader Investments Limited intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Wicklow for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest, including the freehold reversion in the property, are unknown or unascertained.

Date: 3 February 2006

Signed: McKeever Rowan (solicitors for the applicant), 5 Harbourmaster Place, IFSC, Dublin 1

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978, and in the matter of the premises known as Grafton Arcade, 13/14 Grafton Street in the city of Dublin: an application by Marks and Spencer (Ireland) Limited

Notice to any person having an interest in the freehold estate or any superior interest in the property known as Grafton Arcade, 13/14 Grafton Street in the city of Dublin, which are held under an indenture of lease forever dated 9 February 1713 made between Joshua Dalton of the one part and John Marney of the other part, subject to the adjusted yearly rent of IR£28.84 but indemnified against the entire of the rent by other property held under the lease.

Take notice that Marks and Spencer (Ireland) Limited intends to submit an application to the county registrar for the city of Dublin for the acquisition of the freehold interest in the said property, and any party asserting that they hold a superior interest in the property is called upon to furnish evidence of title to the property to the undersigned prior to the expiry of 21 days from the date hereof.

In default of any such notice being received, the said Marks and Spencer (Ireland) Limited intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforementioned premises are unknown or unascertained.

Date: 3 February 2006

Signed: Eugene F Collins (solicitors for the applicant), Temple Chambers, 3 Burlington Road, Dublin 4

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-1994* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*: an application by Robert O'Brien and Michael O'Brien of premises at 83 Cromwellsfort Road, Walkinstown, Dublin 12

Take notice that any person having an interest in the freehold estate of the premises described in the schedule hereto and which are held under indenture of lease dated 15 April 1905 and made between Samuel Jameson of the one part and Michael Morris of the other part for a term of 150 years from 25 March 1905, subject to the annual rent of £9, should give notice of their interest to the undersigned solicitors.

Take notice that Robert O'Brien and Michael O'Brien intend to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the freehold interest and all intermediate interest in the property described in the schedule hereto, and any party asserting that they hold a superior interest in the above said property is called upon to furnish evidence of title to the aforementioned property to the below named within 21 days from the date of this notice.

In default of any such notice being received, the said Michael O'Brien and the said Robert O'Brien intend to proceed with the application before the county registrar at the earliest opportunity and will apply to the county registrar for the county of the city of Dublin as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion to the said property are unknown and/or unascertained.

Schedule: All that and those the premises, a portion of which is comprised in and demised by a lease dated 15 April 1905 between Samuel Jameson of the one part and Michael Morris of the other part, being all that and those that plot of ground being part of the commons of Crumlin situate in the parish of Crumlin, barony of Uppercross and county of the city of Dublin, which said plot of land is more particularly delineated and described on the map attached to an indenture of assignment dated 22 May 1966 between Patrick Kavanagh of the one part and the applicant of the other part, and thereon edged with a red verge line and marked with the letter 'B', which said lands being part of the lands comprised within the said lease of 15 April 1905.

Date: 3 February 2006

Signed: O'Grady's (solicitors for the applicant), 5 Upper Fitzwilliam Street, Dublin 2

RECRUITMENT

Experienced solicitor required for locum/consultant position in south Dublin. General practice for initial period of six months, to start January 2006. Contact: 01 278 4050 or 01 278 4035

Solicitor required for general practice in Bantry town. Principally conveyancing and probate work. Full-time or part-time position available. Please email CV to jboyd@odonovanmurphy.ie or by post to Joan Boyd, O'Donovan Murphy & Partners, The Quay, Bantry, Co Cork

Solicitor seeks position specialising in probate. Solicitor with wide-ranging experience, currently completing STEP diploma, seeking probate post in Dublin/Wicklow area. Part-time/locum preferred. Please reply to probate1@eircom.net or tel: 087 752 0240

Solicitor with nine years' PQE seeks part-time, job-sharing or

locum position. Available for two/three days per week. Extensive experience in general practice and proficient in most computer packages. Convenient to south county Meath/north Kildare/west Dublin. Please contact: 086 807 2574

Young, bright, responsible and enthusiastic individual seeks apprenticeship with solicitor. Qualifications: Bachelor of Business and Legal Studies (BBL); Masters in Commercial Law (LLM); Associateship of the Irish Taxation Institute (AITI) (part 2); all FE1s complete; contact: 086 052 4536, email: bryanmcd@gmail.com. All areas of the country seriously considered

Part-time conveyancing/probate solicitor required for legal practice in the midlands. Some experience required. Two to three days per week. Reply to **box no 1/06**

Full-time locum solicitor required to cover maternity leave commencing mid May 2006 for six months. Good conveyancing experience required (minimum of three years). Dublin city-centre office. Reply with full curriculum vitae to **box no 2/06**



COURTS SERVICE
An tSeirbhís Chúirteanna

Investment of Court Funds – 11th January 2006

The Presidents of the Circuit and District Courts have, by Order, given approval for the commencement of new arrangements for the investment and management of Minor/Ward funds. With effect from **11th January 2006** these funds will be managed by the Accountants Office of the High Court in accordance with new arrangements introduced, following a major review of the management and investment of funds.

New procedures affecting Minor/Wards cases held on or after **11th January 2006** will take effect from **11th January 2006**. These procedures have been prepared in accordance with the Rules of the Circuit and District Courts and will see some standardisation of existing procedures.

Further information, including a copy of the procedures, can be obtained via the Courts Service Website (www.courts.ie). If you have any queries please email funds@courts.ie or call 01 888 6743.

The Accountant of the Courts of Justice
16th January 2006

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"I give, devise and bequeath the sum of X euros to the Irish Cancer Society Limited to be applied by it for any of its charitable objects, as it, at its absolute discretion, may decide."

All monies received by the Society are expended within the Republic of Ireland.

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5 Northumberland Road, Dublin 4. Tel: (01) 231 0500
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Excellent opportunity for commercial property solicitor with 6-10 years relevant PQE to join growing practice. We would urge highly motivated senior solicitors with proven ability and client development skills to apply. High quality work includes acting for financial institutions in all aspects of taking commercial property and corporate security and acting for commercial property investors, developers and a wide range of clients. Excellent career prospects await the successful candidate. Salary commensurate with experience.

Apply in absolute confidence to Gartlan Furey, 20 Fitzwilliam Square, Dublin 2 (DX 51) Ref. S.J. or by e-mail to recruitment@gartlan.ie.

RESIDENTIAL CONVEYANCING SOLICITOR

Our growing practice requires an additional conveyancing solicitor with 5-8 years relevant PQE. The successful candidate will deal primarily with all aspects of residential conveyancing, some commercial conveyancing and probate work. As a senior solicitor the successful candidate should demonstrate proven ability coupled with client development skills. Excellent career prospects await the successful candidate. Salary commensurate with experience.

Apply in absolute confidence to Gartlan Furey, 20 Fitzwilliam Square, Dublin 2 (DX 51) Ref. S.J. or by e-mail to recruitment@gartlan.ie.



