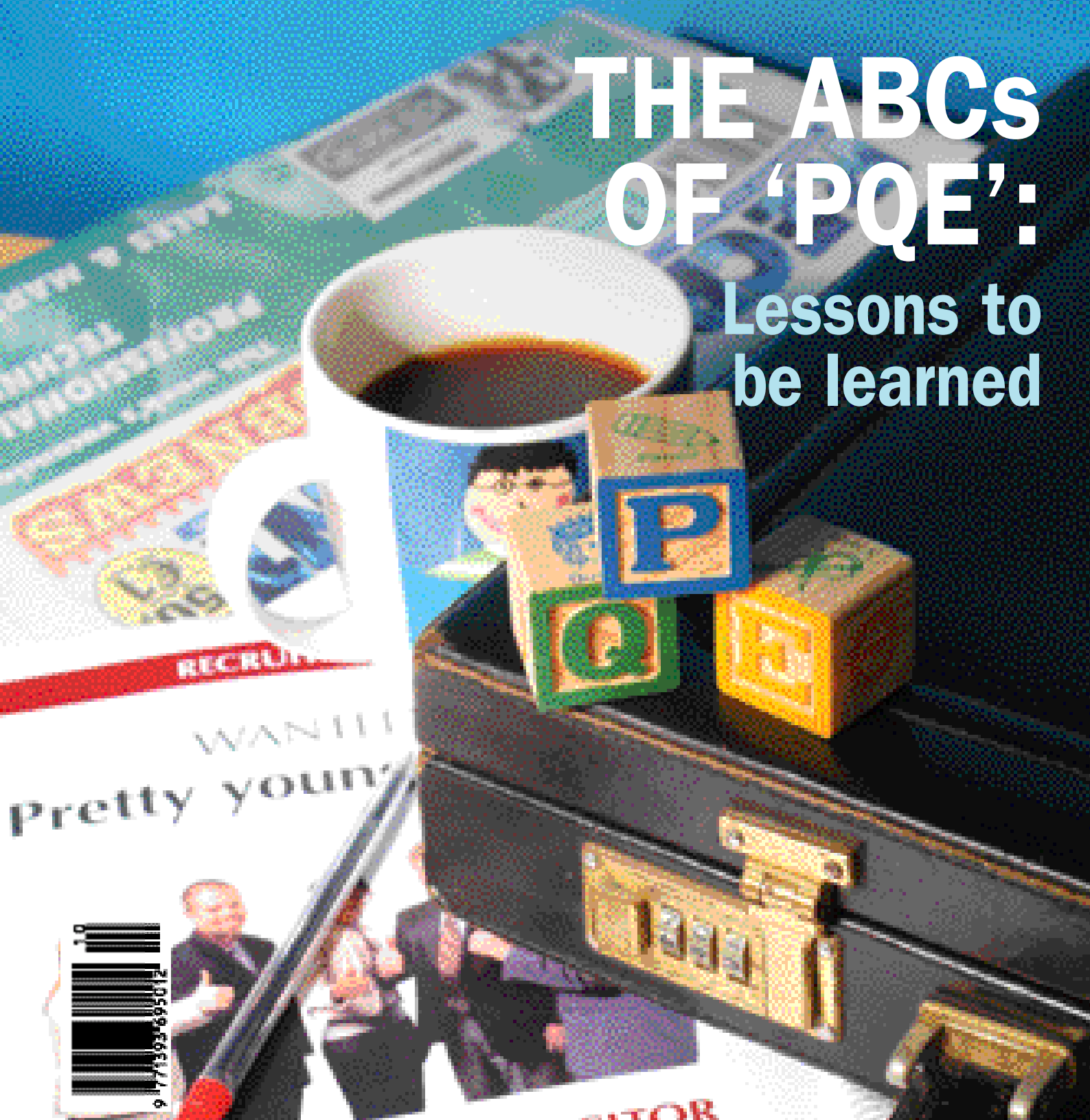


LAW SOCIETY Gazette

€3.75 October 2006

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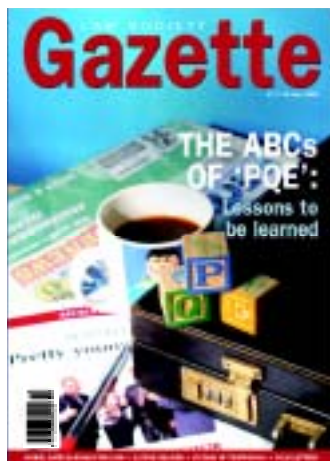
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On the cover

References to years of post-qualification experience (PQE) in recruitment advertisements may indicate an intention to discriminate on the age ground, according to the Equality Authority

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LAW SOCIETY Gazette

October 2006

REGULARS

5 **President's message**

7 **News**

14 **Retirement trust scheme**

Things are looking good, but past performance is not a reliable guide to future performance etc etc etc...

16 **National Crime Council report**

Book of evidence time-limit rules broken more often than not

18 **Letters**

43 **Practice doctor**

Accountants' reports and the *Solicitors' Accounts Regulations*

45 **People and places**

46 **Tech trends**

You know the story...

49 **Book reviews**

The Civil Liability Acts, *Irish Pensions Law and Practice*, and *Judgment Digest*

51 **Briefing**

51 Practice notes

53 Legislation update: 22 August – 19 September

55 FirstLaw update

56 Solicitor complaints

57 Eurlegal: recent developments in European law

63 **Professional notices**

67 **Recruitment advertising**

Editor: Mark McDermott. **Deputy editor:** Garrett O'Boyle. **Designer:** Nuala Redmond.

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FEATURES

22 COVER STORY: The ABCs of PQE

Solicitors might want to consider the Equality Authority's cautionary words in relation to post-qualification experience in recruitment ads, and a recent decision by the *Gazette* Editorial Board on the issue. Michelle Ní Longáin pores over the job adverts

29 Wiping the slate clean

Dara Robinson argues that Ireland's lack of provision for wiping criminal records clean is worrisome, especially for those who had a wild streak in their youth

32 Expert view

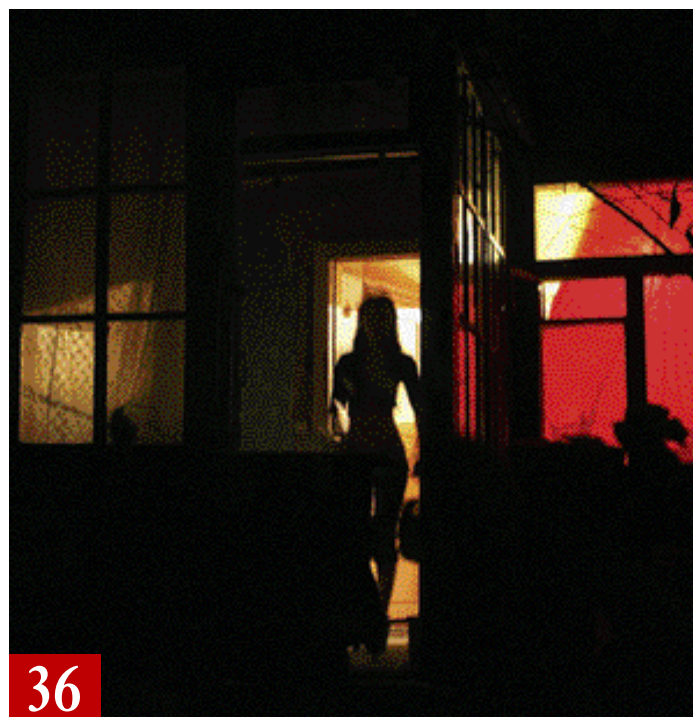
An expert witness was struck off the medical register in Britain after his evidence was judged to be "misleading". William Kennedy wonders if the same thing could happen here

36 Heavy traffic

There is little legal status in Ireland for child or adult victims of human trafficking, says Stephen Collins, but the *Criminal Law (Trafficking in Persons) Bill 2006* is an opportunity to bring the State into line with Europe

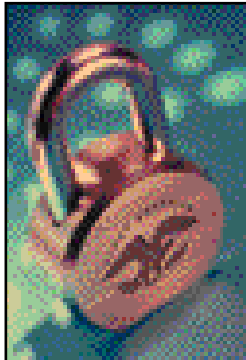
40 The times they are a changin'

Damn hippies! Get a haircut! Mark McDermott continues his review of the Law Society's development through the pages of the *Gazette* in the 1960s



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Observing the highest standards

October has arrived. The opening of the legal year always gives a new impetus and edge to all, particularly practitioners who have direct contact with the courts and the administration of justice. During September, the Society was asked to take part in a consultation breakfast seminar on 'Active Citizenship', a concept promoted by An Taoiseach. The aim of the meeting was to provide an opportunity for discussion on the views set down in the consultation paper. In particular, the taskforce is anxious to hear the profession's view on how it could be encouraged and supported to play a more active societal role as Ireland evolves. It was most heartening to see the involvement of most of the large firms, headed by Arthur Cox, in this initiative.

I, like all other members of the profession, I am sure, and indeed the public at large, have been outraged at the 'rateyoursolicitor.com' website. The Council of the Society discussed the situation at its September meeting. The content of certain of the entries on this website are extremely unsavoury, personal and fictitious. The director general took part in a radio interview with Pat Kenny, in which he condemned the website. The Society will continue to monitor the position and take what action it considers necessary and appropriate in the circumstances, at any time.

The Advanced Advocacy Course again took place in September – such courses are most worthwhile and encourage the profession to undertake advocacy without any fear or self-doubt. A special word of thanks goes to James MacGuill for the work done in relation to the course's inception, and also Rachel D'Alton for the successful running of the course. On this occasion, 17 solicitors undertook the course, which now means that over 118 have taken it since its establishment.

The Union Internationale Avocats Forum of Mediators conference met in the Law Society on 8 September. This event, organised primarily by Petria McDonnell, was most successful. The event featured approximately 50 lawyers, mainly from Europe and North America, who practise in mediation. The success of the forum again illustrates the international interest that is now being focused in this area.



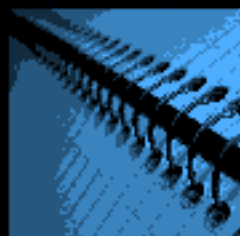
In October, the Society is taking part in a forum with some representatives from the All Chinese Lawyers' Association, ACLA, who are coming to Ireland for a legal educational visit. The Society, on behalf of the profession, looks forward to greeting our Chinese visitors and hopes their visit will assist in some way in the advancement of the rule of law in China. The visit is a project that has been promoted by the Criminal Law Committee. Colette Carey is to be congratulated for her hard work on behalf of the committee in organising part of this event.

In September, I attended the annual meeting of the International Bar Association. An invitation has been extended to the governing body of the International Bar Association by both the Bar Council and the Law Society to hold its annual conference in Dublin in 2012. Geraldine Clarke, who is the Law Society's nominee, is to be congratulated for all her hard work in extending the invitation.

During the last year, there have been six parchment ceremonies, at which 484 new practitioners have been added to the Roll. Judge Mary Finlay Geoghegan reminded everybody at the parchment ceremony on 1 September of the importance of observing the highest ethical and moral standards in our professional careers. We must attempt to ensure that we act in an honourable and correct manner at all times, both with each other and our clients. It is appropriate at the start of a new legal year to remind ourselves of these matters.

Michael Irvine
President

"We must attempt to ensure that we act in an honourable and correct manner at all times, both with each other and our clients"



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■ CAVAN

CPD – it won't go away, you know

No matter which way we turn, continuing professional development (CPD) is still with us. Now well into the current two-year cycle, solicitors' associations around the country are cranking-up with full programmes of updating and revisions. And the Cavan Bar Association is happily to the forefront.

On 9 October, Dublin solicitor and taxation expert Brian Bohan will provide an update to Cavan solicitors on 'Taxation for Conveyancers'. At another seminar, Dublin solicitor Anne Neary and former banker Kieran Finnan will conduct a four-hour session on 'Practice Management', a subject sponsored, appropriately enough, by the Solicitors Mutual Defence Fund.

Next month, on 15 November, Cavan conveyancers can hear Dublin colleague and planning law expert, John Gore-Grimes, speaking on 'Planning for Conveyancers'.

■ CORK

Budapest

The annual conference of the Southern Law Association in Budapest (they flew out before the recent riots) was a great success, by all accounts. The 35 solicitors who travelled enjoyed an interesting *tour de force* by Circuit Court Judge James O'Donoghue on the role of expert witnesses in court and recent developments in family law.

It was, according to Sinead Behan, President of the Southern Law Association, a most interesting and informative lecture. "In addition, we got to



Minister Michael McDowell, Randal Doherty and Robert Ryan at the National Concert Hall on 6 September, for the merger launch reception of Doherty Ryan & Associates, Solicitors

know each other better as colleagues, which of course helps in day-to-day work when we get home," she add. Sinead herself is, in fact, leaving our serried ranks and leaving for the Bar later this month, so there is a vacancy at the top of the SLA. We wish her well.

■ DUBLIN

The rule of law

This is clearly a seminal topic that solicitors can never really get away from – even in Rome. Over

140 delegates of the Dublin Solicitors' Bar Association, headed by DSBA President Brian Gallagher, recently returned to Dublin, re-energised after a five-day conference in Rome.

The business session on the topic of 'The Rule of Law' enabled delegates to hear Judge Maureen Harding Clark of the International Criminal Court give interesting insights into the rule of law worldwide.

Another speaker, colleague Anne Neary, addressed how

solicitors can improve their practices. Her title was 'How to Prepare a Bill which your Clients Will Rush to Pay'.

Council member Kevin O'Higgins spoke about a very different world and, in particular, that affecting black lawyers in South Africa and the challenges facing them in seeking black empowerment.

Back to earth

A continuation of the successful practice management series of seminars under the title, 'Continuing to Build a Dynamic Profitable Practice' will take place in Dublin over the coming weeks. This will, again, involve the supplementing of *The Solicitors' Tool Kit*.

■ DONEGAL

Judicial changes

Colleagues in Donegal are pleased to note the permanent appointment of Circuit Court Judge John O'Hagan to the Northern Circuit. "He has been with us on a temporary basis for the past 14 months, but the permanent appointment gives us all an element of certainty and security and is warmly welcomed," says Margaret Mulrine of the Donegal Bar Association.

They also note the retirement last month of District Court Judge John O'Donnell after ten years in Donegal. A function to mark his retirement will be held next month. Margaret Mulrine added that solicitors hoped that there would be no delay in the appointment of his successor because "such delays are not helpful". **G**

PASSING THE BATON

In 2004, our columnist Pat Iggoe agreed, in his own words, "to temporarily write the 'Nationwide' column for a period of two months"! Two years on, he says, it's well past time to dump the old golf ball (it's a typewriter). "As I do so," says Pat, "I want to thank the many colleagues around the country who kindly informed me of the goings-on, not all of them printable, in our ancient and still honourable profession."

I'd like to thank Pat for his skill and diligence in producing 'Nationwide' each month. We'll miss his pithy insights!

The good news is that the 'Nationwide' column will continue, with Kevin O'Higgins stepping into the breach. Please continue to send your bar association news to: nationwide@lawsociety.ie.

The editor

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

■ RETIREMENT TRUST SCHEME

Unit prices: 1 September 2006

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■ LAW SOCIETY DIPLOMA PROGRAMME

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Is there a particular diploma course you would like to see introduced? Do you feel you have a contribution to make to the diploma programme by lecturing or facilitating workshops? We want to hear from you! Email: diplomateam@lawsociety.ie, tel: 01 672 4802, fax: 01 672 4890

■ ARDCHÚRSA GAEILGE DO

LUCHT CLEACHTAITHE DLÍ

Reachtálfar Ardchúrsa Gaeilge do lucht cleachtaithe dlí in Óstaí an Rí (King's Inns) arís an bhliain acadúil seo (2006-07). Reachtálfar léachtaí gach tráthnóna Luain idir 6.30pm agus 8.30pm ag tosú an 16ú Deireadh Fómhair 2006. Tabharfar seacht léacht ar an gcúrsa. Cuirfear béim ar obair phraiticiúil agus déanfar mion-phlé ar stádas dlíthiúil na Gaeilge agus ar obair aistriúcháin. Is é €150 an táille. Tuilleadh eolais: Dáithí Mac Cárthaigh BL, 01 817 5251, 087 236 8364.

Waiting times for legal aid now less than four months

The Legal Aid Board says that waiting times for client appointments with solicitors have been reduced considerably, with no law centre having a waiting time greater than four months. In fact, in half of the board's law centres, the waiting times are two months or less.

The findings are published in the Legal Aid Board's *Annual Report 2005*, published on 28 September 2006.

Speaking at the launch, the chairperson of the board, Anne Colley, referred to the increase in the grant in aid provided for 2005 by the government to ensure that the service provided would not only be a professional one, but would also be timely.

She said that, with the benefit of the increased funding, the board had committed itself to ensuring that all applicants for legal services would receive an appointment with a Legal Aid Board solicitor within four months. "During 2005, we have fulfilled that commitment," she said.

By the end of 2005, almost 17,500 persons had been provided with legal services by the board; less than 1,000 clients were awaiting an appointment with a solicitor

compared with 2,200 at the end of 2004; of the cases in which advice only was provided, 70% related to family law, 10% to conveyancing, and 20% to other civil law matters; of the cases in which the board's law-centre solicitors provided representation in court, 60% related to divorce, separation and nullity, 6% to child care, 23% to other family law matters, and over 10% to other civil law matters; and more than

3,300 new clients had registered with the Refugee Legal Service.

Anne Colley added: "The considerable increases in the financial eligibility levels for clients of the board ... will, undoubtedly, have a significant impact on the capacity of quite a number of the less well off in society to access justice where, previously, by way of financial incapacity, they would not do so."

New Law School prize


A new annual Arthur Cox Foundation Prize of €1,500 will be awarded for the first time in 2007, on completion of the PPCII, for the best overall results in PPCI Business Law combined with the PPCII Banking and Corporate Law elective.

The Law Society, as the continuing trustee of the foundation, is pleased to announce this prize, which is very much in the spirit of the foundation's purpose.

When Arthur Cox retired from practice as a solicitor in 1961, a number of his clients, lawyer colleagues and friends decided that – in recognition of

his outstanding contribution to Ireland and to his profession, particularly in the area of company law – a trust fund should be established in his memory that would be used for educational and charitable purposes. Since the establishment of the Arthur Cox Foundation, its funds have been used to assist the writing and publication of Irish legal textbooks and the development of electronic databases of Irish legal materials.

See the Law Society's website for more details on the foundation and the projects it has assisted. A list of all Law School prizes is published in the student handbook.



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Consolidated Landlord and Tenant Legislation
edited by Mark O'Riordan



International mediators join forces at Law Society

Sixty delegates representing mediation centres in 20 countries as far away as China took part in a conference on the future of international commercial mediation from 8-9 September at Blackhall Place. Sponsored by the World Forum of Mediation Centres of the Union Internationale des Avocats, the conference considered a variety of topics that would assist mediators and mediation centres deliver the highest quality services to the public.

Ireland's Attorney General Rory Brady SC welcomed the delegates. Also present were President of the Law Society Michael Irvine and President of the World Forum of Mediation Centres Thierry Garby.

In the first substantive presentation, Katja Lenzing of the European Commission reported on the proposed EU directive on mediation in civil and commercial matters. Mary Joy, of the Irish Department of Justice, Equality and Law Reform – the shepherd of the proposed EU directive for Ireland – participated in the discussion.

A key objective of the proposed directive is to facilitate 'access to dispute resolution' through provisions that:

- Establish 'minimum' common procedural rules in the EU and
- Provide 'necessary tools' for courts of member states 'to actively promote the use of mediation'.

The EU Council is seeking amendments to the proposed draft. A particularly controversial one would limit the directive to cross-border disputes. Another proposed



At the mediation conference were (l to r): Thierry Garby (UIA World Forum of Mediation Centres), Michael Irvine (Law Society), Petria McDonnell (McCann FitzGerald), Mark Appel (International Centre for Dispute Resolution) and John Madden (Madden Mediation)

amendment would expand the confidentiality of mediation communications to cover statements by the parties' counsel and third parties, such as experts attending the mediation. Given the number of outstanding issues, it may be some time before there is EU legislative support for mediation.

A discussion of 'Ethical Rules for Mediation Service Providers', was led by F Peter Phillips, acting president and CEO of the International Institute for Conflict Prevention and Resolution in New York.

There was a panel discussion on 'Breaking Barriers to Mediation'. The panel members were Jeffery Abrams of Houston, Bertrand Lasserre of CMAP in Paris, Petria McDonnell of McCann FitzGerald in Dublin, and Alessandro Bruni of Viterbo, Italy. The barriers to mediation in some countries include unfavourable legislation, unreceptive courts, and negative attitudes of attorneys and business people in the community. Abrams posited that if lawyers are the 'gatekeepers' of mediation, the

process will go nowhere. Bruni suggested that retaining authority and financial considerations are a factor in Italy, where judges worry that mediation means less power for them and lawyers worry that it means less money in their pocket.

Giovanni De Berti of De Berti Jacchia, in Rome, compared the attitude toward mediation in civil versus common law jurisdictions. He noted that in common law countries, the view is that all that is not forbidden is allowed, whereas in civil-law countries, the view is a converse one.

Another topic on the agenda was the success of mediation legislation in Ireland. Petria McDonnell reported on how a group of Irish lawyers trained as mediators, then influenced legislators to pass a law making mediation an adjunct to the commercial court, and an essential part of the new Irish PIAB.

The meeting concluded with the mediation centres agreeing to take concrete steps back home to generate awareness and interest in mediation.

■ CLIENT FOCUS SEMINARS

"Client expectations are increasing rapidly and it is up to us as a profession to meet them." So said Law Society President Michael Irvine when he launched the Client Care Taskforce. "As a profession, there is a lot we can do to improve the overall level of service we offer. We need to focus strongly on managing and retaining our existing clients." The Law Society's Client Care Taskforce has organised the client focus seminars for November and December, with more in the pipeline for 2007.

Participants will get exclusive access to current ideas and steps to improve legal practices – for both clients and the firm. So join your colleagues at the Client Focus Seminar and learn to tackle some of the key issues involved.

Locations and dates:

- **DUBLIN:** The Royal College of Physicians of Ireland – Tuesday 21 November 2006, 1pm–5pm
- **THURLES:** Tipperary Institute Conference Centre – Tuesday 5 December 2006, 1pm–5pm

If you have any queries, please contact Louise Byrne on 01 672 4802 or at: clientfocus@lawsociety.ie

■ ECHR STUDY LAUNCH

The ECHR study, sponsored by the Law Society and the Dublin Solicitors' Bar Association, will be launched in City Hall at 6pm on Monday 23 October by Professor Conor Gearty, Director of the Centre for the Study of Human Rights at the London School of Economics. The study was undertaken by a team led by Donncha O'Connell of NUI Galway. Titled *European Convention on Human Rights Act 2003 – A Preliminary Assessment of Impact*, it will be published in book form and will be accompanied by a database of cases available on the sponsors' websites. The study will cost €10. Anyone interested in attending the launch should contact Nicola Crampton, tel 01 672 4961 or email: n.crampton@lawsociety.ie.

Law Society slams scurrilous rating

The Law Society has repeatedly slammed the so-called solicitor-rating website *rateyour solicitor.com*. In an interview with Pat Kenny on RTÉ radio and in a letter published in *The Irish Times*, director general Ken Murphy described it as “the technological-age equivalent of writing insults on the back of a toilet door”.

He continued, “The anonymity of the comments robs them of any credibility or value. There is no evidence that the venomous and personally abusive comments made about solicitors are in fact made by clients or former clients of the solicitors in question. They could be made by anybody with



Pat Kenny: “Not the way I would go about selecting a solicitor”

a personal grudge, including the clients on the other side in litigation or family law cases where the solicitors being defamed in fact did too good a job as far as the disappointed



Ken Murphy: “Solicitors are entitled to their good name and reputation

and embittered ‘rater’ is concerned.”

Pressed by Pat Kenny, Murphy acknowledged that the top-mark ratings of solicitors by some deliriously happy clients

could be, and no doubt in many cases have been, posted by the solicitors themselves. However, he contended, “This just further undermines the credibility of this website, as does the fact that respected senior members of the judiciary are named and defamed by being described as corrupt on the associated website of the so-called ‘victims of the legal profession’.”

Kenny was sympathetic and acknowledged: “I am not sure this is the way you would find a solicitor. It’s not the way I would go about selecting a solicitor.”

The director general commented: “Solicitors, like everyone else, are entitled to

ONE TO WATCH: NEW LEGISLATION

Health (Repayment Scheme) Act 2006

This act was introduced in the Dáil in mid March 2006, was signed into law on 23 June 2006 and was commenced on 30 June by SI 338 of 2006. In February 2005, the Supreme Court had found that charges illegally imposed on public patients for long-term care could not be retrospectively regularised, and the Government committed itself to developing a scheme to make reimbursements. The act sets out the framework for the scheme. In some cases, where the eligible people are still alive, or died on or after 9 December 1998, the entire amount illegally charged will be repaid, together with compensation for inflation. The *Statute of Limitations* is relied upon by the State to exclude claims prior to that date. The act also seeks to protect patients’ interests by establishing a statutory framework for patient private property accounts, being accounts managed for people who are in long-term care.

The scheme does not apply to people who paid to live in private

nursing homes because public beds were not available. The position of such persons is being tested in the courts.

It is estimated that around 20,000 potential claimants are still alive, and that 40,000 to 50,000 estates of deceased persons will have claims. In March 2006, around 10,000 claims had already been calculated.

General scheme

The act has 23 sections. It enables the HSE to contract out its functions under this act, to handle claims for repayment, and to specify the forms to be used (and therefore the information required to prove a claim). Repayments are to include reimbursement of money paid (as may be recoverable) plus interest as provided for in regulations, to reflect inflation as measured by the consumer price index. There is also provision for calculating repayments in the event that certain information is unavailable, which may be based on other available information, or otherwise 80% of the non-contributory old age pension

payable during the period in question, plus interest. Once an application is determined, payment must be made as soon as practicable. In making determinations, the scheme administrator is to give priority to living claimants over the estates of deceased persons.

Applications for repayment must be made by 1 January 2008 or a later prescribed cut-off date, if one is prescribed by regulation.

Tax position

Repayments made to living people, or spouses or children of deceased persons who would have been entitled, are to be disregarded for income tax purposes and in relation to assessments for health or social welfare benefits. Any tax relief already availed of is not to be affected by a repayment, and probate tax is not payable on repayments. However, repayments may be set against payments made under the *ex gratia* scheme (up to €2,000 per person) or charges imposed under 2005 regulations that have not been paid. Inheritance taxes are not

affected if the refund is made to an eligible person’s estate.

Provision is made for compliance with the data protection legislation and for storage, retention and management of all the records involved. The Revenue Commissioners may request information relevant to tax collection.

Patients’ private property accounts

Payments may be made by cheque to a claimant’s account or paid directly to a patient’s private property account. The HSE is given certain powers to invest money held in patients’ private property accounts, subject to directions to the contrary by the account holder or a court-appointed next friend. The HSE may use money for the benefit of the account holder with permission, or apply annually on notice to the Circuit Court for directions on the disbursement of sums in the account exceeding €5,000, or a greater prescribed amount, for the benefit of account holders. The court may not order

website

their good name and reputation, and not to have it taken away by untrue and unfair statements. Solicitors are human too, and I know that there has been real hurt caused to people as a result of some of these things."

Shortly after the interview was broadcast, proceedings were initiated by a barrister claiming to be defamed on the rateyoursolicitor.com website. Orders were made in the High Court by Mr Justice Hanna, which have had the result that the website cannot be accessed on www.rateyoursolicitor.com, at least for the present. The case has been returned for interlocutory stage argument on 5 October 2006.

Dublin pips Hong Kong for 2008 ICCA Congress

Dublin has beaten rival contender Hong Kong as the venue for the 2008 International Council for Commercial Arbitration (ICCA) Congress.

ICCA was founded in 1969 and is one of the foremost organisations for promoting international arbitration and other forms of dispute resolution. Its members include world-renowned arbitrators.

The proposal for the Irish congress was put forward by active ICCA member, Klaus Reichert BL, with the support of the Bar Council. The 19th biennial congress in Dublin will also

celebrate the 50th anniversary of the *New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards*.

Following Dublin's selection, the Bar established an internal organisational committee. Another committee, known as the 'Dublin 2008 Committee', has subsequently been established involving members of the Bar Council, the Law Society of Ireland, Chambers Ireland and the International Centre for Dispute Resolution, with the primary purpose of promoting the Dublin congress.

More recently, the ICCA

Congress took place in Montreal, from 31 May to 3 June.

Representing the Law Society were Michael Moran and Michael Carrigan, while there on behalf of the Bar were Klaus Reichert, Peter Shanley and Jeanne McDonagh.

The Irish delegation manned a stand at the conference. The group took the opportunity to promote Dublin as a premier venue for international arbitration.

In all, between 800 and 1,000 participants are expected at the Dublin congress in two years' time.

payment of refunded money to a spouse or child of a claimant, unless the money can be shown to have originally been paid by that person.

One bite

A person's claim is not affected by making an application for repayment, but acceptance of a repayment involves waiving his or her right to sue in relation to that recoverable health charge. Conversely, if a court makes an award, a separate claim for repayment cannot be made.

Donations

The HSE can establish a donations fund, with the purpose of providing one-off public health services improvements to older and disabled persons, which do not involve recurring costs and which would not be met out of government allocations. Recipients of repayments may direct them to be paid into the fund and the fund may also accept money from other sources. For tax purposes, such donations are treated as charitable. The management of the

fund has accounting and reporting duties.

Funding

Repayments and the costs of making them are to be met from a special account to be funded by money voted by the Oireachtas. The amount repayable is estimated at €1 billion. The minister has power to request reports on the general administration of the act and the management of patients' private property accounts.

Appeals

When a decision is made, the claimant is required to be notified promptly in writing, with reasons, and to be supplied with a copy of section 16, which deals with appeals. The minister may appoint a barrister or solicitor of at least five years' standing to hear appeals and may issue guidelines for them. Reasoned decisions are to be given in writing, and appeals lie on points of law to the High Court. The appointment of an appeals officer may be revoked for stated reasons. Appeals officers are required to provide reports on

their work, which the minister must lay before each House of the Oireachtas. Appeals may be the subject of investigation by the ombudsman.

Provision is made for repayment of any payments obtained through fraud or misrepresentation, including from a deceased person's estate. The Comptroller and Auditor General is given a role in examining the administration of the scheme.

Offences

Giving materially false or misleading information is an offence punishable on summary conviction by a fine of up to €3,000 and/or imprisonment of up to six months. On conviction on indictment, the penalties are a fine of up to €25,000 and/or imprisonment for two years. Similar penalties apply to people who breach privacy under the data protection legislation or fail to provide records under their control.

Timescale

Conscious that many of those entitled to refunds are elderly, the

Government has given a commitment to activate the scheme as soon as possible. KPMG have been appointed as the scheme administrators. The first payments are expected to be made in autumn 2006. A special procedure is being developed by the Probate Office to facilitate claims made on behalf of estates of people entitled to be refunded, if no other property is involved.

Unresolved issues

Many legal issues are left unresolved by the scheme and are likely to be the subject of litigation. See Eoin O'Dell's "The Nature and Limits of Claims to Recover Unlawful Health Charges" in *Older People in Modern Ireland: Essays on Law and Policy* (First Law 2006).

Further information on the repayment scheme is available on: www.dohc.ie/public/information/health_services_for_older_people/refund_of_nursing_home_charges.html. **G**

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

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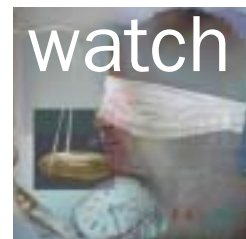
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Intractable access, abduction and the ECHR

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

On 20 July 2006, in *Koudelka v Czech Republic* (1633/05), the European Court of Human Rights (ECtHR) held that the applicant's rights under article 8 (right to respect for private and family life) had been violated and that the defendant State had not done enough to enforce parental access in the face of intransigence by the child's mother.

Mr Koudelka and EP had a daughter in 1990 and separated the following year. In 1993, custody was granted to EP. In 1993, Mr Koudelka applied for access and, in an October 1995 decision (upheld on appeal), was granted supervised access in a welfare centre, with the assistance of a specialised social worker. The little girl was then five years old.

Despite Mr Koudelka's efforts to have it enforced, the access happened only once, in 2002, when experts observed and reported serious shortcomings in the 12-year-old girl's upbringing by her mother.

The ECtHR found that the domestic court had been aware since 1995 of EP's obstruction of contact, but that its response had been feeble: in 1996, it addressed a formal warning to her (without effect); in April 1999 and October 2000 it fined her €70 and €7 – measures that could not be considered sufficient or adequate.

