

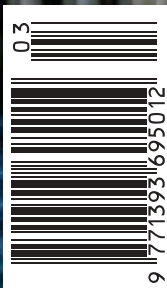
LAW SOCIETY Gazette

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On the cover

Recent LRC recommendations and high-profile cases have fuelled debate on the law of self-defence, but has the law, in certain respects, been left in a precarious state?

PIC: GETTY IMAGES



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Acting in the public interest

On 27 January, the Law Society hosted a major conference – ‘New Rules for the New Irish’ – at Blackhall Place, relating to immigration. The conference was over-subscribed, with a long waiting list for places. It was organised as a public service to the community, and the comments of people who attended have been very favourable indeed. Conferences such as these provide a valuable opportunity to the Society, and indeed to the profession as a whole, to play their parts in promoting better citizenship throughout the country.

On all of our streets, we now find a very rich diversity of language, and indeed race. We have an obligation to ourselves and to our forefathers, many of whom were emigrants, and particularly to our descendants, to provide a safe, secure and equal society for all people entitled to live and work here.

There is also a duty on government to provide the framework within which people can enter our country and live here in harmony. Given that in the enlarged EU there is free movement of people within the union, the rules relating to immigration apply to those countries outside the EU.

It is to the benefit of those seeking entry and to the existing citizens that there should be a fast and fair system of assessment. It is unfortunate that there are some people seeking residency in our country who have been here for many years – but because of the restrictions imposed on them, are not allowed to work or make an economic contribution to society.

The minister for justice gave a very considered and thought-provoking speech in his capacity as

keynote speaker. He was ably assisted by Brian Ingoldsby, Kevin O’Sullivan and David Costello from the Department of Justice, who stayed on throughout the day in

order to deal with many queries from the floor. Predictably, once the minister referred to detention centres, this created much media interest. The minister had in mind that a person seeking asylum or entry to this country would be required to live in a certain place, and if he or she moved from that place pending the determination of their case, they would lose the right to make any application at all.

It was particularly heartening to see so many people there who were prepared to give of their time to reach a broader understanding of what is a particularly significant social issue. It is very distressing when one witnesses racist behaviour on our streets or within our community. The Law Society is well placed to be able to provide a forum for discussion of these and other issues, where it is patently clear that we are not acting in our own self-interest.

It reflects well on the profession that there are individual solicitors up and down the country who act in a selfless way for the betterment of their local community and, it is gratifying when the opportunity presents itself to the Society to act similarly in the public interest.

Philip Joyce
President



“It is gratifying when the opportunity presents itself to the Society to act in the public interest”

Is this a new beginning for children?

Last month, the government published a bill containing an amendment for a referendum on rights for children, writes *Geoffrey Shannon*. The amendment establishes a new children's article in the Constitution and contains seven substantive provisions covering children's rights, child protection, the best interests of children in certain court proceedings and the protection of children in the criminal justice system. Does this mark a new beginning for children in Ireland?

Let us examine what is being proposed. The first provision gives more explicit expression to the constitutional rights of children and will afford the courts the opportunity to elaborate on the rights of the child over time.

The second provision restates the existing article 42.5 of the Constitution, which defines the threshold for state intervention in family life on behalf of a child. The only change being made here is that this provision will now apply to any child and to all parents. This provision will ensure a uniform standard of protection for all children, irrespective of



PIC: GETTY IMAGES

their parents' marital status.

The third and fourth provisions address roadblocks within the care and adoption systems, which currently deny children growing up in long-term care the opportunity through adoption of a 'second chance' to enjoy stability and security.

The fifth provision will enable the introduction of legislation to provide that the best interests of the child shall be secured in any court proceedings concerning the adoption, guardianship or custody of, or access to, any child.

The sixth provision will permit legislation to be introduced that will provide for

the use of 'soft information' in the vetting of persons who have unsupervised access to children and vulnerable adults.

The seventh provision will allow for the introduction of legislation to create a zone of absolute or strict protection in connection with a child under 18 years. In the area of sexual offences, this provision will enable the law to be restored to the position which existed before the Supreme Court decision in the *CC* case in May 2006. This judgment required a change in law that has had the effect that a child in a statutory rape case can now be rigorously tested by skilled lawyers with a view to creating reasonable doubt as to the child's consent.

By removing the defence of honest mistake in relation to age, the proposed amendment will ensure that the issue of consent cannot be raised and the consequent cross-examination of children in such cases will not be permitted.

At present, some children are seriously disadvantaged and are vulnerable to having second-best choices made for them by the absence of a provision in the Constitution protecting their interests. The proposed amendments have the potential to end several 'roadblocks' within the legal system that stand in the way of children having the best possible family life.

Recent child care controversies, particularly the statutory rape crisis and the fallout from the *Ferns Report*, have heightened awareness of the need for constitutional change and have inevitably produced a crop of well-meaning platitudes. However, we now have a duty to act. We should remember that childhood does not stand still. In fact, an entire generation of children has grown up since we first started debating the issues addressed in the proposed constitutional amendment.

Family Law Committee questions costs claims

The Courts Service has launched its first report on family-law proceedings, *Family Law Matters*. This is the first in a series of reports that will attempt to dispel myths and misunderstandings that may exist from a historic lack of information on the subject.

This initiative was permitted by a change in the law on the *in camera* rule in family law. The *Irish Times* journalist, Dr Carol Coulter, was engaged to carry out the reporting of family law, on a pilot basis.

At the launch, Dr Coulter said

that the high number of lay litigants in contested family law cases should give rise to concern over the costs of legal representation for people who need it.

She said that the number of lay litigants – those who represent themselves in court without legal representation – had increased dramatically in this area of law in recent years, due, perhaps, to the cost of legal representation.

"It would appear that costs in this area vary widely, not only in accordance with the complexity of cases, but also in accordance

to the legal teams engaged by litigants," she was reported as saying in *The Irish Times*.

The Family Law Committee and Civil Legal Aid Committee of the Law Society had an opportunity to briefly consider the *Family Law Matters* report when it recently convened.

"The report had issued the previous day, so there had been limited opportunity to consider it at length," it said. "The committee had some preliminary views about the dangers of 'snapshot' research but noted that this is only the first of a

number of interim reports.

"Of significant concern, however, was the fact that the matter highlighted by the media was the alleged high level of costs in family law cases. The report does not itself deal with legal costs, other than in passing, yet this was the item featured on the news broadcasts. The committee proposes to seek further information from Ms Coulter as to issues she proposes to address as court reporter and to seek an opportunity to highlight some concerns it has in this area."

Court of Appeal on the way?

The government has established a committee to review and consider the necessity for a general Court of Appeal for processing certain categories of appeals from the High Court.

The committee is chaired by Mrs Justice Susan Denham of the Supreme Court. She has a track record of steering major structural changes in the courts system. A decade ago she chaired a working group, whose reports led to many modernising changes in the courts system, in particular the establishment of the Courts Service.

Judge Denham delivered a paper in May 2006 at the annual conference of the Supreme and High Court judges, organised under the auspices of the Judicial Studies Institute. Entitled 'Proposal for a Court of Appeal', she made a strong case for a new court to deal with the majority of cases appealed from the High Court, leaving the Supreme Court to deal only with constitutional cases and a limited number of other matters of general or public importance.

Key objective

A Court of Appeal exists in most common law countries. It is interposed between the courts of trial and the supreme or constitutional court. It consists of permanently-appointed judges and can hear both civil and criminal appeals, usually in separate divisions. The establishment of a Court of Appeal in Ireland would incorporate the current Court of Criminal Appeal.

A key objective in the creation of such a court would be to relieve the excessive pressure on the Supreme Court, from which the justice system has suffered for many years. The level of delay caused by the ever-increasing volume of cases

pending before the Supreme Court is unacceptable.

Judge Denham concluded her paper as follows: "I propose that a permanent Court of Appeal be established in Ireland. Such a court would benefit litigants – private persons and major corporations. It would also benefit the state, as it would make the court system more efficient and effective. In addition, it would provide an infrastructure which would support the development of a consistent jurisprudence at appellate level."

Law Society nominee

The Law Society was pleased to be invited to nominate a member of the committee and has nominated Director General Ken Murphy. He worked previously with Judge Denham for three years on the Working Group on a Courts Commission.

Immediately prior to the

committee's first meeting on 21 February, Murphy said: "The law's delay is not a new concept. The phrase appears in probably the most famous dramatic speech ever written, Hamlet's 'To be or not to be' soliloquy, first penned over 400 years ago. While substantial work needs to be done to flesh out the case for a Court of Appeal, and on the detail of how such a court would operate in Ireland, anything that would reduce delay in the courts system must be welcomed, by lawyers and litigants alike."

The director general added: "Judge Denham has made a compelling case, based on statistics, on comparisons with other jurisdictions and on fundamental principles of justice, for the creation of a Court of Appeal. It is clear from its establishment of this committee that the government takes the proposal very seriously."



Mrs Justice Susan Denham



Mr Justice Iarfhlaith O'Neill



Director General Ken Murphy

COURT OF APPEAL COMMITTEE – TERMS OF REFERENCE

- 1) To review and consider the necessity for a general Court of Appeal for the purpose of processing certain categories of appeals from the High Court,
- 2) To address and consider such legal changes as are necessary for the purposes of establishing such a Court of Appeal, and
- 3) To make such other recommendations as are appropriate for the purposes of ensuring greater efficiencies in the practices and procedures of the superior court.