Dublin City Council

Comhairle Cathrach Bhaile Átha Cliath

Dublin City Council invites applications from suitably qualified persons who wish to be considered for inclusion on panels for the following positions:

SENIOR SOLICITOR (FIXED TERM CONTRACT, 3 YEARS)

The successful candidate will be primarily engaged in Major Housing Projects including Public Private Partnership Projects in relation to Affordable Housing in the Local Authority sector. Salary: €68,429

TRAINEE SOLICITOR (TEMPORARY)

Dublin City Council as the largest Local Authority in the country and containing the largest legal office is offering an opportunity for entry into the legal profession in Local Government.

This is a new initiative and the Trainee Solicitor programme offers the following:

- Salary €25,971
- Payment of Law Society Professional Practice Course Fees
- Excellent professional training
- Varied workload

Closing Date (for both positions): 2nd March 2006

Applications may be shortlisted on the basis of the information supplied on the application form and on the basis of the number of positions to be offered.

For more detailed information and to download the relevant application form, log onto our website at www.dublincity.ie or contact Human Resources Dept, Civic Offices, Wood Quay, Dublin 8. Tel: (01) 2223041/2223042, Email: human.resources@dublincity.ie

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Benson & Associates is a niche consultancy, specialising in the recruitment of lawyers for private practice, commerce and industry, from newly qualified to partner level.

Our clients include pre-eminent legal practices and businesses in Ireland and the United Kingdom who are seeking to recruit the best legal talent. We are happy to assist with all aspects of the recruitment process and will conduct advertising and selection as well as executive search assignments upon request.

A selection of opportunities for February 2006

PRIVATE PRACTICE

Our clients are currently searching for high calibre lawyers in the following areas:

- Banking: All levels
- Commercial Property: 1-4 yrs pqp
- Commercial Property: Senior Associate/Partner
- Conveyancing: NQ-1 yr pqp
- Corporate/Commercial: NQ-2 yrs pqp
- Employment - Contentious: 2-4 yrs pqp
- EU/Competition: 2-4 yrs pqp
- Funds: 2-4 yrs pqp
- In-house - Procurement: 1-4 yrs pqp
- Litigation/Insolvency: 2 yrs+ pqp
- Paralegals: 2-4 yrs experience
- Private Client: 2 yrs+ pqp
- Structured Finance & Securitisation: 2 yrs+ pqp
- Tax: 2-5 yrs pqp

IN-HOUSE

Commercial Property Specialist: 5 yrs+ pqp

Our client is a successful Irish development company with more than €1.2bn of property under development both in the domestic and international market. They require an ambitious, commercially minded lawyer to join their team.

Senior Legal Advisor - Saudi Arabia

Our client is a successful market leader in the provision of the world's finest construction equipment.

Based in Jeddah and reporting to senior management, the successful candidate will be responsible for advising the directors on a wide range of legal matters including contractual relationships with major customers, banks and suppliers.

You will be a solicitor or barrister with at least 8 years' post qualification experience in a law firm or inhouse legal department.

Together with an attractive salary, benefits will include free furnished accommodation in an idyllic setting close to the Red Sea, generous holidays, airfare, private medical care and assistance with school fees where appropriate.

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In association with our colleagues Checkwick Nott, Legal Recruitment Specialists, we are very keen to hear from solicitors who are seeking to relocate to London and other major cities in the United Kingdom.

Regardless of your level of seniority, if you are a qualified solicitor in an Irish law firm or working in-house and seeking a fresh challenge, we would be very interested in hearing from you.

For more vacancies, please visit our website or contact Michael Benson heli sol: for a discussion in the strictest confidence. Benson & Associates, Carmichael House, 60 Lower Baggot Street, Dublin 2. T +353 (0) 1 670 3397 E mbenson@benassa.com

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CURRENT OPPORTUNITIES INCLUDE:

Private Practice

■ **Construction Lawyer – Top Tier firm. Dublin. 85,000+**

Construction lawyer with experience in non-contentious construction law, skilled at advising private developers and public sector bodies in all elements of construction law. Must be familiar with FIDIC type contracts and public procurement procedures. Min of five years PQE with excellent career development opportunities with this highly reputable firm.

■ **Banking Solicitor – Top Tier firm. Dublin. 83,000+**

Candidate with particular experience in property based commercial lending within the banking law sector required for this leading firm in Dublin. Candidate will have experience of structure and tax based lending transactions and in advising lenders. Must have impressive track record in this field. Excellent career progression opportunities within this firm.

■ **Corporate Lawyer – Top Tier firm. Dublin. Neg.**

Accomplished solicitor with a minimum of three years PQE required to work in Corporate Department of highly regarded practice. Role encompasses dealing with joint ventures, mergers and acquisitions etc. Must have outstanding client focus and excellent business acumen.

■ **Investment Funds Lawyer. Dublin. 64,000+**

My client, a well-established law firm in Ireland has a rare vacancy for an investment funds lawyer with a minimum of three years experience both advising on and establishing investment funds. This role offers genuine career progression as well as excellent benefits in this city centre location.

■ **General Practice Solicitor. Donegal. Neg.**

My client, a friendly firm in Donegal has an opening for a solicitor with any amount of post-qualified experience mainly in conveyancing, probate, and litigation. Will involve regular court work. Excellent salary for the chosen candidate.

In House

■ **In House Legal Advisor. Dublin North. 60,000+**

This rapidly expanding company on Dublin's Northside is looking for a solicitor/barrister with a minimum of 2 years PQE to begin as in-house legal counsel. Role will be to provide corporate legal support, support to the export division as well as assistance to the IP department at corporate level. International travel will be required.

■ **In House Legal Counsel. Dublin South. 70,000+**

My client, a provider of administration and accountancy services in the Hedge fund industry is looking to recruit a lawyer with a minimum of 3 years post qualified experience. Successful candidate will have corporate commercial law experience as well as two years min in dealing with funds.

Support Roles

■ **Senior Legal Secretaries - Top Tier firms. Dublin city centre and Southside. 35,000 – 40,000**

Senior legal secretaries with experience in conveyancing, construction and litigation are required for a number of positions with reputable firms in Dublin. Excellent pay and benefits for the chosen candidates.

■ **Legal Executive – Dublin city centre. 35,000.**

A legal executive with min of 3 years experience in conveyancing/property required for large Southside city centre firm. Must have proven track record and secretarial background.