The court found that the domestic courts had not taken all measures that could reasonably have been expected of them and had not been sufficiently prompt and systematic. Further, the

psychologist's conclusion in July 2002 that the child was not being well brought up raised the question of whether the courts were considering the child's interests in the matter. In effect, the courts had allowed the dispute to drift and be settled by the passage of time. As the girl was now 15 or 16, a child/parent relationship with her father no longer seemed possible. Mr Koudelka was awarded €13,000 for non-pecuniary damage and €2,000 for costs and expenses.

Zawadka v Poland

This is not the first case in which the ECtHR has held that the state must do more to enforce access in the face of parental recalcitrance, alienation and abduction. In *Zawadka v Poland* (48542/99, 23 June 2005), Mr Zawadka's complaint was that he had not got adequate assistance from the domestic authorities in having his access rights enforced in relation to his son, who was three years old at the time. The court agreed and found that the Polish authorities had failed to take practical steps that would encourage cooperation between the boy's parents and secure concrete and appropriate assistance by competent state agents within a specific legal framework suited to the needs of separated parents and their underage child. This had resulted in him permanently losing contact with his son. In frustration at the lack of access, Mr Zawadka had abducted and gone into hiding with his boy for 15

months, as a result of which the domestic court had deprived him of all parental rights.

Other recent ECtHR jurisprudence

In *Siemianowski v Poland* (45972/00, 6 September 2005), the courts allowed the matter of access and its enforcement to drift, and found unreasonable delay under article 6(1). When the child turned 13, the domestic court had held that her views must also be considered, which the ECtHR accepted. It did not make a finding under article 8, as Mr Siemianowski had managed to maintain some contact with her between 1992 (when she was eight) and 2002.

HN v Poland (77710/01, 13 September 2005) and *Karadzic v Croatia* (35030/04, 15 December 2005) both concerned abductions to another country and the failure of authorities there to take sufficient steps to find the children and have them returned. Another interesting case is *C v Finland* (18249/02, 9 May 2006), which concerned children of ten and 12 years who were living with their mother and her female partner when the mother died. The ECtHR found that the domestic court had given an effective veto to the children and had not considered factors other than their wishes, nor had it investigated those to any depth. The court found that the decision-making process did not strike a proper balance between all the interests, and found a violation of article 8.

In a striking British judgment in *F v N* ([2004] EWHC 727 (Fam)), Munby J said it was "almost impossible" for a contact case lasting five years to be compatible with the ECHR, regardless of the behaviour of the parents that led to the length of the proceedings. He accepted that the courts had failed Mr F. Munby J contemplated suspended committal orders, which would come into effect if contact did not take place. The issue was discussed in a Green Paper – *Parental Separation: Children's Needs and Parents' Responsibilities* – published by the Department for Constitutional Affairs in July 2004. It proposed a suite of supports, inducements and enforcement, including earlier listing of cases, cases to be heard as quickly and effectively as possible, greater judicial continuity and rapid return to court when needed.

In Ireland, there are no services available to the courts to ensure contact between parents and children in difficult cases. The HSE, if asked, replies that all their resources are committed to the public law child cases that are already their responsibility. The courts can make orders, but thereafter only have crude tools at their disposal – committal, assigning custody to the excluded parent, putting the children in care, imposition of a fine, and possibly sequestration. This does not measure up to the standards set in Strasbourg. **G**

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

A year of change for Society's

This year's strategic review of the Law Society's retirement trust scheme led to decisions that will positively affect the second half of the scheme year

The main news for Law Society of Ireland retirement trust scheme this year is that the investment strategy review, carried out by the trustee and Solicitors' Retirement Fund Committee, is now complete.

Review results led to a number of strategic decisions being implemented in June that will now positively impact on the second half of the scheme year, 1 July 2006.

The scheme continues to offer members four separate funds for investment: the managed fund, the all-equity fund, the long-bond fund, and the cash fund, but the approach to the investment management arrangements of the underlying assets of the funds has changed.

Previously, the assets of each fund were placed with investment managers on the basis that these managers invested across all asset classes (for example, equities, bonds, property and cash, as appropriate). This has changed to a more specialist approach where the trustee, under advice from the investment advisor, considers separately the requirements of each component asset class and selects a suitable investment approach and investment manager for each.

With the appointment of Mercer Investment Consulting as scheme investment advisor and the consequent access to the global research facilities of the Mercer Group, the scheme aims to retain Mercer-recommended, top-rated managers as appropriate.

A second change relates to the criteria for allocating funds across the individual asset classes. For example, the managed fund's performance had been benchmarked/measured at a

MANAGEMENT ARRANGEMENTS

The management arrangements of the various components of the managed fund, from 1 July 2006 are as follows:

Fund component	Investment style	Appointed manager	Performance benchmark
Irish equities	active	BIAM	ISEQ index
Eurozone equities	active	AXA Rosenberg	MSCI eurozone index
World (ex euro) equities	active	AXA Rosenberg	MSCI world (ex euro) index
Bonds	passive	BIAM	Merrill Lynch >10yr eurozone govt index
Property	active	BIAM/KBCAM	Mercer pooled average
Cash	active	BIAM	Euribor

total fund level to the performance of the average Irish balanced fund. The investment managers, therefore, had set the fund's weightings in the various asset classes and geographic regions accordingly. Under the new strategy, performance will not be benchmarked at a total level to the average Irish balanced fund. Instead, each component part will be benchmarked against a suitable index, with the appointed manager tasked to outperform that index. (Having a 'passive' investment style, the manager of the bond component is tasked to match rather than outperform the nominated benchmark index).

Under the new arrangement for the managed fund, the overall split between equities,

bonds, property and cash will be broadly maintained in line with the average Irish balanced fund. Similarly, the euro-designated/non-euro-designated split of the assets will also broadly follow the average. Future performance of the equity component will be benchmarked to the MSCI Eurobloc and MSCI World ex-Eurobloc Equity Indices. These are broad market indices, which weight individual countries/markets pro-rata to their value (that is, market capitalisation). The investment manager will set the fund's market weightings accordingly. Special consideration will be given within the managed fund to the Irish equity market. Although the Irish market's capitalisation weighting within the eurozone

is in the region of 1%, its weighting within the fund will be maintained at circa 10% for the time being (down from a level of over 20% in the recent past).

The geographical split of the all-equity fund will broadly reflect that of the equity content of the managed fund. However, no special consideration will be given to the Irish equity market outside of its MSCI index weighting. The fund will be managed by AXA Rosenberg.

The long-bond fund and cash fund will continue to be managed by Bank of Ireland Asset Management (BIAM). Performance will be measured against the indices set out above, as appropriate.

AXA Rosenberg

AXA Rosenberg has been introduced to the scheme as an investment specialist in regional and global equities. The company has over €71 billion in assets under management, over €1 billion of which are managed on behalf of Irish pension funds. As a global equity investment manager, its goal is to consistently outperform the market while carefully managing risk.

Fees

The change in investment strategy and the addition of a new investment manager has been achieved with the minimum of additional cost to members. With a deduction of 2.5% from members' contributions (that is, 97.5% of contributions invested) and ongoing fees of typically less than 0.75% per annum, the scheme remains among the most cost effective in the Irish market.

INVESTMENT PERFORMANCE OF THE LAW SOCIETY OF IRELAND RETIREMENT TRUST SCHEME MANAGED FUND AS AT 31 DECEMBER 2005

1 Year	3 Years	5 Years	10 Years
20.1%	14.0%	3.3%	10.9%

Source: Mercer – 3, 5 and 10-year figures are annualised.

Past performance is not a reliable guide to future performance.

retirement trust scheme

General market review

The first six months of 2006 saw mixed returns in equity, property and bond markets:

- Equity markets started the year brightly, reaching a high point in May. However, since mid May, concerns about interest-rate increases prompted a sell-off as investors reassessed their appetite for risk, erasing advances made since January,
- Commercial property values continued to be driven ahead by significant capital inflows,
- Bond markets lost some

ground in the face of continued inflation pressures and higher interest rates,

- The average managed fund still managed positive returns (typically 0.9%).

Equities

The old adage of 'sell in May and go away' seemed entirely appropriate for global stock markets. After a very good start to the year, with many of the major markets up between 5% and 10% in the first quarter, most, if not, all of these gains were eroded during a four-week

period spanning May and early June. One of the factors that caused this increased level of volatility was the release of some perky US inflation numbers for April, with higher than expected headline and core-inflation numbers.

The annual rate of headline inflation in the US is running at 3.5%, up from 2.5% in the middle of last year, but down from a high of 4.7% at the end of 2005. More importantly, though, is the rise in the annual rate of core inflation in the US, which has risen from a low of

1.1% at the start of 2004 to a current rate of 2.3%. This, combined with tighter monetary policy conditions across the globe, particularly in Japan and the euro area, are the main culprits behind the recent market sell-off.

Bonds

Risk was not rewarded in global bonds markets in the first half of the year, unlike the returns that were produced in 2005. The longer the maturity of the government bonds, the greater the losses that occurred. European government bonds maturing in ten years or more fell by a little over 7% so far this year, while shorter-dated bonds suffered more modest losses of around 3%. US government bonds and their European counterparts suffered similar losses, while emerging market government bonds suffered some of the biggest declines.

Commercial property

Commercial property markets across the globe continued to perform quite strongly in first half of 2006. While there are no official numbers available as yet, we estimate that most of the major commercial property markets have seen returns in the order of 5% to 7%. Further yield compression in most sectors, combined with improving rental conditions in the office sector, underpinned these returns. **G**

Alan Casey is a pensions specialist at Bank of Ireland Private Banking Limited and can be contacted on 01 6378707 or at Bank of Ireland Private Banking, 40 Mespil Road, Dublin 4 or by email: alan.casey@pb.boi.ie. Bank of Ireland Private Banking is regulated by the Financial Regulator. A member of Bank of Ireland Group.

LAW SOCIETY RETIREMENT TRUST SCHEME

The Law Society retirement trust scheme is the group personal pension scheme set up as a service to members of the Law Society.

Retirement scheme by the numbers:

- Current value: in excess of €174,000,000.
- Number of solicitors in the retirement trust scheme: approximately 900.
- Scheme trustees: the Governor and Company of the Bank of Ireland.
- Fund choices: managed fund, all-equity fund, long bond fund and cash fund.
- Investment managers: Bank of Ireland Asset Management Ltd manages the cash, bond and Irish equity components of the funds. AXA Rosenberg manages the global equity component of the funds with BIAM & KBC Asset Management jointly managing the property element of the managed fund.
- Different fee rates apply to each fund.
- Annual charges*: 0.75% (this includes all trust services and investment fees).
- Deduction from contributions: 2.5% (used towards paying the annual charges).

*Based on managed fund estimated costs for current year less estimated subsidy from member's contribution deductions.

What you need to know:

- All gains/losses on investments are passed on directly to scheme members – there is no discretionary element.
- No member of the Law Society knows who the

members of the retirement trust scheme are. This information is strictly confidential to the trustee.

- No charges of any kind are charged by or paid to the Law Society.



Elma Lynch, chair of the Solicitors' Retirement Fund

Tax relief information:

Full tax-relief may be claimed annually on pension contributions up to the following limits with effect from 1 January 2006:

Age	% of net relevant earnings*
Under 30 years	15%
30-39 years	20%
40-49 years	25%
50-55 years	30%
55-60 years	35%
60 +	40%

*There is a cap on earnings of currently €254,000. Based on this income, the maximum a client aged 56, for example, could contribute tax-effectively on an annual basis from 1/1/06 would be €88,900 (ie 35% of €254,000).

For more information, log onto www.lawsociety.ie for a copy of the Law Society retirement trust scheme booklet, or contact Brian King, Bank of Ireland Trust Services, 40 Mespil Road, Dublin 4, tel: 01 637 8770.

The Governor and Company of Bank of Ireland is regulated by the Financial Regulator

Book of evidence on time in

The National Crime Council's report reveals that time-limit rules are more often broken than adhered to and recommends ways to improve the situation

The National Crime Council's latest report has found differences between murder and rape cases in the time taken from the arrest of a suspect to the return for trial. Differences were apparent in the time between:

- The arrest and the file being sent to the DPP,
- From that date to the receipt by the gardaí of final written directions from the DPP,
- From that date to the service of the book of evidence, and
- From the service of the book of evidence to the return for trial.

This means that the rule that stipulates that the book of evidence shall not be served later than 42 days after the first appearance of the accused in the District Court (save with the leave of the court) was more often broken than adhered to. In the research period, the book of evidence was served within the 42 days in only 5% of murder cases and 32% of rape cases.

In a unique piece of research, the council examined all murder and rape cases disposed of in the Central Criminal Court between 2002 and 2004. Over 320 cases were tracked, from the date of the initial arrest of the suspect until their disposal in the Central Criminal Court.

The council identified areas where, with some changes, time intervals could be shortened, including such matters as the complexity of the case, the limited availability of sexual assault units outside Dublin, the need for forensic evidence, the possible incompleteness of the file when submitted to the



Padraic White, Chairman of the National Crime Council, and Judge Michael Reilly, Chairman of the Council subgroup, at the launch of the National Crime Council report

DPP, queries being raised by the DPP, the fact that the file goes through a number of hands before it gets to the Office of the DPP, and the fact that there is no specific person whose duty it is to ensure that matters are progressed as quickly as possible.

Main recommendations

The council recommended that the time intervals for murder cases should be:

- 1) Two-and-a-half months from initial arrest for the file to be sent to the DPP by the gardaí,
- 2) One month from receipt of this file for final directions to be issued by the DPP,
- 3) Two months for the preparation of the book of evidence and sending it to the gardaí for service, and
- 4) Two weeks for the service of the book and the order for the accused to be returned for trial.

This means that, save in exceptional circumstances, the defendants in all murder cases should be returned for trial

within six months of their initial arrest.

In rape cases, where the investigation may be more time consuming, the council recommended that the time intervals should be:

- 1) Three months from initial arrest for the file to be sent to the DPP,
- 2) One month from the receipt of this file for final directions to be issued,
- 3) Two months for the preparation of the book of evidence and sending it to the gardaí for service, and
- 4) Two weeks for the service of the book and the order for the accused to be returned for trial.

This means that, save in exceptional circumstances, the defendants in all rape cases should be returned for trial within six-and-a-half months of their initial arrest.

Other recommendations

In order to ensure compliance with these recommended time intervals, the council also recommended that:

- Rule 7(1) of the *District*

Court (Criminal Justice) Rules 1997, which deals with the 42-day rule, should be amended.

- The resources available to the Forensic Science Laboratory should be reviewed to ensure they are sufficient to meet the demand for forensic/DNA reports.
- The Department of Health and Children should open additional sexual assault units in major regional hospitals. Any additional regional units that may be opened should have adequately trained staff with the necessary forensic and medical expertise.
- There should be ongoing consultation between the gardaí and the DPP's office to ensure that all investigation files are completed to the required standard prior to their submission to the DPP.
- Use should be made of the latest information technology and the transferring of investigation files directly to the DPP's office. The use of secure electronic channels should be explored.
- The senior garda officer in charge of all murder and rape investigations and a nominated officer from the DPP's office should be responsible, as far as possible, for adherence to the recommended time intervals from arrest to service of the book of evidence.

The council also dealt with the time taken from the return for trial to the ultimate disposal of both murder and rape cases in

only 5% of murder cases

the Central Criminal Court.

In the period under review, the typical murder case was fixed for 50 weeks after the listing date and the typical rape case was fixed for 53 weeks after the listing date. This has now improved. The waiting time in 2002 was 18 months; in 2003, this was reduced to 12 months. However, cases listed in March of this year were being given trial dates in October and November.

The council endorsed the view that a realistic time between return for trial and arraignment is six months.

Greater efficiency

The council addressed other issues that it says could contribute to the greater efficiency of the court process and it identified certain matters that could contribute to delays. These include applications for separate trials; late change of counsel/solicitor; trials not reached; judge, registrar or courtroom not available; difficulties because of a need for translation services; and inadequacies of the Criminal Legal Aid Scheme.

The council recommended that:

- All murder and rape trials

should begin within six months of the return for trial, save in exceptional circumstances.

- There should always be sufficient judges, with registrars and appropriate resources, available to hear all criminal trials that have been scheduled to commence in the Central Criminal Court in a given week. This may have resource implications and impinge on the non-criminal business of the High Court.

- Cases that have to go back into the list for whatever reason to have a further trial date set should be given priority.
- The current practice whereby the Central Criminal Court sits in provincial locations should continue.
- Consideration should be given to introducing pre-trial hearings.
- The Criminal Legal Aid Scheme should be reviewed.
- While the Courts Service

COURTS SERVICE RESPONDS

The Courts Service has responded to the National Crime Council's report, saying that the waiting time for murder and rape cases heard before the Central Criminal Court has fallen dramatically over the past three years. It argues that the National Crime Council's report concentrates chiefly on the period prior to the last three years, although the council says that it examined all murder and rape cases disposed of in the Central Criminal Court from 2002 to 2004.

The Courts Service says that the current average waiting time from a case being listed before the Central Criminal Court and the trial going to hearing is now between 16 to 20 weeks. This is down from almost a two-year waiting period some years ago.

It lists the reasons for the time reduction as: the President of the High Court assigning four judges full time to hear such cases; a change in some court procedures; the availability and use of newly refurbished, now suitable, courthouses around the country to hear such cases; and judges sitting outside traditional court times to clear backlogs.




has invited tenders for an interpretation service on a nationwide basis, all other agencies in the criminal justice field should consider how best to meet their interpretation requirements.

- A common case-numbering system should be introduced across the whole criminal justice system.

The council says that, if these recommendations are accepted, the time interval in murder cases from arrest to start of trial should be 52 weeks, compared with 90 weeks in the research period and, in rape cases, should be 54 weeks compared with 118 weeks. **G**

Read the full report at:

www.irlgov.ie/crimcouncil/documents/Time_Intervals_Research.pdf.



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letters

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The Master replies

From: *The Master of the High Court, Edmund W Honohan SC*

Once again, the *Gazette* has published comments critical of my decisions (*Dog eat Dog*, by Stuart Gilhooly, *Gazette* August/September 2006) without asking for my response.

The net question is, when do proceedings against an added co-defendant 'commence'. Mr Gilhooly says that, for the purposes of substantive law (eg the *PLAB Act*) they commence when the plenary summons is issued at the outset. In support of his contention, he cites the late Budd J in *O'Reilly v Granville* ([1971] IR 90) to the effect that the 'deemed' commencement date (O15, r13) is only for procedural purposes.

The date of commencement also plays a critical role in the context of the *Statute of Limitations*. My view is that, although the rules are not substantive law, nonetheless proceedings 'commence' (even for substantive law purposes) when the rules say they commence.

Why did Mr Gilhooly not quote this passage, in the same case, from Ó Dálaigh CJ at p93? "Even if the words of O15, r13 were intended only to regulate procedural matters – eg to fix a date as from which an appearance shall be entered – in my opinion the position will be substantially the same as a matter of substantive law. An added party cannot be considered to have been a party to the proceedings earlier than the order giving leave to add. It would be contrary to the fact to hold otherwise; to operate retrospectively the court's order would, in my

opinion, require statutory support."

It appears, then, that my reading of the law (sneeringly dismissed by Mr Gilhooly as my "personal" view) is one shared by none other than Ó Dálaigh CJ!

In that case, it was the proposed co-defendant who submitted that he would be deprived of his *Statute of Limitations* rights by being treated as having been party to the proceedings *ab initio*. The court disagreed (2:1), ruling that an order under O15, r13 could not have retrospective effect.

The *ratio* of the decision was that (a) as an order under O15, r13 did not have retrospective effect, it was still open to the defendant to plead the statute as of the date he became a party, and that (b) it was not appropriate to adjudicate, at the interlocutory stage, whether or not the defendant could successfully plead the statute.

The case cited is *not* authority for the proposition that proceedings against such a co-defendant may be considered to have been commenced on any day other than the day specified in the rule.

The flaw in Mr Gilhooly's proposition is laid bare when he examines the post-PIAB summons situation. Mr Gilhooly (correctly) notes that in post-PIAB proceedings, a co-defendant cannot be added by the court (it would be "wrong" of the court, he says: interesting choice of word; I am not sure what it means) without PIAB authorisation.

Using his "one commencement date fits all" theory, the PIAB authorisation

would have the effect of bringing to life dormant proceedings which had "commenced" at the date of the summons, even though s12 of the *PLAB Act* provides that no such proceedings could be commenced then. Retrospective validation of a prohibited act achieved via PIAB authorisation? I think not! The only workable formula is that co-defendant proceedings "commence" for all purposes when the court makes its order under O15, and not before.

I am due an apology. The 'let's have a laugh at the Master's expense' tone is out of place, and the article is defamatory!

To sum up, if an added co-

defendant can plead the statute as and from the date he became a party, he also has the right to be PIAB-assessed if he so chooses, in all cases in which he was not a party until after the PIAB opened for business. If added "wrongly" (to use Mr G's disingenuous expression) on the *ex parte* application of the plaintiff, he may apply for a strike out, or he may choose not to. The *PLAB Act* is complicated enough as it is without introducing new problems. My advice is: pre- or post-*PLAB Act* summons, if you want to join a co-defendant, seek PIAB authorisation! Better be safe than sorry.



Cad a dúirt sé?

From: *RA Thomas Blaser, Mühlenstr 5/D-88662 Überlingen*

While reading the viewpoint of Henry Murdoch on the proficiency in Irish as a prerequisite to qualifying as a solicitor or barrister, I felt clearly disadvantaged as I was *not* able to understand the sub-headings.

On the other hand, being one of the EU lawyers admitted as a solicitor in Ireland, I clearly felt advantaged, even privileged, by not having to sit an additional examination in the Irish language.

But may I add a further fact to Murdoch's statement that "the reality is that the English language dominates in the law" and that he thinks it about time "to remove those compulsory Irish language proficiency

requirements ... to the legal profession".

I remember reading last year in my weekly newsletter *The Irish Emigrant* (issue no 984) that the introduction of Irish as the 21st official EU language on 1 January 2007 "may be compromised by a shortage of fully qualified interpreters".

There are high costs for the Irish Government of preparing official documents in Irish, and even higher costs for the EU to translate their sometime endless legal publications, but who will ever read these except the interpreters?

As I totally agree with Prof Murdoch [about the need] to focus on the "demonstrated need for such an (Irish) proficiency", I wonder if this investment is done at the right place.

Irish language is a 'diverse linguistic feast'

From: *Dáithí Mac Cárthaigh BL, An Leabharlann Dlí, Baile Átha Cliath 7*

I was very much taken aback by Henry Murdoch's comments on the Irish language (*Gazette*, June 2006), where unlawful acts and breaches of duty by the State in relation to Irish are used to justify his argument that the language's status be downgraded.

Were Mr Murdoch to use the fact that certain provisions in relation to gender equality or combating racism or advancing workers' rights were more honoured in the breach, and should therefore be abolished, he would be greeted with a frosty reception – except, of course, from those opposed to such measures in any event.

On the question of legislation, section 7 of the *Official Languages Act 2003* requires that, from 14 July 2006, the texts of acts be printed and published simultaneously in both Irish and English. The wording of this section mirrors long-established Canadian legislation. Section 133 of the *British North America Act 1867* provides:

"The acts of the Parliament of Canada and of the Legislature of Québec shall be printed and published in both [English and French]."

The Canadian Supreme Court held that this mandated the enactment of bills in both official languages (which should boost the amount of Irish used in the Houses of the Oireachtas):

"It was urged before this court that there was no requirement of enactment in both languages, as contrasted with printing and publishing. However, if full weight is to be given to every word of s133 it becomes apparent that this requirement is implicit. What is required to be printed and

published in both languages is described as 'acts' and texts do not become 'acts' without enactment" (*AG of Québec v Blaikie* [1979] 2 SCR 1016, at 1022).

The Canadian Supreme Court also held that this duty included the issuing, bilingually, of statutory instruments:

"Dealing now with the question whether 'regulations' issued under the authority of acts of the legislature of Québec are 'acts' within the purview of s133, it is apparent that it would truncate the requirement of s133 if account were not taken of the growth of delegated legislation. This is a case where the greater must

include the lesser" (*AG of Québec v Blaikie* [1979] 2 SCR 1016, at 1027).

courses just when bilingualism is becoming essential to statutory interpretation, not to mention the employment opportunities in Europe for lawyers with a command of Irish from 1 January 2007.

Were Irish an optional extra, the numbers taking it would be small. This is human nature in relation to optional subjects, especially those with a language element. When languages were made optional for the GCSE in England, the numbers taking a language dropped from 78% in 2001 to 58% in 2005, and the main reason for the 58% is that most

century. Irish is absolutely as flexible and adaptable as English and embodies the authoritative versions of the EU treaties and of *Bunreacht na hÉireann* without breaking its stride.

From the haunting beauty of *Urchill an Chreagáin* by Art Mac Cumhaigh to the post-modern slang of *Ros na Rún*, Irish is a diverse linguistic feast. Why else would Irish be studied and taught in universities from Moscow to Lublin (Poland), from Helsinki to Freiburg?

Marginalised under colonial rule, many Irish-speaking children had Irish beaten (or worse, ridiculed) out of them. Times have changed. Only Irish can provide us with a culturally-based identity – beyond colour and creed.

The norm here in northern Europe is that people speak both their national language and the international language (English/American). Why should Ireland lag behind?

Irish may once have been in retreat, but that is a trend that we are now reversing, both within and without the legal profession. More litigation than ever is being conducted through Irish, and not just by lawyers who were born and educated here. Irish, like any language, is a skill to be acquired by practice: it is a tool, not a barrier. However, as Mr Murdoch's article shows, anti-Irish prejudice runs deep.

Why Mr Murdoch cannot praise English without denigrating Irish is beyond me. If he perceives languages in general, and Irish in particular, as unlearnable, he should refrain from flaunting this prejudice.

Six thousand languages are spoken on Earth at present. It is expected that 90% of these will be lost by the year 2100. Irish is among the 600 expected to survive.

Every language that is lost



include the lesser" (*AG of Québec v Blaikie* [1979] 2 SCR 1016, at 1027).

The Irish High Court reached the same conclusion in *Ó Murchú v Cléireach Dháil Éireann* (JR 426/2000) in relation to the constitutional obligation to issue statutory instruments in both official languages: Irish and English.

Given the long-established practice of examining both language versions of bilingual legislation in order to determine the will of parliament (cf *Driedger on the Construction of Statutes*, Toronto, 1994), now is hardly the time to drop Irish from the core curriculum of our professional

non-state schools continued to make languages compulsory.

For the record, Welsh has never been compulsory in Wales, but English has been since the inception of State education and this, coupled with English being the sole language of power in that country for so long, led to a dramatic decline in the use of Welsh over the 20th century.

Undoubtedly, English (or American as it will surely be known by the end of this century) is not only beautiful, but useful. It is currently the international language, even more so than French or Latin were in their day.

Irish, without which there would be no Irish identity, has been spoken here for over 2,000 years and was the home language of the vast majority of our people until the mid 19th



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Chuin Meala (meadow of honey) is not the same thing as *Clonmel*. *Cill Bhríde* (the Church

of [St] Bríd) is not the same thing as *Kilbride* (murder your wife?). Consider the phrase *duine le Dia*.

It is not a question of whether a separate identity/society/nation can survive the loss of its language. The question is: how long can a

separate identity/society/nation subsist after such loss?

What became of the Cumbrians of northern England whose P-Celtic language was lost in the 10th century? What became of the eastern European Germanic Goths? Answer: assimilation.

Had the Poles abandoned Polish as their language following the partition of their country between Prussia, Russia and Austria, would Poland have reappeared on the map of Europe? Of course not. For a society, the loss of language is the loss of self.

Involuntary admissions

From: Mark Felton, Felton McKnight Solicitors, Greystones, Co Wicklow

As readers may be aware, the Minister for Health has announced that all remaining provisions of the *Mental Health Act 2001* will come into force on 1 November next. The provisions that will become effective on that date include new procedures in respect of the voluntary admittance of patients and the involuntary admittance of patients to hospitals for treatment, where they are deemed to be suffering from a mental disorder as defined by section 3 of the act.

The act provides that, in the case of a person who is involuntarily admitted to an 'approved centre', as defined by section 63 of the act, they must, within 21 days of their admittance to the centre, be brought before a tribunal of enquiry to establish whether or not their detention is lawful.

In order to facilitate this, the Mental Health Commission, in accordance with its statutory obligations, has created a panel of legal representatives who will act for

such persons at the tribunals. The Mental Health Commission has run a number of very informative and thought-provoking training courses for the legal representatives. Those of us who have been appointed to the panel are very grateful for the time and thought the commission put into the training process.

There was an opinion aired at the training course I attended

that we, as practitioners, would also benefit from having our own discussion group/committee, so that we could exchange relevant information on practice and procedure, for example, particularly as this is such a new practice area.

In the interests of providing a mechanism to enable such a group to commence, I would invite any interested practitioners to contact me by

email. We can then work out the details of how we can establish such a discussion group/committee, depending on the views of the practitioners. I would be willing to assist in compiling a list of all interested parties in the first instance.

If this is of interest to any other practitioners who have been appointed to the panel, I look forward to hearing from you. My email address is: mark@feltonmcknight.ie.

Legal writing opportunity

From: Henry Murdoch BL, Glenageary, Co Dublin

Are you a barrister or solicitor who has an ability to write coherently and concisely on legal matters? Or are you part of a legal team with these skills? Have you an interest in all areas of law? Are you prepared to make a major contribution for relatively limited monetary reward? Would you like to have your career possibilities enhanced by updating an established legal publication?

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following my retirement, to update my book *Murdoch's Dictionary of Irish Law*, the first edition of which appeared in 1988. It is now in its 4th edition (2004) at 1,255 pages and is acknowledged as the only comprehensive law dictionary covering all aspects of Irish law.

In updating the book, you would also be automatically updating the sophisticated electronic product *Murdoch's Irish Legal Companion*, which not only includes the dictionary but also includes the full text of most of the referenced sources, for example, the Constitution,

all acts since 1922, statutory instruments and Law Reform Commission Reports.

If you consider that you have the energy and the skill necessary to keep these publications up to date with my editorial assistance (the publications currently state the law as of 1 September 2004), and if you would like to receive an information pack on what would be involved in such updating, please contact: Henry Murdoch BL, 10 Haddington Lawn, Glenageary, Co Dublin. Phone 01 280 0460, or email: henry.murdoch@ireland.com.

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the ABC of PQE

Practising solicitors and legal firms might wish to carefully consider the cautionary words of the Equality Authority in relation to post-qualification experience (PQE) in recruitment advertisements, and a recent decision by the *Gazette* Editorial Board on the matter. Michelle Ní Longáin pores over the job adverts

Careful readers of the *Law Society Gazette* will have seen the notice in the last edition (Aug/Sept 2006, p67) – and in the Society’s latest eZine – pointing out that the magazine will no longer accept recruitment advertisements that contain references to post-qualification experience (PQE). The reason? The possibility of discrimination. The decision was taken by the *Gazette* Editorial Board, based on previous case law, on advice received from the Equality Authority.

Last June, the editor of the *Gazette* received a letter from the Equality Authority, which stated: “In our view ... references [in recruitment advertisements] ... to maximum limits regarding the number of years of post-qualification experience

sought indicates an intention to discriminate on the age ground, or might reasonably be understood as indicating such an intention, contrary to section 10 of the [*Employment Equality Acts 1998 and 2004*] act.”

At last July’s meeting, the *Gazette* Editorial Board met to consider the views expressed in the Equality Authority letter, and sought legal advice about the publication of PQEs in recruitment advertisements. The board, on legal advice, reviewed the letter from the authority and considered the decisions of the Equality Tribunal in the following cases: *Equality Authority v Ryanair*; *McGarr v*

MAIN POINTS

- PQE and discrimination
- Indirect discrimination on age and other grounds
- A strong defence



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Department of
Finance; *Noonan v*
Accountancy Connections.

The *Ryanair* case dealt with the publication of an advertisement for a “young dynamic professional”. In that case, the Equality Authority brought proceedings against Ryanair only; as the *Irish Times*, the publisher of the advertisement, had apologised for carrying the advertisement, despite

having published advertisements after that date which also used the word “young”. It was the use of this word that led the Equality Authority to refer this matter to the Equality Tribunal.

The *McGarr* case considered a claim brought by an employee against his employer, rather than an advertising claim brought by the Equality Authority. In that case, the imposition of a five-year service requirement for a promotional post was found to be indirectly discriminatory on the age ground.

The *Noonan* case concerned an application for employment where the recruitment process for an accountancy post advertised with an upper level of PQE was found to be indirectly discriminatory, and the respondent failed to justify such indirect discrimination.

High definition

At the time of all of these three cases, the *Employment Equality Act 1998* applied. It provided that the defence to indirect discrimination was that it was reasonable in all the circumstances. The Labour Court held that this concept of reasonableness had to be the ordinary, objective standard of reasonableness.