COURT OF APPEAL COMMITTEE

- Mrs Justice Susan Denham, Supreme Court – chairperson;
- Bob Browne, assistant secretary, Department of Justice;
- Ken Murphy, director general, the Law Society;
- Liam O'Daly, deputy director general, Office of the Attorney General;
- Turlough O'Donnell SC, chairman, the Bar Council;
- Eoin O'Leary, assistant secretary, Department of An Taoiseach;
- Mr Justice Iarfhlaith O'Neill, High Court;
- Ms Helen Priestley, principal officer, the Courts Service – secretary to the committee.

NOTICE

Notice is hereby given that the 143rd annual general meeting of the Solicitors' Benevolent Association will be held at the Law Society, Blackhall Place, Dublin 7 on Friday 20 April 2007 at 12.30pm:

- 1) To consider the annual reports and accounts for the year ended 30 November 2006,
- 2) To elect directors,
- 3) To deal with other matters appropriate to a general meeting.

■ ISO SEEKS 'BRAND VALUATION' INPUT

The International Standards Organisation (ISO) is developing a new standard for 'Brand Valuation – Basic requirements for methods of monetary brand valuation'.

The first meeting of the ISO committee that will develop this standard will take place in Berlin on 15-16 March. The National Standards Authority of Ireland (NSAI) is seeking feedback from interested practitioners with experience of Irish branding standards.

For further information, contact Peter O'Reilly, NSAI; tel: 01 807 3804 or email: peter.oreilly@nsai.ie.

■ 'WRITE UP' YOUR STREET?

The Human Rights Committee has launched an essay prize for newly-qualified and trainee solicitors. Essays should focus on identifying a particular aspect of human rights law with the potential to have importance in the application or interpretation of Irish law.

The closing date is 27 August 2007. First and second prizes are €600 and €300 each. More details are available on www.lawsociety.ie under 'Society Committees', 'Human Rights'.

Successful campaign against stage-payments 'rip-off'

A successful conclusion is in sight to a campaign by the Law Society against a system, which still prevails in many parts of Ireland, whereby builders extract payments from buyers of new homes as the houses go up.

A straightforward 'rip-off' is how Council member and former Law Society Conveyancing Committee chairman, Patrick Dorgan, described the stage payments system in a 2004 interview on RTE's *Morning Ireland* programme. This was part of a Law Society campaign, led by Dorgan, for a number of years against a system that the Society denounced as "unfair and anti-consumer", calling for legislation to outlaw it.

A Law Society-commissioned survey, conducted by the accountant and financial analyst Des Peelo, concluded that in an average €250,000 house, the cost of financing stage payments to the purchaser was about €7,000. "How many carpets and how many curtains and how many cookers could they buy for that money?" Dorgan asked.

Following on from the Society's media interviews and



Senator Paul Coughlan

political lobbying campaign on the subject, Senator Paul Coughlan of Fine Gael introduced a bill in the Seanad seeking to prohibit stage payments. Although support for the principle of the bill was expressed by senators from all parties, it was voted down by the government.

Minister of State at the Department of the Environment, Noel Ahern, said he supported the objective of the bill but wished to see whether it could be achieved by consultation with the building industry before resorting to legislation.

Minister Ahern wrote to the



Council member Patrick Dorgan

Society on 21 February to say that agreement has been reached with the construction industry representatives to end the practice of stage payments in housing estates. Contracts or agreements entered into after 30 June 2007 for estate housing will not include provisions for the making of stage payments or interim payments. The Irish Homebuilders' Association will shortly be advising its members that phasing out of the practice should begin immediately.

The minister expressed his thanks to the Law Society for its interest in the matter and for its contribution to achieving a very positive outcome.

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'State must have tools to manage immigration'

The following is a brief edited extract of the speech by justice minister Michael McDowell at the recent Law Society public interest conference on the proposed Immigration, Residence and Protection Bill 2007:

"One of the most notable changes in Ireland is our transformation from an emigration society to an immigration society. Not all of the migrants, in all probability, will remain here, but a very significant number, and probably a majority, will do so. They fall into the category of 'the new Irish'.

Article 3 of our Constitution says: 'It is the firm will of the Irish nation, in harmony and friendship, to unite all of the people who share the territory of Ireland, in all of the diversity of their identities and traditions.'

Article 2, as recently amended, affirms the right of every person born on the island of Ireland to be part of the Irish nation. The recent amendment excludes from that entitlement persons born to citizens of other states who are only temporarily resident in Ireland.

Finally, article 9 says: 'Fidelity to the nation and loyalty to the state are fundamental political duties of all citizens.'

Duties and rights

This, then, is the architecture of our concept of nationality and citizenship. Citizenship is not some mere entitlement to permanent residence or to carry a passport or to wear a label of nationality, either at home or abroad ... citizenship entails duties as well as rights, and the concept of loyalty to the state imposes on every citizen the obligation to vindicate the rights of others in accordance with the terms and the values of our written constitution.



The Tánaiste, Michael McDowell

We must accept and accommodate diversity rather than seek to deny or marginalise its significance and its potential to enhance and enrich our lives.

None of which is to say that we should be complacent or indifferent to the realities of diversity of identity and culture within our state but, as the Constitution makes clear, we have got to unite diverse identities and traditions 'in harmony and friendship'. Diversity can and must be harmonised: discordancy is not harmony.

The state must have at its disposal the tools to manage migration effectively. It must also have the flexibility that is necessary to operate in a fluid environment.

It must be recognised that Ireland, like any sovereign state, starts out from a position that no foreign national has an absolute right to come here. To be here, therefore, you must have the consent of the state, whether that consent is expressly granted through a positive decision in an individual case through the exercise of the discretion of the minister or through Ireland's decision to sign up to international agreements such as the European Union or to conventions such as the *Geneva Convention on Refugees*.

[A] second principle is that

our immigration system must operate in a manner that protects the security and good order of the state, its citizens and – let's not forget – our communities of foreign nationals lawfully present here and forming part of Irish society. Foreign nationals who break the law or help others to do so are liable to be removed.

Third, there is the essential requirement that human rights are fully respected.

Fourth, there is sustainability. By that I do not mean integration or assimilation or whether immigrant children take up hurling. This is a much narrower concept that relates to the capacity of the country, its infrastructure, its labour market, its schools, housing and other services to accommodate the people coming into Ireland.

Access to services

Fifth, there must be a very clear distinction between those who are in the country legally and those who are not. This distinction will operate in two important ways. First, those who are illegally here must remove themselves, and, if they do not, then the state will do so. Secondly, the hospitality of the state and access to its services must be reserved for those who come through the legal route and who play by the rules.

Ireland will be a welcoming and generous host to those who come through the front door, as many people have found to their benefit. At the other end of the scale, persons unlawfully here will be excluded from all but the most basic services. I cannot accept that people should profit from illegality or that they should enjoy the same rights as those lawful immigrants who have worked hard to reach a particular level of entitlement and stake in society."

■ MERGER CONTROL

The Competition Authority is holding a half-day conference on merger control in Croke Park Conference Centre on 11 April 2007. The conference is aimed at practitioners in the legal community as well as consultants that might advise the authority and law firms.

Register by emailing: conference@tca.ie. Closing date for registration is 23 March 2007. Queries should be addressed to either Robert Holmes (tel: 01 804 5481, email: rh@tca.ie) or Sandra Rafferty (tel: 01 804 5417, email: sr@tca.ie).

■ SPORTING DISPUTES BODY

'Just Sport Ireland' – an independent organisation set up to resolve sporting disputes outside of the court system – was launched on 10 February at a conference hosted by the Bar Council.

■ ASYLUM FIGURES DOWN

The number of asylum applications received in the state in 2006 was 4,314 – a slight decrease on the 2005 figure of 4,323 and a 9.5% decrease on 2004. According to figures released by the Department of Justice, the top five 'source countries' for 2006 were Nigeria, Sudan, Romania, Iraq and Iran. In 2005, the main source countries were Nigeria, Romania, Somalia, Sudan and Iran. A total of 302 deportation orders to non-EU countries were carried out in 2006. An additional 227 people who would otherwise have been removed from the state opted for voluntary repatriation.

■ FIRST FEMALE PRESIDENT

Advocate Sharon Roberts has become the first woman president of the Isle of Man Law Society. Previously vice-president, Ms Roberts (55) has taken over the role for the next two years from Jeremy Callin.

SUPPORT SERVICES FOR MEMBERS

LAW DIRECTORY 2007

Support services executive Louise Campbell explains the features of the Society's annual *Law Directory*

In February, all Law Society members received their 2007 *Law Directory*. The directory is perhaps the most widely used Law Society publication, best known for containing the contact details of solicitors' offices. However, it contains lots more useful information.

Section 1: Law Society committees, task forces, bodies with Law Society representatives, Society personnel, bar associations, solicitors' associations and law societies in other jurisdictions.

Section 2: the Society's Law School, including the Education Committee, Law School personnel, and a listing of solicitors admitted to the roll in the previous year.

Section 3: an alphabetical listing of individual solicitors, solicitors' firms/corporate bodies in county order, Irish firms with offices abroad, and sections that cover solicitors in

the full-time service of the state, those with practising certificates living outside the jurisdiction and registered European lawyers.

Section 4: Northern Ireland firms, notaries public and land register.

Section 5: King's Inns benchers and council members and an alphabetical listing of members of the Law Library.

Section 6: the courts, including dates and times for court sittings.

Section 7: notaries, commissioners for oaths, coroners, and the panel to assist solicitors about whom complaints have been made.

Section 8: useful services, from documents/file storage and law searchers to recruitment consultants, tax consultants and expert witnesses, among others.

Section 9: international law firms.