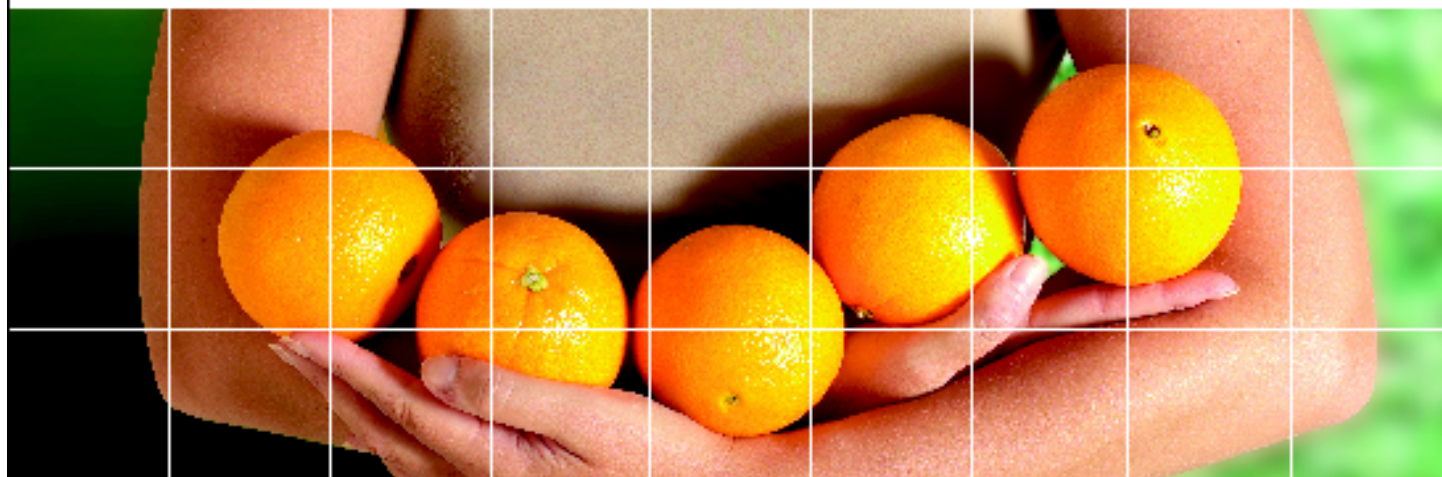
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Private Practice

Construction Law Partner 6-8 years' PQE To €125k + bonus

A highly regarded medium sized Dublin firm seeks to appoint a Construction Law Partner with experience in all areas of construction contracts as well as handling contentious matters. Ideally, you will be a Senior Construction Lawyer with circa 5-8 years' PQE looking to develop your career in partnership with a progressive Dublin law firm.
Ref: JD117031

Banking Solicitor 2-4 years' PQE To €95k

This leading Dublin law firm with a reputation for excellence seeks to appoint a well-presented solicitor to join their banking and financial services department. Ideal candidates will have relevant experience in either capital markets, corporate banking, struct and asset financing and/or banking regulatory work.
Ref: JD128811

Construction Lawyer 1-3 years' PQE To €85k + bonus

Our client is a top 5 Dublin city law firm who require a Construction Lawyer with experience in drafting and negotiating construction contracts and sub-contracts. Some dispute resolution experience is also required. You will have 1-3 years' PQE and be looking to develop your career in a leading firm with a reputation for excellence.
Ref: DLOCBAU220000

Senior Funds Lawyer 4-6 years' PQE To €125k + bonus

A highly regarded Dublin firm with a reputation for excellence and professionalism now seeks to appoint a senior solicitor with experience in advising institutional clients and establishing alternative investment funds. The chosen candidate will be ambitious and driven, in return you will enjoy an unrivalled remuneration package.
Ref: JD118734

Commercial Conveyancing Solicitor 1-3 years' PQE To €70k

This progressive mid-tier Dublin law firm seeks to appoint a solicitor to join their property department. You will have between 1-3 years' PQE with excellent drafting and communication skills. Experience working on commercial developments is essential.
Ref: JD127028

Personal Tax Lawyer 1-2 years' PQE To €85k + bonus

A specialist wealth management firm seeks a qualified tax lawyer to provide innovative tax advice to the firm's high net worth clients. This will include tax and estate planning and wealth management strategy. Tax experience is essential with a commitment to developing this interest further.
Ref: JD128431

In-House

In-House Counsel 2-5 years' PQE To €90k

This leading financial services institution seeks to appoint a strong funds lawyer with circa 2-5 years' PQE to join their dynamic legal team. Ideally, you will have some experience in fund administration and establishment as well as some general financial services or banking experience. You will also possess exceptional communication and organisational skills.
Ref: JD118883

In-House Funds Lawyer 0-2 years' PQE To €65k + bonus + bene

An internationally respected funds house seeks to appoint a qualified solicitor to join their in-house team. This is a fantastic opportunity for a newly qualified or 1-2 years' PQE solicitor to join this exciting organisation. You will have excellent communication skills and commercial acumen. Funds experience is an advantage, but candidates with good commercial or banking experience will also be considered.
Ref: JD13230

Company Lawyer - Funds 1-3 years' PQE To €85k + bonus

An internationally respected funds house seeks to appoint a qualified solicitor. This is a fantastic opportunity for a solicitor with 1-3 years' PQE to join this progressive organisation. Hedge funds experience is essential. You will be an excellent communicator with an ability to work effectively as a team member.
Ref: LPJ25271800

In-House Banking Lawyer 1-3 years' PQE To €65k + bonus

Our client is a leading Irish banking institution. They now seek a solicitor with 1-3 years' PQE. Strong experience in syndicated lending, project finance or corporate banking is desirable. This is an excellent opportunity to advance your career in one of Ireland's most highly regarded financial institutions.
Ref: JD128811

If you are interested in these or any other legal opportunities please send your Curriculum Vitae to Gemma Allen, gemma.allen@robertwalters.com or John Cleary, john.cleary@robertwalters.com or Tel: (D1) 853 4111.

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Researchers - Sentencing Information System

Applications are invited from lawyers for the provision, as independent contractors, of research services for a project to develop an Irish Sentencing Information System ("ISIS") within the Courts Service. ISIS involves the design and development of a computerised information system to contain data on sentences and other penalties imposed for offences in criminal proceedings. The data will serve to inform judges when they are considering the appropriate sentence to be imposed in individual cases. ISIS is overseen by a steering committee chaired by a judge of the Supreme Court.

The research service will involve collection and collation of information on sentencing outcomes in cases on indictment in designated courts according to criteria specified by the steering committee, and related research and reporting. While attendance at court sittings will be necessary in order to undertake the research, it is anticipated that a practising barrister or solicitor should be able to combine this work with his or her own limited workload. Candidates should be available to commence provision of the service within

the Hilary sittings of 2006. It is anticipated that Bar Council approval will be given if a practising barrister is selected to provide the research services.

Candidates should:

- have an excellent third level qualification in law or criminology and preferably a relevant postgraduate degree;
- have a sound knowledge of and, preferably, some professional experience in, criminal law and/or criminology;
- preferably be experienced in carrying out research in the areas of law or criminology and
- have excellent communication and report-writing skills and be proficient in the use of standard word processing, spreadsheet and database packages.

McCann FitzGerald

SOLICITORS

The contract for provision of these services will be for a period of one year (which may be extended). If you are interested in this important role, please send your curriculum vitae to Elin von der Weff, McCann FitzGerald, 2 Marlborough Place, IFSC, Dublin 1, before Friday 3 March 2006.

Application in electronic form will be especially welcome (elw@mcannfitzgerald.com).

Solicitor x 2

North Leinster

€Excellent

Our client, a well established law firm based in North Leinster, has a reputation for excellence in the area of Public Family Law. Due to a growing portfolio and workload, the Principal is seeking to appoint two experienced solicitors to the firm.