The law has now changed. The *Equality Act 2004*, amending the *Employment Equality Act 1998* (now the *Employment Equality Acts 1998 and 2004*), has changed the definition of indirect discrimination and the provision for its justification. Indirect discrimination on age (and other grounds provided for in the 1998 and 2004 acts) now arises where an apparently neutral rule or



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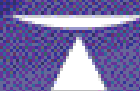
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provision puts people of a particular age (or other such ground) at a particular disadvantage in respect of any matter, compared with fellow employees. The provision also applies to candidates for employment and promotion. The act provides that the employer shall be treated for the purpose of the act as discriminating against the people referred to, unless the provision is objectively justified by a legitimate aim, and that the means of achieving that aim are appropriate and necessary. The Labour Court has held in *NBK Designs v Marie Inoue* that, in order to satisfy the 'objective justification test', it must be shown that the provision corresponds to a real need on the part of the undertaking, is appropriate with a view to achieving the objective being pursued, and is necessary to that end.

The court further elaborated by stating that it is not enough to conclude that the requirement is reasonable – the accepted test is that it must be essential. A High Court judgment was relied on in that regard. In determining whether or not the means chosen is appropriate, the court held that this requires that the means be proportionate to the objective that they are intended to achieve. The court held that, to satisfy the requirement of proportionality, it must balance the value of the benefit accruing to the employer against the discriminatory effect of the method by which it was achieved. The court further held that it is for the employer to demonstrate that there were no alternative means, having a less discriminatory effect, by which the objective in view could have been achieved.

Section 10 of the act, which was considered in the *Ryanair* case, was not amended in 2004 in respect of the age ground. Section 10 provides that a person shall not publish or display, or cause to be published or displayed, an advertisement that relates to employment and that indicates an intention to discriminate, or might be reasonably understood as indicating such an intention.

Section 10 further provides that the High Court or Circuit Court may grant an application for an injunction brought by the Equality Authority preventing the appointment of any person to any post to which an advertisement relates, where it appears

that there are grounds for believing that the publication or display of the advertisement may be in contravention of this section. Such an injunction may be granted until the decision of the director on a reference to the Equality Tribunal of the publication or display of the advertisement, or until the court otherwise orders. In the *Ryanair* case, the equality officer commented that the Equality Authority should have considered invoking its powers to seek an injunction from the High Court to prevent the filling of the post, pending the hearing of their referral to the Equality Tribunal.

Justified and ancient

The definition of indirect discrimination and the test for its justification is more onerous for recruiters, advertisers, publishers and employers than it was at the time of the decisions in both *McGarr* and *Noonan*. It is now more difficult to justify indirect discrimination than it was prior to the 2004 act amendments. The *Ryanair* case was also heard prior to the 2004 act amendments. The focus of the equality officer in the *Ryanair* case was whether or not the advertisement might be reasonably understood as indicating an intention to discriminate. The Equality Authority need not show that the advertiser, publisher or employer, in fact, intended to or did discriminate.

In the *Brendan Noonan* case, the equality officer stated that the question to be considered was whether or not the requirement of a maximum of two to three years' post-qualification experience to achieve the employer's aim of obtaining the appropriate skill-base of the role was unrelated to any discrimination based on age. The equality officer stated that a mere generalisation of years with skill level was insufficient to justify indirect age discrimination. This statement is as directly applicable to requirements for maximum PQE for solicitor posts as it is to accountancy posts.

The *McGarr* case did not involve the term 'PQE'; however, the issue at stake there was whether or not the requirement to have five years' experience at a particular grade was indirectly discriminatory. In that case, the complainant said that he had been provided with figures that confirmed that the bar to promotion to higher executive officer until five years' service had been achieved was going to result in age discrimination. The figures that he had been given showed that the five years' service requirement resulted in a significant under-representation of candidates under the age of 30 years and, consequently, an under-representation of higher executive officers under that age. He contended that the five-year service requirement had a more negative impact on people under the age of 30 years than on those over that age. In that case, the department accepted that the five-year service requirement could give rise to indirect discrimination on the age ground against persons aged less than 30. The equality officer found that the five-year service requirement could not be justified as being reasonable in all the

“A person shall not publish or display, or cause to be published or displayed, an advertisement that ... indicates an intention to discriminate, or might be reasonably understood as indicating such an intention”

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circumstances of the case and, therefore, the employer failed to justify indirect discrimination.

One of the contentions made by the employer in the *McGarr* case was that increased costs would result if the five-year threshold were not in place, and that this was an objective justification. The Equality Tribunal reviewed a European Court of Justice decision in *Hill and Stapleton v The Revenue Commissioners and Department of Finance*. In that case, the European Court of Justice had commented that, so far as justification on economic grounds is concerned, it should be noted that an employer cannot justify discrimination solely on the ground that avoidance of such discrimination would involve increased costs. The equality officer noted that an increase in costs cannot in itself provide objective justification for a discriminatory practice.

Discriminate Me

Arising from the *McGarr* case, the imposition of a minimum level of PQE is likely to be held to constitute indirect discrimination, unless it can be objectively justified on the basis set out above.

The comment made by the equality officer in the *Noonan* case that mere generalisation of years with experience is insufficient to justify indirect discrimination is likely to apply to both upper and lower limits of PQE.

Recruiters may have concerns that they will be unable to place informative advertisements in the absence of PQE. Where a claim is brought by an unsuccessful candidate, and the candidate succeeds in establishing facts in which discrimination can be presumed, the employer must prove the absence of discrimination. This is the requirement in our legislation. To do this, the employer must have cogent evidence.

The Equality Tribunal and Labour Court have repeatedly stated that employers should set non-discriminatory selection criteria before interview.

Recruitment exercises conducted with a competency-based interview and selection process, focused on the skills needed to do the job, are the most resistant to such claims. For example, in the case of *Olive Flanagan v Dublin City Council*, when finding in favour of the council in an alleged age-discrimination claim, the Labour Court commented that the competition was conducted fairly and in accordance with accepted good practice. The court noted a number of matters, including that marking had been carried out on objective, pre-determined criteria.

If recruiters and employers amend their advertisements to focus on the skills required for the jobs to be filled – rather than on the years of PQE required – they will provide themselves with much better defences than they would otherwise have, to claims that might be brought by the Equality Authority in respect of discriminatory advertising, and by internal and external candidates for advertised positions. At present, if an employer advertises for PQE as its main criterion, or one of its criteria, the employer risks an Equality Tribunal claim under section 10 by the Equality Authority, a High Court injunction, and claims by unsuccessful candidates who contend that they did not get the job because they were too old or too young for the employer, despite having suitable skills for the position.

As a result of the *Gazette* Editorial Board's in-depth review of the matter, the board has decided that the *Law Society Gazette* will no longer publish any recruitment advertisement that includes either lower or upper limits of PQE. In other words, references to PQE will no longer be permitted in recruitment advertisements published in the *Law Society Gazette*.

Advertisers should also be warned that advertising for 'newly-qualified solicitors' could also be taken to indicate an intention to discriminate on the age ground, or might reasonably be understood as indicating such an intention, contrary to section 10 of the 1998 and 2004 acts.

These issues also have ramifications for all practising solicitors or firms who place recruitment advertisements in newspapers, magazines, on radio, the web, or on their firms' websites – and who might be tempted to make references to PQE. Best and safest practice is – don't! **G**

Michelle Ní Longáin is an employment and equality lawyer at BCM Hanby Wallace

LOOK IT UP

Cases:

- *Equality Authority v Ryanair* (Equality Tribunal; 29/12/2000 DEC-E/2000/14)
- *Hill and Stapleton v The Revenue Commissioners and Department of Finance* (ECJ; Case C-243/95)
- *McGarr v Department of Finance* (Equality Tribunal; 3/9/2003 DEC-E/2003/036)
- *NBK Designs v Marie Inoue* (Labour Court; ED/02/34 determination no 0212)
- *Noonan v Accountancy Connections* (Equality Tribunal; DEC-E 2005/012)
- *Olive Flanagan v Dublin City Council* (Labour Court; ADE/04/31 determination no 059)

Legislation:

- *Employment Equality Acts 1998 and 2004*

Editor's note

The Law Society is not mandating solicitors to follow the decision taken by the *Gazette* Editorial Board. However, solicitors might wish to carefully consider the cautionary words of the Equality Authority, and the decision reached by the Editorial Board on foot of legal advice. To do otherwise might involve you in litigation with unsuccessful recruitment candidates, or lead to an appearance before the Equality Tribunal.



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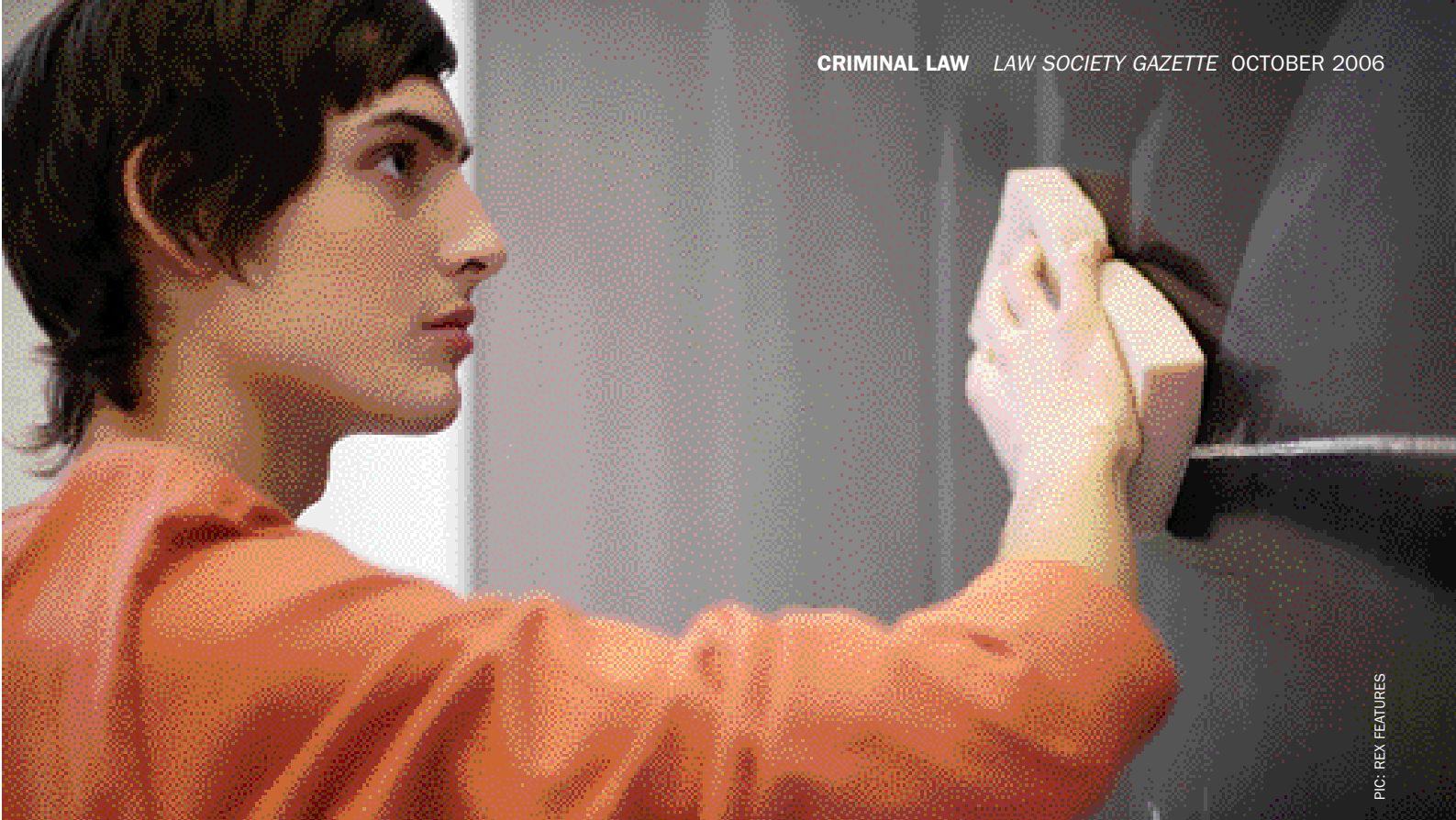
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Wiping the slate CLEAN

Getting a criminal record at a young age can have many adverse consequences in later life. It is worrying that there is no provision in Ireland for wiping the records of adult offenders clean, argues Dara Robinson

Every day, young people in Ireland – mostly male – appear before the District Courts, are convicted of (usually) minor offences, and receive fines and, more importantly, criminal records. The offences in question are frequently of a public-order nature or the most minor type of theft or drugs allegation – hardly those that suggest either a threat to the social fabric or a hardened offender. Often unrepresented, they leave court apparently unaware that they now have that criminal record for life. The consequences of that record may not become obvious for some years, and it is a little worrying that there is no legal provision in Ireland for the wiping clean of the records of adult offenders. A criminal record,

however minor, can have adverse consequences in respect of, among other things, visas, employment, insurance, entry to professions, and licences, such as PSV or firearms.

Because of this, it is surely opportune to consider the institution of a system whereby the slate, as it were, can be wiped clean.

In fact, such a mechanism already exists within the terms of section 258 of the *Children Act 2001*, whereby young persons convicted of an offence committed before their 18th birthday, other than the most serious offences triable only by the Central Criminal Court, will – provided they observe good behaviour for a period of three years – be treated as being of good character in almost all circumstances.

MAIN POINTS

- **Rehabilitation of young offenders**
- **Practice in other jurisdictions**
- **Deleting criminal records after a period of time**

“Pardons are intended to contribute to the rehabilitation of offenders by enabling them to put their past misdeeds behind them and re-establish themselves as law abiding and productive members of the community”

Laudable though this clearly is, it is ironic that a youth who commits the offence of, say, manslaughter one week before they turn 18 can thus avail of the scheme of rehabilitation, whereas a youth who commits a breach of the peace at age 18 plus one week cannot. This appears both arbitrary and undesirable, and bucks the international trend.

Tabula rasa

Britain legislated for this situation over 30 years ago with the *Rehabilitation of Offenders Act 1974*. Section 4 of this provides for a system of ‘spent convictions’, whereby an individual is “treatable for all purposes in law” as never having committed the relevant offence, or having been prosecuted or convicted. (The wording of our s258 referred to above is almost a direct lift from s4.) Periods after which an offence is spent range from three to ten years for offences that have attracted prison sentences, depending on the age of the offender and length of sentence, through five years for fines, to six months for ‘an absolute discharge’ (in respect of which there is no direct equivalent in Irish law). Where a probation order has been directed, the rehabilitation period is the length of the order.

This act is no soft touch. Prison sentences of over two-and-a-half years can never be spent, and many offences can be retained on the Police National Computer in Britain even after they become spent, such as offences of indecency, violence, or supply of drugs.

With typical Antipodean bluntness, the New Zealand equivalent, the *Criminal Records (Clean Slate) Act 2004* takes a similar approach. This act is more restrictive in scope. The conviction must be over seven years old and, the eligibility criteria being satisfied, the person is entitled to put their past behind them. The criteria are strict: custodial sentences are entirely excluded, as are many offences such as sexual crimes against children or young people, and all other penalties, such as fines, must have been paid. The clean slate scheme does not apply, however, when applying for visas or for certain types of employment, such as the police force, or prison or probation services.

North and south

The Canadian *Criminal Records Act 1985* enables people who have been convicted of a criminal offence to obtain a pardon after a minimum conviction-free period of good behaviour (three years where the person was convicted summarily and five years where the person was convicted on indictment) following completion of sentence. The National Parole Board hears applications for pardons that are, in effect, automatically issued in summary cases and dealt with after enquiries for cases tried on indictment. Needless to say, a further conviction will disbar the applicant from obtaining a pardon. Pardons are intended to contribute to the rehabilitation of offenders by “enabling them to put their past misdeeds behind

them and re-establish themselves as law abiding and productive members of the community”. Pardons can be revoked if there is a subsequent conviction of a federal offence prosecuted on indictment. Misleading the parole board in an application can also lead to the pardon being revoked.

In Australia, most states (with the exceptions of South Australia and Victoria) and the federal government have a similar spent convictions scheme that applies, across the board, to offences – provided a prison sentence in excess of 30 months was not imposed, that ten years have passed since the commission of an offence, and there has been no re-offending in the intervening period.

Interestingly, the debate in the former British colonies has moved on considerably – from the principle of whether or not such schemes are justified to fine-tuning exceptions (in particular, to deal with people who might have access to children in the course of employment), and to providing a statutory scheme of punishment and penalties for persons who make unauthorised disclosure of the spent convictions of an individual.

Go west

By contrast, the USA has no corresponding nationwide system. There is, however, growing recognition of the importance of this issue, and six states, including New York and California, have introduced a system of certificates of rehabilitation to assist individuals to demonstrate their commitment to reintegration into productive society. Despite virtual unanimity among penal experts that employment is critical to reducing recidivism and thus promoting public safety, many federal and state laws and policies militate against successful re-entry. Sadly, with close to one million individuals being discharged from state, federal and local prisons annually, nearly two-thirds are rearrested within three years of their release, a situation that cries out for steps to assist rehabilitation, rather than the obstacles often currently put between an offender and a productive future.

Early this year, the City of Chicago announced a reform of the city’s hiring policies in relation to job seekers with criminal records, requiring the city to “balance the nature and severity of the crime with other factors, with the passage of time and evidence of rehabilitation”. This was overt recognition of the fact that many people from low-income areas were “disproportionately impacted by the criminal justice system and therefore barred from a number of jobs based solely on their criminal records”. The city further expressed the view that it hoped this initiative would be adopted by private employers.

Off with a caution

As if to underline the importance of the essential proposition, schemes whereby minor offenders are cautioned, rather than prosecuted, are now widespread in Europe. Long established in this jurisdiction has

LOOK IT UP

Legislation:

- *Children Act 2001*, section 258
- *Criminal Records (Clean Slate) Act 2004* (New Zealand)
- *Criminal Records Act 1985* (Canada)
- *Rehabilitation of Offenders Act 1974* (Britain)

been the Juvenile Liaison Office scheme, a formal admonishment by the gardai that avoids the stigma of court appearances and a potential criminal record. In February 2006, the DPP introduced a formal system of adult cautioning for minor offences, including public order, criminal damage to a value of €1,000, theft to a value of €1,000, and even certain assaults. The DPP expressly acknowledges "the public interest" in not prosecuting in certain instances, depending on the circumstances of the offence and of the offender. There appears still to be a significant body of cases appearing before the courts, in Dublin at any rate, that one would have thought could have been appropriately dealt with under this diversionary programme, and statistics are not yet available as to the numbers of such offenders who are dealt with outside the formal criminal justice system.

Interestingly, and after some debate, drugs offences, including simple possession of any type of drug, are excluded from the diversionary programme. This is an approach away from the European mainstream, including England and Wales, where cautions for minor drugs offences are now the norm. In Portugal, since July 2001, people found in possession of any illegal drug for personal use are, rather than prosecuted, referred to a commission for dissuasion

from drug use. These commissions, consisting of health, legal and social-work professionals, treat drug abuse as predominantly a health issue and act to dissuade further offending without necessarily excluding punitive sanctions. To date, fewer than 10% of such offenders receive such sanctions after their cases have been examined by the commission. The fears expressed by the local tabloid media in respect of Portugal being swamped with European drug users and abusers have not come to pass, and recent research suggests no significant increase in drug use and significant resource-savings in the court and prison systems.

Many readers will be aware, often from personal experience, that the line between being arrested and not being arrested is a very fine one. Permanent stigmatisation, with a criminal record, of a young person can be damaging, costly, and counter productive. International best practice, current trends and academic thinking would appear to suggest that the absence of a system of deleting criminal records after the passage of a period of time is something that needs to be addressed. **G**

Dara Robinson is a partner in the Dublin law firm Garrett Sheehan & Partners.



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EXPERT

The Sally Clark murder case in Britain put expert witnesses in the firing line when the evidence of an eminent paediatrician was found to be “misleading”. The expert was subsequently struck off the register by the General Medical Council. William Kennedy asks whether the same could happen in Ireland

“There can be no doubt that the administration of justice has been seriously damaged by the decision of the FPP [Fitness to Practise Panel] in this case and the damage will continue unless it is made clear that such proceedings need not be feared by the expert witness.”

These were the remarks of Mr Justice Collins in his judgment, delivered on 17 February 2006 in the High Court, London, as a result of an action taken by the eminent paediatrician, Professor Roy Meadow, against the General Medical Council (GMC) in Britain. Professor Meadow had previously been struck off the medical register by the council, following what was described as his “misleading” evidence in the famous Sally Clark case in Britain. The GMC had found Professor Meadow guilty of serious professional misconduct. The doctor stood by his evidence, however, but admitted that his use of statistics at Mrs Clark’s 1999 trial had been “insensitive”.

Prior to his retirement from clinical practice in 1998, Professor Roy Meadow was the head of the Department of Paediatrics and Child Health at St James’s Hospital in Leeds. Professor Meadow gave evidence in Chester Crown Court in 1999, following which Sally Clark was convicted of the murder of both of her children.

Subsequently Sally Clark’s appeal to the Court of Appeal was allowed when it was discovered that results of relevant microbiological tests had not been disclosed by the pathologist, Alan Williams. Her appeal was allowed on 29 January 2003 and no retrial was ordered.

Badly flawed

Separately, Sally Clark’s father made a complaint against Professor Meadow to the Fitness to Practise Committee of the GMC. The complaint broadly

alleged that the evidence that Professor Meadow had given to the criminal courts had been badly flawed, particularly in the misuse of statistics, and therefore he deserved to be found guilty of serious professional misconduct and prevented from acting as an expert in child protection cases. The professional misconduct hearing proceeded before the Fitness to Practise Panel. Professor Meadow was found guilty of serious professional misconduct and it was ordered that his name be erased from the register. Professor Meadow appealed the finding of serious professional misconduct and the sanction of erasure.

Concern

Naturally, this finding caused some concern among medical practitioners, particularly those who were asked to prepare reports and give evidence in court. Mr Justice Collins considered in some detail the immunity from suit of a witness in respect of evidence they might give in a court of law. This immunity applies as much to an expert as to any other witness. The immunity had not been extended to prevent the bringing of disciplinary proceedings. That seemed to be because the argument had not hitherto been deployed that the rationale that lies behind the grant of immunity from suit should apply equally to such disciplinary proceedings.

He therefore allowed the appeal against the finding of serious professional misconduct as, in his view, the Fitness to Practise Panel of the GMC should not have considered the complaint.

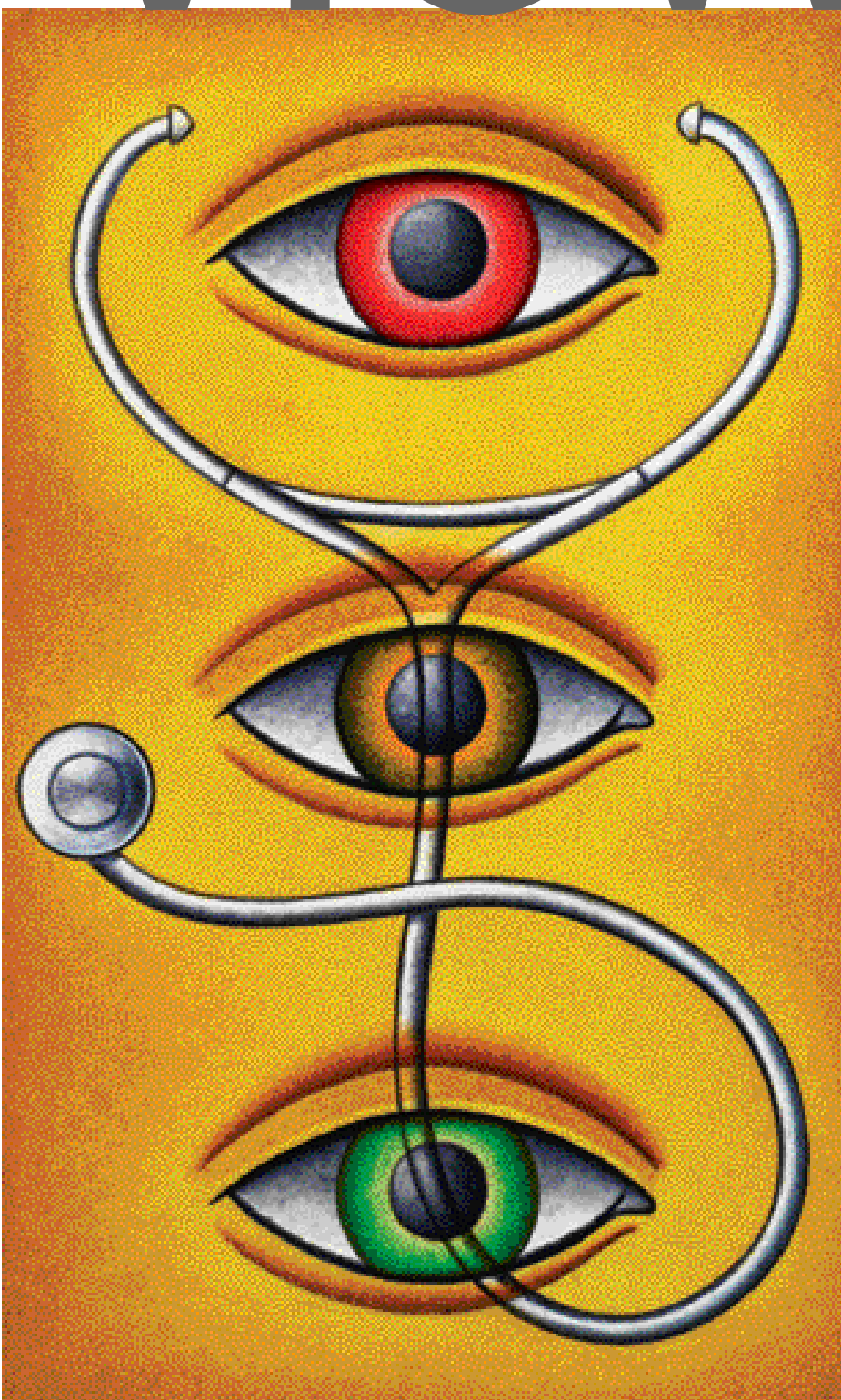
The GMC has appealed the decision.

Would this reasoning be followed in this jurisdiction? In the unreported Supreme Court judgment of *O’Keeffe v Kilcullen & Ors*, delivered on 23 October 2001, the court had similar issues to consider. This action arose out of nullity proceedings between Denis O’Keeffe, petitioner, and Eileen O’Keeffe, respondent.

MAIN POINTS

- Immunity from suit of a witness or expert
- Bringing disciplinary proceedings against experts
- Changes to in camera rule in this area

view



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Mrs O'Keeffe instituted proceedings by way of plenary summons in November 1992 against her solicitor, barrister and her expert witness, a consultant psychiatrist. Mrs O'Keeffe alleged negligence against all defendants and against the psychiatrist in her capacity as an expert witness. Mr Justice O'Sullivan dismissed Mrs O'Keeffe's claim following an application by the psychiatrist and others that Mrs O'Keeffe's case disclosed no reasonable cause of action. Mrs O'Keeffe appealed Mr Justice O'Sullivan's order to the Supreme Court.

The judges (Murphy, Murray and Fennelly JJ), dismissing the appeal, stated that the Constitution expressly recognised the need for finality in the judicial process. Justice was more likely to proceed if persons participating in litigation, whether as parties, witnesses, judges, jurors or lawyers, could discharge their function without the fear of being held to account, at the suit of perhaps a disgruntled litigant, for the manner in which the expert performs his or her role. The judges cited the judgment of Salmon J in *Marrinan v Vibart* (1992 All ER) (a case that was also relied on by Mr Justice Collins). The court also referred to *Evans v London Hospital Medical College* (1981 All ER), where the immunity of an expert witness was extended to work done by the expert in the preparation of the evidence to be given in court.

The court also noted that, in *Hall v Simons* ([2000] 3 All ER), the House of Lords had determined that it was no longer appropriate that barristers or solicitors should enjoy immunity from proceedings for negligence against them in respect of the manner in which they conducted proceedings in court.

In relation to witnesses, the court also cited *In Re Haughey* (1971 IR), where Ó Dálaigh CJ recognised that witnesses in court did enjoy immunity: "... the immunity of witnesses in the High Court does not exist for the benefit of witnesses, but for

“It would now appear possible that litigants in matrimonial proceedings would be able to pursue complaints against legal practitioners, either to the Law Society or the Bar Council”

that of the public and for the advancement of the administration of justice and to prevent witnesses from being deterred by fear of having actions brought against them, from coming forward and testifying for the truth. The interests of the individual is subordinated by the law to the higher interest, viz, that of public justice, for the administration of which it is necessary that witnesses should be free to give their evidence without fear of consequences.”

Section 34 of the *Judicial Separation and Family Law Reform Act 1989* requires family law cases to be heard *in camera*. The effect of this section was that any information in relation to cases pursuant to section 34 of that act could not be the subject of an inquiry by a professional body that had a duty to investigate complaints, such as the Law Society or the Medical Council.

In *MP v AP; John Connolly Applicant (Practice: In Camera)* (1996 IR), one of the parties complained a consultant psychologist to the Psychological Society of Ireland. The psychologist applied to the High Court for directions as to whether he was obliged to respond to the complaint and whether the defendant was entitled to maintain his complaint, having regard to the *in camera* rule of the court in matrimonial proceedings.

Laffoy J held that section 34 of the 1989 act was mandatory. In making the complaint to the society, the defendant divulged to the public confidential matters arising out of the proceedings taken under that act and, accordingly, contravened that section.

On the question of witness immunity, Laffoy J said:

“There is ample authority to support the

proposition advanced by counsel for the applicant that a witness is protected from civil proceedings, not merely an action for defamation, in respect of his evidence in the witness box and statements made in preparing evidence (*Watson v M'Ewan*, *Watson v Jones* [1905] AC; *Marrinan v Vibart* [1962] 1 All ER). While no authority has been cited that supports the proposition that an expert witness is immune from disciplinary proceedings or investigation by a voluntary professional organisation to which he is affiliated, in respect of evidence he has given or statements he has made with a view to their contents being adduced in evidence, having regard to the public policy considerations that underlie the immunity from civil proceedings – that witnesses should give their evidence fearlessly and that a multiplicity of actions in which the value or truth of their evidence would be tried over again should be avoided – in my view such a witness or potential witness must be immune from such disciplinary proceedings or investigation. However, I consider that it is not necessary to make a declaration that the society cannot conduct any inquiry in relation to evidence given by the applicant or any statements made by the applicant in preparation for oral testimony or evidence on affidavit in these proceedings because such inquiry is precluded by section 34 of the act of 1989.”

Changes to the *in camera* rule

With the introduction of section 40 of the *Civil Liability and Courts Act 2004*, the operation of the *in camera* rule will no longer prohibit complaints being made to a professional's regulatory body. Section 40 concerned provisions in a number of statutes concerning proceedings heard otherwise than in public. Section 40(7) of that act provides that the *in camera* rule will not operate to prevent the giving of information to another body for the purposes of, among other things, conducting an investigation. It will be a matter for judicial interpretation to what extent that regulatory authority could pursue such a complaint.

In *O'Keeffe v Kilcullen & Ors*, the Supreme Court appeared to approve the decision of the House of Lords in *Hall v Simons* when Murphy J said: “It seems clear that lawyers will not be immune from suit if it is established they acted negligently on behalf of their client whether in preparation for, or in the conduct of, legal proceedings.”

It would now appear possible that litigants in matrimonial proceedings would be able to pursue complaints against legal practitioners, either to the Law Society or the Bar Council.

In *Penney v New Brunswick Association of Social Workers*, 4 April 2002, the Court of Appeal of New Brunswick decided differently. This case involved a complaint to the association concerning affidavit evidence sworn by one of its members, Mr Penney,

LOOK IT UP

Cases:

- *Eastern Health Board v The Fitness to Practise Committee of the Medical Council & Ors*, [1998] 3 IR
- *Evans v London Hospital Medical College*, 1981 All ER
- *Hall v Simons*, [2000] 3 All ER
- *In Re Haughey*, 1971 IR
- *Marrinan v Vibart*, [1962] 1 All ER
- *MP v AP; John Connolly Applicant (Practice: In Camera)*, 1996 IR
- *O'Keeffe v Kilcullen & Ors*, 1992 No 7133 p
- *Penney v New Brunswick Association of Social Workers (Canada)*
- *Watson v M'Ewan*, *Watson v Jones*, [1905] AC

Legislation:

- *Civil Liability and Courts Act 2004*
- *Judicial Separation and Family Law Reform Act 1989*

in matrimonial proceedings. While the court recognised witness immunity in general, it was not convinced that such a rule extended to professional disciplinary proceedings:

“In my opinion, the policy considerations underlying the immunity rule were developed to prevent legal action for damages in defamation, negligence or other damages, however framed. The rule, however, was not intended to make it impossible for professional disciplinary bodies to regulate the conduct of their members (by statements or otherwise) in the course of judicial proceedings.”