Section 10: statutory and general reference material, including the fees for the Property Registration Authority, Companies Office and courts, and the *Statute of Limitations*, government departments/organisations and conversion tables.

Suggestions for additions to the directory are welcome – contact Colleen Farrell at Blackhall Place; tel: 01 672 4800 or email: c.farrell@lawsociety.ie. Extra

copies of the directory can be purchased by contacting Esther McCormack at Blackhall Place; tel: 01 672 4800 or email: e.mccormack@lawsociety.ie.

There is an online directory of solicitors' firms on the Law Society website. This enables an electronic search for the contact details of every solicitor's firm in the country by entering the firm's name and location, for example: 'O'Brien, Fermoy'.

During 2007, a new directory of services will be published, featuring useful contact information for a variety of support services offered by the Law Society and other organisations. **G**

For information in relation to any Law Society member service, please contact Louise Campbell, support services executive, Blackhall Place; tel: 01 881 5712 or email: l.campbell@lawsociety.ie.

CI Arb chief criticises housing standards

The chairman of the Irish branch of the Chartered Institute of Arbitrators (CI Arb), Dermot Roughan, says that little thought is being given by the planning authorities, developers and architects to the future well-being of Ireland's housing stock. CI Arb is the professional body of engineers, surveyors and lawyers for arbitration and dispute resolution. He was speaking at the association's 25th annual dinner.

"The growth in apartment building throughout urban areas is staggering," Mr Roughan declared. "We are in the course of witnessing a serious depletion of fine housing stock. Everywhere one looks, one sees the demolition



Celebrating the 25th annual dinner of the Irish branch of the Chartered Institute of Arbitrators (CI Arb) in Dublin recently were (l to r): Dermot Roughan (chairman of CI Arb – Irish branch), Petria McDonnell (chairman of the Arbitration Committee of the Law Society of Ireland), and Dudley Potter of Malone & Potter Solicitors (honorary secretary of CI Arb – Irish branch)

and destruction of period houses and traditional cottages of aesthetic merit."

Mr Roughan predicts that, due to the huge amount of residential apartment units

being built and their development not always being to the highest of standards, that construction disputes will arise. "These apartment buildings, though nominally complying with building regulations, often fail to achieve acceptable sound insulation requirements and bin-storage waste-disposal standards. Where will the three-child families of the future live?" he asked.

He also commented on Ireland's *Arbitration Acts 1954 to 1998*, "which have come under scrutiny recently". He said that the CI Arb recognises the importance of law reform and the improvement of Irish legislation relating to arbitration.

Law School launches distance learning

A new distance-learning pilot project is about to be launched by the Law School. The online 'Certificate in Judicial Review' will start at the end of April.

This is the first time that a distance-learning course has been offered by the Law Society. This type of course will benefit many 'time-poor' practitioners who cannot easily travel to Dublin to attend courses. It will allow them an alternative method of fulfilling their CPD requirements.

Diplomas manager Freda Grealy has been instrumental in designing the course. She says: "We are aware of the sacrifices and difficulties that many practitioners face in order to avail of the courses offered by the diploma programme and CPD."

Distance learning offers many advantages. "All you need is a computer and a broadband internet connection

and you can learn in the comfort of your own home or office," says Freda. "All of the resources are provided for you in terms of learning materials. Students are encouraged to engage with each other, which can be a very rewarding experience."

The first distance-learning course will focus on judicial review. It will examine when to take a judicial review, how an application is made in the High Court, *locus standi*, delay, the impact of judicial review on individuals, administrative bodies and the courts – in areas like planning law, criminal law, pollution control and immigration law.

Run over a six-week period, the course will start on 28 April. Course materials will be released weekly, online, via the Law Society's 'Diploma Programme' website: diplomaweb.learnonline.ie. All that's required is an internet



connection and a special password so that students can download notes, post to the discussion forum and use the chatroom. The suggested reading material will contain embedded links for further reading.

"People's IT skills vary and so we have adopted a 'blended distance-learning' approach that incorporates some elements of face-to-face learning," says Freda.

The first workshop session

will give participants a chance to meet each other off-line in their learning groups before they go online. This will also allow the diploma team a chance to meet students and explain how best to engage with the course at a distance.

The course will appeal to solicitors and trainees who have an open-minded approach to learning. Participants should factor in between three to four hours to devote to this course per week and be prepared to attend at both workshops, which will take place from 10am to 1pm at the Law Society on 28 April and 26 May.

This course is being offered at a special introductory rate of €350 (places are limited). Six CPD hours, two of which are group study (management and professional development).

Contact f.grealy@lawsociety.ie for further information.

Have a knight in!

According to the Department of Justice, in any given year, between 11,000 to 12,000 properties will enter the probate process. Usually the property is left vacant until the matters of the estate are sorted out legally – a process that can take from three to six months but, in many instances, much longer. Adding to the stress is the threat of the property being vandalised while it's vacant. The ideal solution is to put 24-hour security on the property, but the expense usually restricts this option to a small number.

Now, for the first time in Ireland, there's another solution – you can install 'guardians' to occupy the property for the time it's vacant. This 'protection by occupation'

service is being offered by Camelot Property Management Ltd, which has an office in Dublin. Their ISO 9001-approved service boasts over 6,000 trusted guardians under licence and more than 1,500 properties under management.

Guardians treat the property as their temporary home – the message to potential squatters and burglars is that the property is occupied. Property protection costs for an average house can be as low as €40 per week.

Guardians sign a licence rather than a tenancy, which means you get your property back when you want it. The temporary occupation licence gives absolutely no tenancy rights to the guardian, and also sets out very clearly their duties and responsibilities.

Podcasting at the Law Society

In January 2007, podcasting was introduced to the Law Society of Ireland. Alison Egan of the Law Society, working closely with David Kerrigan (Enovation Solutions), the Society's IT department and Duncan Inverarity (BCM Hanby Wallace Solicitors), recorded a full diploma lecture and released it in MP3 file format to their Diploma in Employment Law students.

Students can now download the entire lecture from a website used to support the diploma course. This format will appeal to those who cannot attend a lecture, for whatever reason, and to those who might want to go back

over points made by the lecturer.

To see 'podcasting' in action, you can download the keynote address of Tánaiste Michael McDowell, from the recent 'New Rules for the New Irish' conference, held in Blackhall Place on 27 January. This MP3 file can be downloaded at www.lawsociety.ie.

Podcasting will also feature as part of a new, online learning diploma – 'Judicial Review' – being piloted in April 2007. For further details, please contact: diplomateam@lawsociety.ie.

For further details on podcasting, contact Alison Egan at a.egan@lawsociety.ie.



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letters



Send your letters to: **Law Society Gazette, Blackhall Place, Dublin 7**, or email: gazette@lawsociety.ie

Single payment entitlements and bequests

*From: Bernadette Brennan,
Trading of Entitlements Section,
Department of Agriculture,
Portlaoise, Co Laois*

I refer to the introduction of the Single Payment Scheme (SPS) for farmers in 2005. The SPS, which is fully decoupled from production, replaces livestock premia and arable aid schemes with effect from 1 January 2005. In general, the SPS is applicable to farmers who actively farmed during the reference years 2000, 2001 and 2002, who were paid livestock premia and/or arable aid in one or more of those years and who continued to farm in 2005. The gross single payment is based on the average number of animals and/or the average number of hectares (in the case of arable aid) on which payments were made in the three reference years. The gross payment is divided by the average number of hectares farmed during the reference period to give each farmer a number of payment entitlements.

The Department of Agriculture and Food 'established' single payment entitlements for each farmer who farmed and was paid direct payments during the reference period. The farmer had to claim those entitlements by submitting a Single Payment Scheme application form in 2005. He/she 'uses' and qualifies for payment on the entitlements each year by declaring one hectare of eligible land on the annual Single Payment Scheme application form in respect of each payment entitlement held.

Over the past few months this department has received a



Sheepy sheepy: notoriously hard to sneak up on

number of enquiries from the legal profession regarding the status of Single Payment Scheme entitlements where the entitlements form part of the inheritance of an estate and particularly where the inheritance involves more than one beneficiary to the estate.

SPS entitlements are not directly connected to land. Once claimed in 2005, they become the property of the farmer who farmed during the reference period 2000-2002 and he/she may sell these entitlements with or without land, may lease entitlements with land or may transfer entitlements by gift or inheritance with or without land. Article 46 of EU Council Regulation 1782/2003 states: "Payment entitlements may be transferred by sale or any other definitive transfer with or without land."

In the event of inheritance of an estate where the land is bequeathed to one party and the residue of the estate is bequeathed to another party, the entitlements form part of the residue of the estate unless otherwise specified in the will.

Single payment entitlements will not be of financial benefit to the holder unless he/she is in a position to declare one hectare of land for each payment entitlement. However, if at least 80% of the entitlements have been used in one calendar year, they may be sold on the open market and a financial benefit will, of course, accrue to the seller. If the entitlements become the property of a person who does not have any land, and if that person wishes to draw down a single payment annually, he/she will have to acquire, by lease or purchase, one hectare of land per entitlement per year. If the entitlements remain 'unused' over a three-year period, they will revert to the National

Reserve and will be lost forever to the person concerned.

In view of the above, it is imperative that members of the legal profession, who are dealing with the succession of estates where SPS entitlements are involved, are fully aware of the rules pertaining to these entitlements. They also need to be in a position to offer advice to their clients in the making of wills and so on, particularly in cases where the will involves more than one beneficiary to the estate. In this context, it would facilitate all concerned if the will clearly stated to whom the SPS entitlements should be bequeathed. In the case of existing wills, a review may be necessary in order to account for the single payment entitlements.