Public Family Law Solicitor

- Excellent District Court experience.
- Good Public Family Law experience, gained through private practice or Legal Aid Board.
- A minimum of 3 years post qualification experience.

Residential Conveyancing Solicitor

- Ability to manage files from instruction to close.
- Excellent conveyancing and probate experience.
- A minimum of 3 years post qualification experience.
- Strong client liaison skills.

Both positions offer an outstanding remuneration package commensurate with level of experience.

Interested candidates should contact Vanessa Flanagan in the strictest confidence on 01 662 1000, or alternatively send your CV to vflanagan@brightwater.ie



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Tel: 01 662 1000

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EXPERIENCED COMMERCIAL LENDING SOLICITOR

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- ability to build and develop relationships with clients
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An attractive package with Partnership opportunities is available to the successful candidate.

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...let's talk about your options.

International finance lawyers 1-5 ppe

Ashurst is a leading International law firm representing some of the world's pre-eminent and most ambitious companies. With an enviable client list we offer some of the highest profile and most exciting International work available, allowing us to provide our people with extraordinary careers.

We have recently been named Finance team of the Year, but it's not just the quality of our work that makes us different. The real value of Ashurst comes from our people:

- We have partners who are market leading experts.
- We are passionate about the growth and development of our practices.
- We're supportive, we're informal, we want you to enjoy what you do.

Our partners are going to be in Ireland to meet candidates interested in joining the firm. Please contact our retained consultants at Taylor Root by calling Erica MacKinnon or David Thomson on 0131 226 0640 or email them at ericamackinnon@taylorroot.com or davidthomson@taylorroot.com for more information.

If you are considering a career move, Ashurst is an option worth more than just thinking about.

SLAUGHTER AND MAY

FED UP WITH TARGETS?

MEET SUCCESSFUL LAWYERS

WHO NEVER HIT TARGETS.

At Slaughter and May we have a lot of successful lawyers.

How do we measure their success? By one yardstick only - the quality of their work. What we don't measure them by are their billable hours. It is our job to find enough work to keep our associates busy - and we do, with some of the highest quality legal work available in the business world. So we don't need to check on how many hours our associates work and we don't set them targets for billable hours. This way we avoid competition between our lawyers. After all, we are not looking for sharp elbows - only sharp minds.

If this sounds like a breath of fresh air to you, isn't it time to step forward?

We are looking for associates to join into several practice areas. If you would like to discuss a new way of measuring your success, contact Sonya Boxer or Adam Brown at Shilton Sharpe Quarry in complete confidence on 020 7187 7400 or by email: sonya.boxer@ssq.com

www.ssq.com

www.slaughterandmay.com

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**SO COME WORK IN THE HEART OF EUROPE WHERE IT'S ALL HAPPENING.
THE BRUSSELS OFFICE OF AM LEGAL NEEDS EU LAWYERS NOW.**

AM LEGAL are the number one legal recruiters for Brussels specialising exclusively in the recruitment of lawyers for the Brussels market. Our clients, US, UK, International, and Belgian firms operating in Brussels recognize AM Legal as being the only recruiting firm which really understands the Brussels market.

This makes sense as Ronni Kanoff, an international lawyer, has used her knowledge and contacts gained from living and working in Brussels for over twenty years, to open AM Legal's Brussels office. The office has placed substantial numbers of candidates with clients such as Cleary Gottlieb, Linklaters, Simmons & Simmons, Allen & Overy, Freshfields, Skadden Arps, Baker & McKenzie, Arnold & Porter, Covington & Burling, Shearman & Sterling, and Akin Gump, to name but a few.

If there is anything to know about the Brussels Legal market we know it!

AM Legal has recently been instructed by a number of our clients to recruit IRISH or UK QUALIFIED lawyers, at all levels, with the following qualifications:

- Top tier Irish or UK firm training or equivalent;
- Excellent academics;
- Experience, or proven interest, in EU law



AM LEGAL

For further information please contact:
Ronni Kanoff, Senior Manager
AM Legal
326 Avenue Louise
Brussels 1050
Direct dial: 322 639 47 54.

Please email CVs, in complete confidence,
to r.kanoff@amlegal.co.uk

A selection of current positions on
www.amlegal.co.uk

LEGAL AID BOARD



The LEGAL AID BOARD provides legal aid and advice in civil cases to persons of modest means at little cost. It also provides legal aid and advice to asylum applicants through the Refugee Legal Service.

The Board is currently recruiting to fill vacancies in Law Centres, including the Refugee Legal Service in Dublin, Cork and Galway for the position of:

LAW CLERK

A panel will be established from which vacancies in these locations that may arise in the coming months will be filled.

Applicants must have a minimum of:

- one year's experience in a legal office and/or
- a legal qualification to diploma level (or equivalent), or higher.

Present salary scale is €24,866.90 – €35,219.41 per annum, entry to the scale depends on qualifications/experience.

For further information or application form, please contact:

Human Resources Section
Legal Aid Board
47 Upper Mount Street
Dublin 2

Ph: (01) 6441919

Fax: (01) 6623661

or download an application form from the Recruitment Section on www.legalaidboard.ie

Closing date for receipt of applications is

Friday, 10th February 2006 at 5.30pm.

THE LEGAL AID BOARD IS AN EQUAL OPPORTUNITIES EMPLOYER

elementsix.

ADVANCING DIAMOND

Element Six is the world's leading supplier of high quality synthetic diamond and related ultra hard materials, with production, sales and/or research facilities in all continents. To realise our ambitious plans for the future the Company requires the services of a

Legal Advisor

The role of Legal Advisor, reporting to the Senior Legal Advisor, is an exciting career opportunity supporting the commercial, intellectual property and company secretarial needs of the Element Six Group of companies.

Responsibilities are varied and include, inter alia, identifying and negotiating commercial and R&D contracts, resolving in-house legal queries involving and maintaining E6 group trade marks, providing group-wide Company Secretarial guidance and providing internal training on legal commercial issues.

Qualification as a Solicitor/Barrister is required. Whilst one year of post-qualification experience is desired, it is not essential. Other requirements of the job include strong business, analytical and interpersonal skills, along with an interest in a technical and manufacturing environment.

If you meet the above requirements and would like to work in a challenging and progressive environment where the rewards are competitive and career prospects are excellent, then please send your CV to the HR Department at Element Six Ltd., Shannon Airport, Co. Clare, Ireland or by email to recruitment@es.com

For further information please visit our website at www.es.com or phone Brenda Harkin on +353 (067) 477655.

General Practice Solicitor

Dublin

€Excellent

Our client is a boutique law firm with offices in Dublin City Centre and Dublin South. The successful candidate can be based in either office. The firm has a reputation for excellence in the property sector. Led by a strong Principal, the firm has a progressive ethos and is committed to providing a quality service to its clients. Due to continued growth, the Principal now wishes to appoint a General Practice solicitor. This is truly an exceptional opportunity for a solicitor looking for more autonomy, responsibility and recognition in their job.