In *Eastern Health Board v The Fitness to Practise Committee of the Medical Council & Ors* ([1998] 3 IR), the primary question for determination was whether there was an absolute embargo on the production in subsequent proceedings of information that derived from, or was introduced in proceedings protected by, the *in camera* rule. Barr J held, among other things:

“In the matter under review, complaints of a serious nature which, *prima facie*, appear to have a significant basis, have been made in five cases involving children alleging professional negligence and/or incompetence by Dr Woods in the course of her practice as a medical specialist in the area of diagnosis and treatment of child abuse. In these circumstances, there is an imperative public interest that such complaints should be fully investigated by the committee as the body having statutory authority to carry out such inquiries.”

Medical reports and PIAB

In 2005, 90% of claims received by the Personal Injuries Assessment Board (PIAB) were accompanied by medical reports prepared by the

claimant's treating medical practitioner. What would be the position, therefore, if the claimant/patient wished to make a complaint to the Medical Council arising out of the preparation or content of such a medical report?

It would appear that complaints could still be entertained by the Fitness to Practise Committee of the Medical Council in relation to a failure by a medical practitioner to provide a report but, if the Justice Collins judgment were followed, no complaint would lie in relation to the contents of such a report.

Whatever the status of PIAB reports, it would appear clear that for any report written by a registered medical practitioner for the purposes of *court* proceedings, he or she ought not to fear being complained to the Medical Council. This would follow for all professionals who are asked to act and give evidence as experts in litigation.

The Meadow judgment has caused such concern in Britain that it has prompted the Attorney General to write to the Court of Appeal in support of the appeal by the GMC. That appeal was heard at the end of July 2006, and the Court of Appeal is expected to deliver its judgment towards the end of October.

Whatever the outcome, any judicial debate in this jurisdiction ought to differentiate between the application of the witness immunity rule – having regard to the administration of justice – and extending that rule to professional disciplinary proceedings, so that professional disciplinary authorities can regulate the conduct of their members in the public interest. **G**

William P Kennedy is head of professional standards and legal adviser to the Medical Council in Ireland.

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HEAVY traffic

Outside of the *Refugee Act 1996*, there appears to be no legal status in Ireland for child or adult victims of human trafficking, even on humanitarian grounds. Stephen Collins argues that the *Criminal Law (Trafficking in Persons) Bill 2006* is an opportunity to bring the State into line with Europe

Trade in human beings is the world's third most lucrative illegal transaction behind narcotics and arms. It generates eight billion dollars a year. To date, Ireland has signed, but not ratified the *Palermo Protocol* (see panel). The *Criminal Law (Trafficking in Persons) Bill 2006* is an opportunity to bring the State into line with Europe. Victims of trafficking may be able to avail of subsidiary protection once *Council Directive 2004/83/EC* is transposed into domestic law by 10 October 2006, though it does not relate specifically to them. Refugee status will remain the strongest protection available to victims.

A modern form of slavery

The definition of a refugee contained in the *Refugee Act 1996* is based on the 1951 *Geneva Convention*. The convention's post-war language certainly did not anticipate the modern problem of trafficking. The *Palermo Protocol*, in contrast, is acutely aware of the advances made by trans-national crime. *Palermo* declares that 'exploitation' shall mean "at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (article 3a).

The US *Victims of Trafficking and Violence Protection Act 2000* is one of the earliest and most explicit legislative descriptions of trafficking. "Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today ... an evil

requiring concerted and vigorous action by countries of origin, transit or destination, and by international organisations" (section 102(b)(1) 21). These words are appropriate to Ireland in 2006 – particularly the stark warning that this is "a trans-national crime with national implications".

The EU AGIS conference (Dublin, 17-18 November 2005) found that "trafficking of human beings into Ireland does not currently appear to be a significant problem".

However, when a number of raids were made on lap-dancing clubs in Dublin as part of 'Operation Quest', "over 150 female non-EEA (European Economic Agreement Area) nationals were questioned to establish their identity and immigration status. Only a small minority of those questioned claimed they had been sexually exploited. *Most had travelled to Ireland of their own free will*" (emphasis added).

In fact, consent – free will – is irrelevant in exploitation and trafficking situations (*UN Trafficking Protocol*, article 3b). Extreme cases illustrate the impossibility of meaningful consent.

In forced prostitution, the victim is usually taken directly to an apartment or house upon arrival in the destination country (she may have been sold to a local gang). She will be locked in a room and raped there several times a day. Severe beatings, starvation and STD infection are extremely common. The victim rarely receives medical attention. There does not appear to be a typical timeframe for imprisonment, which can range from weeks to months with

MAIN POINTS

- The 'modern' problem of trafficking
- *Palermo Protocol*
- Trans-national crime with national implications



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unpredictable outcomes.

Children are most likely to be discovered and placed in care by authorities at arrival stage. However, they are susceptible to coaching and threats, and it appears that traffickers pre-arrange signals and/or a later meeting place, often using mobile phones, to extract them from care.

Victims are sometimes obliged to claim asylum using a fictitious history given to them by their traffickers. It is in the traffickers' interests to have their victims in the State on a legal footing, if possible. Practitioners should be aware that consultation might be the only opportunity the victim has to speak freely. Unaccompanied minors or young single women from particular countries of origin recounting an obviously rehearsed story should prompt the legal representative to make further enquiries. Certain countries of origin are notorious for trafficking, and practitioners should research these. Failure to do so may result in the asylum process being used as a tool for trafficking.

Repeat abduction

The UNHCR guidelines state that "some victims or potential victims of trafficking may fall within the definition of a refugee contained in article 1A(2) of the 1951 convention and may therefore be entitled to international refugee protection".

Article 14 of the *Trafficking Protocol* states that "nothing in this protocol shall affect the rights, obligations and responsibilities of states and individuals under international law including ... in

particular, where applicable, the 1951 convention and the 1967 protocol relating to the status of refugees and the principle of *non-refoulement* as contained therein".

The *UN Trafficking Protocol*, therefore, complements refugee status determination. Whether or not subsidiary/other protection is implemented, the State's asylum system should process claims in an appropriate way.

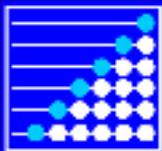
Victims of trafficking have experienced harm that equates with persecution (medical evidence in these cases tends to be strong). Professor Hathaway in the *Law of Refugee Status*, says it is "unnecessary to establish past persecution in order to succeed on a claim to refugee status. Where evidence of maltreatment exists, however, it is unquestionably an excellent indicator of the fate that may await an applicant upon return to her home" (3.2.3, p88).

The well-founded fear is of repeat abduction and consequent trafficking, possibly to a State where the victim will not be detected. The UNHCR explains "women and children can be particularly susceptible to serious reprisals by traffickers after their escape and/or upon their return, as well as to a real possibility of being re-trafficked or of being subjected to severe family or community ostracism and/or severe discrimination".

Private individuals may inflict persecution if "the authorities refuse, or prove unable to offer effective protection". However, the "mere existence of a law prohibiting trafficking in persons will not of itself be sufficient to exclude the possibility of persecution".

THE PALERMO PROTOCOL 2000

The *Palermo Protocol* (or *UN Trafficking Protocol*) defines 'trafficking in persons' as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments of benefits to achieve the consent of a person having control over another person, for the purpose of exploitation" (article 3a).



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Country-of-origin information will establish whether State authorities have practical mechanisms in place to protect against the harm complained of.

Practitioners should discover how and why the person fell victim to trafficking. Trauma often hinders clear instructions, especially at first consultation.

The International Organisation for Migration notes that “outside the *Refugee Act 1996*, there appears to be no legal status in Ireland for child victims of trafficking. The provisions of leave to remain in Ireland for humanitarian reasons do not appear to be granted for such children”. The same is true for adult victims.

Illegal immigrants, failed asylum seekers and failed applicants for humanitarian leave to remain are liable to deportation from Ireland. It is imperative that the system should be alive to the problem.

Refugee status is a stronger and better protection than either subsidiary protection or humanitarian leave to remain. A grant of status, therefore, reflects the seriousness of trafficking.

In arguing that victims of trafficking be given access to the asylum process, one should bear in mind the reported benefits of giving evidence, which can aid the alleviation of many post-traumatic symptoms.

Consequences of failure

For the victim, ongoing persecution, the extinction of hope, and physical and psychological harm becomes irrevocable – leading to final abandonment and the risk of death. For the State, there is concern over the spread of sexually-transmitted diseases, violence, and the growth of a criminal ‘industry’ that rivals illegal trade in arms and drugs.

CASE STUDIES

Case Study 1

Non-EEA woman trafficked into Ireland, imprisoned and forced into prostitution. Escapes after three months but does not recognise ‘An Garda Síochána’ as the police station. Application for asylum declared manifestly unfounded. Written appeal refused on credibility grounds. Humanitarian leave to remain refused. Report finds that if it were true she was forced into prostitution in Ireland, she would be safer in her country of origin. Client deported without warning.

Case Study 2

Non-EEA girl sold to trafficking ring as a minor. Trafficked throughout Europe for ten years. Escapes and comes to Ireland as an asylum seeker. Refused at first instance, but granted right to oral appeal. Refugee status granted. Refugee Appeals Tribunal finds that women from her particular background are a social group. Decision-maker notes that, when very young, appellant “lacked a psychological arch” necessary to help herself.

LOOK IT UP

Legislation:

- *End Demand For Sex Trafficking Act 2005* (USA)
- *European Council Directive 2004/83/EC* of 29 April 2004
- *Geneva Convention 1951*
- *Palermo Protocol* (UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention Against Transnational Organised Crime, also referred to as the *Trafficking Protocol*, adopted in 2000)
- *Refugee Act 1996*
- *Victims of Trafficking and Violence Protection Act 2000* (USA)

Literature:

- *Draft Information Note on Human Trafficking*, 5 May 2006, Irish Refugee Council
- *The Law of Refugee Status*, by James C Hathaway, Markham, Butterworths (Canada), 1991
- *Trafficking in Unaccompanied Minors in Ireland*, by Dr Pauline Conroy, August 2003, for the International Organisation for Migration (IOM)
- *UNHCR Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked*, 7 April 2006.

The State may also amplify harm done to victims by deporting them and exposing them to the same risk again, leading to a clear breach of the principle of *non-refoulement*. Quite apart from legal principles, it is morally indefensible to aid traffickers in this way.

Many countries of origin cannot protect victims from the initial abduction and trafficking that lead to situations of forced prostitution.

Victims of trafficking seek asylum in Ireland following exploitation, either in or out of the State. These applications are complex and demanding. Clients find it difficult to communicate their experiences for a variety of reasons. Practitioners should be aware of the problems clients are likely to face in the determination of refugee status.

The area demands innovation in policy and practice. The US’s *End Demand For Sex Trafficking Act of 2005* is an example. It targets male clients rather than victims of trafficking. However, there is controversy that it distracts from the protection of victims.

The growth of trafficking is a modern phenomenon. A modern conception of what it means to be a refugee is necessary to help victims. Subsidiary protection will add to, but cannot replace, the protection currently available.

The ‘nudge-nudge, wink-wink’ image of prostitution is to trafficking what the minstrels were to racism. It suggests levity where there is none. We should not be naïve about the sophistication of modern traffickers, the profits involved and the lengths they are willing to go to for them. **G**

Stephen D Collins is head of immigration at Terence Lyons & Co. With thanks to Jacki Kelly of the Refugee Legal Services.

“The ‘nudge-nudge, wink-wink’ image of prostitution is to trafficking what the minstrels were to racism. It suggests levity where there is none”

The times they

The 1960s was a time of significant change for the world, in terms of music, culture, politics and war. Ireland, too, was beginning to feel the influence of external forces. Mark McDermott continues his review of the Society's development through the pages of the *Gazette*

At the ordinary general meeting on 28 April 1960, the president, John J Nash, commented on the complexity of modern life, as it was then. His words ring strangely true for the profession today, which, no less than then, is facing huge change in terms of public expectations.

"During the past decade or so the pattern of life in Ireland has undergone a fundamental change among the farmers, the wage-earners and the business community. What is known as 'out-put' in the business world has become a matter of primary importance with all sections of the Community. Even our rural community who are so conservative feel that one can no longer kill time without injuring Eternity. Efficiency – whether real or simulated – has become so common-place that even the man who does nothing in particular does it very well. Life has become more complex and the outlook of the Society has substantially changed. Our profession comes into close contact with all sections of the community. We must serve the public as they want to be served. With the changing outlook of the community we have had to change our outlook also. No profession which does not continually test its ideals, techniques and measure of accomplishment can claim real vitality. Ours has always been virile and vital. It is the ambition of your Council to keep it so..." (*Gazette*, May 1960, p3).

'Common Market'

The 'Common Market' was discussed at length by the Society's Council on several occasions throughout the decade. In May 1962, the president, George G Overend, made the following remarks about the impending change facing the country:

"The future of the legal profession in this country is more uncertain today than it has ever been before. It seems now very possible that Ireland will, before long, become a member of the European Economic Community, more generally known as the Common Market. Very few of us profess fully to understand the implications of such membership but they will be far-reaching and will affect us politically, in trade and commerce, and indeed in the profession.

"It is by no means certain as to what will be the exact form which membership will take. The admission of [Britain], Ireland and possibly some of the Scandinavian countries will pose problems that

did not face the original Six, and changes in the Treaty of Rome may ensue. The treaty is a complex organisation and I think I can say without fear of contradiction that the effect of some of its provisions are far from clear ...

"The general tenor of the whole treaty is to create one large community within which there should be a free inter-change of population, of labour and of services and it would seem from this that professional men, which would include lawyers, may likewise have the right of 'freedom of establishment' to a greater or lesser degree" (*Gazette*, May 1962, p3). What would Mr Overend have made of the influx of 'professional women' to the Society in the new millennium, not to mention the influx of member states to the European Union!

The *Gazette* underwent an aesthetic change in May 1965, with its masthead running vertically down the left-hand side of the front page. In 1965, its paper quality dramatically improved with the move to full art paper. In January 1968, the typeface changed, making the journal easier to read. The outgoing president of the Society, John Maher, in his valedictory speech to the Council, spoke glowingly of the *Gazette*:

"As you know, every member of the Council receives a copy of the *Gazette* ... I would appeal to all of you to make a special effort to read the *Gazette* every time you receive it ... Every solicitor should read it" (*Gazette*, December 1965, p52). And so say all of us!

In January 1969, the *Gazette* reported on "the outstanding event of the year" – the 12th biennial meeting of the International Bar Association in Dublin. The Society's president, Eunan McCarron, said: "May I say straight away that this was an unqualified success. It was the biggest conference ever held by the association. Indeed, the numbers attending – over 1,500 – exceeded by about 25% the estimated attendance thereby placing an extraordinary increased strain on the committees' arrangements both for the business sessions and the social activities, transport and hotel accommodation ... This success was not fortuitous ... As you will see from the report the Committee was chaired by Mr John Carrigan who devoted at least half of his working year to the work of the conference ... The ladies sub-committee was similarly organised under the chairmanship of Mrs Shirley Carrigan and the whole was served by a

MAIN POINTS

- The prospect of joining the European Community
- Society Memorandum on Reformatory and Industrial Schools
- Purchase of Blackhall Place premises

are a changin'



COURTESY: JO NOONAN

Denis Hicks, chair of the IBA, addresses the Dublin conference, July 1968

superb executive provided by Mr Plunkett and his staff ... I must also express our gratitude to the President, to the Taoiseach and his Government and in particular to the Minister for Justice for the encouragement and active co-operation which they gave us throughout and which contributed in such a large measure to the success of the whole" (*Gazette*, January 1969, p74).

A sub-committee of the Society's Council produced a *Memorandum on Reformatory and Industrial Schools in Ireland*, which was submitted to the Committee on Reformatory and Industrial Schools. In light of what we know now, its report makes for fascinating reading. It begins:

"The existing system of dealing with destitute children and juvenile delinquents finds its origin in another century almost. The philosophical and economic theory of the time of its birth would not find acceptance today. There was no free Secondary education, there was even no free primary education. Attendance at primary schools did not become compulsory until the 1920s. Economic theories were based on the minimum interference with private enterprise, and the free play of the interaction of supply and demand was regarded as fundamentals. None of these theories find any place, or at least very little place in the society in which we live today.

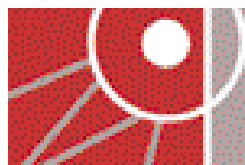
"Therefore, institutions which were created in such an atmosphere cannot fit into our present civic

arrangement. It is of no consequence whether one subscribes to the earlier period or the modern period. Any system of child welfare or reform must be adjusted to the society which we find around us now. For these reasons it seems to us that the whole system must be rebuilt from the ground up" (*Gazette*, May 1969, p8).

In 1969, the *Gazette* referred on several occasions to the purchase of the King's Hospital (the Society's current headquarters):

"The King's Hospital, which the Society has purchased, was formerly the Blue Coat Hospital and was incorporated by Charles II in 1670. The present building was erected in 1773 and is a noble edifice of Portland Stone consisting of a Centre and Wings extending three hundred feet. Our plans embodying minimum essential interior alterations and the erection of a new administrative block to the rear [sic] have met with general approval, and we all look forward to next Summer when we will obtain possession and the work can be commenced ... Our future headquarters will be a worthy showplace for visitors to our capital city and the citizens may, therefore, soon have something of which to be particularly proud. The King's Hospital is situated in a part of the City which has known better days, but it is quite central and perhaps we may start a new era of improvement for the locality" (*Gazette*, December 1969, p69). **G**

"Our profession comes into close contact with all sections of the community. We must serve the public as they want to be served"



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ACTIVITY	%	ACTIVITY	%
Personal Injury Litigation:		Personal Injury Defense:	
Residential Conveyancing:		Trust & Probate:	
Commercial Conveyancing:		Commercial non-securities-related:	
Commercial – securities-related:		Landlord & Tenant:	
Financial Advice & Services:		Employment Work (non-litigious):	
Litigation other:		Non-Litigation other:	
Matrimonial:		Arbitration, Adjudication, Mediation:	
Criminal Law:		Welfare & Immigration:	
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Minors:		Internet based online services:	

Other activities – describe:

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SIGNING acknowledgements

Q *As part of the firm's annual audit, my accountant has asked me to sign an acknowledgement as part of the accountant's report. This seems to be new, as I haven't signed this particular acknowledgement before. What am I acknowledging by signing this?*

A On 1 December 2005, the *Solicitors' Accounts (Amendments) Regulations 2005* (SI 719 of 2005) came into operation. These regulations require that the reporting accountant's report, furnished to the Law Society of Ireland, should include a signed acknowledgement by solicitors of their obligations under the *Solicitors' Accounts Regulations*.

The effective date for the inclusion of this acknowledgement relates to accounting periods on or after 1 January 2006. In addition, in the case of firms of solicitors where there are two or more partners, each firm is obliged to appoint a compliance partner to sign the form of acknowledgement. This addition to the regulations by the Law Society is to emphasise the fact that the responsibility to be compliant with the *Solicitors' Accounts Regulations* – and confirmation of that compliance – rests with the solicitor firm and not with the reporting accountant.

There are some transitional arrangements with the new regulations, for the accounting period ending between 1 January 2006 and 28 February 2006. The same report as submitted in previous years is used, together with the form of acknowledgement signed by the compliance partner.

For reporting accountants' reports submitted in respect of accounting periods ending on or after 1 March 2006, an amended accountant's report, which includes the form of acknowledgement, should be submitted.

It is worth noting that it is the solicitor's responsibility to comply with the *Solicitors' Accounts*

Regulations. It is the responsibility of the reporting accountant to form an opinion based on his examination, conducted in accordance with regulation 22 of the *Solicitors' Accounts Regulations 2001*, and report this opinion to the Law Society within six months of the year-end.

The reporting accountant is required to express an opinion that, during the accounting period, the solicitor has complied with the relevant provisions of the *Solicitors' Accounts Regulations*.

The reporting accountant is also required to report:

- Whether the half-yearly balancing statements, as provided for by the relevant regulation, have been carried out by the solicitor,
- The results of comparisons under regulations 22(2), step 6 and regulation 22(3), step ct2 of the *Solicitors' Accounts Regulations 2001* at the accounting date,
- Whether the office balancing statement as at the accounting date has been prepared.

In summary, this addition to the *Solicitors' Accounts Regulations* requires a solicitor (or compliance partner) to confirm that:

- The solicitor recognises his (or the firm's) obligations under the *Solicitors' Accounts Regulations* to secure compliance by the practice with the said regulations, and
- The solicitor is aware of the format and contents of the reporting accountant's report, and has discussed them with the reporting accountant to the extent necessary to understand its effect upon the solicitor's (or the firm's) obligations under the *Solicitors' Accounts Regulations*. **G**

This article provides only a summary of each area addressed and specific advice should be sought before any action is taken. Jimmy Dolan is a partner with OSK Audit.



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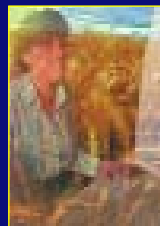
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CONSTITUTIONAL CHANGE

Eamonn Hall has retired after a remarkable 25 years as internal examiner for FE1 Constitutional Law. A dinner was held in his honour, attended by members of the Education Committee (*front, l to r*): Tom Murran, Eamonn Hall, Law Society President Michael Irvine, and Stuart Gilhooly (Chairman of the Education Committee). (*Back, l to r*): TP Kennedy (Director of Education), Dominic Dowling, Orla Coyne, Director General Ken Murphy, Michael Quinlan, Geoffrey Shannon (Deputy Director of Education) and James O'Sullivan

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**GROUND ZERO**

At the launch of *Ground Rents – A Practitioner's Guide*, by the Law Society's own Gabriel Brennan were (*l to r*): Paul Good (chartered surveyor), Gabriel Brennan, Catherine Dolan (Thomson Round Hall Publishing), and Barry Magee (Office of the Chief State Solicitor)



PIC: STEVE RYAN PHOTOGRAPHY

SUMO WARRIOR

Soon-to-be qualified solicitor and international sumo wrestler, Colin Caroll, celebrated the launch of his first book, *Mission Improbable*, on Saturday 30 September in St John's Theatre, Listowel, Co Kerry. The book was launched by former tánaiste Dick Spring. Also attending was Colin's boss, Patrick FitzGibbon of Pierse & FitzGibbon, Listowel. Colin will fight as Ireland's first ever international sumo wrestler at the Sumo World Championships on 15 October in Osaka, Japan

ON THE MOVE



Anna-Marie Curran has been appointed by A&L Goodbody as a partner to the EU and competition law group at the firm. Anna-Marie specialises in EU law and has extensive experience in procurement, competition, regulatory law and merger control



Paul Kelly has recently joined Augustus Cullen Law from the international law firm Wilmer Hale (Brussels). He will work with the medical negligence group



Clare Vance, the winner of the 2005 Findlater Scholarship, has also joined the property department of Augustus Cullen Law



tech trends

Read all the technology news here first, in your glorious *Gazette*. Or not, as the case may be

Knock, knock, knock on wood

Magpies are famously known as thieves of bright, shiny things that they cannot produce for themselves. But few people are aware of the equally insidious threat of the lesser dickied woodpecker – an avian threat of no insignificant proportions.

But – as always in your glorious *Gazette* – help is at hand. There is, believe it or not, a market for dedicated woodpecker deterrents. First up, we have the BirdXPeller-Pro (woodpecker model), a programmable electronic repellent that uses a variety of woodpecker-specific distress signals and predator calls to send a danger alert to other woodpeckers in the area: they

think other woodpeckers nearby are in trouble, so they flee.

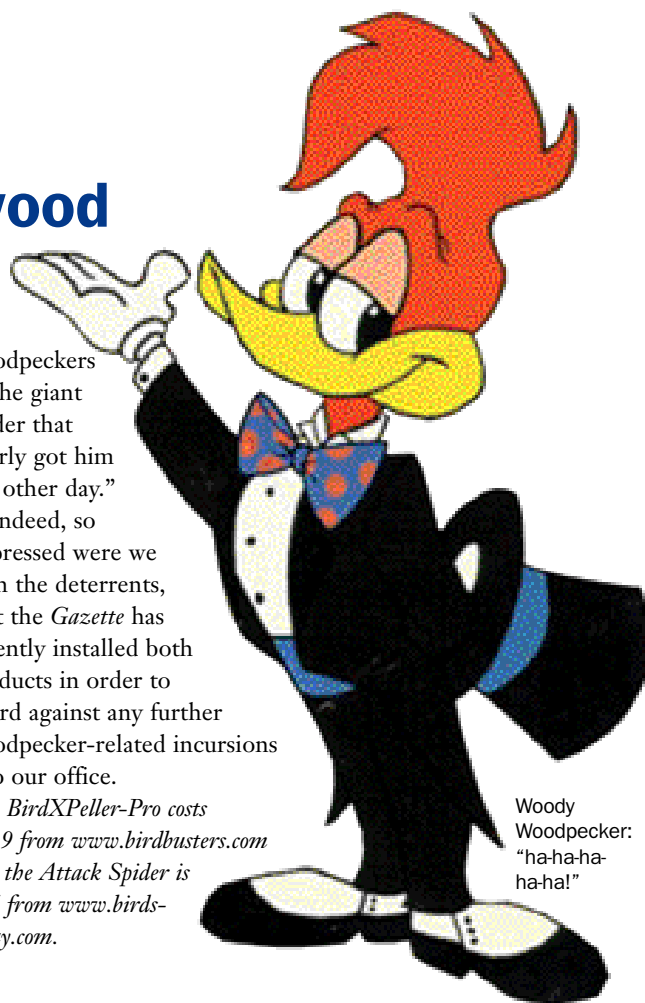
But our favourite has to be the Birds-Away Attack Spider Woodpecker Deterrent, a battery-operated device that will chase away woodpeckers. Activated by sound, the spider drops down on an 18-inch string while making a loud noise. Woodpeckers apparently can't stand them, and it can even drive a woodpecker out of its hole.

The product testimonials say it all about this real and present threat: "I installed the Attack Spider the day it arrived, and the woodpecker has been scared away within a couple of seconds. I'm sure he's now off telling all the other

woodpeckers of the giant spider that nearly got him the other day."

Indeed, so impressed were we with the deterrents, that the *Gazette* has recently installed both products in order to guard against any further woodpecker-related incursions into our office.

The BirdXPeller-Pro costs \$239 from www.birdbusters.com and the Attack Spider is \$15 from www.birds-away.com.



Woody Woodpecker: "ha-ha-ha-ha-ha!"

Let me through, I'm a stenographer

Gwen Malone Stenography Services has launched a speech-to-text dictation and transcription service. It allows users to upload digitally-recorded dictation files from their computer to the service's secure website. Once transcribed, the file is returned to the user as a Word document.

GMSS also offers secure, real-time videoconferencing facilities to remote locations and full secretarial on-site services, including typing, photocopying, scanning, printing and document binding. According to the company, these services would be invaluable to lawyers on the hoof.

We'd tell you more, but



we're blocked from cutting and pasting from their pdf press release. Maybe we

should have asked them to transcribe it for us. Find out more at www.gmss.ie.

TV times

You know how it is. You've settled down to watch some *PrimeTime* exposé and the phone rings. Is it your sick mother, an urgent work message, or just Twink having a rant?

Well now you can decide whether or not to haul yourself off your lazy backside with the TV Messenger, which flashes the incoming name and number onto the corner of your TV screen by interfacing with your service provider's caller display system.

Available for stg£34.99 from www.gadgetgizmo.co.uk.

Personal breathalyser is one for the road

It's an odd phrase, 'The hair of the dog'. I mean, have you smelled a dog recently? You don't want that near your gob. Be that as it may, many people will know the feeling of waking up dog rough after doing the dog on it. And with the introduction of random breath testing, it's as well to consider whether your morning dog-breath will get you into trouble on the drive to work.

So it might well be worth investing in a portable breathalyser, to be sure you're legally fit to drive the morning after the night before. The Safer Drive Breathalyser claims to offer the latest in cutting-edge breath-alcohol sensing technology and to be the most accurate personal breathalyser available. Certified to rigorous Australian and US standards, it measures blood alcohol breath

equivalent in 0.01% increments with a range of 0.00% to 0.40% blood alcohol content. With a visual and audio alarm that clearly notifies the user when they have reached 0.05% and up to the legal limit of 0.08%, this product might well be the dog's, er, dangly bits.

The SaferDrive Breathalyser costs €99 and is available from www.saferdrive.ie or by calling 1890 252 207.



SITES FOR SORE EYES

What time is it? (www.timeanddate.com/worldclock). It's 4pm in Dublin now, but what about Addis Ababa, Mumbai, San Francisco and Shanghai? The answers: 6pm, 8.30pm, 8am and 11pm respectively. So if you're an international jet setter with a partner in every port (or even if it's just a complex international conveyance), find out the best time to phone. As the saying goes, it's 5 o'clock somewhere.

Voice of experience (www.research.att.com/~ttsweb/tts/demo.php). We've had loads of fun with this online vocaliser demo – strictly, of course, in the interests of conducting research for this page. Type in pretty much any text you want, select your preferred speaking voice (we like 'Charles'), and listen as your chosen voice intones your words of wisdom. Of course, you'll only ever use it to leave abusive messages on your advertising manager's voicemail, but still...

Impress your boss (www.saidwhat.co.uk/bizphrases.php). Why not be a proactive team player going forward and upskill your core competencies by engaging in some joined-up blue-sky thinking outside the box in order to re-evaluate the big picture and take ownership of your mission-critical solutions? Don't just settle for low-hanging fruit. Touch base with this site to find out what the hell we're talking about.

I've got your number (<http://159.134.203.172/search.asp?source=Eircom>). In the 'dull, but worthy' corner, we've got Eircom's online phone directory. So if you're not sure what the area code for Ennis is, and you don't want to go the 11890 or 11811 route, you're sorted. Handily, you can also search names and numbers under both the business and residential sections, and there's a link to the *Golden Pages* online. Not the most user-friendly url in the world, but <http://mmm.eircom.ie/phonebook/> redirects you.

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Civil Liability Acts – 3rd edition

Anthony Kerr. Thomson Round Hall (2005), 42 Fitzwilliam Place, Dublin 2. ISBN: 1-85800-430-6. Price: €65 (paperback).

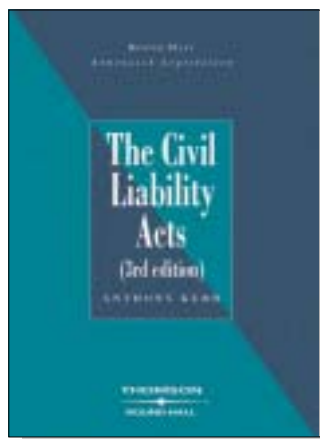
I know it's traditional when writing these types of reviews to be generally glowing in praise or, at the very least, find some nice words to say about a publication. Well, I tried but it's just not going to happen.

There are so many flaws with this book that I don't where to start, though the title on the cover is as good a place to begin as any. It just doesn't do what it says on the tin. One would imagine that a book which, it seems from the preface, went to print on 31 August 2005, would contain more than a passing reference to the *Civil Liability and Courts Act 2004*. This is a piece of legislation that is seminal in its importance to personal injuries litigation and, clearly, at least in part, is a 'civil liability act'. Yet, it is referred to only in the preface and on just a number of other occasions that I could note. I would have

expected such an important statute to have received similar treatment to other *Civil Liability Acts* but, instead, it has been largely ignored. Equal disregard is meted out to the less important *Civil Liability (Amendment) Act 1996*.

The layout of the book is, to say the least, unappealing. It is, essentially, a section by section regurgitation of the 1961 and 1964 acts (with the 2004 act doing a statutory impression of the invisible man!). In addition, there is a commentary underneath each section which, while learned and generally well researched, is in inexplicably small print. This makes an already turgid subject – which is not the fault of the author – very difficult to read and even less accessible to anyone, other than the most dedicated – which is the fault of the author.

It would be fair to say that the



author knows the 1961 and 1964 acts very well indeed. His expertise on these subjects and the related case law is clear. However, he fails to grasp how they might be seen in the grand scheme of things. His omission of the 2004 act is extraordinary, but it is also notable that I could find no reference to the *Personal Injuries Assessment Board Act 2003*. Although clearly not a

'civil liability act', the 2003 act is of great practical relevance to many parts of the 1961 act. In particular, it is remarkable that the reference to section 48 of the 1961 act, which enables a claim for fatal injuries, fails to inform us that the 2003 act first requires an application to PIAB before any such action can be brought.