The EU regulations governing the single farm payment scheme are Council Regulation (EC)1782/2003 (as amended) and Commission Regulations 795/04 and 796/04 (as amended).

If you require any further information please contact: Trading of Entitlements Section, Department of Agriculture, Eircom Building, Knockmay Road, Portlaoise, Co Laois. Lo-call number: 1890 200 560.

Who's who?

*From: Declan King, Lucan
Branch Manager, Gunne
Residential*

Further to a 'letters' article in your recent edition ('Who will be the stakeholder?', p16, *Law Society Gazette*, Jan/Feb 2007), please be advised that

Gunne New Homes is a separate company to Gunne Residential (both companies were sold separately in 2006). Accordingly, your description "Gunne estate agents in Lucan" is an inaccuracy that I would be grateful you correct.

Tinkering with due

While there is no doubt that the treatment of victims in the criminal justice system is unsatisfactory, reactionary legislation is no solution, argues Diarmuid Griffin

On 13 February, justice minister Michael McDowell published the general scheme for the *Criminal Justice Bill 2007* and the *Criminal Justice (Forensic Sampling and Evidence) Bill 2007*. Aside from the establishment of a DNA database, the proposed reforms do not represent a fresh approach in tackling crime, add little by way of genuine reform and, in certain instances, merely pose a further threat to the rights of the accused and the due-process values reflected in the criminal justice system.

The backdrop to the current proposals lies in the minister's October 2006 speech on rebalancing criminal justice and reforming our laws to reflect changes in society. He argued that "sometimes change is reactive rather than proactive" and, with this reflective rather than reactive approach in mind, the minister set up a group to examine issues relating to the balance, or lack thereof, in criminal law.

The terms of reference of the Balance in the Criminal Law Review Group were to consider issues such as the right to silence, the admissibility of character evidence and the exclusionary rule in evidence. The group was established in November, requested submissions from the public on the issues by the beginning of January (of which they received a mere 21), and the first interim report was published on the same day as



PIC: GETTY IMAGES

Typical media scaremongering

the Department of Justice published the general scheme. This left no opportunity for a public debate on the recommendations in the report prior to the publication of the proposed reforms.

Right to silence

Such a short time frame is hardly conducive to a reflective approach to such weighty and important issues. The group provisionally recommended the fettering of the right to silence through allowing adverse inferences to be drawn from the silence of an accused person detained by the gardaí for questioning. This recommendation has been included in the new bill, despite the group stating that the views in the interim report are not conclusive and may differ to those in their final report.

The proposals were published in the context of

what the minister described as "one of the greatest threats to our society since the advent of paramilitarism in the 1970s", namely the vague concept that is gangland crime. He described the proposed reforms as "one of the most comprehensive anti-crime legislative packages ever brought forward".

This is not the first time observers have heard of "anti-crime packages". There has been frenzied legislating in the area of criminal justice since the murder of Veronica Guerin and detective garda Gerry McCabe in 1996. The mere fact that more legislation is imminent is indicative of the failure of past reforms and should alert us to the inability of legislative action alone to tackle crime effectively.

In fact, it was only in October of last year that the comprehensive anti-crime package that was the *Criminal*

Justice Act 2006 was enacted. At 173 pages in length, the provisions – which include the introduction of anti-social behaviour orders, the electronic tagging of offenders and mandatory sentences for possession of firearms in suspicious circumstances – have only just become operational.

On examination of the proposals themselves, it is clear that this is not the radical anti-crime package that the public might have hoped for, or might expect. They include permitting the detention of a suspect for up to seven days in certain circumstances, allowing inferences to be drawn from silences while being questioned by the gardaí, reforms to bail applications, provision for increased sentences based on prior convictions and the creation of new offences that relate to murder or drug trafficking.

Offences while on bail

Similar legislative changes have been implemented in the recent past. A successful constitutional referendum on bail and the subsequent *Bail Act 1997* effectively approved the use of preventative justice, allowing bail to be refused by a court on the ground that the accused might commit an offence while out on bail. Numerous pieces of legislation have been enacted in recent years extending the period of detention of a suspect. The privilege against self-incrimination has been

process values



consistently eroded by legislation. New measures targeted at tackling gang-related crime were included in the *Criminal Justice Act 2006*. Piecemeal attempts to impose mandatory sentencing have been attempted in the past and yielded little visible benefit.

While the minister cannot be criticised for being inactive in legislating in the area of criminal justice, he can certainly be criticised for being reactive rather than reflective in his legislative approach.

The approach taken highlights a significant problem with criminal justice reform in the political context. Crime and punishment has become an important election issue since the 1990s. In recognition of the political gains to be made from capitalising on the public's fear of crime, and the genuine public outrage that is often expressed with various crises and failings of the system,

politicians now compete to become the most credible person on 'law and order' issues.

While the political debate on crime can generally be reduced to a battle of the sound bites on who is the toughest, the upshot of the politicisation of crime and disorder has resulted in punitive legislative reform along the lines of the proposed *Criminal Justice Bill*.

Pursuit of punitive policies

It is no mere coincidence that severe time constraints were placed on the Balance in the Criminal Law Review Group in their review of the right to silence, that the publication of these proposals came days before the PD pre-election conference and that the bill will, if the minister has his way, become an act before the next general election.

But while the minister may gain politically from such a

move, it is unlikely to yield any substantive gain in the fight against crime.

The minister, in his October speech, spoke of the imbalance in the scales of justice, whereby the system is more likely to favour the criminal rather than the innocent victim. It has become increasingly evident that, in the political debate at least, victims' interests are construed along the pursuit of punitive policies and their rights counterposed with those of the accused/offender, thereby justifying the harsher treatment for those individuals.

But while there is no doubt that the treatment of victims in the criminal justice system falls short of satisfactory, this dissatisfaction cannot simply be addressed through legislation such as the *Criminal Justice Bill 2007*.

Tinkering around with the right to silence, pre-trial detention periods and

mandatory sentencing should provide little comfort to the victims of crime. Rather than continuing along our current trajectory of reactionary legislation, an alternative, but by no means radical, solution could be pursued instead. The imbalance could more appropriately be addressed through focusing attention on the actual needs, rights and interests of victims.

Society has compromised some fundamental due-process values in order to tackle the scourge of serious and violent crime, but at what price? If the reforms previously enacted have not been effective, then perhaps the time has come to reassess our approach to justice issues and to embark on a new one. **G**

Diarmuid Griffin is lecturer in criminal law, criminology and the law of evidence at the Faculty of Law, NUI, Galway.

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Society slams equity

Dangers lurk for people availing of equity release schemes, according to the Law Society's Conveyancing Committee. Mark McDermott reports

The Law Society's Conveyancing Committee has heavily criticised many aspects of equity release schemes. The criticisms are contained in *Proposed Regulation of Home Reversions and Lifetime Mortgages*, a submission paper prepared for the 'Interagency Group' set up by the Department of Finance to explore the possibility of regulating home reversions and lifetime mortgage products currently being offered to senior citizens in Ireland.

The committee states upfront that equity release schemes should be used only as a last resort where, for example, the need for money is compelling and there is no other financial option open to the houseowner. Availing of such a scheme, it says, can leave the owner without the financial means to pay for nursing-home care, to the extent required, at a later stage. It recommends that elderly houseowners might avail of financial assistance from family members in return for a mortgage on the house, or the purchase of the house, giving a life residence to the houseowner on more favourable terms than a commercial promoter.

"Elderly people are vulnerable to being preyed upon by others who exert undue influence on them," the committee says. "A solicitor advising such clients will have particular regard in the first instance to whether the money is needed, the purpose for which it is required, whether it is for the benefit of any other person, what safeguards are being provided and so on, and will then consider which

scheme would be the most suitable having regard to the conditions attached."

The report focuses on products offered by three financial institutions, namely:

- 1) Bank of Ireland 'Life Loan' Mortgage
- 2) The SHIP 'Seniors Finance' Mortgage Scheme, and
- 3) The Seniors Money 60plus Loan.

The Conveyancing Committee has reservations about all three. About the Bank of Ireland 'Life Loan' Mortgage, it says: "The borrower is obliged to make a will as a condition of the loan. This is not considered to be necessary or reasonable and is, accordingly, an unjustifiable intrusion into the private affairs of the borrower. Neither is it possible to know with certainty whether or not a will has been revoked at any time by making a further will or otherwise..."

"The borrower should, in any event, be free to decide not to make a will so that his or her estate will devolve on intestacy. He or she may have various reasons for doing this – because of being under pressure to make a will in favour of a particular person, or because of a wish to prevent a child or children from bringing a section 117 application after his or her death or otherwise."

The committee expresses its disquiet with the fact that the executor of a will is obliged to sign a form, as a condition of the loan being granted, undertaking to co-operate with the bank on the death of the borrower.

"In reality, an executor cannot undertake to do anything other than to administer the estate in accordance with law. If this means bringing an action against the bank in the interests

of the estate, the executor is obliged to do so regardless of what undertaking he or she has signed. In the ordinary course of events, the executor will be obliged to discharge the lawful debts of the deceased, and this applies whether or not he or she has signed an undertaking to co-operate with the bank and whether the mortgage is a 'Life Loan' mortgage or any other kind of mortgage..."

The committee questions the bank 'reserving the right' to discuss the borrower's affairs with his or her executors and beneficiaries during the borrower's lifetime. It states: "The borrower should not be subjected to the possibility that his or her affairs will be discussed with an executor or with a beneficiary during the lifetime of the borrower. By definition, neither an executor nor a beneficiary can claim to be such until the death of the borrower, and the borrower at all times will wish to retain the right to change the name of either an executor or a beneficiary without making them aware that they had been originally nominated. Any assurance that discussions will not be held with the executor or the beneficiary unless it is considered by the bank to be necessary is of no comfort to the borrower. The bank will clearly put its own interests first, as it has amply demonstrated. The borrower should not be obliged to give a blanket consent in advance to any matter."