The Role:

- Advise on all aspects of residential property transactions, landlord / tenant matters and property finance.
- Advise on all aspects of commercial property law to include residential and commercial developments.
- Work will include major office block developments.
- Independently manage own litigation caseload.
- Maintain solid relationships with clients and develop new business.

The Person:

- Must be a qualified lawyer with a minimum of 3-6 years PQE in a general practice.
- Experience in tax based commercial property transactions is desirable though not essential.
- Must be a team player with an approachable and friendly personality.
- Must have experience with a cross section of litigation from District Court to High Court.

This role is providing an excellent remuneration package commensurate with level of experience.

Interested candidates should contact John Madden in the strictest confidence on 01 662 1000 or alternatively send your CV to Jmadden@brightwater.ie. All applications will be treated in strict confidence.



36 Merrion Square, Dublin 2
Tel: 01 662 1000

Email: recruit@brightwater.ie
Web: www.brightwater.ie

OPPORTUNITIES FOR LAWYERS IN PRIVATE PRACTICE AND INDUSTRY

Harvey Sutton

Listed below are some of the opportunities for those interested in a new challenge offering competitive remuneration.

Previous experience in these areas is not always necessary.

For further information call (+)44 207 250 0000 and ask for Ben Jackson or Ian Fletcher, or email to

benjackson@harveysutton.co.uk or ianfletcher@harveysutton.co.uk

PRIVATE PRACTICE

Pensions or Benefits £73K
London: 0-4 yoe to join this practice that caters for both companies and individuals in relation to all aspects of pension and share schemes. A familiarity with recent legislation helpful. Strong academics required.

CONSULTANCY

Tax/Benefits/Pensions £73K+
London / Regions: One of the Big Four Consultancy firms, seeks a lawyer with 0-4 yoe to work either in Manchester, Leeds, Birmingham or London advising on matters relating to share schemes, pensions or tax. Strong academics required.

PRIVATE PRACTICE

Tax Lawyer €85K+
Dublin: Advising on corporate and private equity transactions of all sizes. Our clients looking to take on a number of tax specialists of all levels 5 years yoe. Friendly team, and reasonable hours.

PRIVATE PRACTICE

Employment €85K+
London / Regions: Leading national firm seeks employment lawyers with up to 3 years yoe for their London and regional offices. Experience of contentious and non-contentious work required, as is some exposure to transactional matters.

PRIVATE PRACTICE

Regulatory £100K+
London: Banking / FSA lawyers of all levels with experience of regulation, in areas such as securities, derivatives and fund formation. This includes regulatory investigations, and structuring of financial products.

PRIVATE PRACTICE

Corporate to £130K
US firm (London) 2-6 yoe: Leading city based practice seeks ambitious corporate lawyer to handle full range of public / private M&A work, JV, NBO's and AML obligations. Strong academics with client facing skills necessary.

PRIVATE PRACTICE

Funds to €90K
Dublin / London: 1-5 yoe: Our clients seek financial services lawyers with experience in the setting up of international funds. Knowledge in handling financial services organisations necessary.

PRIVATE PRACTICE

Banking to €75k
Dublin: 2-5 yrs yoe - Leading Irish firm seeks lawyers with a broad banking background with exposure to structured finance or securitisation or asset based lending. Chance to be part of friendly team with huge client base.

Out of Hours: Ben Jackson Mobile 07710 422510 Ian Fletcher Mobile 07976 970651

Legal Opportunities

In-House

In-House Corporate Lawyer

Dublin

€100,000 - €120,000

Our client is seeking to hire an experienced (7-10 years PQE) Corporate Lawyer. The successful candidate will have strong M&A experience coupled with corporate reorganisations and restructurings; structuring management buy outs and buy ins; inward and outward investment; private equity participation; joint venture agreements; transfer of family interests; agency agreements etc. This role will combine excellent legal experience with a strong business acumen and potential to exploit synergies. Ref: 22068

Deputy General Counsel

Dublin

€95,000 - €130,000

Our client, a large multinational corporation, has a need for a strong general commercial lawyer. The role will involve ensuring the delivery of commercially effective legal advice with a strategic focus. The relevant individual will be a team leader with strong regulatory and negotiation skills. Minimum 5 years PQE required. Ref: 22340

Head of Group Money Laundering Prevention

Dublin

€Excellent

An opportunity has arisen to join this large financial services company. The role will be to mitigate and manage regulatory risk across all areas of responsibility. The relevant candidate will have a minimum of 5 years PQE in the financial services industry. Excellent compliance and anti-money laundering skills are preferential. Ref: 22005

In-House Legal Counsel

Wexford

€60,000

An exciting opportunity has arisen to join an expanding and progressive Irish company in Wexford. This ambitious and motivated individual will set up the in-house legal department. The role will have a property focus, especially in developments, as well as general commercial duties. Minimum 3 years PQE and solid property experience. Ref: 22474

Legal and Compliance Risk Executive

Dublin

€40,000 - €50,000

This large financial corporation has an opportunity for a Risk Executive to join its legal and compliance department. The successful candidate will have experience in risk management, internal audit and compliance within a financial institution. Life and pensions experience is desirable but not essential. This is a great opportunity for a motivated and detail orientated candidate. Ref: 22353

Practice

Banking/Property Lawyer

Dublin

€100,000

Our client is a prestigious medium sized commercial practice based in central Dublin. Due to continued success and expansion there is an immediate requirement for a strong banking and property lawyer. The role will be to advise on large property transactions in addition to structured and secured finance transactions. The successful candidate will have a minimum of 3 years PQE with good finance and property experience. Ref: 21654

Senior Litigation Solicitor

Dublin

€80,000 - €100,000

Senior associate required for this small commercial firm. Must have the ability to deal with a cross section of litigation. The ideal candidate will have 4-7 years PQE and will be a self-starter who can work with little supervision and be keen to develop work. Excellent salary and prospects on offer. Ref: 21526

Funds Lawyer

Dublin

€60,000 - €90,000

An opportunity has arisen within our clients funds team. You will have a minimum of 2 years PQE in the area of hedge funds and alternative investment products. You will act for leading hedge fund managers, fund administrators and brokers across a wide range of investment strategies. Ref: 14641

Commercial Property Lawyer

Dublin

€60,000 - €80,000

Prestigious medium-large sized firm is urgently seeking a Property Solicitor with 2-4 years experience to join their growing property department. This opportunity will appeal to a solicitor looking for a clearly defined career path and someone looking to work on major projects, from selling investor leases to developing large sites. Ref: 19957

Banking Legal Executive

Dublin

€30,000 - €40,000

This top tier firm has a fantastic opportunity for a strong Banking Legal Executive. Strong candidates will have 1-2 years of experience in banking, commercial or financial services. This role is ideal for a capable and ambitious candidate looking to build their career with a large firm in a competitive and growing industry. Ref: 21542

Want to discuss some legal opportunities?

BluePrint Appointments is a specialist recruitment company supplying professional legal personnel. With branches in Dublin and Belfast we utilise "best practice" recruitment techniques to place candidates into permanent, temporary and contract positions.