This is just one example of lack of practical insight. The 1961 and 1964 acts, while not specifically concerned with personal injury actions, have nonetheless, over the years, largely been of relevance to the proliferation of personal injury actions we have seen. With all the changes in personal injuries litigation in the last three years, this was a golden opportunity to update this area of legislation. Sadly, it wasn't taken.

G

Stuart Gilbooly is a solicitor with HJ Ward & Co, Solicitors.

Irish Pensions Law and Practice

Kevin Finucane, Brian Buggy and Una Tighe. Thomson Round Hall (2005), 43 Fitzwilliam Place, Dublin 2. ISBN: 1-85800-409-8. Price: €265.

This is a very welcome second edition on Irish pension matters. It states the law at 23 September 2005. This date is significant because it is also the date on which the EU IORPs *Pensions Directive (EU Council Directive 2003/41/EC)* was implemented in Ireland.

To give a sense of the book, it is worth noting that, prior to 1990, the regulatory framework focused on taxation requirements and reliefs surrounding pension provision. Trustees of pension schemes were referred to general trust

law, and their pension scheme documents, for guidance. The *Pensions Act 1990* and its regulations first created a framework for occupational pension schemes. Later this was extended to personal retirement savings accounts. Both the act and regulations have been amended extensively over the years with a multitude of regulations, even before the *IORPs Directive* in 2005. The property market implications for pension-fund investments, and the introduction of approved retirement funds for securing

retirement income, have created their own talking points. The major pensions awareness drive by the Pensions Board has brought the importance of pension provision home.

This second edition encompasses that framework across the entire pensions spectrum, including: the Pensions Board, trustee issues, funding requirements, disclosure obligations, family law provisions, equal treatment, the Pensions Ombudsman, PRSAs, wind-ups, investment rules, and ARFs. It will be a welcome guide

to many through the pensions maze, regardless of which aspect of the book holds their particular interest. A comprehensive index will assist the reader in dipping into the interest of the moment. The layout and content will encourage the reader to return for further guidance. This edition is to be highly recommended, both for its timing and coverage. **G**

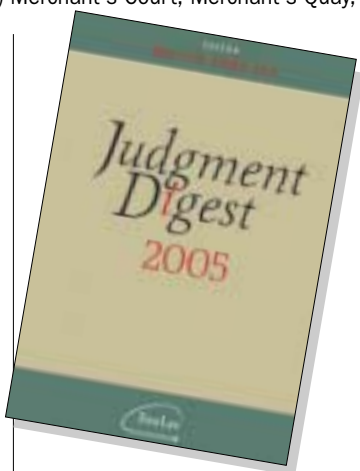
Maureen Dolan is a partner with McCann FitzGerald, where she heads up the Pensions and Employee Share Plans Group.

Judgment Digest

Bart D Daly (ed). First Law (2006) Merchant's Court, Merchant's Quay, Dublin 8. ISBN 1-904480-37-3. Price: €175 (hardback).

Bart D Daly, barrister (the editor of this present work), is a living legal 'institution' of some renown. He founded the *Irish Law Reports Monthly* in 1981, at a time when *The Irish Reports*, the so-called 'official' or 'semi-official' series of law reports, were in considerable arrears and reporting too few cases of significance.

The Law Reporting Council of Ireland was officially informed in June 1981 by the Department of Justice of the proposed new series of reports – to be edited by Daly and published by Irish Academic Press. The council sought time to consider the matter and, in an unprecedented move, invited Bart Daly, the editor of the new series, to the meeting of the council in the Benchers' Room at the Four Courts on 6 July 1981. Daly informed the council that the new publication would consist of



law reports similar in form to the *All England Reports*: and there would be a preference for shorter judgments. The arguments of counsel would not be reported.

Mr Justice Thomas Finlay, then President of the High Court, was present at the meeting in his official capacity as an ex-officio member of the council and informed Bart Daly that he and the Chief Justice, by virtue of their offices and

independently of their roles as ex-officio members of council, were concerned to ensure that the public presentation of the judgments of the judges of all courts attained a satisfactory standard of accuracy and comprehensiveness. Daly assured the President and the Chief Justice that his company would do all in its power to satisfy the concerns of the judges.

After Daly left the meeting, the council discussed the issue in some detail, but eventually decided to give approval in principle to the new series. A new 'institution' was born. It was a brave and bold move on the part of Bart Daly, and he succeeded and has developed other law-related ventures. This introduction gives the reader an example of the editor's initiatives – a background to this book.

The *Judgment Digest 2005* contains headnotes of over 450

judgments from the superior courts decided during the year under review and published on the FirstLaw online service. Additionally, there are headnotes of more than 80 Employment Appeal Tribunal determinations. The *Digest* is arranged by subject category and has a useful one-line index to the cases. In addition, there is an alphabetical table of judgments, a table of cases cited and a table of legislation considered in these judgments.

This is a most comprehensive digest of decisional law that affects (directly and indirectly) every man, woman and child in the land. Many practitioners will regard it as a 'tailor-made' reference for their queries in the context of the up-to-date status of judicial law. **G**

Dr Eamonn G Hall is chief solicitor of Eircom Group Plc.



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practice notes



ADVERSE CONSEQUENCES OF FAILURE TO NOTIFY MERGERS

The July edition of the *Gazette* (p26ff) carried an article written by Rosemary O'Loughlin of the mergers division of the Competition Authority, warning of the consequences of the failure to notify the authority of a merger or acquisition, which is required to be notified under the provisions of part 3 of the *Competition Act 2002*.

Practitioners are encouraged to read the article in full, but it is worth reiterating its salient points.

A transaction that must be notified to and cleared by the authority may not be implemented until cleared and, if implemented without prior clearance, is *void*.

Apart from the obvious

consequence of title to an acquired business or entity not having passed to the acquirer, there are many other possible adverse consequences arising from a merger or acquisition being rendered void.

If a breach of the obligation to notify was wilful, then any person who knowingly and wilfully authorised or permitted the breach is liable to a fine of up to €3,000 (plus a daily default fine of up to €300) on summary conviction, and up to €250,000 (plus a daily default fine of up to €25,000) on conviction on indictment.

Obviously, if the failure to notify the transaction was due to negligent advice on the part of any of the legal advisers

involved, they may face negligence claims.

It is important, therefore, that practitioners involved in such transactions should be aware of the criteria for their notification to the Competition Authority. Practitioners should also be aware that if they are involved in a 'media merger' (as defined in the *Competition Act 2002*) this must be notified to the authority regardless of whether the financial and other criteria set out in section 18(1) of the act are met.

While the Competition Authority's article did not refer to the voluntary notification of a merger or acquisition where the criteria for a mandatory notification are not met, in cases

where a merger or acquisition could give rise to competition concerns, practitioners should consider whether a voluntary notification of the transaction should be made to ensure that it is not prohibited by section 4 or section 5 of the act.

For further information concerning the review of non-notifiable mergers and acquisitions, practitioners should refer to the Competition Authority's notice in respect of the review of non-notifiable mergers and acquisitions (decision no N/03/001 of 30 September 2003). Further information in relation to mergers generally is available on the authority's website: www.tca.ie.

Business Law Committee

CRIMINAL LEGAL AID SCHEME

CRIMINAL JUSTICE (LEGAL AID) (TAX CLEARANCE CERTIFICATE) REGULATIONS 1999

NOTICE TO PRACTITIONERS

Retention of name on Criminal Legal Aid Panel for the panel year commencing 1 December 2006

The Department of Justice, Equality and Law Reform has advised that a solicitor who wishes to have his/her name retained on the legal aid panel(s) beyond 30 November 2006 must submit to the relevant County Registrar(s) a tax clearance certificate (TCC) with an expiry date later than 30

November 2006.

A solicitor whose TCC has an expiry date on or before 30 November 2006, and wishes to have their name retained on the Criminal Legal Aid Panel(s) for the panel year beginning on 1 December 2006, must apply to the Revenue Commissioners for a new TCC.

Applying for a TCC in writing

Local Revenue districts now deal with the processing of written

applications for TCCs. The contact names, addresses and telephone numbers of the relevant Revenue districts are available on the Revenue's website, www.revenue.ie. You should contact your local Revenue District Office for an application form (TC1).

Applying for a TCC through Revenue's online application facility

Arrangements have been introduced to allow taxpayers to apply

on-line for a tax clearance certificate. This facility is to be found at Revenue's website address at www.revenue.ie.

An online verification facility is also available on Revenue's website. Using this online verification procedure, it is possible to confirm electronically that a person holds a TCC.

On receipt of your certificate, it should be forwarded to the relevant County Registrar(s).

Criminal Law Committee

FAST TRACK TO FELLOWSHIP (FCIARB) ASSESSMENT WORKSHOP
13 and 14 October 2006. The Grand Hotel, Malahide, County Dublin.

The workshop will be of interest to:

- practising lawyers with at least 10 years litigation experience, or
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- Attendance at the workshop allows to apply for Associate membership of the Institute.
- Successful completion of the Workshop allows for Member grade.

- The Assessment will be based on International Arbitration practice and procedure under the Arbitration Acts 1954-1998, the UNCITRAL Model Law and the UNCITRAL Arbitration Rules.
- It is NOT a teaching course.

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Friarylawn MCM provide dedicated Arbitration and Mediation Suites at The Friary's premises on Bow Street, in the heart of Dublin's Legal Quarter. These suites are available to our clients as a neutral venue and Friarylawn can also provide a network of suitable mediation suites throughout the country.

- All **Friarylawn MCM** mediations are conducted pursuant to the **Friarylawn Referral and Appointment Process**, the **Friarylawn Case Management Procedures and Rules**, the **Friarylawn Code of Conduct** and the **Friarylawn Agreement to Mediate**.
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 - Provision of neutral advice on the process to potential parties and liaising with them as a neutral third party,
 - Assisting parties in the selection of an appropriate mediator or other neutral with subject matter expertise and with the appropriate level of experience,
 - Administering all details of the dispute resolution process from commencement through to finality.

For more information on the services provided by Friarylawn MCM including details of our Mediation Training & Professional Accreditation Programme taking place on November 15 -18th, please contact Dee Khuwais, Head of Friarylawn Administration, at dkhuwais@thefriary.ie or at +353 1 872 8405.

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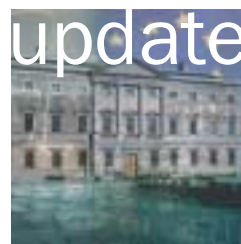
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legislation update



22 August – 19 September 2006

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

SELECTED STATUTORY INSTRUMENTS

Aer Lingus Act 2004 (Commencement of Certain Provisions) Order 2006

Number: SI 474/2006

Contents note: Appoints 11/9/2006 as the commencement date for sections 1, 5, 8, 10, 11 and 13 of the *Aer Lingus Act 2004*.

Aer Lingus Act 2004 (Commencement of Certain Provisions) (No 2) Order 2006

Number: SI 475/2006

Contents note: Appoints 27/9/2006 as the commencement date for sections 4 and 12 of the *Aer Lingus Act 2004*. Appoints 27/9/2006 as the day on which the schedule to, and section 2 of, the *Aer Lingus Act 2004* comes into operation, other than in respect to: (a) sections 1, 7, 8, 9 and 23(1) of the *Air Companies Act 1966*; and (b) sections 1, 3 and 8 of the *Air Companies (Amendment) Act 1969*.

Aer Lingus Act 2004 (Commencement of Section 6) Order 2006

Number: SI 455/2006

Contents note: Appoints 24/8/2006 as the commencement date for section 6 (other than subsection (2)) of the *Aer Lingus Act 2004*. Section 6 deals with the number of directors of Aer Lingus Group plc and the number of worker directors under

the *Worker Participation (State Enterprises) Acts 1977-2001*.

Aer Lingus Act 2004 (Commencement of Section 6(2)) Order 2006

Number: SI 476/2006

Contents note: Appoints 27/9/2006 as the commencement date for section 6(2) of the *Aer Lingus Act 2004*.

Aer Lingus Act 2004 (Section 6(4)) Order 2006

Number: SI 456/2006

Contents note: Provides for the reduction in the number of worker directors on the board of Aer Lingus Group plc from four to one.

Commencement date: 25/8/2006

Civil Legal Aid Regulations 2006

Number: SI 460/2006

Contents note: Amend the *Civil Legal Aid Regulations 1996* (SI 273/1996), as amended by the *Civil Legal Aid Regulations 2002* (SI 8/2002), to give effect to revised financial criteria for eligibility to obtain legal aid or advice.

Commencement date: 1/9/2006

Finance Act 2005 (Commencement of Section 32) Order 2006

Number: SI 399/2006

Rules of the Superior Courts (Competition) 2006

Number: SI 461/2006

Contents note: Amend the *Rules of the Superior Courts* (SI 15/1986) by the extension of the definition of 'competition proceedings' in order 63B (inserted by SI 130/2005) to include the categories of proceedings referred to in section 15C of the *Competition Act 2002*, as inserted by section 1 of the *Competition (Amendment) Act 2006*.

Commencement date: 26/9/2006

Contents note: Appoints 27/7/2006 as the commencement date for section 32 of the *Finance Act 2005*. Section 32 provides for an extension from 1/1/2005 until 31/12/2006 of the 100% scheme of stock relief for certain young trained farmers.

Firearms Act 1925 (Surrender of Firearms and Offensive Weapons) Order 2006

Number: SI 451/2006

Contents note: Provides, in accordance with section 25A of the *Firearms Act 1925* (inserted by section 46 of the *Criminal Justice Act 2006*), for an amnesty period commencing on 1/9/2006 and ending on 31/10/2006, during which firearms, flick knives and weapons of offence may be surrendered to the Garda Síochána.

Garda Síochána Inspectorate (Establishment Day) Order 2006

Number: SI 401/2006

Contents note: Appoints 28/7/2006 as the establishment day for the purposes of part 5 (ss113 to 120) of the *Garda Síochána Act 2005* – establishment and functions of Garda Síochána Inspectorate.

Mental Health Act 2001 (Commencement) Order 2006

Number: SI 411/2006

Contents note: Appoints 1/11/

2006 as the commencement date for all sections of the *Mental Health Act 2001* not already in operation (that is, sections 6, 8 to 30 and 56 to 75 inclusive).

Private Security (Licensing and Standards) (Amendment) Regulations 2006

Number: SI 435/2006

Contents note: Amend regulation 5(b) of the *Private Security (Licensing and Standards) Regulations 2005* (SI 834/2005) by the substitution of '1/8/2007' for '1/4/2006', providing that the standards referred to in that regulation will not be required to be observed until 1/8/2007.

Private Security Services Act 2004 (Section 37 (Part)) (Commencement) (No 2) Order 2006

Number: SI 436/2006

Contents note: Appoints 1/8/2006 as the commencement date for section 37 of the act for the purposes of its application in relation to an installer (intruder alarm) or a security guard (monitoring centre), within the meaning of the *Private Security (Licensing and Standards) Regulations 2005* (SI 834/2005).

Road Safety Authority Act 2006 (Conferral of Functions) Order 2006

Number: SI 477/2006

Contents note: Confers the functions of the Minister for Transport under ss2, 3, 4, 5, 7 and 9 of the *Road Traffic Act 2002* and under s36(6), (7) and (8) of the *Road Traffic Act 1961* on the Road Safety Authority. Transfers to the Road Safety Authority the functions currently carried out by the minister in the areas of driver testing and licensing,

vehicle testing and standards and road haulage enforcement. Also requires the Road Safety Authority to promote public awareness of road safety and measures, including the advancement of education, relating to the promotion of the safe use of roads.
Commencement date: 13/9/2006

Road Safety Authority Act 2006 (Establishment Day)

Order 2006

Number: SI 462/2006

Contents note: Appoints 1/9/2006 as the establishment day for the Road Safety Authority.

Road Safety Authority Act 2006 (Part Commencement Section 16(2)(c)) Order 2006

Number: SI 457/2006

Contents note: Appoints 1/9/2006 as the commencement date for section 16(2)(c) of the

act insofar as it relates to the insertion into part 1 of the first schedule to the *Road Traffic Act 2002* of the matter at reference number 18 (inclusion of the offence of holding a mobile phone while driving a mechanically propelled vehicle under section 3(3) of the *Road Traffic Act 2006* in the first schedule (listing penalty point offences) to the *Road Traffic Act 2002*).

Social Welfare Law Reform and Pensions Act 2006 (Item 6 of Schedule 8) (Commencement) Order 2006

Number: SI 357/2006

Contents note: Appoints 30/6/2006 as the commencement date for item 6 of schedule 8 of the *Social Welfare Law Reform and Pensions Act 2006*. **G**

Prepared by the Law Society Library



Law Society of Ireland

CRIMINAL LAW COMMITTEE SEMINAR

Creggan Court Hotel, Athlone, Co Westmeath

10am – 4pm, Saturday 21 October 2006

Insanity Act 2006

Speaker: Dara Robinson, solicitor

Criminal Justice Act 2006 – sentencing

Speaker: James MacGuill, solicitor

Criminal Justice Act 2006 – admissibility

Speaker: Pat McGonagle, solicitor

Criminal Justice Act 2006 – new forms of appeal

Speaker: Alan Gannon, solicitor

Road Traffic Act 2006

Speaker: Pdraig Quinn, solicitor

SEMINAR CHAIRMAN: GEAROID GERAGHTY, SOLICITOR

Registration: 9.30am

Seminar: 10am – 4pm

CPD hours: five (group study)

€150 per person (€80 trainee solicitors)
(includes materials, morning coffee and lunch)

BOOKING FORM

Name(s): _____

Firm: _____

Please reserve _____ place(s). Cheque in the sum of _____ attached.

Please forward booking form and payment (to be received no later than 18 October 2006) to:
Colette Carey, Solicitor, Criminal Law Committee, Law Society of Ireland, Blackhall Place, Dublin 7.

firstlaw update



News from Ireland's online legal awareness service
Compiled by Flore Bouhey for FirstLaw

COMPANY LAW

Disqualification order

Criteria by which court should exercise discretion conferred on it – whether conduct of person such as to make him unfit to be concerned in management of company – appropriate length of disqualification order – Companies Act 1990 (No 33), section 160.

The applicant applied to the High Court, pursuant to section 160 of the *Companies Act 1990*, for an order disqualifying the respondent from being concerned in the management of any company on the basis of conclusions contained in a report of inspectors appointed to inquire into the affairs of Ansbacher (Caymen) Ltd. The respondent did not contest the application.

Ms Justice Finlay Geoghegan made a disqualification order in respect of the respondent for a period of nine years, holding that, notwithstanding the fact that an application under section 160 of the 1990 act was uncontested, the onus was still on the applicant to satisfy the court that the conduct in question was such as to make the person concerned unfit to be concerned in the management of a company. The principles applicable to determining the appropriate period of disqualification were: (1) the primary purpose of a disqualification order was not to punish the individual but to protect the public; (2) the period of disqualification should reflect the gravity of conduct as found by the inspectors, which made the respondent unfit to be concerned in the management of a company; (3) the period of dis-

qualification should contain deterrent elements; (4) a period of disqualification in excess of ten years should be reserved for particularly serious cases; and (5) the court should firstly assess the correct period in accordance with the foregoing and then take into account mitigating factors prior to fixing the actual period of disqualification.

Director of Corporate Enforcement v Colliery, High Court, Miss Justice Finlay Geoghegan, 9/3/2006 [FL12697]

CRIMINAL LAW

Delay

Judicial review – preservation of evidence – prohibition – whether the applicant was precluded from seeking judicial review as a result of the delay in applying for such relief. The applicant sought an order of prohibition by way of an application for judicial review restraining the respondents from proceeding with his trial on certain charges, on the grounds that there was a real risk he would not receive a fair trial, having regard to the fact that certain CCTV footage of the alleged incident forming the subject matter of the charges, which was viewed by the gardaí, was no longer available. The respondents opposed the application on the basis that the applicant delayed in seeking leave to apply for judicial review until five days prior to the trial date.

Dunne J refused the application, holding that inadvertence was not sufficient to excuse a delay of almost seven months from the date the applicant became aware of the problem with the CCTV footage until the date he applied for judicial

review, and therefore the applicant was not entitled to an extension of time within which to bring that application. In any event, the applicant failed to establish a serious risk of an unfair trial in the absence of the CCTV footage.

Fagan v The Judges of the Circuit Criminal Court & DPP, High Court, Judge Dunne, 28/4/2006 [FL12723]

LIBEL

Practice and procedure

Particulars – popular innuendo alleged – application by defendant for particulars of publishees – whether disclosure of identity of persons to whom matters published necessary for fair trial – whether defendant entitled to be furnished with identity of persons to whom matter in issue published.

The defendant broadcast a television documentary about fraudulent litigation and, in the course of that show, allowed the plaintiffs' letterhead to be shown on the screen. The plaintiffs contended that this amounted to a popular innuendo that they were dishonest, guilty of filing fraudulent claims and were not fit to be solicitors. They contended that the innuendo was broadcast to a general class of persons and to particular individuals. The defendants sought that the particular persons to whom publication was made be identified by the plaintiffs.

Mr Justice MacMenamin dismissed the application, holding that in cases of limited publication, the plaintiff was obliged to disclose the names of the persons to whom the publication was alleged to have been made. However, as the present case

was a 'mass media' one where publication was not to a limited class of persons, the plaintiff was entitled to rely on the natural and ordinary meaning of the matters complained of as supporting an innuendo. It was not open to the defendants to contend that the plaintiff had to elect between the general effect of imputations and the effect upon a particular class of person where there was a *prima facie* mass media case and publication took place to the general public on matters within the general knowledge of the community.

Byrne v RTE, High Court, Mr Justice MacMenamin, 3/3/2006 [FL12646]

PLANNING AND DEVELOPMENT

Judicial review

Appeal to Supreme Court – whether decision involved point of law of exceptional public importance and desirable in public interest that appeal be taken – Planning and Development Act 2000, s50(4)(f).

The applicant applied for leave to apply for judicial review of a decision made by the board granting permission for a waste water plant under the provisions of s50 of the *Planning and Development Act 2000*. In respect of certain aspects of the refusal of leave, the applicant applied for a certificate that the decision involved a point of law of exceptional public importance and it was desirable in the public interest that an appeal should be taken to the Supreme Court.

Clarke J refused the certificate sought, holding that the point raised by the applicant was a point of law of exceptional public importance. However,

the public interest needed to take into account the nature of the development proposed and the potential consequences of significant further delay. Having regard, on the one hand, to the importance of the issue raised by the applicant, and, on the other hand, to the importance of the project and the consequences of the likely delay that would be incurred, it would not be in the public interest to grant the certificate, notwithstanding the finding that the point of law was of exceptional public importance.

Arklow Holidays Ltd v An Bord Pleanála, High Court, Mr Justice Clarke, 29/3/2006 [FL12636]

PROPERTY

Costs

Lien – solicitor obtaining title deeds from mortgagee on accountable receipt – deeds retained by solicitor on behalf of mortgagee – insolvency of mortgagor – whether solicitor entitled to lien over title deeds for costs.

The plaintiff was a partner of the defendant's in a solicitor's practice that was dissolved. She had undertaken work on behalf of the defendant for which she had not been paid. She claimed a lien over the title deeds to the defendant's family home in respect of the amounts that she claimed for costs and expenses therefor. The defendant's mort-

gagee had previously given the title deeds on accountable receipt to the plaintiff in her capacity as a partner of the practice, to be held by the practice in trust for the mortgagee as security for a loan advanced to the defendant. The defendant's family home was sold and the plaintiff also claimed a lien over the proceeds of that sale.

Mr Justice Finnegan found that the plaintiff had no lien over the title deeds, holding that the capacity in which a solicitor holds title deeds was of the essence, and agency for a mortgagee was incompatible with agency at the same time for the mortgagor. At the time the plaintiff claimed the lien, the

deeds were held by her subject to the trust created by the accountable receipt and not as agent of the defendant. As no such lien existed over the title deeds, the purchase money was not affected by the agreement.

Martin v Colfer, High Court, Mr Justice Finnegan, 27/4/2006 [FL12653] **G**

The information contained here is taken from FirstLaw's Legal Current Awareness Service, published every day on the internet at www.firstlaw.ie. For more information, contact bartdaly@firstlaw.ie or FirstLaw, Merchant's Court, Merchant's Quay, Dublin 8, tel: 01 679 0370, fax: 01 679 0057.

SOLICITOR COMPLAINTS

Information on complaints about solicitors, published in accordance with section 22 of the **Solicitors (Amendment) Act 1994**

Number of complaints received by the Society from 1 September 2005 to 31 August 2006.

Allegations of misconduct

Delay	38
Failure to communicate	105
Failure to hand over	174
Failure to account	112
Undertaking	219
Conflict of interest	25
Dishonesty or deception	16
Witnesses expenses	6
Advertising	4
Other	119
Total	818

Allegations of inadequate professional services

Delay	225
Failure to communicate	145
Shoddy work	119
Other	56
Total	546

Allegations of overcharging

Conveyancing	48
Probate	25
Litigation	148
Matrimonial	40
Other	339
Total	600
Grand total	1,964

Number of complaints referred to the Solicitors Disciplinary Tribunal

• Delay, failure to communicate, failure to respond to Society's correspondence	10
• Undertakings	12
• Failure to hand over file	2
• Breaches of section 68 of the <i>Solicitors (Amendment) Act</i> , deductions from settlements	25
• Dishonesty/deception	3
• Failure to notify insurance company of potential claim	1
• Failure to account	3
• Failure to supervise practice	1
• Conflict of interest, dishonesty	1
• Failure to handover file, failure to carry out instruction	1
Total	59

Outcome of the investigation of above complaints by the Solicitors Disciplinary Tribunal

Finding of no misconduct	2
Finding of misconduct	1
Awaiting outcome of judicial review	2
Decision to refer rescinded	4
Application deferred pending outcome of private application	1
Pending	49
Total	59

As of 8 September 2006



News from the EU and International Affairs Committee
 Edited by TP Kennedy, Director of Education, Law Society of Ireland

Recent developments in European law

AIR TRAVEL

Case C-344/04, *International Air Transport Association and European Low Fares Airline Association v Department for Transport*, 10 January 2006. In February 2004, the parliament and council adopted Regulation 261/2004 concerning compensation and assistance to passengers from air carriers in the event of denial of boarding and of cancellation of, or long delay to, flights. In the event of a cancellation, the air carrier is to offer passengers a choice between reimbursement of the cost of the ticket and re-routing to their final destination. Passengers are also entitled to free care (meals and refreshments, telephone calls and, in some circumstances, hotel accommodation) and to compensation, the amount of which varies according to flight distance. Compensation need not be paid if the air carrier informs the passenger of the cancellation at least two weeks before the time of departure, offers the passenger satisfactory re-routing or can prove that the cancellation is due to extraordinary circumstances. In the event of delay to a flight beyond a length of time (varies according to distance), passengers are to be provided with "care". They are to be offered reimbursement in all cases where the delay is five hours or more. The applicants represent airlines. They contested Britain's implementation of the regulation before the English High Court. Questions were raised before the court concerning the validity of the

regulation, in particular the provisions relating to cancellations, delay and compensation. The High Court referred those questions to the ECJ. The ECJ first considered the compatibility of the regulation with the *Montreal Convention*. The court held that this convention, which regulates the liability of air carriers in the event of delay, binds the EC. It went on to hold that the convention merely governs the conditions under which, after a flight has been delayed, passengers may bring actions for damages by way of redress on an individual basis against the carrier liable for damage resulting from that delay. On the other hand, the assistance and care for passengers, prescribed by the regulation in the event of a long delay to a flight, constitute standardised and immediate compensatory measures. They are not among the measures whose institution are regulated by the convention and cannot therefore be considered inconsistent with it. The applicants argued that the regulation was a disproportionate measure. The objective of the regulation was to strengthen protection for passengers who suffer cancellation of, or long delay to, flights. The measures in the regulation are capable of immediately redressing some of the damage suffered by those passengers and therefore enable the objective to be attained. Their extent varies according to the significance of the damage suffered by the passengers. The compensation that passengers may claim when they have been informed of a flight cancellation too late does not

appear manifestly inappropriate to the objective pursued, as there is an exemption upon which carriers may rely and there are conditions restricting the application of this obligation on carriers. The amount of the compensation was held not to be excessive. It amounts to an update of the level of compensation laid down by a previous regulation, taking account of inflation since its entry into force.

CIVIL LITIGATION

Opinion 1/03 of the ECJ, 7 February 2006. Article 300 of the *EC Treaty* provides that the European Parliament, the council, the commission or a member state may obtain the opinion of the ECJ as to whether an agreement envisaged between the EC and one or more non-member states or international organisations is compatible with the provisions of that treaty. The *Brussels Convention on Jurisdiction and Enforcement of Judgments in Civil and Commercial Matters* was replaced by Regulation 44/2001. This regulation made a number of changes to the rules on jurisdiction and judgments. The *Lugano Convention* had introduced a parallel system of rules to the *Brussels Convention* between the member states of the EC and those of EFTA (with the exception of Liechtenstein). The council authorised the commission to begin negotiations for the purpose of adopting a successor convention to the *Lugano Convention*. The successor convention would contain similar rules to Regulation 44/2001. However, the council

decided to submit a request to the ECJ for an opinion as to whether competence to conclude the new convention was exclusive to the EC or shared with the member states. The court referred to the principle that where common rules have been adopted, the member states no longer have the right to undertake obligations with non-member countries that affect those rules. A comprehensive and detailed analysis must be carried out to determine whether the EC has the competence to conclude an international agreement and whether that competence is exclusive. Account must be taken of the area covered by the EC rules and by the provisions of the agreement envisaged. Account must also be taken of the nature and content of those rules and provisions to ensure that the agreement is not capable of undermining the uniform and consistent application of the EC rules and the proper functioning of the system that they establish. The court observed that the rules on conflict of jurisdiction in international agreements concluded by member states or by the EC with non-member states necessarily establish criteria of jurisdiction not only in non-member states but also in member states and consequently cover matters governed by the regulation. The provisions of the new *Lugano Convention* affect the uniform and consistent application of the regulation and the proper functioning of the system it establishes. The new convention enlarges the scope of recognition of judicial decisions

and increases the number of cases in which judgments delivered by courts of countries not members of the EC, where jurisdiction does not arise from the application of the regulation, will be recognised. Thus, the new *Lugano Convention* would affect the uniform and consistent application of the EC rules. In those circumstances, the ECJ held that the EC has exclusive competence to conclude the new *Lugano Convention*.

COMPETITION

Cases T-209/01 and T-210/01, *Honeywell v Commission* and *General Electric v Commission*, 14 December 2005. On 5 February 2001, the commission was notified of a merger between two US companies – Honeywell International and General Electric (GE). On 3 July 2001, the commission declared the merger incompatible with the common market. The parties were thus prohibited from putting the merger into effect in the EU. GE and Honeywell brought actions before the CFI seeking to annul that decision. The CFI approved the commission's findings that a merger would create or strengthen dominant positions, as a result of which effective competition would be significantly impeded in three markets. These are the market for jet engines for large regional aircraft, the market for engines for corporate jet aircraft and the market for small marine gas turbines. The court did not annul the decision, even though the commission made errors in relation to other aspects of the case. In *GE v Commission*, the court upheld the commission's argument that the merger would have created a monopoly on the worldwide market for jet engines for large regional aircraft. This is an important market for the EU, as large regional aircraft accounted for 33% of the European fleet in 1998. The court upheld the commission's

finding that the creation of a monopoly in respect of the engines powering these aircraft would have harmful effects on competition, as it would deprive customers of the benefits of price competition. The court held that certain aspects of the commission decision were vitiated by illegalities. Despite this, the court held that the findings relating to the horizontal effect of the merger on the three above markets were sufficient to establish that the decisions prohibiting the merger were well founded.

CONTRACT

A proposal to replace the *Rome Convention* on choice of law in contract with a regulation has been published by the European Commission. The ECJ has currently no jurisdiction to interpret the convention. The proposal is in the form of a draft regulation and thus will give the ECJ such jurisdiction. The content of the proposed regulation largely reflects the convention. Parties will continue to be free to choose the governing law of their contract. The rules that apply in the absence of such a choice have been changed. Specific rules are to be applied to contracts for the sale of goods, supply of services, distribution or intellectual property.