It criticises the further default provision in the 'Life Loan' mortgage offer, providing for repayment in the event of any undertakings given

WARNING NOTICES

"Apart from warning notices relating to the *Consumer Credit Act*, consideration should be given to the contents, positioning and necessity for a warning notice of specific relevance to these particular schemes. Such a notice might stress the necessity of getting independent legal advice, financial advice and advice on valuations and point out that it is usually desirable to discuss the matter with family members before a final decision is made.

"Reference might be made to checking whether a redemption fee is payable on early redemption and what effect the current interest rates will have in the long term, the implication of a variable interest rate etc. It may be appropriate to vary the warning notice between lifetime mortgages and reversion schemes. In the latter case, attention might be drawn to the fact that the price offered will not be the market price of a dwelling with vacant possession, but will be that price reduced by the value of the life interest of the vendor in possession and that the vendor should 'shop around' and compare the price offered by a home reversion promoter with the price a competitor would offer."

Conveyancing Committee report

release schemes

by the borrower's solicitor not being complied with in a manner satisfactory to the bank.

"This leaves open the possibility of repayment being called for, although the solicitor's undertaking to the bank is not in relation to something which affects security in a material way and the remedy for which could be an action against the solicitor on foot of his professional indemnity policy or by way of complaint to the Law Society or otherwise."

The SHIP 'Seniors Finance' Mortgage

Addressing this product, the committee notes that the terms of a loan offer from SHIP includes a provision that: "In the event of contracts being executed within eight weeks of the date of this letter of offer, SHIP will furnish a bonus of €1,500 to you, which may be used towards your legal fees or otherwise as you wish."

"Consideration should be given as to whether this kind of inducement is acceptable," the committee says. "In the past, the Conveyancing Committee has taken exception to offers of free cookers, fridges and so on, from builders if building contracts for new houses were returned within a specified time in unaltered form. It is considered by the committee that such offers are undesirable, as they create a conflict between solicitor and client where the solicitor may have a good reason not to return the contracts within the specified period, for example, where negotiations are taking place or clarification is awaited in respect of some term of the loan offer or draft mortgage, etc."



Gently waiting for the next Anna-Nicole: you'll want cash for that

PICT: GETTY IMAGES

While the contents of SHIP's 'consumer notices' set out the 'important information' to be brought to the attention of the consumer, it fails to include a reference to redemption fees. "This is information which should, in the view of the committee, be brought to the attention of the consumer at the earliest opportunity in a manner which is immediately intelligible and which should not be hidden behind obscure formulas or headings."

This applies to all providers of equity release scheme mortgages, not just to SHIP, it says.

Seniors Money 60plus Loan

The committee also targets the 'Seniors Money 60plus Loan' offered by Seniors Money

Ireland Limited (SMIL).

In its information leaflet: *All you Need to Know about the Seniors Money 60plus Loan*, SMIL states:

"It is a condition of the loan that you speak with an independent solicitor and receive independent legal advice before accepting any loan offer we may make to you." The committee says that Seniors Money undermines the effect of this advice by stating: "We can recommend solicitors to you from a panel of independent solicitors with whom we have negotiated a standard fee. This fee is included in the 'set-up fee'. Should you wish to use a solicitor not on the panel, we will contribute our standard fee towards your chosen solicitor's costs."

The committee states: "this creates a possible conflict of interest situation for both (a) a solicitor on a 'panel of independent solicitors with whom we have negotiated a standard fee', and (b) a solicitor employed by the consumer who is paid the sum of €140 by Seniors Money."

"In the first case, a solicitor who is seen to be on a Seniors Money panel, which is put together and paid by Seniors Money, is not likely to be regarded as 'independent' of Seniors Money. If, after the death of the consumer, his relatives question the transaction, a query may arise as to whether the solicitor was genuinely independent. Is such a solicitor likely to advise the consumer to deal with some other company in preference to Seniors Money, and, if so, would Seniors Money pay the solicitor for such independent advice?"

"Similarly, if the consumer's own solicitor accepts a sum of €140 as a contribution to his or her fees [from SMIL], the independence of the solicitor may be brought into question. Such a solicitor must not only be independent but be seen to be independent, and if he or she has a regular source of income from one source it may be considered or perceived to be likely (even if untrue) that he or she will tend to recommend the company which is paying his or her legal fees, rather than another company which is not."

"It is submitted by the committee that this type of offer by the lender to pay or contribute to the borrower's legal fees should be prohibited by law." **G**

Society conference generates

‘New Rules for the New Irish’ was the title of a conference on the proposed *Immigration, Residence and Protection Bill 2007* at the Law Society on 27 January. Colin Murphy reports

Out of a long day of earnest debate on the proposed new *Immigration Bill*, it was a few minutes of the Minister for Justice’s opening speech that dominated the news coverage.

At the end of a nuanced speech that dealt with both the theoretical underpinnings of immigration law, and with specifics of the bill, he said he was considering introducing detention centres for some asylum seekers, specifically those from countries from which “there is a high degree of abuse of our asylum system”. Speaking later to reporters, he suggested that these would be sub-Saharan African countries, and also that there would be no “need for barbed wire fences” or “high security facilities”.

His comments provoked a strong negative reaction from many of the conference participants. That of Noeline Blackwell, director general of the Free Legal Advice Centre, was typical. Detaining certain categories of asylum seekers could be “a breach of fundamental human rights”, she told the *Gazette*, and there was “no real indication of what extra



Speakers Piaras Mac Éinrí (UCC) and Esther Lynch (ICTU) take questions, under the watchful eye of Chairman John Bowman



Among the conference panellists were: Waheed Mudah (solicitor), Oscar Zhang (First Secretary and Consul at the Chinese Embassy), and Lucy Gaffney (Chairperson of the National Action Plan Against Racism in Ireland)

value it would bring to the Irish asylum system”.

Blackwell was also critical of the general thrust of the bill.

Michael McDowell had described it as “a single legislative instrument” that would deal with “all aspects of

immigration, from the first step of making a visa application to long-term residence”, while also incorporating law in the area of protection.

Tension

According to Blackwell, immigration, residence and protection were “being lumped together in the one bill”, with a resulting tension: “If you look at it from an ‘immigration’ perspective, you focus in on the misuse of the system, but if you look at it from a ‘protection’ point of view you say, everybody’s entitled to apply for asylum, and just because they don’t get it, doesn’t mean they misused the system.”

Kevin O’Sullivan, principal officer in the Immigration Policy Division of the new Irish Naturalisation and Immigration Service (INIS) at the department, outlined how the proposed legislative innovation of ‘policy statements’ would work. These would allow the minister to prescribe policy in specific areas, such as ‘long term residence’, and would not be legislation as such, but would be laid before the Oireachtas.

Piaras Mac Éinrí of the Department of Geography at University College Cork, in a presentation entitled ‘Should we trust the state?’, outlined how immigration had historically been managed largely “through administrative *fiat*”, with the minister and officials “free to act without substantive accountability”. He welcomed the transparency involved in the policy statements, but expressed concern that they left gaps in the legislation as proposed.

One of these gaps was policy



The Tánaiste Michael McDowell poses for a photo with speakers and panellists before the ‘New Rules for the New Irish’ conference on 27 January

heat over detention centres



A lively 'Questions & Answers' session at the packed conference



Head of the Immigration Policy Division, Department of Justice, Kevin O'Sullivan

on family reunification, according to Catherine Cosgrave of the Immigrant Council of Ireland. She told the *Gazette* that the experience of the council was that family reunification was "the most fundamental issue presenting for migrants who are lawfully resident in Ireland" and also "a huge issue for Irish citizens who have family members overseas".

"As a primary flow of migration, we would have thought that, in a comprehensive immigration reform, it would have been key to include this."

'Convenience marriages'

Piarsa Mac Éinrí also criticised the lack of "proportionality" in the bill. He highlighted the proposed 'marriage bar' – a requirement that asylum seekers and other migrants on short-term permits would have to apply for permission to marry. Michael McDowell had earlier told the *Gazette* that this was designed to deal with 'convenience marriages', where immigrants were marrying to avail of greater rights before the courts under the Constitution. Mac Éinrí conceded the bar was

"designed to address a real problem" but said it also deprived "everyone else of their rights in so doing".

Ciara Smyth of the Law Faculty in NUI Galway said that her primary concern was for the treatment of so-called 'separated children' in the bill. "A considerable amount of good practice has developed in Ireland with regard to how to deal with separated children, but we don't see any of that good practice reflected in the legislation."

Smyth gave the example of a separated child applying for asylum. "A child has to be facilitated in telling their story," she said. A child cannot be subject to the same burden of proof as an adult – yet there was no recognition of this in the bill.

These concerns were echoed by Grainne Brophy, the managing solicitor at the Refugee Legal Service, who found that the bill's provisions on minors did "not reflect

international practice or comply with obligations on rights of the child".

A packed hall at the Law Society heard these and a number of other speakers tease out diverse aspects of the bill, with criticisms of the bill from a succession of NGO and third sector representatives, and a robust defence by Department of Justice officials.

As the day drew to a close, chairman John Bowman remarked to laughter that it was the first Saturday conference he had chaired where the audience appeared keen to stay on beyond the 4pm finish.