Commercial Property Solicitor

€60-65k, Ref. JO267584

An excellent opportunity to join a growing business, offering a niche service which provides legal and tax advice to Irish investors buying abroad. 3-4 PQE in commercial property transactions. The successful candidate will act for developers, advise on all aspects of international transactions, create share purchase agreements and agency agreements with overseas buyers.

Tax Manager

€60-65k, Ref. JO267589

Our client, a newly established company with focus on providing specialised advice on foreign property both to commercial and individual clients, seeks a Tax Manager with legal or accountancy qualification and 3-4 yrs of experience in tax and advising property investors. Based in Dublin City Centre.

Banking/Commercial Property Solicitor

€70-100k, Ref. JO264398

An excellent opportunity exists with a prestigious law firm in Dublin. 4-5 yrs PQE in commercial property and banking combined. The firm has a strong client portfolio comprising Irish and Multi National Companies.

General Practice Assistant Solicitor

€50-60k, Ref. JO266415

A small law firm based in Bray is currently looking to employ an Assistant Solicitor with 2-3 yrs of experience in Family Law, Conveyancing and Probate.

Banking Solicitor

Neg. Ref. JO265151

A highly regarded medium sized Dublin law firm with expertise in Corporate & Banking, Commercial Property, Corporate Recovery, Intellectual Property and Information Technology seeks to appoint an experienced lawyer for its Corporate & Banking department. 3 to 5 years PQE is a must. The position offers an excellent opportunity for ambitious lawyers interested in progressing their career to the highest level.

Commercial Property Solicitor

Neg. Ref. JO265151

This progressive medium law firm based in Dublin requires a solicitor to join their Property Department. Excellent opportunity for lawyers with 3-5 post qualification experience. You also should be ambitious and commercially focused.

Litigation (Insolvency) Solicitor

Neg. Ref. JO263800

Our client, a leading law firm based in Dublin, is looking to recruit an Assistant solicitor with 2 years' PQE. The role will involve working on all insolvency matters, including bankruptcy and liquidation. Excellent opportunity for career development and progression.

Project (Construction) Solicitor

€50-60k, Ref. JO266545

Opportunity to join this leading law firm based in Dublin for a solicitor with 2 years' PQE for an Associate position. The role will involve advising on various contentious and non-contentious matters regarding the development, financing, construction and operation of projects across a range of sectors. Excellent opportunity for career development and progression.

Tax Solicitors

Neg. Ref. JO261758

This Leading Dublin law firm seeks to recruit an Assistant and Associate for their Tax Department. The role will include advising corporations and financial institutions on all taxation and transaction aspects. Excellent opportunity for career development with an attractive package for the right candidate.

Banking Lawyers X 5

This prestigious law firm is looking for Banking Lawyers with 1-2 or 3-5 years' PQE in banking, structured finance, asset finance, investment funds and corporate banking work. Working for one of the largest Banking and Financial Services Department in Ireland, advising domestic and international banks and financial institutions. Neg.

Legal Secretaries

Various roles (temp and perm) available for legal secretaries with at least 1 year's experience in the following areas: Conveyancing, Litigation, Banking, Finance and Property, Corporate Litigation. Excellent PC skills and Typing/ Dictaphone typing skills. Neg.

If you are interested in these or any other legal opportunities please contact:

Aglaezia Walker awalker@blueprintappointments.com or

Helen Polizza hpolizza@blueprintappointments.com

BluePrint
appointments

Castle River House, 14 - 15 Parliament St., Dublin 2
Tel 003 53 1 648 9900, www.blueprintappointments.com



At The Legal Panel we focus on recruiting experienced solicitors from newly qualified to partner level and pride ourselves on our confidential and personal approach. We listen carefully to your requirements and tailor our search to your skill set and career aspirations. All applications are strictly confidential. We are currently recruiting for a number of opportunities for experienced solicitors both in-house and in private practice.

IN-HOUSE

General Counsel

Ref: SR15025 to
€110,000 + benefits

Our client is a global insurance company. The position will cover all legal, compliance and corporate governance matters, as well as involvement in strategic project work, transactions and managing the compliance function. The ideal candidate will have at least 7 years' experience in a top private practice and/or a financial services company. Experience of financial services and/or insurance is preferred. Excellent communication, negotiation and influencing skills are also required.

Funds Lawyer

Ref: SR15012 to €100,000

Qualified lawyer required by leading funds company to fill the management role of Legal Counsel. The successful candidate will be responsible for advising on legal and regulatory matters for the company and will also be involved in issues pertaining to its various global subsidiaries. The successful candidate must be familiar with the laws and regulations governing investment funds in offshore jurisdictions. International travel will be a requirement of this role.

Company Lawyer

Ref: AW16078 to €70,000

An experienced lawyer is sought for a leading banking institution. Excellent opportunity to join a small, busy team in the area of securities services. 2-3 years' experience in funds or financial services is required as well as self-reliance and excellent interpersonal skills. There is an excellent package and great scope for development for the successful candidate.

Compliance

Ref: AW14757 to €55,000

One of the largest Irish insurance firms requires an experienced Compliance Officer immediately. Role involves review of compliance legislation and monitoring policies and procedures to meet regulatory requirements. 2-3 years' relevant experience and knowledge of IFSPA legislation is required. An excellent benefits and remuneration package is on offer.

Tax

Ref: AW14516 to €55,000

A qualified tax lawyer is required for a thriving and successful investment management firm. Responsibilities include the implementation of tax and legal strategies alongside capital tax and stamp-duty work. There is a strong element of business development in the role. This is a niche firm which will offer a very good package to the successful applicant.

PRIVATE PRACTICE

Employment Lawyer

Ref: RC15717 to €60,000

A city centre mid tier firm is currently looking for an Employment Solicitor with approximately 2-3 years' experience. The position is a mix of contentious and non-contentious and you will work as part of a dynamic and successful team. The ideal candidate will have worked with large and commercial clients and will be a personable and professional individual.

Commercial/Property Lawyer - CORK

Ref: RC16020 to €55,000

This well established firm is looking for a lawyer with a minimum of 18 months experience to join their expanding practice. The role will primarily involve commercial and conveyancing, however there will also be a cross over with general corporate work. This is an excellent opportunity to gain valuable experience in this thriving area.

IP Lawyer

Ref: RC16195 to €60,000

A lawyer with approximately 2 years' experience in intellectual property is required for this mid tier Dublin practice. Ideally you will be an ambitious individual with strong business development skills and excellent academic. Excellent career progression possibilities apply for the right candidate.

Commercial Lawyer

Ref: SR12075 to €75,000

Our client is a cutting edge law firm with an enviable client base and top class work. Due to continued expansion they are now looking for a high calibre candidate to join them in their well respected commercial department. The ideal candidate will have 3-5 years' experience, be a strong team player and a good communicator. Excellent prospects on offer for the right candidate.

OVERSEAS

Grand Cayman - Funds

Ref: CB16202 to \$150,000

Leading international firm is looking to recruit a qualified lawyer with at least 3 years' experience in funds and/or financial services. You will have qualified from a top tier firm and have had experience in drafting agreements, documentation, obtaining regulatory consents and advising on hedge funds or fund of funds.