DISCRIMINATION

Case C-423/04, *Sarah Margaret Richards v Secretary of State for Work and Pensions*, 15 December 2005 (opinion of Advocate General Jacobs). Prior to April 2005, UK law provided that the sex of a person for social security purposes is that stated on his/her birth certificate. A birth certificate can only be changed to rectify clerical or factual errors. Transsexuals who undergo gender-reassignment surgery cannot change their sex on their birth certificates. The *Gender Recognition Act 2004* came into

force in the UK on 4 April 2005. This allows for the issuing of gender recognition certificates to transsexuals under certain conditions. The issuing of a gender recognition certificate changes the sex of the person concerned for most official purposes but has no retroactive effect. In the UK, men are entitled to a state pension at the age of 65 and women at the age of 60. Between 2010 and 2015, the pensionable age for women is to be gradually increased to 65. Sarah Richards was born male in 1942. She was diagnosed with gender dysphoria and underwent gender reassignment surgery in May 2001. In February 2002, she applied for a retirement pension to be paid from her 60th birthday. The application was refused as, officially, Ms Richards was considered to be male by the Department for Work and Pensions. Ms Richards appealed against that decision and the Social Security Commissioner made a reference to the ECJ. The commissioner asked the ECJ whether such a refusal is contrary to an EC directive on equal treatment in the field of social security. The Advocate General held that the directive applied to a situation where a person suffers discrimination concerning the duration of entitlement to a statutory old-age pension as a result of undergoing gender reassignment surgery. He said that the correct comparator for the applicant is a female person whose identity is not the result of gender reassignment surgery. In this case, Ms Richards is denied her pension in circumstances where, had she been born female, she would have been entitled to it. The Advocate General found that this refusal was discriminatory and contrary to EC law.

ESTABLISHMENT

Case C-411/03, *SEVIC Systems AG*, 13 December 2005. SEVIC Systems GA, a German compa-

ny, signed a merger contract in 2002 with Security Vision Concept SA, a Luxembourg company. The contract provided for the dissolution without liquidation of Security Vision and the transfer of the whole of its assets to SEVIC, without any change in the company name of the latter. The German authorities refused to register the merger in the commercial register, on the basis that German law provides only for mergers between legal entities established in Germany. SEVIC brought an action against that decision in a German court, which referred the matter to the ECJ. The ECJ observed that freedom of establishment for companies includes, in particular, the establishment and management of those companies under conditions laid down by the legislation of the state of establishment for its own companies. Cross-border mergers meet needs for co-operation and consolidation between companies established in the various member states. They constitute particular forms of exercise of the freedom of establishment that is important for the proper functioning of the internal market. Cross-border mergers, therefore, fall within those economic activities in respect of which member states are required to comply with the freedom of establishment laid down by article 43 of the *EC Treaty*. A difference in treatment between companies according to the internal or cross-border nature of the merger constitutes a restriction on the right of establishment. Such a restriction can only be allowed if it pursues a legitimate objective compatible with the treaty and is justified by imperative reasons in the public interest – such as protection of the interests of creditors, minority shareholders and employees, preservation of the effectiveness of fiscal supervision and the fairness of commercial transactions. Such a restrictive measure must be appropriate for

ensuring the attainment of the objectives pursued and must not go beyond what is necessary to attain them. To refuse generally to register a merger between a company established in that state and a company established in another member state in the commercial register prevents the realisation of cross-border mergers even if the public interests, outlined by the court, are not threatened. Such a rule goes beyond what is necessary to attain the objectives designed to protect those interests.

FREE MOVEMENT OF PERSONS

Case C-244/04, *Commission of the European Communities v Germany*, 19 January 2006. The German *Law on Aliens* deals with the posting of employed persons who are nationals of a non-member state in Germany. Foreigners intending to reside for more than three months on German territory and to pursue paid employment there must be in possession of a specific residence visa. Companies wishing to provide services in Germany have to ensure that their workers from non-member states obtained a visa from the German diplomatic representation in the member state where the company is established. German rules also provide that the German diplomatic representation is to satisfy itself, in advance, that the worker has been employed for at least a year by the company that intends to effect the posting. The commission viewed the German practice of checking certain criteria prior to the posting, and restricting the posting to workers employed for at least a year by the provider established in another member state, as amounting to obstacles to the freedom to provide services. On that basis, it brought this action against Germany to the ECJ. The ECJ found that this system of prior checking may make it

more difficult, or even impossible, to exercise the freedom to provide services through posted workers who are nationals of non-member states. It considered whether such a check can be justified by a public interest objective. Germany argued that the prior check was justified on grounds relating to the prevention of abuse of the freedom to provide services, the protection of workers and legal certainty. The ECJ held that the German practice exceeds what is necessary to prevent abuse. A requirement that the service provider furnish a simple prior declaration certifying that the situation of the workers concerned is lawful is a legitimate measure. This would give the national authorities a guarantee that those workers' situation is lawful and that they are carrying on their main activity in the member state where the service provider is established. A prior declaration would enable the authorities to monitor compliance with German social welfare legislation during the deployment while taking account of the obligations by which that undertaking is already bound under the social welfare legislation applicable in the member state of origin. A prior declaration is more proportionate than the German measure, as it is less restrictive. The check in advance cannot be justified by the necessity of ensuring that such posting is effected lawfully. The court found the requirement of at least a year's prior employment by the undertaking making the posting to be disproportionate.

JURISDICTION

Case C-539/03, *Roche Nederland and Others*, 8 December 2005, opinion of Advocate General Léger. The case concerned article 6(1) of the *Brussels Convention on Jurisdiction and Enforcement of Judgments in Civil and Commercial Matters*. It provides that co-defendants in an

action can be sued in the courts of the place where any one of them is domiciled. A US patent owner invoked the provision to sue all the defendants to a multi-jurisdictional patent infringement dispute in the home court of one of them. He sued in the Netherlands, the domicile of the defendant company, Roche Nederland, whose policy effectively controls all the other infringements. The patent holder held a patent for a piece of diagnostic medical equipment. He argued that Roche Nederland and eight other companies within the Roche Group, situated in seven other member states and the USA had infringed his patent. Advocate General Léger found that article 6(1) did not apply. Article 6(1) should be interpreted to mean that it was not intended to apply in cross-border patent infringement cases, even when the defendants belong to one group or when there is one central policy of one of the defendants that applies to all defendants.

LEGAL FEES

Cases C-94/04 and C-202/04, *Cipolla v Portolese Macrino and Capodarte v Meloni*, opinion of Advocate General Maduro, 1 February 2006. In Italy, minimum and maximum rates for legal fees are fixed by legislation. The scales are established every two years by the National Council of the Bar and then approved by the Minister for Justice. In Case C-35/99, *Arduino*, the ECJ had considered the manner of fixing the scale and held it to be compatible with EC competition law. It had held that Italy had not delegated responsibility for regulating an activity to private economic operators, since the Bar Council submitted only a draft scale to the minister, who had the power to have the draft amended or defer its application. Following on from this, two Italian courts referred ques-

tions to the ECJ asking whether other aspects of the legislation were compatible with the competition rules and the principle of freedom to provide services. In *Macrino*, the Tribunale di Roma asked whether the fixing of fees for out of court services complied with EC law. Mr Macrino and Ms Capodarte are clients of Mr Meloni and are in dispute with him about the fees he claimed for out of court services. In *Cipolla*, the appeal court of Turin asked whether the prohibition on lawyers and their clients making agreements derogating from the fees laid down by legislation fixing the scale of lawyers' fees complies with EC law. Advocate General Miguel Poiares Maduro was of the opinion that a measure fixing a scale of lawyers' fees for out-of-court services is compatible with EC competition law, provided that it has been subject to effective supervision by the state and the power of the court to derogate from that scale, where it rules on a dispute relating to the amount of fees, is interpreted in accordance with EC law in a way that limits its anti-competitive effect. The Advocate General was of the same opinion on the prohibition on derogating from the scale of fees. He then looked at the compatibility of the scale of fees with the principle of freedom to provide services. Although the scale of fees applies without distinction to all lawyers wishing to provide services in Italy, it is established taking into account only the situation and the expenses incurred by Italian lawyers. The minimum fees fixed by the scale prevent lawyers established outside Italy from providing legal services in Italy at rates below those minimum levels, even if they have the opportunity to do so. Italian citizens wishing to instruct a foreign lawyer cannot benefit fully from the advantages of the common market, as access to legal services at a cost below that

fixed by the Italian scale is denied them, even though those services are available in another member state. The minimum fees, therefore, are a restriction on the freedom to provide services, as they neutralise the competitive advantage of lawyers established outside Italy. Although the objective of ensuring the proper operation of the legal profession is legitimate, Italy has not demonstrated how the fixing of minimum fees is appropriate for attaining it.

LIABILITY FOR ACTIONS OF EC INSTITUTIONS

Cases T-69/00, T-151/00, T-301/00, T-320/00, T-383/00 and T-135/01, *Fabbrica Italiana accumulatori motorcarri Montecchio SpA (FIAMM) and FIAMM Technologies and Others v Council of the European Union and Commission of the European Communities*, *Beamglow Ltd v European Parliament, Council of the European Union and Commission of the European Communities*, 14 December 2005. In 1993, the council adopted a regulation introducing common rules for the import of bananas in the EU. The regulation contained preferential provisions for bananas from certain African, Caribbean and Pacific states. The Dispute Settlement Body (DSB) of the World Trade Organisation (WTO) held that the EC regime governing the importation of bananas was incompatible with WTO agreements. This finding was made in the context of complaints made by several states, including the USA. In 1998, the council adopted a regulation amending the EU banana regime. The USA regarded the new regime as still incompatible with the WTO agreements. It requested and obtained authorisation from the DSB to impose increased customs duties on imports of EC products appearing on a list

drawn up by the US authorities. Six EU companies brought proceedings before the CFI claiming compensation from the commission and council for damage alleged to have been suffered by them, as the US retaliatory measures applied to their exports to the USA. The CFI found that, for non-contractual liability of the EC for unlawful conduct of its institutions to be incurred, three conditions must all be met. The institution's conduct must be unlawful, actual damage must have been suffered, and there must be a causal link between the conduct of which the institutions are accused and the damage. The WTO agreements are not among the rules in the light of which the EC courts review the legality of action by the EC institutions. Therefore, it is not possible to establish that the conduct of which the council and the commission are accused is unlawful. Accordingly, the applicant's actions for damages must be dismissed insofar as they require that conduct to be unlawful. The court then looked at rules governing liability that the EC may incur even in the absence of unlawful action by its institutions. In such a case, undertakings that bear a disproportionate part of the burden resulting from the EC institutions' conduct may, under certain conditions, obtain compensation for damage to them. The *EC Treaty* requires the EC to pay compensation for certain damage caused by conduct of its institutions, not shown to be unlawful. For this purpose, actual damage must be sustained, there must be a causal link between the damage and the conduct of the EC institutions, and the damage sustained must be unusual and special in nature. The condition relating to the sustaining of actual damage is met in this case, as the commission statistics show an appreciable reduction in exports to the USA of the

applicants' products. There is also a direct causal nexus between the damage sustained and the conduct of the EC's institutions. It was the conduct of the council and the commission (the adoption of the EC regime governing the import of bananas) that led the US to adopt its retaliatory measures. The introduction of the banana regime is the immediate cause of the damage suffered. However, the court found that the applicants had not suffered unusual damage. In the present instance, the applicant undertakings cannot have suffered damage of that kind. Damage that businesses may suffer is only unusual when it exceeds the limits of the economic risks inherent in operating in the sector concerned. The applicants did not establish that the commercial damage suffered by them because of the conduct of the council and the commission was in excess of the limits of the risks inherent in their export operations.

SERVICES

Case C-371/04, *The Queen, on the application of Yvonne Watts v Bedford Primary Care Trust & Secretary of State for Health*, 15 December 2005, opinion of Advocate General Geelhoed. Under EC law, a person is entitled to receive services throughout the EC. These include certain medical services. The E-112 scheme allows people to apply for authorisation to travel abroad for treatment. Authorisation may not be refused if the treatment is one that is normally provided and cannot be granted without undue delay in the home member state. The sickness insurance fund is then obliged to reimburse the person for the costs incurred. In September 2002, Yvonne Watts was told that she had osteoarthritis in both hips and would need a total hip replacement on each side.

Her daughter requested authorisation for her to receive treatment abroad. Her examining consultant stated that her case was routine and that she would have to wait for approximately one year for treatment. The request for treatment abroad was refused by Bedford Primary Care Trust, as the treatment could be provided within NHS targets and therefore without 'undue delay'. After a request for judicial review of this decision, Mrs Watts was re-examined by the consultant in January 2003. He reported that her condition had worsened and that she should be operated on within three to four months. However, the trust again refused authorisation for treatment abroad, as the operation could still be carried out by the NHS within an appropriate time. Ms Watts travelled to France and the operation was carried out in March 2003. On her return she continued with her application for judicial review. Later that year, the High Court rejected her application. The case was appealed to the Court of Appeal, which referred a number of questions to the ECJ. The Advocate General found that the *EC Treaty* provisions on the free movement of services apply to this case. Mrs Watts had received a medical service in return for remuneration. The fact that the NHS is a public body, funded by the state, and providing health care free at the point of delivery, is irrelevant for determining whether the situation falls within the scope of the treaty. The role of the NHS is merely instrumental in relation to the main transaction between Mrs Watts and the hospital in France. The absence of a clearly defined procedure within the NHS for considering applications for treatment abroad restricts the possibilities for patients to seek treatment outside the system. It therefore is a restriction of their freedom to receive services. The authori-

sation procedure for foreign treatment is incompatible with the *EC Treaty*. The sole criterion of whether the treatment can be provided within the NHS plan targets does not take the individual needs of patients sufficiently into account. In order to be compatible with EC law, the waiting list must be managed in a dynamic and flexible way with regular reassessment and maximum waiting times set, so as to balance the needs of the patient with the need to allocate limited resources. A decision on denial of treatment abroad must be taken with regard to the individual condition of the patient involved, particularly the degree of pain, the nature of the disability and the medical history of the patient. The fact that the authorisation may require additional funding cannot be a consideration when assessing the needs of the individual. Budgetary considerations are only valid within the context of requests for treatment on a larger scale that put at risk the financial stability of the system. The function of the prior authorisation procedure is to allow member states to control the outflow of patients, and the financial burden incurred by

treatment abroad must be offset against the costs saved in the longer term of treatment that would otherwise have been provided by the NHS. The Advocate General then examined the concept of 'undue delay'. This must be determined with regard to the specific circumstances of each case, taking into account not only the patient's medical condition but also his medical history. The prime consideration is whether the condition of the patient would make any postponement of treatment unacceptable. Waiting times and clinical priorities may be taken into account where they are determined on the basis of individual needs. Targets for providing treatment do not, in view of their abstract character, comply with this criterion. The management of hospital care in a situation of limited resources and the fact that health care is provided free at the point of delivery, both of which related to the economic organisation of the NHS, cannot be taken into account. The Advocate General then considered the appropriate level of reimbursement. He stated that this should be at the level that would have been

reimbursed had the treatment been carried out in the home member state. If such tariffs do not exist in the home member state, for example, because treatment is provided free at the point of delivery, reimbursement must be made at the level of the actual cost of the treatment, as the only remaining point of reference. The Advocate General noted that such tariffs should exist in Britain to determine the costs that must be paid by foreign visitors receiving treatment from the NHS. The travel and accommodation costs incurred by the patient must be refunded where national law provides for the reimbursement of such expenses when treatment is provided within the country concerned.

STATE AID

Case T-92/02, *Stadtwerke Schwäbisch Hall GmbH, Stadtwerke Tübingen GmbH, Stadtwerke Uelzen GmbH v Commission of the European Communities*, 26 January 2006. German nuclear power stations are required to set up financial reserves to cover the cost of disposing of the irradiated fuel and

radioactive waste and to cover the permanent closure of the plants. The German *Commercial Code* provides that those reserves can be counted among the liabilities of the undertaking concerned and lead to a reduction of the amount that is taxable. In 1999, three German electricity utilities complained to the commission about the tax-exemption scheme for these financial reserves. They claimed that the tax exemption amounted to state aid to nuclear power stations. However, the commission decided that the tax measure did not amount to aid of such a nature. The utilities contested this decision before the CFI. The court noted that the tax exemption did amount to an economic advantage granted through state resources. Nevertheless, the court considered that neither the tax-exemption scheme for the reserves nor the detailed rules for its implementation by the tax authorities granted the nuclear power stations a specific advantage. In the context of the obligation to dispose of radioactive waste and to decommission nuclear power plants, the amount of the reserves was not disproportionate. **G**

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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 in substitution for the original land certificate issued in respect of the lands specified in the schedule, which original land certificate is 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 6 October 2006)

Regd owner: Shay White; folio: 19451F; lands: Carlow and barony of Carlow; **Co Carlow**

Regd owner: Philomena Lynch, Kilcully, Ballyjamesduff, Co Cavan; folio: 24655; lands: Kilquilly; area: 5.8958 hectares and 16.5136 hectares; **Co Cavan**

Regd owner: James F Barry and Mary Barry; folio: 1627L; lands: townland of Drumgeely and barony of Bunratty Lower; **Co Clare**

Regd owner: Michael Foley; folio: 2195; lands: townland of Glendree and barony of Tulla Upper; area: 9.7782 hectares; **Co Clare**

Regd owner: Ann McMahon; folio: 15132; lands: townland of Summerhill and barony of Tulla Lower; **Co Clare**

Regd owner: Brendan Marrinan and Ann Marrinan; folio: 1529; lands: townland of Cloughan Beg (East) and Cloughan More (West) and barony of Moyarta; **Co Clare**

Regd owner: Michael McInerney; folio: 29012; lands: townland of Ieverstown and barony of Bunratty Lower; area: 0.0177 hectares; **Co Clare**

Regd owner: Jim Purcell and Deirdre Purcell; folio: 38763F; lands: townland of Kiltanon and barony of Tulla Upper; area: 0.3560 hectares; **Co Clare**

Regd owner: Sean O'Leary; folio: 32348; lands: plot of ground being part of the townland of Deeshart in the barony of Muskerry East and county of Cork; **Co Cork**

Regd owner: David Corkery and Mary Lucey; folio: 90316F; lands: plot of ground known as no 47 Ballea Woods, being part of the townland of Carrigaline West in the barony of Kerrycurrihy and county of Cork; **Co Cork**

Regd owner: Mary Angela Horgan; folio: 38399F; lands: plot of ground in

the parish of St Finbar's, known as San Antonio, 11 Boston Park, The Lough, in the city of Cork; **Co Cork**

Regd owner: David Murphy; folio: 34627F; lands: plot of ground being part of the townland of Lackareagh in the barony of Muskerry West and county of Cork; **Co Cork**

Regd owner: Dermot O'Mahony and Marie O'Mahony; folio: 60638F; lands: plot of ground being part of the townland of Kilmoney in the barony of Kerrycurrihy and county of Cork; **Co Cork**

Regd owner: Robert Power; folio: 13929F; lands: plot of ground being part of the townland of Ballyglavin in the barony of Imokilly and county of Cork; **Co Cork**

Regd owner: Bernard Leach and Brenda Leach; folio: 29678F; lands: plot of ground situate at Woodlawn in the parish of St Finbar's in the county borough of Cork and city of Cork; **Co Cork**

Regd owner: Erich Schiller; folio: 1745F; lands: plot of ground being part of the townland of (1) Ballyrussell and (2) Barnabrow in the barony of Imokilly and county of Cork; **Co Cork**

Regd owner: Anne Dunlea; folio: 73812F; lands: plot of ground being part of the townland of Doonavanig in the barony of Kinalea and county of Cork; **Co Cork**

Regd owner: John Kevin Murphy; folio: 3396F; lands: plot of ground being part of the townland of Fahanalooscane in the barony of Kinalea and county of Cork; **Co Cork**

Regd owner: Finbarr Milner and Cherilyn Milner; folio: 118647F; lands: plot of ground known as 23 The Rise, Dun Coran, in the parish and urban district of Youghal and in

the county of Cork; **Co Cork**

Regd owner: Daniel Gallagher and Annie Gallagher, Ballyloughan, Bruckless, Co Donegal; folio: 44F; lands: Ballyloughan; **Co Donegal**

Regd owner: Joseph Grant, Lower Illies, Buncrana, Co Donegal; folio: 16022; lands: Illies; area: 8.7969 hectares and 2.6557 hectares; **Co Donegal**

Regd owner: Ann Wilde, Cloghan, Ballybofey, Co Donegal; folio: 39794; lands: Ballybogan; area: 0.2023 hectares; **Co Donegal**

Regd owner: Zoe Stephenson, 92 Meadowhill, Kiltroy, Letterkenny, Co Donegal and Michael McGinty, Meadow Hill, Kiltroy, Letterkenny, Co Donegal; folio: 46780F; lands: Ardara; **Co Donegal**

Regd owner: Dawn Elizabeth Marshall, Ballyhaskey, Newtowncunningham, Co Donegal; folio: 2097; lands: Portlough; area: 30.3260 hectares; **Co Donegal**

Regd owner: Reverend Patrick Muldoon, Doonan, Donegal; folio: 38198; lands: Drumcliff; area: 0.1012 hectares; **Co Donegal**

Regd owner: Andrew Hegarty, Letterkenny, Co Donegal; folio: 42537; lands: Glencar Irish; area: 0.1163 hectares; **Co Donegal**

Regd owner: Berkel (Ireland) Ltd; folio: DN104428F; lands: property situate in the townland of Fox and Geese Common and barony of Uppercross; **Co Dublin**

Regd owner: Denis O'Reilly; folio: DN5186; lands: property situate in the townland of Rush and barony of Balrothery East; **Co Dublin**

Regd owner: Ivan Wilders; folio: DN148300F; lands: a plot of ground known as 18 Ashton Lawns, Ashton Broc, Swords, and situate in the townland of Broadmeadow and barony of Nethercross; **Co Dublin**

Regd owner: Catherine Furlong; folio: DN119993F; lands: property known as site no 12 Griffen Glen Grove, Griffen Valley, Lucan, situate in the townland of Esker South and barony of Newcastle; **Co Dublin**

Regd owner: Mary Coyne; folio: 1910L; lands: townland of Townparks and barony of Galway; **Co Galway**

Regd owner: Patrick Culkin; folio: 1474F; lands: townland of Cregarragh and Islandmore (Clareby) and barony of Clare; **Co Galway**

Regd owner: Peter Flaherty and Peter O'Neill; folio: 35185F; lands: townland of Townparks and barony of Galway; **Co Galway**

Regd owner: Padraig Joyce; folio: 57215; lands: townland of (1), (2), (3) and (4) Tonlegee (Ross By), (5) Coolin and barony of (1), (2), (3), (4) and (5) Ross; area: (1) 10.3650 hectares, (2) 50.7020 hectares, (four undivided 20th parts), (3) 4.1632 hectares, (4) 50.7020 hectares (one undivided 20th part), (5) 154.4786 hectares (one undivided 20th part); **Co Galway**

Regd owner: Kieran Joyce and Josephine Joyce; folio: 40299F; lands: townland of Ballybritt and barony of Galway; **Co Galway**

Regd owner: Joseph McLoughlin; folios: 601 and 664; lands: townland of folio 601: (1) Bleannagloos and (2) St Brendan's or Cregganagrog; folio 664: Bleannagloos and barony of folios (601) and (664) Killian; area: folio 601, (1) 9.0396 hectares, (2) 1.8084 hectares and folio 664, 2.1448 hectares; **Co Galway**

Regd owner: Tony Mitchell and Agatha Mitchell; folio: 54692F; lands: townland of Carrowroe South and barony of Moycullen; area: 0.854 hectares; **Co Galway**

LAW SOCIETY Gazette

PROFESSIONAL NOTICE RATES

RATES IN THE PROFESSIONAL NOTICE SECTION ARE AS FOLLOWS:

- **Lost land certificates** – €126 (incl VAT at 21%)
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For further information, contact Catherine Kearney or Valerie Farrell on tel: 01 672 4828 (fax: 01 672 4877)

Regd owner: Mark Murray; folio: 556; lands: townland of (1) Lissavruggy, (2) St Brendan's or Cregganagroy and barony of (1) and (2) Killian; area: (1) 3.7838 hectares, (2) 3.5738 hectares; **Co Galway**

Regd owner: Pauline Meehan; folio: 3490F; lands: townland of Townparks and barony of Clare; **Co Galway**

Regd owner: Luke Small; folio: 12323F; lands: townland of (1) Angliham or Gortacallow, (2) Coarsefield and barony of (1) and (2) Galway; area: (1) 13.4582 hectares and (2) 4.3758 hectares; **Co Galway**

Regd owner: John Hartnett; folio: 27740; lands: townland of Canfee and barony of Glanarought; **Co Kerry**

Regd owner: Daniel O'Shea; folio: 24355; lands: townland of Ardea and Derrylough; **Co Kerry**

Regd owner: Pamela Doyle; folio: 16112F; lands: townland of Ballintemple and barony of Corkaguiny; **Co Kerry**

Regd owner: Richard Walsh; folio: 11052F; lands: townland of 37 O'Rahilly's Villas and barony of Tralee; **Co Kerry**

Regd owner: Anne Byrne; folio: 8698; lands: townland of Timahoe West and barony of Clane; **Co Kildare**

Regd owner: William Halpin; folio: 3935; lands: Donode Big and barony of Naas South, county Kildare; area: 54.4706 hectares; **Co Kildare**

Regd owner: Thomas McIntyre; folio: 17945; lands: townland of Moortown and barony of Ikeathy and Oughterany; **Co Kildare**

Regd owner: Joseph Prendergast; folio:

11839; lands: townlands of Bawn, Eskerhill, Pullagh, Boherbaun and barony of Offaly West; **Co Kildare**

Regd owner: Liam Walsh; folio: 14728; lands: Graigenamanagh and barony of Gowran; **Co Kilkenny**

Regd owner: Andrew Delaney; folios: 12990 and 12996; lands: Rush Hall and barony of Upperwoods; **Co Laois**

Regd owner: Kate McEvoy (deceased); folio: 1719F; lands: Maryborough and barony of Maryborough East; **Co Laois**

Regd owner: Monica E Carroll, 'The Bungalow', Cloncoose, Longford, Co Longford; folio: 3038; lands: Derrintonny; area: 9.4999 hectares; **Co Leitrim**

Regd owner: Alan Hayes; folio: 46229F; lands: townland of Cloghkeating and barony of Pubblebrien; **Co Limerick**

Regd owner: Elizabeth Leahy; folio: 2242F; lands: townland of Rathjordan and parish of Clanwilliam; **Co Limerick**

Regd owner: William McDonagh; folio: 21012 and 4277F; lands: Ballynagarde and barony of Clanwilliam, Co Limerick; **Co Limerick**

Regd owner: Gearoid O'Chonluain and Marcella Uí Chonluain, 8 Golf Links Road, Blackrock Cove, Blackrock, Dundalk, Co Louth; folio: 21088F; lands: Haggardstown; **Co Louth**

Regd owner: William Campbell; folio: 39402; lands: townland of Hazelhill and barony of Costello; **Co Mayo**

Regd owner: John Desmond O'Toole; folio: 48003; lands: Doolough and barony of Erris; **Co Mayo**

Regd owner: Francis Hendy and Mary O'Donoghue, 92 Gandon Close, Harolds Cross, Dublin 6; folio: 26339; lands: Ballymurphy; area: 0.1644 hectares; **Co Meath**

Regd owner: Ciaran McSorley, 58 Brookville, Ashbourne, Co Meath; folio: 25488F; lands: Killelland, Ashbourne; **Co Meath**

Regd owner: Peter McQuillan, Racaufield, Ture, Clones, Co Monaghan; folio: 3798; lands: Racaufield; area: 6.5053 hectares; **Co Monaghan**

Regd owner: Daniel Sheeran; folio: 5728F; lands: Clara and barony of Kilcoursey; **Co Offaly**

Regd owner: Kevin Caulfield; folio: 6790F; lands: townland of Currinah and barony of Costello; area: 0.2687 hectares; **Co Roscommon**

Regd owner: Winifred Joseph Feely Sweeney; folio: 5984; lands: townland of Ballaghaderen and barony of Costello; **Co Roscommon**

Regd owner: Joseph Kelly; folio: 612; lands: townland of Turrock and barony of Athlone North; **Co Roscommon**

Regd owner: Edward Loftus and Sandra Loftus; folio: 1112F; lands: townland of Arnasbrack and barony of Tirerrill; area: 2.2630 hectares; **Co Sligo**

Regd owner: Catherine Hynd; folio: 7494; lands: townland of Boolahallagh and barony of Iffa and Offa West; **Co Tipperary**

Regd owner: James Keays and Gladys Keays; folio: 5626F; lands: townland of Dromineer and barony of Lower Ormond; **Co Tipperary**

Regd owner: Matthew Mulcahy and Elizabeth Bargery; folio: 34616; lands: townland of Cooleen and barony of Ownay and Arra; **Co Tipperary**

Regd owner: Patrick O'Brien; folio: 36381; lands: townland of Carrigeen and barony of Iffa and Offa West; **Co Tipperary**

Regd owner: Edward Stapleton; folio: 28946F; lands: townland of Longford Wood and Knockaunavogga and barony of Ikerrin; **Co Tipperary**

Regd owner: Robin Mooney; folio: (1) 2633 and (2) 6792; lands: plot of ground being part of the townland of (1) Benvoy and (2) Kilsteague in the barony of Middlethird and county of Waterford; **Co Waterford**

Regd owner: Michael Norris; folio: 634L; lands: plot of ground being of the townland of Carrickbeg in the barony of Upperthird and county of Waterford; **Co Waterford**

Regd owner: Brendan Nolan, Keadeen, Irishtown, Mullingar, Co Westmeath; folio: 19619; lands: Irishtown; area: 0.0885 hectares; **Co Westmeath**

Regd owner: John Annesley; folio: 2192; lands: townland of Tiknock and barony of Arklow; **Co Wicklow**

Regd owner: Daniela Frorman; folio: 8580F; lands: townlands of Ballydonnell and Blindwood and baronies of Arklow; **Co Wicklow**

knowledge of a will executed by the above-named deceased, who died on 8 June 2005 at Beaumont Hospital, Dublin 9, please contact Aisling Fair of Bowman McCabe Solicitors, 5/6 The Mall, Lucan, Co Dublin; tel: 01 628 0734, fax: 01 628 0832

Flanagan, Joan (deceased), late of 131 Hillside, Greystones, Co Wicklow, and formerly of 12 Pembroke Terrace, Booterstown, Co Dublin. Would any person with any knowledge of a will executed by the above-mentioned deceased, who died on 18 July 2004, please contact Rosemary Scallan & Company, Solicitors, Burnaby Buildings, Church Road, Greystones, Co Wicklow; tel: 01 287 2905, fax: 01 287 7271 or email: rosemaryscallan@securemail.ie

Graham, Sheila (née Lynch) (deceased), late of 78 Heytesbury Street, South Circular Road, Dublin 8. Would any person having knowledge of any will which may ever have been made by the above-named deceased, who died on 24 August 2006 at Tallaght Hospital, please contact David Larney, solicitor, of Gleeson McGrath Baldwin, Solicitors, 29 Anglesea Street, Dublin 2; tel: 01 474 4300, fax: 01 474 4343, email: dlarney@gmgb.ie

Humphreys, Marion (deceased), late of 61 Finglas Park, Finglas, Dublin 11. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 20 May 1999, please contact Patrick F O'Reilly & Co, Solicitors, 9/10 South George's Street, Dublin 2; tel: 01 679 3565, fax: 01 679 3421, email: info@pfor-eilly.ie

Kenneally, John (deceased), late of 25 Fairview Strand, Fairview, Dublin 3. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 5 March 2006, please contact Michael Houlihan & Partners, Solicitors, 9-11 Bindon Street, Ennis, Co Clare; tel: 065 684 6000, fax: 065 682 1870, email: info@mhp.ie

Lally, John (deceased), late of 18 Shanowen Avenue, Santry, Dublin 9. Would any person with any knowledge of a will made by the above-named deceased, who died on 16 August 2006, please contact Gerry Lally, 18 Highfield Crescent, Swords, Co Dublin; email: glally@tramway.ie

Lalor, Michael (deceased), late of Sweetview, Abbeylax, Co Laois and formerly of New Rath Road, Waterford. Would any person having knowledge of the whereabouts of any will made by the

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Contact
Nick van der Burgh
CVS Solicitors LLP,
17 Albemarle Street,
London W1S 4HP.