Members of the media interview the Tánaiste about his comments on detention centres

Need to take account of Traveller

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

In *Doherty v South Dublin County Council and Others*, with the Equality Authority as notice party (judgment of Charlton J, High Court, 22 January 2007), the applicants, an elderly Traveller couple in poor health, sought judicial review of a decision of the council not to offer them temporary accommodation in a caravan with central heating, indoor plumbing and hot water. Charlton J held that:

- 1) The rights established in the *Equal Status Acts 2000-2004* are not justiciable outside the framework and mechanisms of that legislation.
- 2) The housing legislation, under which the applicants were homeless, does not discriminate between settled and Traveller people. It does not require Travellers who become homeless to be provided with accommodation in caravans

or caravan sites.

- 3) The *European Convention on Human Rights*, in particular articles 8 (private and family life) and 14 (non-discrimination), and article 40.3 of the Constitution do not result in a duty on the part of the state to provide the means to support a right except in clear and limited circumstances. There must be an element of culpability and of inhuman treatment and foreseeability, which the judge did not find on the facts of the case.
- 4) While the *ECHR Act 2003* requires the housing legislation to be interpreted with sensitivity to Travellers, respect for their different traditions does not result in an obligation to provide sufficient sites for the demand, or a right to a home.
- 5) The ECtHR has been

reluctant to require state authorities to intervene with forms of welfare as an aid to the exercise of rights. An applicant would have to show a complete inability to exercise a human right from his or her own means and a serious situation that has set the right at naught with the prospect of serious long-term harm. Even in those circumstances, a court should take into account that the allocation of resources is a political and not a judicial decision.

Background

This is a brief summary of a long and detailed judgment. As described on this page in the December 2006 *Gazette* (dealing with the *amicus curiae* aspect of the case), Mr and Mrs Doherty lived on a temporary halting site for seven to eight years with only basic services,

no indoor plumbing, and an electricity supply that could only support one appliance at a time. The caravan was cold, damp and contributing to their serious health problems. After proceedings were issued, the council offered them accommodation in different apartments, but the lack of the social support of their neighbours and their inability to feel comfortable in housing led them to refuse the offers. Their site will be redeveloped within 18 months and will have improved facilities. Meanwhile, they sought to be provided with a warmer, plumbed caravan.

Pleading equality legislation

Charlton J held that the equality legislation could not be argued at first instance in the High Court because the legislation provided within itself a framework of compliance. He compared the statutory scheme

ONE TO WATCH: NEW LEGISLATION

Investment Funds, Companies and Miscellaneous Provisions Act 2006

The act was signed on 24 December 2006 and most of it is in effect since 29 January 2007 (s2 and SI no 23 of 2007). Introducing it in the Dáil, minister of state Michael Aherne indicated that the legislation was intended to assist the competitiveness of Irish financial services, as well as allow for the transposition of the EU *Transparency Directive* and the temporary appointment of a director of consumer affairs, pending the establishment of a national consumer agency.

Part 2

This part amends provisions of the *Companies Acts*:

- Provision is made for statutory declarations to be made outside the state, for the purposes of company law, including declarations made prior to the act. This amendment was initially proposed by the Law Society and supported by the Companies Registration Office.
- The definition of 'private company' is replaced to allow for offers of shares or debentures to be made by private companies under limited conditions, in the wake of uncertainty following

changes resulting from the EU *Prospectus Directive*, and the offence of making such offerings is restricted accordingly (these amendments are made retrospective from 1 July 2005). The number of possible members of a private company is increased to 99.

- The audit exemption levels are increased to the maximum allowed under EU law, from €1.5 million turnover to €7.3 million and from €1.9 million balance sheet total to €3.65 million. This was a recommendation of the Small Business Forum. Holders of 10%

or more shares may notify the directors that they do not wish the exemption to be availed of. If annual returns are not punctually filed in the Companies Office, or a notification not to avail of the exemption is received from shareholders, the directors must appoint auditors and cannot avail of the exemption. The exemption-levels increase may be availed of now by companies in their current financial year, provided there are still two months to run of the financial year after enactment of the act, subject to two months' notice by shareholders if they do not wish

human rights watch

way of life not unlimited



to the planning acts, tax assessment by the Revenue Commissioners, the *Unfair Dismissals Act 1977* and the *Protection of Employees Fixed Term Work Act 2003*. "In my judgment, the *Equal Status Acts 2000-2004* do not create new legal norms which are justiciable outside the framework of compliance established by those acts."

Discrimination

The judge nonetheless examined whether there was any discrimination in the way in which Travellers were treated under the housing legislation, and concluded there was not. As homelessness requires an emergency response, he could not accept that it was the intention of the Oireachtas to rigidly require only caravan or site accommodation for Travellers, but housing for settled people. He rejected an entitlement by Travellers to require ongoing adaptation to their caravans on becoming



PIG: PHOTOCALL

more disabled, and pointed out that settled people also had to make traumatic transitions from houses to flats or nursing homes. The legislation did not bestow a special right on Travellers always to be housed in a caravan.

Human rights

Charlton J held that homelessness could infringe the Constitution and the ECHR, article 8, and the state could, in certain circumstances, have an obligation consistent with its

financial and administrative commitments. These conditions would include where special circumstances cause a direct interference of a serious kind in family life and where the person concerned cannot help him/herself. There should also be an element of culpability and knowledge that a right was at risk with potentially serious and foreseeable consequences. But he said that he could not find culpability and inhuman treatment where a number of offers of housing were made

and where the building of suitable halting-site accommodation was in train.

The offer of housing was made to the applicants on a temporary basis, pending completion of the upgraded halting site in a reasonable timeframe. It was not unreasonable for the council to refuse to supply a caravan with plumbing, heating and proper electricity supply, which was not in accordance with the scheme of priorities under the housing acts. The requirement to take account of the Traveller way of life was not unlimited and, in the case of *Codona v UK 2006*, on temporary accommodation, it was held that the authorities were only required to facilitate a Gypsy way of life if they had such accommodation at their disposal.

The case is being appealed to the Supreme Court. **G**

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

the company to avail of the exemption. Otherwise the notice period is one month.

- In addition to the legal costs, the High Court may order that the costs of an investigation and ensuing proceedings, or a proportion of them, are to be recovered from restricted or disqualified company directors.
- Dematerialisation, an electronic system to replace paper share certificates and stock transfer forms, was a recommendation of the consultation carried out by the Irish Stock Exchange in 2004. The minister is enabled to make regulations for the

introduction of mandatory dematerialisation of securities of listed or unlisted PLCs. Share certificates and stock transfer forms will be replaced by a paper shareholder statement and a shareholder reference number, in line with developments in other financial markets.

- In respect of non-equity securities, the obligations of a guarantor in relation to statements in a prospectus are limited to those that are being guaranteed by the guarantor. The object of this amendment was to remove a matter of concern to the securitisation industry, as

the exposure of monoline insurers resulted in their unwillingness to insure products listed in or issued out of Ireland, in contrast with other jurisdictions where this exposure did not exist. Dublin-based management of asset-backed securities investments rose from around €6 billion in 1999 to over €80 billion in 2006, and this amendment was intended to make the environment for this service more competitive.

- In cases of a prospectus issued to raise capital through the issue of debentures that include the statement of an expert, the

expert now merely has to consent to the inclusion of his or her statement in the prospectus. This remedied the previous position, which required the expert not to have withdrawn his or her statement at the time of the issue of the prospectus, a requirement that went beyond the requirements of the *Prospectus Directive*.

Part 3

This part deals with the transposition of the *Transparency Directive* into Irish law. The directive applies to certain listed companies, being those whose



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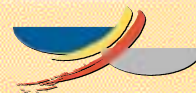
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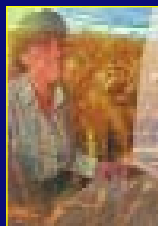
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securities are admitted to trading on a regulated market, and is intended to improve the quality of information available to investors on companies' performance and financial position, as well as on changes in major shareholdings. The minister is enabled to make regulations to give effect to the directive.

An indictable offence under the directive is punishable by a fine of €1 million, five years' imprisonment or both. Supplementary rules may be made by the competent authority (Financial Regulator), to allow it to fulfil its role. The Irish Auditing and Accounting Supervisory Authority is to be the competent authority in respect of certain aspects of the directive that

concern disclosure obligations. The directive is included in the list of directives that the Central Bank and Financial Regulator has responsibility to enforce, and preserves confidentiality in relation to information obtained in its role. The minister may extend aspects of transparency law to other markets by order, such as the Irish enterprise exchange market.

Part 4

Part 4 deals with amendments to the *Irish Takeover Panel Act 1997*, to align the legislation with the 2006 regulations implementing the *Takeover Bids Directive*. The takeover panel is given expanded powers to make rules directly to give effect to changes arising from the

Takeovers Directive, separately and in primary legislation, to reflect certain judicial decisions. A number of other technical changes are made.

The maximum period of six months for which the minister may make a temporary appointment of an acting Director of Consumer Affairs is lifted, to enable the delay of a permanent appointment until the national consumer agency is established by statute.

Finally, the last section provides for the extension of the definition of 'parties' in the *Netting of Contracts Act 1995*. That act provides certain 'super-protections' in insolvency for certain netting and related credit support arrangements that come within its ambit. Netting involves

offsetting amounts owed under one contract against amounts due under another. This provision facilitates this protection in relation to common contractual funds (entities created under part 2 of the *Investment Funds, Companies and Miscellaneous Provisions Act 2005*), partnerships and other persons who share a single, identical interest in an agreement.