Dubai - Corporate/Commercial

Ref: CB16202 to \$150,000

Leading Middle East firm seeks to recruit a qualified lawyer with international exposure to work in corporate and/or commercial. You will ideally have had previous exposure to more than one jurisdiction and be willing to relocate to Dubai. You will have experience of structuring deals, drafting terms and carrying out due diligence.

London - Funds/Banking

Ref: CB16202 to \$150,000

Our client, a well known London firm, is looking to recruit a qualified lawyer with at least one year's experience in funds and/or banking. You will have qualified from a top tier practice and have experience of establishing/registering new funds, drafting/amending supplements and arranging structured products.

www.thepanel.com

For information on In-House and Private Practise please contact Sarah Randall or Allison Watson on 01 6377012 or email sarah@thepanel.com

For information on overseas roles please contact Charlie Blacque on 01 6614774 or email charlie@thepanel.com

Dublin

t 01 669 4646

Banking 3 yrs+ PQE up to €80k

Prestigious l.v. firm requires Solicitors with 3+ years PQE to join their leading banking team of 30. Working directly with Partners you will have extensive experience in banking securitisation, structured finance, asset finance and corporate banking work. (ref: 159502)

Banking 1 yr+ PQE €55k+

Leading l.v. firm requires Solicitors to join their renowned banking team. Working on large and complex cases you will have some experience in a financial area of law. International like corp client list. Excellent opportunity to join an established team in Ireland's leading l.v. firm. (ref: 159501)

Banking/Financial Services 1 yr+ PQE €55k+

Prestigious large l.v. firm requires experienced lawyers to join Ireland's leading Financial Services practice. The practice is established and well regarded and advises many household names in the financial services industry. Outstanding client portfolio. (ref: 158609)

Commercial 1YQ- 2 yrs PQE up to €65k

Opening to join this progressive medium size l.v. firm's commercial practice. Applications are welcome from 1YQ to 2 years PQE with some level of commercial experience. Advising a volume client base on a wide variety of commercial issues. (ref: 158402)

Commercial Property 2 yrs+ PQE up to €65k

Solicitors required for this expanding practice in one of Ireland's top 5 l.v. firms. Representing International Investors, developers and large financial institutions you will have a strong property background with experience in commercial developments and investments. (ref: 1595010)

Commercial Property 3 yrs+ PQE up to €70k

Progressive medium size l.v. firm in excellent city centre location has an opportunity for an experienced Solicitor to join their expanding team. Dealing with a wide client base including investors, developers, global corporations and financial institutions. (ref: 163302)

Commercial Property 5 yrs PQE - Partner €80k+

Senior lawyer required for rapidly expanding practice in this prestigious medium size l.v. firm. Advising a broad client base on issues including commercial leasing and acquisition and development, financing and security, taxation issues, planning and environmental law. (ref: 157203)

Banking/Financial Services Lawyer 3 yrs+ PQE €65k+

Prestigious l.v. firm requires lawyers to join one of Ireland's leading Financial Services practice. Advising a wide range of clients including financial institutions, regulators and domestic and international corporations on a wide range of international financial services and banking law. (ref: 158604)

Corporate/Banking 3 yrs+ PQE €65k+

Solicitor required to join this expanding practice within one of Ireland's leading mid tier l.v. firms. You should have at least 3 years PQE in any area of financial law and enjoy a high culture case load for a diverse range of clients. (ref: 160601)

Construction 2 yrs+ PQE €60k+

Leading l.v. firm requires an experienced lawyer to join their construction practice. Advising a wide range of private and public bodies on all aspects of construction, you will have at least 2 years PQE in a similar environment. (ref: 158901)

Construction 1YQ- 5 yrs PQE €60k+

Niche firm has an opening in their highly regarded team. You will ideally be in the 1YQ-5 year bracket and have a strong background in litigation and have an aptitude for contract drafting, advising or research. The work will be a broad mix covering contentious and non-contentious matters. (ref: 160401)

EU Competition & Regulatory

1 yr PQE up to €60k

Opportunity to join Ireland's leading EU team in Ireland's leading l.v. firm. Working under the internationally renowned Partner you will advise on international and domestic anti-competitive and insurance issues for public and private bodies including the Irish Competition Authority. (ref: 159502)

Insurance 3 yrs+ PQE €65k+

Prestigious city firm require Solicitors to join their progressive insurance practice. You will have at least 3 years PQE and have experience of providing a full range of corporate and insurance regulatory services to the insurance industry. Dealing with largely non-contentious issues. (ref: 159507)

Employment 3 yrs+ PQE €60k+

Experienced Solicitor required to join the expanding team of this boutique practice. Managing a broad range of contentious and non-contentious cases for an exceptional client list you will have at least 3 years PQE in a similar environment. Exceptional career prospects. (ref: 159702)

Dublin Office

t + 353 (0)1 669 4646 f + 353 (0)1 669 4644 e dublin@g2legal.com Fitzwilliam Hall Fitzwilliam Place Dublin 2 Ireland



Dublin

t 01 669 4646

Employment 3 yrs+ PQE €60k+

Solicitor required in one of Ireland's best regarded mid size law firms. Encompassing high level contentious and non-contentious cases for an impressive client list, this is an excellent career opportunity for an ambitious practitioner. (ref: 16332/1)

Financial Services 1 yr+ PQE €60k+

Prestigious midsize law firm requires lawyers to join Ireland's leading and largest Financial Services practice. Representing a wide range of clients including brokers, dealers, fund administrators and the FSRA on a wide range of international financial services law. (ref: 15727/1)

Financial Services 5 yrs+ PQE €75k

Prestigious midsize law firm requires experienced senior lawyers to join Ireland's leading and largest Financial Services practice. The practice is renowned worldwide and advises many household names in the financial services industry. Representing a wide range of clients including brokers, dealers, fund administrators and the FSRA on a wide range of international financial services law. (ref: 15727/2)

Finance 1 yr+ PQE €60k+

Opportunity to join one of Ireland's leading law firms in their renowned finance team with an enviable client portfolio. Ideally you will have 1+ years PQE in a firm's environment, but strong candidates from other financial and corporate practices will be considered. (ref: 15950/3)

Corporate Recovery 3 yrs+ PQE €65k+

Opportunity for a Solicitor to join a leading practice within this renowned midsize law firm. You will have at least 3 years PQE and have a working knowledge and understanding of bankruptcy, court liquidations, receiverships, corporate restructuring and other related areas. (ref: 16067/3)

Finance 4 yrs+ PQE €75k+

Opportunity to become an Associate at one of Ireland's top tier law firms in their renowned finance team. Working on a broad spectrum of fund and regulatory issues for an outstanding blue chip client portfolio. Previous experience essential. (ref: 15950/4)

Insurance 2 yrs+ PQE up to €60k

Leading firm requires Solicitors to join their award winning practice. You will have the ability to provide a full range of corporate and insurance regulatory services to the insurance industry. Candidates from a strong general corporate background will be considered. (ref: 15950/6)