01144 20 7493 2903.
DD 0044 20 7518 7971,
Email: nvd@cv-s-law.co.uk

WILLS

Brophy, Catherine (deceased), late of Kilmacuddy, Cadamstown, in the county of Offaly. Would any person having knowledge of a will made by the above-named deceased, who died on 25 November 1995, please contact Thomas W Enright, Solicitors, of John's Place, Birr, Co Offaly; tel: 057 912 0293, fax: 057 912 0802

Delahunty, Thomas (deceased), late of Main Street, Mullinavat, Co Kilkenny. Would anyone with any knowledge of the present solicitors acting for the Tighe estate, who have interests in property in Co Kilkenny, and in particular the villages of Mullinavat and Inistioge, please contact the under-mentioned solicitors in writing. One of the previous owners of the estate was a Wilfred Geoffrey Stuart Tighe. MM Halley & Son, Solicitors, 5 Georges Street, Waterford

Doyle, Thomas (deceased), late of Mountain View, Lough Road, Lucan, Co Dublin. Would any person having any

above-named deceased, who died on 26 August 2006, please contact Ms Murphy & Co, Solicitors, The Old Courthouse, Abbeylax, Co Laois; tel: 057 873 1211/31592, fax: 057 873 1223, email: murphyco@eircom.net

Lawlor, Matthew (deceased), late of 28 St John's Villas, Arklow, Co Wicklow. Would any person having knowledge of a will made by the above-named deceased, who died on 6 February 2005, please contact the Office of the General Solicitor for Minors and Wards of Court, Courts Service, 15/24 Phoenix Street North, Smithfield, Dublin 7; reference: PH/1770; tel: 01 888 6231, fax: 01 872 2681

Moloney, Anne (deceased), late of Athgarvan, Newbridge, Co Kildare. Would any person with any knowledge of a will executed by the above-named deceased, who died on 17 May 2006, please contact Stephen Maher, Solicitors, Main Street, Newbridge, Co Kildare; tel: 045 432 20, fax: 045 434 203

O'Shaughnessy, Mary (deceased), late of 50 Longstone Park, Portrane, Co Dublin. Would any person with any knowledge of a will executed by the above-named deceased, who died on 9 August 2006, please contact Patrick W McGonagle & Co, Solicitors, North Street, Swords, Co Dublin; tel: 01 840 4697, fax: 01 840 1616

MISCELLANEOUS

Irish co-author sought. International tax book already written (US side) by US attorney (former law professor, editor *European Taxation*, PWC alumni). Seeks Irish co-author for Irish side/individual income/estate tax. Email: thomasj.kennedy@yahoo.com

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@dan-defisher.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 814044, email: arobbins@parfitts.co.uk

For sale: ordinary seven-day publican's on-licence. Enquiries to Peter Collins, Collins Solicitors, Main Street, Carrick-on-Shannon, Co Leitrim; tel:

071 9620 882, email: collinssolicitors@eircom.net

High-profile office premises to let. Main Street, Rathfarnham, Dublin 14; 75 sq metres, superb location, tel: Quinn Agnew, 01 662 3113

Seven-day publican's on-licence for sale. Contact: Galvin Broderick Solicitors, 16 Ashe Street, Tralee, Co Kerry; tel: 066 7122 764/712 2344, fax: 066 712 6756

Offices to let, city-centre location, own entrance, may suit sole-practitioner or newly qualified solicitor, rent reasonable; tel: 01 677 2080, fax: 01 677 2109, email: law@hackettllaw.ie

Ashford Temple & Co: law agents and law researchers, 29 Buckingham Village, Dublin 1; tel/fax: 01 855 4844, mobile: 087 278 0467, email: thomaspphelan@eircom.net. All assignments undertaken or validated by legal personnel

TITLE DEEDS

Cullen Helen (deceased), late of Gardiner Street, Dublin 2 and Market House, Ballitore, Co Kildare. Would any solicitors holding any deeds to any property in Ireland, and in particular to a property at Market House, Ballitore, Co Kildare, in the name of the above-named deceased, please contact: Messrs Sheila McConnell & Co, Solicitors, of Wheeler House, Newbridge, Co Kildare; DX 49023 Naas; tel: 045 888 826, fax: 045 897 808

Any solicitor with knowledge of the whereabouts of a deed of conveyance dated 10 February 1992 and made between Barrie Cooke of the one part and Seamus and Bernadette Caulfield of the other part, relating to property at The Quay, Thomastown, in the county of Kilkenny, please contact O'Shea Russell Solicitors, Main St, Graignamanagh, Co Kilkenny; tel: 059 972 4106, fax: 059 972 4687, email: oshearussell@eircom.net

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 Anthony Brazil, Thomas Brazil, Anthony (otherwise Tony) Brazil Junior, Eoin Brazil and Peter Brazil

Take notice that any person having any interest in the freehold estate in the following property: all that and those the premises known as 65 Meath Street, situate in the parish of St Catherine's, formerly in the county but now in the city of Dublin, held under a perpetual fee farm grant dated 10 February 1852 and made between the Right Honourable William

Earl of Meath of the one part and George Pilkington and William Parsons Hoey of the other part from 10 February 1852, being subject to the yearly rent of eight pounds, 15 shillings and one half-penny and the covenants on the one part of the lessee to be performed and conditions therein contained.

Take notice that Anthony Brazil, Thomas Brazil, Anthony (otherwise Tony) Brazil Junior, Eoin Brazil and Peter Brazil intend to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the freehold interest in 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 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 applicant intends to proceed with the application before the county registrar for the county of the 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 premises are unknown or unascertained.

Date: 6 October 2006

Signed: Kent Carty Solicitors, 47/48 Parnell Square, Dublin 1

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 Anthony Brazil, Thomas Brazil, Anthony (otherwise Tony) Brazil Junior, Eoin Brazil and Peter Brazil

Take notice that any person having any interest in the freehold estate in the following property: all that and those the premises known as 1 Crostich Alley Street, situate in the parish of St Catherine's, formerly in the county but now in the city of Dublin, held under a lease for lives renewable forever dated 21 June 1699, made between Bernard Brown (hereinafter called the 'original lessor') of the one part and Thomas Bell (hereinafter called the 'original lessee') of the other part and the covenants on the one part of the lessee to be performed and conditions therein contained.

Take notice that Anthony Brazil, Thomas Brazil, Anthony (otherwise Tony) Brazil Junior, Eoin Brazil and Peter Brazil intend to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the freehold interest in 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 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 applicants intend to proceed with the application before the county registrar for the county of the 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 premises are unknown or unascertained.

Date: 6 October 2006

Signed: Kent Carty Solicitors, 47/48 Parnell Square, Dublin 1

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 Anthony Brazil, Thomas Brazil, Anthony (otherwise Tony) Brazil Junior, Eoin Brazil and Peter Brazil

Take notice that any person having any interest in the freehold estate in the following property: all that and those the premises known as 64 Meath Street, situate in the parish of St Catherine's, formerly in the county but now in the city of Dublin, held under a fee farm (conversion) grant, dated the 26 January 1926, between Guy Brabazon Pilkington and Lydia Mary McMahon of the one part and John L'Estrange Swift of the other part and the covenants on the one part of the lessee to be performed and conditions therein contained.

Take notice that Anthony Brazil, Thomas Brazil, Anthony (otherwise Tony) Brazil Junior, Eoin Brazil and Peter Brazil intend to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the freehold interest in 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 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 applicants intend to proceed with the application before the county registrar for the county of the 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 premises are unknown or unascertained.

Date: 6 October 2006

Signed: Kent Carty Solicitors, 47/48 Parnell Square, Dublin 1

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 Brian Murphy, Garrett Peers and Raymond Peers

Take notice that any person having interest in the freehold estate of the following property: 8 Botanic Road, Glasnevin, Dublin 9, more particularly

described in an indenture of lease dated 30 November 1939 and made between James Joseph Harte of the one part and Nellie Noonan and James McNamara of the other part, that portion of the premises described in the schedule hereto (hereinafter called 'the premises') were demised unto the said James McNamara for a term of 200 years from 1 November 1924 subject to a yearly rent of 15 pounds thereby reserved to the covenants from the part of the lessee and the conditions therein contained.

Take notice that Brian Murphy and Garrett Peers and Raymond Peers 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 to the below named within 21 days of the date of this notice.

In default of any such notice being received, Brian Murphy and Garrett Peers and Raymond Peers 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: 6 October 2006

Signed: Partners at Law, Solicitors, 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 an application by

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Charles and Gregory Gallagher

Take notice that any person having an interest in the freehold estate or any superior interest in the property known as: all that and those the hereditaments and premises formerly known as 1, 2, 3, 4 The Mews, St Patrick's Road, Dalkey, being portion of the hereditaments and premises comprised in and demised by an indenture of lease dated 8 May 1912 made between Edward Alexandra Porter of the one part and Douglas James Proby of the other part and by lease dated 6 May 1940, the Earl of Carysfort to Francis Byrne, of the other part.

Take notice that Charles and Gregory Gallagher intend to submit an application to the county registrar of the county of Dublin for acquisition of the freehold interest and any intermediate interest in the aforesaid property, and any party or parties asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title in 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 applicants intend to proceed with the application before the county registrar for the county 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 to the property are unknown or unascertained.

Date: 6 October 2006

Signed: Donal T McAuliffe, Solicitors, 57 Merrion Square, Dublin 2 (Ref DTMCA/GMcG)

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; 13 St Peter's Road, Phibsborough, Dublin: an application made by Sean Dunleavy

Take notice that any person having any interest in the freehold estate of the following property: 13 St Peter's Road, Phibsborough, Dublin 7, being the premises comprised in and demised by an indenture of lease dated 1 April 1878 and made between Hugh O'Rourke of the one part and Peter Larkin of the other part for the term of 150 years.

Take notice that Sean Dunleavy (the applicant) 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 (or any of them) 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 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: 6 October 2006

Signed: Seamus Maguire & Company (solicitors for the applicant), 10 Main Street, Blanchardstown, Dublin 15

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 John C Gavin and Anne G Gavin

Take notice that any person having an interest in the freehold estate of or any superior interest in the following property: all that and those the property being the subject matter of folio 1479L of the register, Co Carlow, being situate to the west of Bachelors Walk in the town of Muine Bheag, being part of the townland of Moneybeg and barony of Idrone East, being the property held under an indenture of lease dated 7 March 1858 from Philip Jocelyn Newtown to Bagenalstown Gas Company Limited for the term of 999 years from 1 May 1858 at the yearly rent of £5 and under an indenture of lease dated 20 February 1880 from Philip Jocelyn Newtown to Bagenalstown Gas Company Limited for the term of 999 years from 1 November 1877 at the yearly rent of £5.

Take notice that John C Gavin and Anne G Gavin of Bagenalstown, Co Carlow, intend to submit an application to the county registrar for the county of Carlow for the acquisition of the freehold interest in the aforesaid property, and any party or parties 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 from the date of this notice.

In default of any such notice being received, John C Gavin and Anne G Gavin 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 Carlow 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 property are unknown or unascertained.

Date: 6 October 2006

Signed: PD Gardiner & Co (solicitors for the applicants), 15/17 South Leinster Street, Dublin 2

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 Joseph Davy

Take notice that any person having an interest in the freehold estate of the following property: all that and those the lands and hereditaments now known as, and situate at, number 148 Upper Leeson Street in the parish of St Peter and city of Dublin, which said premises are more particularly described and delineated on a map annexed to an indenture of assignment dated 15 October 1926 and made between Agnes Augusta Chambers of the first part, the right Reverend Charles John Ridgeway and Henry George Baily of the second part, Arthur Cecil Baily and Catherine Mary Baily of the third part, and Eugene Davy of the fourth part, and comprise a portion of the lands demised by an indenture of lease dated 14 December 1840 and made between Henry Reid of the one part and Robert Chambers of the other part, whereby certain lands therein described as all that and those that lot, piece or angle or ground situate, lying and being on the north side of the new road leading to Donnybrook, being part of the lands of St Sepulchre, parish of St Peter and barony of New Castle and county of Dublin, containing in front to Donnybrook Road aforesaid on the west 163 feet, on the east side, 152 feet by Mespil Road on the south, 59 feet leading to the toll house on the north by said Robert Chambers holding under said Henry Reid be the same more or less as laid down in a map or sketch thereof on these presents together with all and singular the rights members and appurtenances thereunto belonging or in any wise appertaining excepting and always reserving out of this demise all mines, minerals, quarries of slate freestone and marble and all royalties whatsoever as excepted and reserved by the Lord Archbishop of Dublin were demised by the said Henry Reid to the said Robert Chambers for a term of 200 years from 14 December 1840, subject to the yearly rent of £200 thereby reserved.

Take notice that Joseph Davy intends to submit an application to the county registrar for the 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 is called to furnish evidence of title to the aforementioned property to the below-named solicitors within 21 days of this notice.

In default of such notice being received, the applicant, Joseph Davy, intends 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 person or persons beneficially entitled to the superior interest including the freehold reversion of the aforesaid premises are unknown or unascertained.

Date: 6 October 2006

Signed: Eugene Davy (solicitors for the applicant), 16-18 Harcourt Road, Dublin 2

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 48 Ballinclea Heights, Killiney, Co Dublin, and an application by Rosalinde Lavelle

Take notice that any person having an interest in the freehold estate or any superior interest in the property known as all that and those the hereditaments and premises 48 Ballinclea Heights, Killiney, Co Dublin, being the premises comprised in folio 10226L of the register of leaseholders, county Dublin, and held under an indenture of lease dated 8 April 1969 and made between Healy Ballinclea Limited of the one part and Dermot Chadwick of the other part, whereby the premises the subject of this application were demised for a term of 500 years from 25 March 1967 and subject to an annual ground rent of 20 pounds thereby reserved, including any successor in title to Healy Ballinclea Limited.

Take notice that the applicant, Rosalinde Lavelle, intends to submit an application to the county registrar for the county/city of Dublin for the acquisition of the freehold interest in the said premises,

and any party or parties asserting that they hold the superior interest in the aforesaid property are called upon to furnish evidence of title in 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 applicant, Rosalinde Lavelle, 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 directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold in the aforesaid premises are unknown or unascertained.

Date: 6 October 2006

Signed: James D Aitken & Co (solicitors for the applicant), 107 Trees Road, Mount Merrion, Co Dublin

RECRUITMENT

Employment-law position required by solicitor with some clientele in Dublin area. I have enrolled for the Law Society Diploma Course in Employment Law (evening course) October 2006. Also interested in general practice vacancies.

NOTICE TO THOSE PLACING RECRUITMENT ADVERTISEMENTS IN THE LAW SOCIETY GAZETTE

Please note that, as and from the August/September 2006 issue of the *Law Society Gazette*, **NO recruitment advertisements will be published that include references to years of Post-Qualification Experience (PQE).**

The *Gazette* Editorial Board has taken this decision based on legal advice, which indicates that such references may be in breach of the *Employment Equality Acts 1998 and 2004*.

Computer literate; tel: 01 668 6901 or email: padraigaos@eircom.net

Experienced solicitor required for busy Galway city practice. Apply with CV to **box no 80/06**

Solicitor available for part-time position. Experienced in general practice: litigation, conveyancing and probate. Dublin area. Reply to **box no 81/06**

Solicitor required with an interest in and possibly (but not necessarily) experience in local authority work, in particular planning enforcement, contract,

housing projects, waste matters, etc. Midlands area. Please reply to **box no 82/06**

Solicitor required to join general practice. Self-motivated solicitor with general experience and also District Court experience required. Immediate start. Apply in writing to Peter Doyle, Doyle Fox & Associates, Solicitors, Main Street, Blessington, Co Wicklow

Small, busy rural practice in south midlands region has vacancy for assistant solicitor (or possibly suitable apprentice). Replies to **box no 83/06**

Publication of advertisements in this section is on a fee basis and does not represent an endorsement by the Law Society of Ireland.

ENGLISH LAW AGENCY SERVICES

Fearon & Co SOLICITORS Established 1835

Fearon & Co specialise in acting for non-residents in the fields of Probate, Property and Litigation. In particular:-

- Obtaining Grants of Representation for Estates in England, Channel Islands, Isle of Man and elsewhere
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General Email: enquiries@fearonlaw.com

LITIGATION
Martin Williams
00 44 (0)1483 540845
mwilliams@fearonlaw.com

PROPERTY
John Phillips
00 44 (0)1483 540841
jphillips@fearonlaw.com

PROBATE
Francesca Firth
00 44 (0)1483 540842
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SPANISH LAWYERS

RAFAEL BERDAGUER ABOGADOS

**TWENTY YEARS ADVISING CLIENTS
IN REAL ESTATE TRANSACTIONS IN SPAIN**

PROFILE:

Spanish Lawyers Firm focused on serving the need of the foreign investors, whether in company or property transactions and all attendant legalities such as questions of inheritance, taxation, accounting and book-keeping, planning, land use and litigation in all Courts.

FIELD OF PRACTICES:

General Practice, Administrative Law, Civil and Commercial Law, Company Law, Banking and Foreign Investments in Spain, Arbitration, Taxation, Family Law, International Law, Litigation in all Courts.

Avda. Ricardo Soriano, 29,
Edificio Azahara Oficinas, 4 Planta, 29601 Marbella, Malaga, Spain

Tel: 00-34-952823085 Fax: 00-34-952824246
e-mail: rberdaguer@berdaguerabogados.com
Web site: www.berdaguerabogados.com

BORD NA MÓNA

Commercial Solicitor

Bord na Móna is a commercial state company with diversified interests in the energy, horticultural and environmental sectors. It employs more than 2,000 people and has a turnover in excess of €250 million. It has recently undertaken a significant restructuring to best position itself for further development and growth.

The Role

Reporting to the Head of Corporate Services, the successful candidate will have responsibility for:

- Advising on legal issues related to the commercial activities of Bord na Móna
- Advising on contracts entered into by Bord na Móna, including contracts for the supply of goods and services, contracts of employment, financial contracts, etc
- Advising on Irish and EU legislative and regulatory issues, including environmental legislation
- Advising on issues related to Company law and Corporate governance
- Advising on litigation issues
- Advising on Public and Employer liability cases
- To play an active role in mergers and acquisitions undertaken by Bord na Móna including managing external law firms employed for such transactions
- To establish a system for managing and monitoring existing and new contracted relationships
- To provide conveyancing services related to Bord na Móna properties
- To liaise with external legal advisers appointed by the Company

The Candidate

Suitable candidates will possess the following range of experience, skills and knowledge:

- Significant experience in a similar role
- Familiarity with the requirements associated with working in a commercial state body
- Have excellent written, oral and interpersonal communication skills
- Be computer literate – MS Office Suite

Remuneration will be commensurate with the duties and responsibilities of this position.

Candidates interested in applying for this position should submit their CV to the Head of Strategic HR, Bord na Móna, Múna Street, Newbridge, Co. Kildare, marked Private & Confidential, to reach him no later than Friday 13th October 2006.

Bord na Móna is an equal opportunities employer

The Irish Legal Recruitment SP&CIALISTS



www.benasso.com

Benson & Associates is a niche consultancy, specialising in the recruitment of high calibre lawyers for private practice, commerce and industry, from newly qualified to partner level.

A selection of opportunities for October 2006.

In-house Commercial Lawyer – Associate to Senior Associate level

IHE0004

Our client, a successful Irish plc, has a vacancy for a talented professional to join its Legal Department. The successful applicant will be involved in a diverse range of legal activities, including commercial, banking and property law, contract drafting and review. A sound knowledge of EU and international trading law would be a distinct advantage.

In-house Corporate Lawyer – Belfast Associate level

IHE0002

Our client, a major retail bank based in Northern Ireland, seeks a corporate lawyer. The successful applicant will advise on regulatory and legal issues in the areas of fund management, securities dealing and investment advice, collective investment schemes, insurance-based investments and other wealth management products and services. Excellent drafting and negotiating skills also an advantage.

Commercial Conveyancing Solicitor Associate level

PP0156

A leading Dublin based law firm is seeking a strong solicitor to join its commercial conveyancing department. The successful candidate will be a bright, enthusiastic individual with experience in this practice area.

Conveyancing Solicitor, Carlow Associate level

PP0153

This Carlow-based law firm seeks an experienced conveyancing solicitor to join the team. You will be solely responsible for all residential conveyancing dealt with by the firm. There will also be a small generalist aspect to the role, mainly in commercial conveyancing litigation, district court, family and licensing.

Corporate Commercial Solicitors Associate to Senior Associate level

PP0154

This highly successful Dublin-based law firm is seeking solicitors to join the Corporate Commercial Department. You will be exposed to a wide variety of commercial transactions advising both Irish and foreign public and private companies on a range of areas.

Professional Support Lawyer Associate level

PP158

This top-flight firm Dublin law firm seeks to recruit an additional lawyer to join its Professional Support Department. It would be advantageous if you were ICSEA qualified although this is not a prerequisite.

Medical Litigation Solicitor Associate to Senior Associate Level

PP0155

This well-established law firm is seeking a litigation solicitor specialising in medical negligence. You will be dealing with interesting and diverse workload which will include high-profile cases. Your experience should include exposure to substantial medical negligence cases.

Professional Support Legal Executive Junior Level

PP158

Our client is a Big 5 firm. An opportunity has arisen for a legal executive to join the Professional Support Department. You will provide support to the solicitors in the department in all aspects of their work. The ideal candidate will be part way through ICSEA exams.

Residential Conveyancing Legal Executive Senior Level

PP0152

This respected law firm is seeking an experienced legal executive to join their Dublin-based office. You will deal with residential conveyancing and some commercial conveyancing.

For more vacancies, please visit our website or contact Michael Benson bol solr. in strict confidence, at Benson & Associates, Carmichael House, 60 Lower Baggot Street, Dublin 2, Ireland. T +353 (0) 1 670 3997 E mbenson@benasso.com

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& Associates**
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Corporate Lawyer

Dublin

Up to €100,000

Our Client is a leading law firm in Dublin. The firm has a reputation for excellence in the corporate sector, both domestically and internationally. This is truly an exceptional opportunity for a Corporate Lawyer looking for more autonomy, responsibility and recognition in their job.

The Role:

- Manage a portfolio of corporate and commercial clients.
- Supported by and reporting to the department partner; you will work autonomously, advising and assisting clients on the transactions they are responsible for.
- Advise, draft and negotiate commercial agreements.
- Deal with transactions involving, inter alia, mergers and acquisitions; securitisations; MBOs; insolvency issues; reorganisations; and regulatory matters.

The Person:

- Qualified Lawyer with experience in corporate law.
- In-depth understanding of company law and corporate transactional legislation.
- Be a team player with an approachable and friendly personality.
- Ability to influence with exceptional negotiation skills.
- Experience in conducting due diligence and drafting legal opinions.

There are excellent career prospects and the successful candidate will shine in an environment where they are encouraged to readily understand the client's commercial objectives in any particular transaction and apply their skills and professionalism to those transactions.

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 Merion Square, Dublin 2
Tel: 01 662 1000



Email: dublin@brightwater.ie
Web: www.brightwater.ie



Dermot O'Brien & Associates
Specialist VAT Practice

seek to recruit

another ambitious, talented professional



Dermot O'Brien & Associates is a fast-growing professional services firm which is devoted to providing specialist, independent VAT advice to a rapidly expanding client base, a client base which includes many leading firms of solicitors. We also number amongst our clients some of Ireland's largest financial institutions and businesses - and have considerable experience advising on high-value property transactions. As well as dealing directly with our industry clients, we have also been very successful in working with the professional services market, advising a wide range of small-to-medium sized professional firms on VAT specialist queries.

As part of our continuing expansion we are seeking to recruit an ambitious, talented professional with a number of years previous experience in both a legal and tax environment to work as a consultant within the firm. As well as being involved in all aspects of the firm's business from the outset, the successful applicant will benefit from on-going training and assistance

from a team of highly experienced VAT professionals, to ensure the rapid development of the new consultant's VAT advisory expertise. The role will involve extensive client contact and job management and applicants will be expected to show independence and initiative in business development. It is likely that the successful candidate will be a qualified solicitor, preferably with experience in conveyancing and will have completed the VAT examinations or be studying for the Institute's final examination.

If you are excited by the opportunities offered by joining a uniquely specialist and fast-growing firm at an early stage of its development, and are interested in acquiring a highly sought after niche expertise, you will be interested in this position. Remuneration will be commensurate with experience.

If you are interested in joining us, please forward your curriculum vitae to Dermot O'Brien either by post or by e-mail at the contact points shown.



Dermot O'Brien & Associates

Unit 3, Greenmount Office Park, Harold's Cross, Dublin 6W
T: 7080 080 F: 7080 091 E: info@dermotobrien.biz



**BCM
HANBY
WALLACE**

SOLICITORS

MAKE THE RIGHT MOVE

BCM Harby Wallace is one of Ireland's largest and fastest growing commercial law firms. To support our continued growth we are currently seeking experienced solicitors for the following key positions:

Construction Solicitor

Solicitor ideally with good transactional experience in advising clients on construction law issues and drafting construction contract documentation. Solicitors with experience in other related areas of law e.g. property or banking, will also be considered. Great opportunity to become involved with a developing and rapidly expanding department.

Property Solicitors

Highly experienced solicitors required with in-depth knowledge of all aspects of property transactions including acquisition/disposal of properties, conveyancing, leasing, landlord and tenant issues and site development. Ability to work closely with clients and develop one-to-one relationships essential.

So if you are looking to make the right move where you will be given responsibility, independence and direct access to clients, then forward your CV to Patricia Barr, HR Director, at pbarr@bcmhw.com or call Patricia on 01 418 6440. For further information on the above roles see our website www.bcmharbywallace.com/careers.

BCM Harby Wallace, 88 Harcourt Street, Dublin 2



AT STELFOX LEGAL WE PRIDE OURSELVES IN THE FACT THAT WE ARE A LEGAL RECRUITMENT AGENCY RUN BY LEGAL PEOPLE FOR LEGAL PEOPLE. A DIVISION RUN BY SOMEONE WITH FIVE YEARS LEGAL EXPERIENCE WE KNOW THE DEMANDS OF BOTH THE INDUSTRY AND THE PEOPLE WHO WORK IN IT. WE CANNOT STRESS ENOUGH HOW SERIOUSLY WE RESPECT BOTH CANDIDATES AND CLIENTS CONFIDENTIALITY. WITH STELFOX LEGAL, YOU'RE IN THE DRIVING SEAT.

CURRENT OPPORTUNITIES INCLUDE:

■ In House Litigation Solicitor South Dublin – € Negotiable

Life Assurance provider located in Dublin's Southside has a vacancy for a solicitor with solid and varied legal experience to deal with the company's portfolio of litigation as well as offer support to company's business. This role offers an excellent opportunity for an experienced solicitor to change from private practice to In House.

■ General Practice and Litigation Solicitors Wexford – € Variable

Two highly regarded firms in Wexford have vacancies for solicitors with experience in General Practice (strong emphasis in residential conveyancing) and Litigation. Both positions offer excellent salaries as well as an enjoyable working environment. Candidates must be determined with excellent interpersonal skills as well as strong I.T. skills. Salary commensurate with experience.

If you are interested in finding the right position in the right firm with an agency who genuinely respects your need for confidentiality contact Stephen Kelly B.A., LL.B. at Stelfox Legal on (01) 679 3182 or email your CV to Stephen@stelfox.ie

Log on to our new website for a list of more opportunities

www.stelfox.ie



For information on these vacancies or to discuss other career opportunities, please contact John Cronin Solicitor.

**PRC Recruitment Limited, 11 Hume Street, Dublin 2.
Tel: 01-6381020
or e-mail johncronin@prc.ie**

RESIDENTIAL SOLICITOR - DUBLIN SOUTH

€50K+

Our client, a boutique firm is now looking for a residential conveyancing solicitor for transactions on behalf of residential property developers and clients to include: Site Purchase, Scheme set up, Planning issues, Way leave issues, Tax issues, Local Authority Matters and Banking issues.

SENIOR COMMERCIAL CONVEYANCING SOLICITOR – DUBLIN CITY CENTRE

€90K +

A leading Commercial Law firm in Dublin are now seeking a Commercial Conveyancing Solicitor with experience in commercial conveyancing. The successful candidate will have experience in large deal commercial transactions advising investors, developers and financial institutions and investigating title as well as a good working knowledge of Landlord and Tenant issues.

SENIOR CORPORATE LAWYER – DUBLIN 2

€85K +

Top law firm requires a corporate lawyer for transactional work in its Dublin office. You will have experience in some of the following areas: Mergers and Acquisitions both public and private, securities, private equity, PLC and capital markets experience. This firm offers great opportunities for career development to Partnership level.

FUNDS LAWYER – DUBLIN CITY CENTRE

€50K +

Opportunity exists to join this Dublin firm's Investment Funds team. Applications from candidates from both in-house and private practice are invited. Ideally, you will be experienced in advising institutional clients and in Irish Investment Fund law as well as ideally having multi-jurisdictional experience. However, newly-qualified solicitors with a strong interest in learning Investment Funds are invited to apply.

PENSIONS SOLICITOR – DUBLIN CITY CENTRE

€60K +

This is an opportunity to join the pensions team in a leading practice. The successful candidate will be advising a broad range of international and domestic companies, scheme trustees and individuals on all pension scheme aspects and related matters. Applicants should have preferably gained experience in a large or medium size practice.

COMMERCIAL SOLICITOR – CORK

€60K +

Our client, based in Cork has experienced exceptional growth in its commercial department in the last year. Due to this growth it is now seeking a good company/corporate solicitor to join its team.

AMERICAN POWER CONVERSION

Job Title: Associate Legal Counsel EMEA
Location: Galway, Ireland
Reports to: Director of Legal Affairs EMEA

POSITION SUMMARY

Europe Middle East and Africa (EMEA) Associate Legal Counsel for a US based multi-national corporation. The corporation has in-region manufacturing and engineering facilities located in Ireland, Denmark and Switzerland and sales and service offices throughout EMEA (25+ countries). This position will provide second line legal support to all company operations in the region including HR, Finance, Contracts (sales and service), logistics/OM, Manufacturing, marketing etc. The position reports to the Director of Legal Affairs EMEA located in the EMEA headquarters in Galway, Ireland. The successful candidate will be afforded a valuable opportunity to work in an in-house legal department that deals with legal issues across EMEA on a daily basis.

FUNCTIONS

- Draft and negotiate standard company template agreements, purchasing/vendor contracts, HR litigation, Facilities/Lease agreements, logistic agreements, commercial agreements, including POA's, NDA's, services/consultancy agreements, settlement agreements etc.
- General legal work on corporate files, general commercial litigation, employment litigation debt collection.

- Respond to general queries from Contracts department on all sales and service deals in EMEA.
- Research projects - EU Data Protection, Employment Law in EMEA, WEEE legislation, Sweepstakes Promotions etc.
- Develop processes and maintain a knowledge base in the company databases.

QUALIFICATIONS / EXPERIENCE / SKILLS

- Law Degree from accredited university. Additional qualifications in Commercial Law, European law or Employment law would be advantageous.
- Qualified lawyer in Ireland or other EU jurisdiction.
- Previous exposure to an international environment is preferred.
- Excellent organizational and interpersonal skills
- Strong work ethic and commitment to customer service to internal clients.
- Proven record of ability to learn quickly and work under pressure while managing multiple tasks.
- Travel in region may be required.
- Fluency in both written and spoken English is required and additional language skills would be advantageous.

If you are interested in applying for this position, please email your CV to selina.mcdermott@apcc.com or call me direct at 091 702694.

Get a good career growing

Canada Life is a leading provider of Life, Health, Pension and Investment products. Operating in Ireland, the UK, Germany and the Isle of Man, the European operation is an "engine of growth" for its parent Company the Great-West Life Assurance Company, one of the world's leading financial services Companies. The Canada Life European Information Services Division is based in Dublin and serves all European operations. As a result of our aggressive growth strategy, we are now looking to fill the following positions:



IS Lawyer - Ref CLO310 The Canada Life European Information Services Division is based in Dublin. A significant part of the provision of IS services will be the analysis, review and negotiation of IS contracts. Reporting to the Head of Legal, the IS Lawyer will undertake this work and the successful candidate will have responsibility for Ireland, UK and Germany in relation to all IS contract matters. This position would suit an Irish or UK qualified barrister or solicitor with significant experience of IS contract law or a lawyer who wants to develop an in-depth knowledge of this area.

Assistant Solicitor - Ref CLO295 The Assistant Solicitor will work as part of Canada Life's Legal & Compliance Department. This is a varied and interesting role, providing legal support to the Company's Irish business across a wide range of issues. This position would suit a junior solicitor. Previous experience of financial services would be an advantage but not essential.

Please send your CV to hr@canadalife.ie quoting the relevant job reference number.

Canada Life Assurance (Ireland) Limited,
Canada Life House, Temple Road,
Blackrock, Co. Dublin, Ireland
Tel: 01 210 2000 Fax: 01 210 2020
Web: www.canadalife.ie



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Canada Life Assurance (Ireland) Limited is regulated by the Financial Regulator.