The act was generally welcomed as making changes that enable the economy to compete in financial markets, and improving the environment for doing business by reducing auditing costs. **G**

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



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Recent LRC recommendations and high-profile cases have fuelled debate on the law of self-defence, but these legal developments do not speak with one voice, says Keith Spencer

The recent recommendations of the Law Reform Commission in its *Consultation Paper on Legitimate Defence* and two high-profile Court of Criminal Appeal decisions have fuelled debate on the law of self-defence. These three legal developments do not, however, speak with one voice, and the law has, in certain respects, been left in a precarious state.

The LRC paper expressed the need for greater legal certainty in the law and clarity for citizens on self-defence. The resounding message contained in the paper is that an approach to self-defence that rolls up all of the 'requirements' for self-defence into one single 'reasonableness enquiry' for the jury then to investigate is not only unsatisfactory, but violates the principle of legality.

A more sophisticated self-defence doctrine insists that each of the requirements of self-defence be satisfied before the defendant should be acquitted. The commission believes that, for a lethal defensive response to be justified, the threat must meet a minimum threshold interest of the victim (namely death or serious personal injury), the threat be imminent and unlawful, the victim is not in a position to retreat with complete safety at the time of the attack (except where they are in their dwelling house), and the victim has not himself provoked the attack. The response must be proportionate to the threatened attack, and must be necessary and reasonable. Insisting upon these requirements in every case lends integrity to the defence and leads to consistency between cases.

King of the castle

To some extent, the LRC recommendations, particularly those in respect of the 'castle doctrine' (see panel, p26), have been answered by the Court of Criminal Appeal in *People (DPP) v Barnes*. However, it is arguable that the wisdom of the court in *Barnes* is effectively set at nought by the decision in *People (DPP) v Nally*. The call for greater leeway for householders in defending their homes is often made without separating the different interests that are at stake in home-defence scenarios. Where a person's house has been unlawfully entered, there will usually be a threat to the life and limb of the occupants. This threat is a separate threat and, by confusing it with the threat to the home, the argument for greater

protection in respect of the home is often carried. However, arguments supporting lethal force to protect the house itself, where there is no threat to the life or limb of any person, do not adequately respect the right to life of the burglar. Who would suggest that a man may pick off a burglar with a long-distance rifle as he enters his house unauthorised, when there is no threat to himself or his family?

If lethal force should not be allowed in the context of the protection of the home as an interest in itself, what, if any, added legal protection can be given to the home defended in such emphatic terms by article 40.5 of the Constitution? A preferable and more moderate stance was adopted in *Barnes*. There, a horse-breeder living in an isolated rural dwelling disrupted two burglars as they ransacked his house. The householder allegedly attacked the burglar with a knife, the ensuing melee resulting in the death of the householder. The burglar argued that he was acting in self-defence and the Court of Criminal Appeal had occasion to pronounce upon two legal doctrines. First, the court accepted that the 'castle doctrine' now formed part of Irish law. The effect of this doctrine is that, while there may be an obligation on a person who is attacked in the street to retreat before they use lethal force, this obligation to retreat does not apply to a person in their own home. The court emphasised that this does not mean that a householder can kill with impunity any person whom he finds in his home, but rather that the householder may stand his ground without any retreat obligation placed on him.

House of cards

The added protection given to the home by the Court of Criminal Appeal, pursuant to article 40.5, did not outweigh the duty under article 40.3.1 to respect and, as far as practicable, to defend the personal rights of the citizen. A law allowing the killing of a burglar without adverting to the level of threat that he posed would not adequately vindicate the right to life of the burglar. Hardiman J stated: "It seems an elementary proposition, in light of such propositions, that a person cannot lawfully lose his life simply because he trespasses in the dwellinghouse of another with intent to steal. In as much as the state itself will not exact the forfeiture of his life for doing so, it is ridiculous to suggest that a private citizen, however outraged, may

MAIN POINTS

- Self-defence and defence of the home
- Recent case law
- Law Reform Commission recommendations

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DEFENCE OF THE REALM



A man's home is his castle

deliberately kill him for simply being a burglar.”

The court held that every burglary is an act of aggression and every burglar an aggressor. This finding puts the accused in a better legal position *vis-à-vis* his attacker, because it means that he is justified in using retaliatory force to repel the person from his property, and he will also be justified in the use of non-lethal force under the *Non-Fatal Offences Against the Person Act 1997*.

THE ‘CASTLE DOCTRINE’

“...the special protection afforded to the dwellinghouse dates back to time immemorial. It has been expressed in various ways, none perhaps so well known, even outside legal circles, as that in the *Semayne* case (1604) 5 Co Rep 91a: ‘That the house of everyone is to him as his castle and fortress, as well for his defence against injury and violence as for his repose...’”

From the Barnes judgment

The combined effect of this doctrine, of the court’s classification of burglary as a crime of aggression and the perpetrator as an aggressor, and of the acceptance of the doctrine of self-generated necessity, which places a greater onus on a person who has provoked an attack to retreat or withdraw from an altercation before using lethal force to repel a life-threatening attack, may improve the position of the householder and will lead to greater clarity in the law as it is to be applied by juries. Consonant with the burglar’s constitutionally-protected right to life, he has scope to defend against an attack by the householder – however, it is limited to defence against an attempt by the householder to kill the burglar simply for being a burglar.

No place like home

In a crucial passage, the court in *Barnes* held that “the killing of a householder by a burglar, during the course of the burglary, *can never be less than manslaughter*, by reason of the burglar’s initial grave aggression”.

It is this passage that will cause problems in future cases. Should it be taken to create a new doctrine in self-defence? The response of the common law to situations of self-generated necessity was to impose stringent retreat requirements on the burglar before he could use force, but never went as far as this passage purports to do by creating a partial defence of self-generated necessity in Irish law. The court failed to provide greater guidance on its nascent doctrine and various questions remain to be answered in relation to it – for example, does the law place different retreat requirements on different species of aggressor, ranging from those that do not pose any threat to those that initiated the conflict with the intention of killing?

It now appears that, after *Barnes*, even in a situation where a non-threatening burglar has retreated to the wall, for example, where he has surrendered and made known his intention to submit to an arrest, only to be set upon by a householder bent upon exacting retribution in a disproportionate and unnecessary attack, he cannot receive a full acquittal by reason of self-defence. This represents one point of departure by the court in *Barnes* from the recommendations of the LRC, which recommended that an aggressor be permitted to use lethal defensive force where he is faced with a disproportionate response from the original victim and is unable to retreat safely.

A house divided

While the decision in *Barnes* serves to improve the position of the householder, the effect of the decision should not be overestimated – something that is starkly apparent when set against the background of the earlier decision in *Nally*. The comments of Hardiman J, above, indicate that, in

circumstances where a burglar has responded with lethal force to an attack by the householder, the jury will not have the option to acquit the burglar. Hardiman J held that it “*can never be less than manslaughter*”, as the conduct cannot be justified but only excused. While this may seem to be the logical conclusion, it does not sit well with the observations of the Court of Criminal Appeal in *Nally*, in which the court highlighted some home truths about the operation of defences in our criminal law and in our system of jury trial. Briefly, the facts of *Nally* were that he responded with lethal force, killing a traveller who had entered his home unlawfully. Having wounded his victim with a blast from his shotgun, Nally then pursued him as he attempted to effect his escape. Nally shot the man in the back in circumstances that did not seem to admit of the ‘imminence requirement’ and that were suggestive of excessive defence.

At trial, Carney J relied upon the doctrine of excessive defence, which is accepted to have been part of Irish law since *Dwyer* and operates to reduce the conviction of an accused to manslaughter in circumstances where, using a subjective criterion, the accused believed the force used to be necessary but, from an objective perspective, the force used was not necessary, rendering the attack disproportionate. Being of the view that a full acquittal would amount to a perverse jury verdict, Carney J removed that option from the jury and directed them that he would accept only a verdict of manslaughter or murder, consistent with the doctrine of excessive defence. On appeal, the Court of Criminal Appeal, allowing the appeal and ordering a retrial, held that this course of action removed matters of fact from the domain of the jury and, in effect, amounted to a directed conviction. The jury retains a right to be wrong, and even where the trial judge is of the opinion that it would be perverse for a jury to find certain facts to be present that in his view were clearly absent, he must nonetheless not interfere

with the jury’s discretion in this regard.

This decision will cause great difficulties for any judge seized of a case involving a burglar who kills, and attempts to apply the law as set out by Hardiman J in *Barnes*, which dictates that such a killing can never be less than manslaughter. Hardiman J effectively attempts to set down a broad principle relating to burglaries, which will remove the option of acquittal from the jury in such cases.

Home on the range

Although the passage cited above by Hardiman J is plain in its meaning, it can, and no doubt will, in future cases, be creatively reconciled with the Court of Criminal Appeal judgment in *Nally* by viewing it to be nothing more than emphatic encouragement to a jury never to deliver a verdict of less than manslaughter in self-defence situations involving burglary. This would be a flagrant misreading of Hardiman’s judgment in *Barnes* and completely out of kilter with the tenor of that judgment, which views the act of burglary as a wrongful and aggressive act. Furthermore, where the defence of self-defence is run, previously the only occasion on which the jury were permitted to deliver a verdict of manslaughter was in cases of excessive defence. It seems that Hardiman J has now added to this by holding that, even where the burglar has not used more force than was reasonably necessary to oppose an attack by the householder, he cannot be fully acquitted.

What now is the status of the ‘requirements’ of self-defence? The more nuanced approach advocated by the LRC proposed that the multiple requirements form part of our law. The court in *Barnes* made strides in this direction by accepting both the castle doctrine and the doctrine of self-generated necessity into Irish law, as well as elaborating a new position on burglars.