IT&P 3 yrs+ PQE €65k+

Top 20 firm requires a Solicitor to join their established practice. Operating within a highly skilled team you will be working for a diverse client base protecting their interests and assets. You will have experience in trademark, copyright, licensing and other related issues. (ref: 16067/4)

Tax 1 yr+ PQE €55k+

Opportunity to join this award winning corporate tax department in one of Ireland's top 5 law firms. Advising on a broad range of corporate taxation issues including relevant investment structured finance and M&A's. (ref: 16457/1)

Trusts & Estates 1 yr+ PQE €55k+

Opportunity to join the respected Trusts & Estates team in one of Ireland's leading law firms. Providing specialist legal services and tax advice to private and public bodies alike. Knowledge of succession law, trust law, powers of attorney and wills essential. (ref: 15950/5)

In House Finance 4 yrs+ PQE up to €90k

Opportunity to join an established legal team within an international investment company. Responsible for advising on regulatory matters relating to hedge funds in Dublin, Bermuda and US. Some international travel with a choice of permanent location between Dublin and Bermuda. (ref: 16113/1)

In House Corporate 1 yr+ PQE €50k+

International company seeks a Barrister or Solicitor to join their Corporate Legal Advisory Service. Working directly with Partners you will advise their international blue chip clients on a wide range of corporate and commercial issues. (ref: 16047/1)

Paralegal Banking 1 yr+ up to €40k

Excellent opportunity to join this prestigious practice. Working closely with a team of over 40 Solicitors you will assist in advising domestic and international banks on a wide range of issues. Training and development will be provided to ensure you reach your full potential. (ref: 15950/1/3)

Paralegal Corporate 1 yr+ up to €40k

Opportunity for a Paralegal with strong commercial experience to join this large practice of over 100 staff within this top 5 firm. Working closely with Solicitors of all levels you will be actively involved in a wide range of transactions and client issues. (ref: 15950/1/2)

Keane McDonald is an executive search and selection firm focusing exclusively on legal appointments. We specialise in the recruitment of executive legal professionals into private practice law firms and in-house legal departments both in Ireland and overseas. Candidates are assured the utmost confidentiality and discretion when working with us.

In-House Opportunities:

Telecoms Lawyer – Dublin

This hi-tech telecoms company wishes to recruit an experienced telecoms lawyer to join the legal team. You will have minimum 6 years ppe in the telecoms/IT areas. Superb drafting and negotiating skills essential. The role will suit a solicitor seeking a high level of responsibility in a challenging and fast paced environment. Excellent long term prospects. €80,000 – 100,000

Legal Manager - Dublin

A prestigious professional services provider is seeking to recruit an in-house lawyer to manage all legal, compliance and employment matters. You will have 3-4 years ppe in general commercial law. Exposure to construction or property law a bonus. You must be self assured and ambitious. Unique opportunity for a bright lawyer seeking an exciting career challenge. €80,000 – 80,000

Contracts Lawyer – Galway

This multinational organisation has an urgent vacancy for a strong commercial lawyer. You will have 2-4 years ppe in a reputable firm or organisation. Strong contracts experience is essential as is the ability to work closely with senior management. Strong technical background in either engineering, computers or services is ideal. Excellent terms. €50,000 – 60,000

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This progressive firm has one of the strongest construction teams in Dublin and is seeking to expand their expertise. The firm acts for clients in the public and private sectors and delivers a comprehensive service to the construction industry. If you seek immediate involvement in large scale projects this is a fantastic opportunity. Proven work experience preferred. €80,000 – 100,000

Senior Conveyancing Solicitor - Dublin

This lively and successful city firm has a vacancy for a senior conveyancing solicitor with minimum 5 years ppe in residential conveyancing. Commercial experience a bonus but not essential. You will be capable of running your own conveyancing department un-supervised. Attention to detail essential, particularly when reading title. Will suit ambitious solicitor seeking a new challenge. €80,000 – 85,000

Banking Lawyer – Dublin

Big 6 law firm is seeking a strong banking lawyer with at least 2 years ppe from a mid/top tier firm. Work is all non-conflictive. Strong banking and/or asset finance experience preferred. You will be self assured, well spoken and present yourself immaculately. This is an outstanding opportunity for a bright young lawyer to join one of Dublin's strongest banking teams. €55,000 – 70,000.

Interested applicants should contact Yvonne Keane in strict confidence on 01 8415614 or 067 6624591.

Alternatively email your CV to yvonne@keanemcdonald.com



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You will be responsible for tending to the commercial property legal requirements of a sole client, on an exclusive basis. Extensive experience working with large developments and estates is required. 5 years + PQE. MN 0601-152

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This top European pharmaceutical company is seeking a dynamic individual (Solicitor/Barrister) to act as an in-house legal advisor. A background dealing with corporate issues, company law, contract law and IP is necessary. 2-4 years PQE. MN 0510-132

General Practitioner

This up-and-coming general legal practice requires a solicitor with a minimum of 2 years PQE to concentrate on Litigation/Conveyancing matters. The ideal candidate will be outgoing, good with people, focused and ambitious. MN 601-129

Legal Counsel

The main objective of this Dublin based role is to provide legal advice and guidance in respect of the technical legal aspects of fund administration, custody, banking and treasury operations. 2-4 years PQE. MN 0510-166.

Your details will not be forwarded to any third party without your prior consent.

Contact Michelle Nolan on T: (01) 4339016 F: (01) 4339090 E: michelle@meghengroup.com

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This leading firm is looking for insolvency lawyers ideally with experience in corporate restructuring and insolvency law from a contentious and non contentious background. Full training provided with excellent terms. Ref:13851

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Financial Services

€100k plus benefits

Our client an international financial services provider require a legal counsel for their Dublin office. The ideal candidate will have a minimum of 5 years' PQE a solid background in funds (in the structuring and advising of funds) relating to several jurisdictions. Ref:13923

Contact Portia White

Financial Services

€65k plus benefits

Our client, a leading global investment and asset management organisation require a funds lawyer/legal advisor up to 3 years' PQE to join their legal and compliance team based in Dublin. Experience of Company Secretarial matters would be an advantage not essential. Ref:13448

Contact Portia White

Private Client Lawyer (1 year + pqe)

€Negotiable

A leading practice is seeking to recruit a lawyer with experience in advising on all aspects of wills, trusts, tax, probate & estate planning for high net worth individuals and their families. Highly competitive terms. Ref:13773

Contact Justin Loughnane

Solicitor General Practice (2 years' + pqe)

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Our client is seeking a solicitor with experience in residential and commercial conveyancing, probate and general practice work. Can you work on your own initiative and run your own files. Excellent terms on offer. Ref:11975

Contact Justin Loughnane

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Superb opportunity for a New Qualified (or up to 2 years' experience) Banking lawyer to join the legal team of a leading financial services group based in Dublin. A unique opportunity where the successful candidate will be trained in the area of capital markets in particular credit and equity derivatives. Ref:13324

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€50k plus benefits

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Ref:13725

Contact Portia White

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