DUBLIN

LEGAL MANAGER DUBLIN

Leading European financial institution, with offices in Dublin. Diverse role that would suit a general in-house counsel, looking to work on domestic and international matters. Excellent package on offer. Ref: 13493. **€95,000-€120,000**

CONSTRUCTION DUBLIN

Opportunity to make the move to the market-leader. Our client is interested in candidates with contentious/non-contentious, projects or planning/environmental experience seeking a new challenge. Ref: 12143. **€45,000-€55,000**

CORPORATE M&A DUBLIN

Top-tier practice with a reputation for working on high profile M&A transactions. Quality of work in this team is second-to-none and genuine career prospects are on offer. Superb international client base. Ref: 12103. **€45,000-€50,000**

INSURANCE DUBLIN

The insurance team of this large firm is both established and held in high regard. Candidates will have prior experience of insurance, however, general financial/banking lawyers are also invited to apply. Ref: 13503. **€60,000-€70,000**

REAL ESTATE DUBLIN

With the boom in commercial property continuing to rise, the real estate team of this major player is expanding. Ideal position for candidates looking to specialise in this field with a top name in this field. Ref: 13513. **€55,000-€65,000**

LEGAL ADVISER DUBLIN

In-house position working with an international finance company. Candidates will advise on regulatory and general commercial matters. Corporate experience would be an advantage, but not essential. Ref: 13393. **€70,000-€80,000**

EMPLOYMENT DUBLIN

Superb position working with Ireland's leading employment specialists. Ideally, candidates will have had exposure to tribunal matters. Contentious or non-contentious backgrounds are of interest for this role. Ref: 13523. **€45,000-€55,000**

ENERGY DUBLIN

Rare position allowing the opportunity to work on energy transactions (including renewables). Working as part of the corporate team, you will advise on a diverse range of energy/resources issues. Ref: 13533. **€45,000-€55,000**

E-COMMERCE DUBLIN

If you are a general IT/ITP lawyer seeking a more specialised role then this position will be of interest. Focusing on e-commerce and outsourcing. Excellent career development potential and attractive package. Ref: 13555. **€45,000-€50,000**

EU / COMPETITION DUBLIN

With the largest competition teams in Ireland, the successful applicant will have the chance to work on challenging regulatory and competition matters for clients in Ireland and across the UK and Europe. Ref: 13543. **€60,000-€70,000**

INVESTMENT FUNDS DUBLIN

Top-tier firm is seeking funds lawyers to join its expanding investment team. Prior funds backgrounds are desired, however, banking lawyers seeking a change in direction should apply. Ref: 12323. **€60,000-€75,000**

GENERAL BANKING DUBLIN

Our client has an excellent reputation for its banking practice. Due to growth, it seeks a general banking lawyer to work with clients across Ireland and the UK. Excellent work/life balance on offer. Ref: 12303. **€45,000-€55,000**

LONDON

COMMERCIAL PROPERTY LONDON

Great chance to join a friendly, inclusive and market-leading property team. Work to include £/multi-million transactions, commercial landlord and tenant matters and portfolio acquisitions and disposals. Ref: 249660. **£53,000-£70,000**

BANKING LONDON

This international City firm has a highly regarded general banking team where assistants will not be pigeon-holed too early in their careers. Great team spirit. Currently interviewing Irish lawyers. Ref: 215800. **£54,000-£70,000**

CORPORATE LONDON

This top-tier UK firm is offering Irish lawyers the excellent opportunity to work on some of the largest and most complex high-brow deals in a challenging, cross-cultural and collegiate environment. Ref: 262490. **£62,000-£82,000**

REAL ESTATE LONDON

Great opportunity to join a leading real estate practice in London. Work on offer includes big ticket investment work for entrepreneurial clients. Top rates, career progression and new offices. Ref: 446800. **£60,000-£85,000**

CORPORATE TAX LONDON

Leading European team seeks a versatile tax assistant to deal with cutting-edge funds related work. Whilst direct funds experience is not expected, intellectual ability is a must. Top rates. Ref: 445150. **£70,000-£90,000**

CORPORATE INSURANCE LONDON

This firm has a full insurance service practice yet maintains key strengths in insurance related work. Serving brand name clients globally, the London office requires an outgoing and able lawyer. Ref: 204140. **£70,000-£130,000**

FUNDS LONDON

Our client is a leading UK firm and has a superb reputation for its funds work. You will get the chance to work with a range of international and domestic clients on investment and real estate funds work. Ref: 336290. **£60,000-£85,000**

COM / ADVERTISING LONDON

Rare chance for a commercial lawyer to move into a role focusing exclusively on advertising and branding work. Work will include advertising on copy clearance for TV campaigns and brand protection. Ref: 429360. **70-£60,000**

BANKING LONDON

This US firm has an excellent reputation for its leveraged acquisition finance practice in London and is now seeking to develop its general banking capability. Superb remuneration on offer. Ref: 454680. **£80,000-£90,000**

PENSIONS LONDON

Excellent opportunity to join leading City firm with significant international presence. Growing team provides opportunity for experienced lawyer or lawyer looking to move into pensions. Top package. Ref: 464550. **£55,000-£70,000**

IP LONDON

Outstanding IP team seeks non-contentious specialist to undertake project work, advisory and some corporate support. Working with blue-chip international client base, it would offer a great step up. Ref: 452910. **£62,000-£80,000**

ACQUISITION FINANCE LONDON

Top-tier City firm offers the opportunity to work with leading names in the market. Experience in general banking transaction role will be needed. Committed to training, the team provides supportive culture. Ref: 455780. **£55,000-£75,000**



Contact Erica Hackman or Dr. M. Thomsen
on +44 (0)131 226 0600.
E: erica.hackman@taylorroot.com
E: dr.m.thomsen@taylorroot.com

For more roles visit
www.taylorroot.com

Experienced Solicitors



About Clayton Utz

Clayton Utz is one of Australia's largest and most progressive law firms. We are renowned for the top tier lawyers we consistently deliver superior outcomes for our clients by creating innovative and effective solutions to legal and commercial challenges.

Our clients are the leading corporates, financial institutions, government bodies and private equity firms in Australia. We are involved in the most sophisticated and complex legal transactions for these top class clients.

We differentiate ourselves by being the most talented and top tier Australian law firm, so we seek lawyers with commercial approach and an ability to deliver the best client service.

The firm is enjoying continued growth and new opportunities are available for high lawyers with outstanding technical skills who demonstrate initiative and responsibility.

Building & Financial Services

With over 41 partners and 120 solicitors, our national Building & Financial Services practice is not only one of Australia's largest but is recognised as a leading player in the top end of the market. We have played a pivotal role in the development of the leveraged finance market in Australia. Our team is also involved in most of the leading infrastructure, multi-high end corporate and structural finance transactions. We also have a leading regulatory and derivatives practice.

Corporate Advisory (M&A)

We are renowned for our expertise in handling all of the post-merger regulatory aspects of corporate law. Whether negotiating with corporate regulators or planning legal strategies, we continue to contribute to the client's interests, often making it our understanding of the law.

Property, Environment & Construction

The sole "premier" construction practice in Australia for five years running - Asia Pacific Legal 500, Transport Firm of the Year (ALB Australasia Law Awards), Commercial Property & Construction Firm of the Year (Australian Legal Business Awards) - our team is firmly established at the forefront of the Property, Planning & Environment and Construction industries. Opportunities exist to join a growing team working on the most significant transactions in the Asia Pacific.

Litigation

A national and leading opponent... Representing clients in Australia's most significant and complex disputes, our national litigation multi dispute resolution team is widely recognised as the leading practice in Australia.

Recruitment Information

We offer secondment assistance, sponsorship to suitable candidates and a competitive remuneration and benefits.

Daniel Reid, former A&D Partner, National Head of Building & Financial Services and other Partners will be in London to conduct interviews on 11, 12 and 13 October 2004. To submit an application or find out more, please contact our regional executives Daniel Thomson or Brian Hutchinson at Taylor Root on 0181 220 0060 or email dthomson@taylorroot.co.uk or bhutchinson@taylorroot.co.uk.

www.claytonutz.com/australia



Sydney



Melbourne



Perth



Brisbane



Canberra



Property Solicitor

Dublin

€Excellent

Our client, a reputable general practice based in Dublin South, is committed to providing a quality service to its clients. Due to expansion, the partners are seeking to hire a solicitor with excellent residential conveyancing experience. This is an exceptional opportunity for a Property Lawyer looking for more autonomy, responsibility and recognition in their job. The firm has excellent support facilities from IT to support staff.

The Role:

- Advising on all aspects of residential property.
- Investigation of title, drafting of contracts, requisitions on title, deeds, memorials, house sharing agreements and ancillary title documents.
- Organising and execution of all mortgage documentation and the perfection of security and registration.
- Managing cases from instruction to conclusion.

The Person:

- Excellent client liaison skills are a pre-requisite for the successful candidate.
- Be a team player with an approachable and friendly personality.
- Must be an exceptional advisor and negotiator for this role.
- Experience in dealing with builder clients would be an advantage.

This superb role will be providing a very competitive remuneration package commensurate with level of experience.

Interested candidates should contact John Madden in the strictest of confidence on 01 662 1000 or email your CV to Jmadden@brightwater.ie.

36 Merion Square, Dublin 2
Tel: 01 662 1000



Email: dublin@brightwater.ie
Web: www.brightwater.ie

ANAGRAM:

TAKE STOUT ... SOB!

PRACTICE

COMMERCIAL PROPERTY LAWYERS

Dublin

- Our client a leading firm with offices in Dublin City centre is seeking to recruit a strong commercial property lawyer. The successful candidate will have a number of years experience in all areas of property law including developments, leasing and investment. Excellent drafting and negotiation skills are mandatory as are excellent presentation and communication skills. Fantastic prospects for the successful candidate. €65,000 - 80,000

CORPORATE LAWYERS

Dublin

- This leading law firm is seeking an exceptional corporate lawyer to join its highly regarded team. You will have an in depth understanding of company law and proven experience of dealing with transactional work, including M&A, venture capital and private equity. Managing an extensive portfolio, you will be expected to work autonomously dealing with clients on a daily basis. An excellent opportunity for the successful candidate. Up to €100,000.

Legal Executives, Company Secretaries

Nationwide

- We have numerous exciting opportunities available for experienced Legal Executives and Company Secretaries in firms throughout the country. Our clients include firms of all sizes from small practices to top tier firms, many of which are paying above market rates with benefits and excellent prospects for progression! €Excellent!

IN HOUSE

ASSOCIATE LEGAL COUNSEL

Galway

- Our Client, an international company, is seeking to appoint an Associate Legal Counsel to support the Senior Legal Counsel of its EMEA operations. You will deal with all legal matters for all departments, including litigation, purchasing for all departments, Employment Law matters, Corporate matters, contract queries, facilities/leases, logistics and debt collection. You will also be responsible for developing legal know-how. Excellent drafting and research skills are a prerequisite as are good communication and presentation skills. An excellent and rare opportunity for a strong commercial lawyer to move in house. €50,000 - €65,000

INTERNATIONAL

Magic Circle - London/New York/Hong Kong/Dubai Corporate/Banking/Structured Finance

- If you are a lawyer interested in working with one of the world's leading firms and have any level of experience in any of these practice areas we would be delighted to hear from you. First class academics along with the drive to accelerate your career are mandatory requirements. Salary to €150,000!

Considering a change of direction? We are looking for driven individuals with excellent commercial awareness to join our successful team. No experience required. We offer an exceptional package plus equity for the right individual.

ANAGRAM SOLUTION: STATUTE BOOKS



Lisa Weston BL MA(Oxon), Osborne Recruitment, 104 Lower Baggot Street, Dublin 2
Tel: 01-6384400; Fax 01-6384444; www.osborne.ie; Lisa.Weston@osborne.ie

LEGAL • FINANCIAL • OFFICE • IT • CALL CENTRE • TEMPS

Legal & Compliance Counsel

DoubleClick, a leading global advertising organisation, enables agencies, marketers and publishers to work together successfully and profit from their digital marketing investments. An opportunity has arisen for a Legal Counsel to look after all European legal affairs.

The Role:

Based in Dublin, DoubleClick's headquarters for its European operation, and reporting to the General Counsel in New York, the Legal & Compliance Counsel will serve as the focal point for legal, privacy and compliance issues across Europe.

The Responsibilities:

- Deal with all legal affairs for Europe
- Provide legal guidance and assist in the identification of potential risk factors related to the Company's practices, strategic business units, as well as all products and services.
- Negotiate and draft commercial contracts, particularly for software licensing, technology services and outsourcing
- Advise senior management on legal issues particularly in technology, the Internet and privacy across Europe and their implications on the business
- Track changes & developments in the global legislative and regulatory environment relative to privacy and data protection matters
- Advise on employment law and litigation matters.
- Develop and monitor an appropriate compliance and training program for the sales organisation
- Manage corporate secretariat work for Europe

The successful applicant will be a qualified lawyer with relevant experience from a leading law firm or from a multinational organisation and have proven experience in data protection and privacy legislation. Fluency in a second European language is highly desirable.

This is an exciting role where you will work closely with the business and have the gravitas necessary to succeed in a highly driven environment. The remuneration package will reflect the importance of the role.

Interested applicants should contact our exclusively retained consultant, Yvonne Keane of Keane McDonald in strict confidence on: +353 1 8415614 or +353 87 6824591.

Alternatively email your CV to yvonne@keanemcdonald.com.

DoubleClick ^{Click}



Keane McDonald
executive legal recruitment

Keane McDonald
Ground Floor
68 Pearse Street, Dublin 2
Tel: +353 1 8415614
Fax: +353 1 8836229
Email:
yvonne@keanemcdonald.com
Web: www.keanemcdonald.com

Corporate & Commercial

t 01 619 0400

Banking Dublin 4Excellent

Top tier practice requires Banking Solicitors to join their award winning team. Previous experience of a wide range of banking issues essential as is close client contact. Excellent career prospects and financial package offered to the successful candidate. This is a truly outstanding opportunity for ambitious lawyers to become part a major law firm. (ref 1738/2)

Commercial (In House) Dublin 4Negotiable

A vacancy has arisen for an in-house solicitor for a multi-national software and consultancy company. Based in Dublin 18, the ideal candidate will have corporate experience in an in-house role or top legal practice. The role will involve advising on all company legal, contractual and compliance issues. (ref 1552/1)

Commercial Conveyancing (In House) Dublin 4Negotiable

Semi-state organisation requires a Commercial Property Solicitor on a locum basis to supplement their team. Candidates should have extensive commercial property experience. Initially required for an 8 month contract, there is the possibility of a permanent contract. (ref 1245/1)

Commercial Property Dublin 4Negotiable

Leading law firm requires Junior and senior Commercial Property Solicitors to join their expanding practice. Working directly with partners this client facing role will cover all aspects of commercial property including lending, leasing and developments. (ref 1738/2)

Corporate (In House) Dublin 4Negotiable

Outstanding opportunity for an experienced Corporate Solicitor to join this prestigious financial services company. Incorporating a broad range of corporate skills including banking, financial services and drafting, you will have significant corporate experience gained in a similar environment in the UK, Ireland or other leading jurisdiction. (ref 1222/2)

Corporate Finance Dublin 4Excellent

Prestigious midsize practice in exclusive Dublin city centre location requires two Associate Corporate Solicitors to join their practice. Working on a wide variety of high quality work for an outstanding client list, you will have extensive experience gained in a similar environment. (ref 1222/1)

Employment (In House) Dublin/London 4150,000 (upto)

Our client, a global financial services company, is looking for a senior In-house Employment Lawyer of senior associate or partner level. Based in either London or Dublin you will have extensive experience gained in a leading practice or multinational organisation. Candidates should have broad experience in non-contentious issues preferably with a European or EMEA overview. (ref 12172/2)

Financial Services (In House) Dublin 4Negotiable

Multi-national bank are looking for experienced solicitors to join their financial services team. This is a great opportunity to get some in-house experience with one of the most well known names in the business. The role will suit candidates who can demonstrate experience in a similar role. (ref 1524/2)

Funds (In House) Dublin 4Excellent

Opportunity to join an established legal team within this international investment company. Responsible for advising on regulatory matters relating to hedge funds in Dublin, Bermuda and US. This is an outstanding opportunity for an ambitious lawyer to move in-house or to progress their career in an in-house environment. Excellent remuneration package offered. (ref 16112/1)

Corporate & Commercial

IT (In House) Dublin 4Excellent

I.T. Lawyer required to join the legal department of one of Ireland's leading providers of investment products. The successful candidate will have significant experience in a similar environment or reputable practice. Excellent remuneration package offered. (ref 1743/1)

PPP/PA Dublin 4Excellent

Opportunity to join one of Ireland's leading and most prestigious law firms in their PFI/PPP team. You will have extensive experience in a similar environment along with strong analytical and drafting skills. (ref 1738/3)

P&L Litigation Dublin 4Excellent

Leading domestic law firm requires a Professional Support Lawyer to join their expanding litigation team. A strong professional history and wide understanding of litigation and know how systems required. This role offers fantastic continued professional development and financial package. (ref 1552/2)

Commercial (In House) Kerry 4Excellent

Irish owned international financial services company require two commercial solicitors to join their in-house team based in Kerry. These roles will incorporate various commercial issues including intellectual property, company law and candidates will also be required to deal with a variety of commercial agreements. (ref 1707/1)

Commercial (In House) Kildare 4Negotiable

Commercial Solicitor required for an in-house role within this energy based company in Co. Kildare. This role will involve assisting conveyancing services, mergers and acquisitions, litigation, EU law and environmental issues. Ideally candidates will come from a commercial background. (ref 17252/1)

Dublin Office

t +353 (0)1 619 0400 f +353 (0)1 611 4448 e dublin@g2legal.ie 18 Fitzwilliam Square Dublin 2 Ireland

Out of Office Hours Paul Fahy 087 9109745

Offices also in Birmingham • Brighton • Bristol • Edinburgh • Glasgow • Leeds • London • Manchester



t 01 619 0400

General Practice

t 01 619 0400

IP (Dublin) €10k+

Prestigious top tier Irish law firm seeks an IP solicitor to work within their IPIP practice. Covering a broad range of non-contentious IP work you will have extensive experience in a similar environment. This is an outstanding opportunity for a practitioner who wishes to specialise in non-contentious IP. (ref: 1525020)

Commercial (In House)

London/Munich €120k+

Excellent opportunity to join this expanding team in one of the world's largest financial institutions. Candidates should have a strong professional history along with excellent business acumen and fluency in German. Previous experience in East European commercial projects advantageous. (ref: 1517226)

Compliance (In House)

London/Frankfurt to €150k

Blue chip financial services company requires a senior Compliance Lawyer to oversee the development, implementation and management of a risk-based compliance programme for business unit compliance with various regulatory or compliance requirements and functional programs for assigned business areas. (ref: 1517226)

M&A (In House) London/Frankfurt €150k+

Our client, a leading financial services company requires an experienced senior M&A specialist to join their expanding legal team of almost 200 lawyers. Candidates will have worked for a leading corporate practice specialising in M&As and other corporate areas. Fluency in German is essential as is a willingness to travel. Excellent salary and benefits package offered along with career progression. (ref: 1517226)

M&A (In House)

London/Frankfurt €100k+

Our client, a leading financial services company requires a junior M&A specialist to join their expanding legal team of almost 200 lawyers. Candidates will have corporate and M&A experience from a leading practice or similar in-house environment. Fluency in German is essential as is a willingness to travel. Excellent salary and benefits package offered along with career progression. (ref: 1517226)

Conveyancing/Litigation (Dublin city centre)

Experienced general practice solicitor required for busy city centre practice. This role will primarily involve conveyancing, litigation and probate. Excellent prospects and salary will be offered to the right candidate. (ref: 1522211)

General Practice (Dublin city centre)

Our client in Dublin 4 is looking for an ambitious, experienced solicitor to join this busy general practice. Primarily required for conveyancing work, but will also involve some general litigation, this role would be of particular interest to those candidates who are keen on developing the practice and their career. (ref: 1522211)

General Practice (Dublin city centre)

Mid tier firm located in Dublin 1 require solicitors with conveyancing and probate experience to join their experienced team. Newly qualified candidates and all other qualified solicitors will be considered. Excellent prospects and salary are available to the successful candidate. (ref: 1522211)

Litigation (North County Dublin)

North County Dublin firm requires an experienced solicitor to join their expanding team. The ideal candidate will have strong experience in litigation, particularly personal injury. Excellent prospects for the right candidate. (ref: 1522211)

Litigation (Dublin city centre)

Part time litigation solicitor required for Dublin city centre practice. This role will involve sometime spent working on site with continued client. Initially required on a locum basis, this role includes a review at the end of the year. Excellent package available to the right candidate. (ref: 1522211)

Litigation (Co. Dublin)

South County Dublin general practice requires an experienced solicitor for their team. This role would suit those candidates with extensive residential and commercial conveyancing experience. Candidates should be able to demonstrate good litigation experience also. Salary and benefits are commensurate with experience. (ref: 1522211)

Residential Conveyancing (Co. Dublin)

General practice located on the outskirts of south west Dublin require a solicitor to join this busy office. Candidates will ideally have experience of residential conveyancing and probate and be looking for a role where they will have freedom to work independently. (ref: 1522211)

Residential Conveyancing (Dublin city centre)

Small general practice firm located in Dublin city centre require an experienced solicitor to join their team. This role will be mainly residential conveyancing and probate. This role should suit confident solicitors who are looking for a friendly team environment. Excellent salary and benefits commensurate with the local market. (ref: 1522211)

Residential Conveyancing (Limerick)

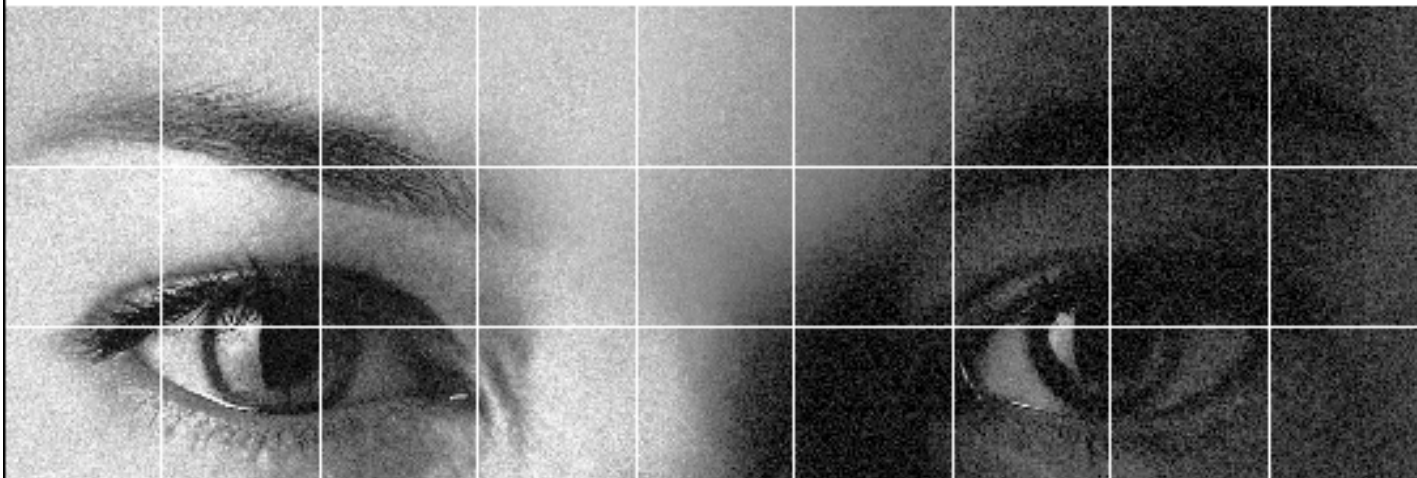
Expanding Limerick city centre conveyancing practice require an experienced solicitor to join their team. Ideally candidates will have exceptional conveyancing experience and be looking for a role that will grow with their continued effort and support. Excellent opportunity for ambitious conveyancing specialists. (ref: 1741616)

International Legal Recruitment

Local knowledge



outstanding legal opportunities



In-House

Senior Legal Counsel €110k + Bonus and Benefits
A leading financial services provider seeks to appoint a senior banking lawyer to join their expanding legal department in Dublin. Our client is particularly well-known in capital markets. The ideal candidate will be a senior banking lawyer with expertise in one of the following areas: general banking, law, structured finance, securitisation, capital markets, project finance or derivatives. Ref: JO4682018

Legal Counsel €80k + Bonus and Benefits
Our client, a leading international bank, seeks to appoint a Legal Counsel for their Dublin operation. The ideal candidate will be a qualified solicitor with strong commercial experience, preferably in a financial services environment. Further experience in the areas of drafting and negotiating contracts and advising on regulatory issues relating to the general banking business will be viewed positively. Ref: JO900395

In-House Derivatives Lawyer €80k + Bonus and Benefits
The Dublin subsidiary of a large global organisation is looking for a Derivatives Lawyer. This is an excellent opportunity for a talented candidate to broaden their legal skills as this position involves working with only one other lawyer. You will have some experience in the negotiation of derivatives documentation, negotiation of custody or tri-party repo agreements. However, exceptional candidates with general corporate/commercial or banking experience will be considered. Ref: JO434349

Interested candidates should forward their Curriculum Vitae to Claran Dolan at claran.dolan@robertwalters.com or call +353 (1) 635 4111.

Robert Walters is a leading global recruitment specialist with 27 offices in 14 countries. Our Dublin legal division provides a high quality, proactive and professional service in both the private practice and in-house markets to meet your career needs in Ireland. Robert Walters, 2nd Floor, Riverview House, 21-25 City Quay, Dublin 2. Web: www.robertwalters.com

Private Practice

Construction Solicitor €85k + Bonus
This is an excellent opportunity for a Construction Solicitor to join a prestigious practice based in Dublin city centre. The successful candidate will work on contentious and non-contentious aspects of construction law. You must possess excellent technical skills as well as a strong knowledge of construction law. This role offers a great opportunity for career progression within a dynamic company. An exceptional remuneration package is on offer to the right candidate. Ref: JO368660

Banking Lawyer €85k + Bonus
A top Dublin law firm with a reputation for excellence seeks to appoint a lawyer to join their banking and financial services department. This is an exceptional opportunity for a solicitor with good experience in general banking, asset finance, capital markets or structured finance to advance their career in one of Dublin's leading firms. Excellent career prospects and progression will be on offer to the successful candidate. Ref: JO126641

Insurance Solicitor €75k + Bonus
One of Dublin's most prestigious law firms seeks to appoint a solicitor with strong corporate law skills to join their insurance team. The ideal candidate will have experience of insurance law, however our client will consider candidates with a strong commercial/corporate law background. This is an excellent opportunity to join a niche area and build your career in one of Dublin's leading practices. Ref: JO13060

Interested candidates should forward their Curriculum Vitae to Mike Campbell at mike.campbell@robertwalters.com or call +353 (1) 635 4111.

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Opportunity**

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ARTHUR P. McLEAN AND COMPANY SOLICITORS

Arthur P McLean & Co. is a well established Dublin 2 practice committed to providing a quality service to its continuously expanding client base. Due to a company restructure the firm requires an additional team player: an ambitious, focused and experienced commercial solicitor with commercial conveyancing experience. Excellent career prospects and a possible equity linked partnership await the successful candidate.

For more information on this exceptional opportunity, please contact Michelle Nolan at Meghen Group, who has been exclusively retained to recruit for this position.

Commercial Property Solicitor - MN0609-155
€80 -100K + Bonus & Benefits

Exciting opportunity for a commercially-minded solicitor to assist in expanding the Commercial Property/Banking department of this respected practice in Dublin 2. There is already an existing client base. Candidates must have gained relevant experience from a recognised city or leading provincial practice in all Commercial Property and Banking matters.

Commercial Property Solicitor - MN0609-34
€70 - 80K + Bonus

Don't miss this opportunity to join a well respected Dublin 7 practice, renowned for its high quality services and depth of legal expertise. The post will ideally suit a solicitor with broad knowledge and experience of Commercial Property matters.

Banking/Financial Services Lawyer - MN0608-27
€60 - 70K + Bonus & Benefits

Opportunity to join a leading team and work on a wide variety of Banking and Financial issues. Advising both domestic and international corporations, you must have a background in Securitisation, Structured Finance and Cross Border/Domestic leasing to be considered for the role.

Pension Solicitor - MN0609-26
€Neg + Bonus & Benefits

Good all round pension experience is required for this role. Duties will include drafting, corporate support in transactions and possibly some litigation. Tax experience is not essential but the successful candidate must be able to advise on all aspects of Pensions issues. This is an excellent firm to develop a career with.

General Practice Solicitor (Litigation/Conveyancing)
MN0608 -133 €Neg + Bonus

This long-established general practice in Dublin 2 prides itself on its superior service to clients throughout Ireland. With a growing demand for its Litigation, Residential Conveyancing, Commercial and Private Clients services, this an excellent opportunity for a solicitor with extensive experience in Litigation and Conveyancing/Probate to join. Exposure to cross-border transactions is highly advantageous.

In-House Commercial Property Lawyer
MN0609 -136 €Neg + Bonus

Our client, a specialist legal advisory organisation, has a broad client base, ranging from private individual investors to international developers. Due to growth in the Commercial side of its business, an additional solicitor is required for the Dublin office. Multi-jurisdictional experience in Share Purchase Agreements, Agency agreements and Joint Ventures will be a distinct advantage.

LEINSTER/MUNSTER ROLES

Meghen Group is currently enjoying several successful placements with firms in Co. Waterford, Co. Cork, Co. Meath and Co. Galway. We are presently working on several roles in Leinster and Munster counties. If you are seeking to relocate or wish to learn of current market salaries relating to your level of qualification and area of expertise, please do not hesitate to contact us.

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 97 Lower Baggot Street, Dublin 2.

www.meghengroup.com



It's all about Laurence Simons

Legal Manager

Dublin €120K plus

This international financial services organisation seeks a legal manager for their institutional and investments division. You will manage an existing team of financial services lawyers and take responsibility for all legal issues. International experience of legal and regulatory issues affecting asset managers operating cross border is required. Exposure to the legal issues associated with international investing an advantage. Ref: 14065. **Contact Portia White.**

Professional Support Lawyer

Dublin €60k plus

An excellent opportunity for a lawyer to provide professional services to fee earners in a leading law firm. This will suit either an existing professional support lawyer or an associate banking lawyer seeking a change from transactional work. You will provide the full range of precedent update and internal training. Knowledge management is a key aspect in this role. Ref: 14668. **Contact Portia White.**

Newly Qualified Corp/Commercial Solicitor

Dublin €Excellent terms on offer

Our client a top 10 firm with a strong domestic & international focus is looking to recruit a commercial lawyer for this team based role. You will have experience in one or more of the following; mergers and acquisitions, venture capital, joint ventures, privatisations and flotations. Ref: 14840. **Contact Sharon Swan.**

Litigation - Insolvency

Dublin €Excellent

Due to the continued growth of this global international law firm an exciting opportunity exists for a junior litigation lawyer. Previous exposure to insolvency and restructuring would be an advantage. Outstanding opportunity to join a firm renowned for its understanding of cross border and multi jurisdictional work and for its commercial focus. Ref: 14498. **Contact Sharon Swan.**

Employment Lawyer

Dublin €Negotiable

Our client a leading firm based in the city centre is looking to recruit an employment lawyer. You will work with national & multinational clients on both contentious and non contentious matters. Experience before tribunals and the EAT would be highly beneficial. Ref: 11313. **Contact Sharon Swan.**

In-house Legal Advisor

Dublin €70k plus

Leading financial services organisation, requires an associate solicitor to join its legal and compliance team. You will be responsible for all legal matters affecting the bank and act as a solicitor to the bank and its subsidiaries. The role will include drafting and reviewing contracts of all kinds between the bank and other parties, dealing with high-profile litigation cases and ensuring regulatory and compliance of new and existing products and procedures. Ref: 15068. **Contact Portia White.**

Commercial Property lawyer

Cork €65k plus

Leading firm in Cork require an associate solicitor to join an expanding and progressive team. You will have an in depth knowledge of all areas of property law, including development, investments and leasing. You will have strong drafting and negotiating skills. The successful candidate will have a commercial approach and the ability to work to tight deadlines. Ref: 13454. **Contact Portia White.**

Property

Dublin €Negotiable

A leading niche practice wishes to appoint a commercial property partner to grow and develop this unit. You will have experience in residential and commercial development, leases, tax, lending & landlord and tenant. Excellent remuneration packages on offer with genuine opportunities for career development. Ref: 99984. **Contact Sharon Swan.**

Pharmaceutical

Dublin €Excellent terms & benefits

Our client is a leading pharmaceutical company with a global presence headquartered in London. The Dublin office is well established and are now seeking an in-house lawyer to join the team. You will have corporate experience from a leading firm or in-house entity. Prior exposure to Life Sciences work would be a distinct advantage. Ref: 15379. **Contact Sharon Swan.**

NQ Banking/financial services lawyer

Dublin €50k plus

Leading medium size firm, requires a newly qualified lawyer to join its banking/financial services department. The firm act in many of Ireland's leading domestic banks and financial services firms. If you have strong academics and want to pursue your career with a leading practice this is an exceptional opportunity. Ref: 13764. **Contact Portia White.**

Sharon Swan

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email: sharonswan@laurencesimons.com

Portia White

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email: portia@laurencesimons.com

Harcourt Centre, Harcourt Road, Dublin. 2

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