Despite this, it is clear from *Nally* that, under our current jury system, these indications of self-defence are only ever indicators to the jury when assessing the reasonableness of the defendant’s response. Even where a judge believes that one or other of these requirements is manifestly not present on the facts, he cannot withdraw the issue of self-defence from the jury, nor put it to them in a truncated form.

This raises two questions: first, why the courts should insist upon these indicators of self-defence when, in essence, they are not technical legal conditions for the existence of self-defence, but rather factual considerations relevant to the accused’s belief and as to the reasonableness and proportionality of the response. Second, what is the role of the judge, if any, in these cases? **G**

Keith Spencer is a Dublin-based barrister specialising in criminal law.



A gopher’s hole is his castle

LOOK IT UP

Cases:

- *People (Attorney General) v Dwyer* [1972] IR 416
- *People (DPP) v Barnes* [2006] IE CCA 165
- *People (DPP) v Nally* [2006] IE CCA 168

Legislation:

- *Bunreacht na hÉireann*, articles 40.5, 40.3.1
- *Non-Fatal Offences Against the Person Act 1997*

Literature:

- Law Reform Commission *Consultation Paper on Legitimate Defence* (LRC CP 40-2006)

Doing the DEED

The Property Registration Authority replaces the Registrar of Deeds and Titles as the 'registering authority' for property registration in Ireland.

Catherine Treacy signals the changes

The Property Registration Authority (PRA) comes into being at a time of enormous demand for registration services. Ireland's thriving economy has seen an unprecedented increase in the volume of property transactions over recent years. The number of legal transactions per annum grew from 98,479 in 1999 to 220,072 in 2006 – an increase of 124% in that eight-year period.

Today, over 80% of all non-registration services are provided through the authority's electronic access service, landdirect.ie. Virtually all of these applications now issue within 24 hours of the application being made. There are approximately 4,500 fee-paying transactions per day conducted online, with a similar number of non-fee-paying transactions also undertaken. The number of subscribers to this service now exceeds 11,000 and continues to grow.

Two separate systems operate in Ireland for recording property transactions:

- The registration of title system operated by the Land Registry since 1892,
- The registry of deeds system operated by the Registry of Deeds since 1708.

Both systems are under the control of the PRA, which was established on 4 November 2006 under the provisions of the *Registration of Deeds and Title Act 2006*. The authority is a statutory body whose members are representative of the main users and consumers of property registration services.

The main functions of the new PRA are to manage and control the Registry of Deeds and the Land Registry and to promote and extend the registration of title to land.

The new authority is currently working towards modernising both registries. It will play an important role in promoting registration of ownership of land that will eventually lead to the introduction of electronic conveyancing.

The further extension of the statutory programme of registration of title is an express mandate of the PRA. It has been a matter of public policy, and indeed a legislative imperative since enactment of the *Registration of Title Act 1964*, that there should be a gradual extension of title registration ultimately covering all land in the state. The gradual approach has been successful – at present approximately 90% of the landmass of the state and over 85% of titles are registered in Land Registry.

Deed is done

The year 2006 saw a number of measures implemented with a view to accelerating the extension of title registration. The upper limit in certificates in 'Form 3 First Registration' cases was raised to €1 million from 1 January 2006. Compulsory first registration (CFR) was further extended to Counties Longford, Roscommon and Westmeath with effect from 1 April 2006. It is estimated, however, that there are between 240,000 and 300,000 properties whose titles are still in the deeds system at this time.

The provisions of the *Registration of Deeds and Title Act 2006* provides additional flexibility for the accelerated roll-out of CFR. It permits extension of CFR, not only to specified geographical areas as previously existed, but also to specific categories of buildings or land. CFR, for example, might be extended to multi-unit apartment buildings, either generally or in a specified area. CFR can also be

MAIN POINTS

- **Role of the Property Registration Authority**
- **Compulsory first registration**
- **E-registration and digital mapping**



P.C. GETTY IMAGES

extended to dispositions other than sales or assignments of land, such as voluntary transfers, assents and mortgages, for example. The 2006 act provides for application for registration with a 'qualified' title, and leases of registered land are compulsorily registerable.

The ultimate goal is to have a unified system of title registration supportive of government policies on land administration, including electronic registration, electronic conveyancing and the emerging Irish spatial data infrastructure.

Help myself

Part 4 of the act contains a series of amendments to the *Registration of Title Act 1964*. These amendments are intended to clarify certain aspects of the law relating to the registration of title, to improve efficiencies within the organisation and to extend the registration of title system. In particular, they will provide the PRA with the means to develop and operate an e-registration system in line with an e-conveyancing system.

Section 61, for example, substitutes a new section 84 in the 1964 act and will allow the authority to use electronic or digitalised maps.

Part 5 of the act of 2006, section 73(1), provides for the phasing out of land certificates and certificates of charge over a three-year period. This is a far-reaching and necessary milestone on the road towards implementation of a full e-conveyancing system in Ireland. The consensus view of stakeholders involved in the conveyancing process (including the PRA, Law Society, and Irish Mortgage Council) was that the land certificate and certificate of charge system was entirely incompatible with the introduction of e-conveyancing.

The PRA takes up duty at a time of further exciting change affecting the systems of registration. The implementation of a major digital-mapping project is now well underway. What has been achieved to date means that the PRA, in addition to the services already available on landdirect.ie, can now offer its customers Ireland's first national database of land-related information online.

Best of what's around

With the successful completion of the first part of the digital-mapping project (the provision of 'seed points' or 'centroids' for every land parcel in Ireland), work now continues on the second part, that is, the

LOOK IT UP

Legislation:

- *Comptroller and Auditor General Acts 1866 to 1998* (s23)
- *Landlord and Tenant (Ground Rents) (No2) 1978* (s4(4))
- *Registration of Deeds and Title Act 2006*
- *Registration of Deeds and Title Act 2006 (Commencement) (No 2) Order 2006* (SI No 511 of 2006)
- *Registration of Title Act 1964*

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PRA: WHAT IS IT?

The Property Registration Authority (PRA) was established on 4 November 2006, on foot of section 9(1) of the *Registration of Deeds and Title Act 2006* and the *Registration of Deeds and Title Act 2006 (Commencement) (No 2) Order 2006* (SI No 511 of 2006), made by the Minister for Justice, Equality and Law Reform on 4 October 2006.

It is a body corporate, with perpetual succession and an official seal, and can sue and be sued in its corporate name (section 9(2)).

It consists of not more than 11 members appointed by the minister (s11).

It is chaired by Gerard McCaughey and includes John Shaw, a practising solicitor nominated by the Law Society, and Máire R Whelan SC, a practising barrister, nominated by the Bar Council.

It has a chief executive (s22) who is the accounting officer in relation to the appropriation accounts of the authority for the purposes of the *Comptroller and Auditor General Acts 1866 to 1998* (s23).

Its functions include those of the former Registrar of Deeds and

Titles under the *Registration of Title Act 1964* and the registration of deeds legislation (now being replaced by part 3 of the 2006 act), as well as the *Landlord and Tenant (Ground Rents) (No 2) 1978* (s4(4)), the management and control of the Land Registry and Registry of Deeds (s10(1)(a)) and the extension of the registration of ownership or title to land (s10(1)(b)). It is independent in the performance of its functions (s9(3)).

Funding arrangements remain to be processed through the civil service 'estimates' system. Fees paid for the services of the PRA will continue to be paid into the exchequer.

Section 74 of the act establishes the Registration of Deeds and Title Rules Committee, which replaces the Registration of Title Rules Committee and makes general rules relating to both the Registry of Deeds and the Land Registry. Its members are: Ms Justice Mary Laffoy (chairperson), Owen Binchy (Law Society nominee), James Dwyer SC (Bar Council nominee), Gerard McCaughey (chairperson of the PRA) and Catherine Treacy (chief executive of the PRA).

PRA: STRUCTURE AND ORGANISATION

The registries are a multi-disciplined organisation with a staff of approximately 543, comprising legal, technical and administrative personnel.

The Land Registry is organised on a geographic basis for administrative purposes. There are four offices in Dublin and an office in Waterford. In addition, there are 24 local offices based in the Circuit Courthouse in every county other than Dublin and Waterford. Each local office is required to maintain duplicate copies of the text of the registers (folios) and of the Land Registry names' index.

Each 'Geographic Work Group' comprises a 'Dealings' section that processes transactions relating to registered property, a 'Mapping'

section (that maintains and updates the map record and prepares filed plan maps), a 'Records' section (which issues official documents such as a land certificate or a copy map), as well as mapping and dealings/records public offices.

First registration applications are examined and settled by Chief Examiners of Title and Examiners of Title, and processed by the Geographic Work Group.

The Land Registry also has a large file repository in Dublin. This manages the documents relating to completed registrations and currently holds approximately 6 million files.

digitisation of the boundaries of individual land parcels. This will involve the conversion into digital format of approximately 2.5 million land parcel boundaries on 35,000 large-scale map sheets. It will also involve the capture of historical attribute data for each parcel. County Longford was the first county to 'go live' successfully with digitalised boundaries in December 2006. County Carlow is scheduled for completion in early March.

The digital mapping project received the Association of Geographic Information Award in London in November for 'Innovation and Best Practice' and has been shortlisted for the Irish e-Government Awards in 2007.

A number of initiatives are progressing on a pan-European level, which aim to further develop the role of land registration and provide access to property-ownership information across borders.

One example of this is the European Land Information Service (EULIS), which involves the creation of international online access to land and property registers across Europe. The authority

expects to be in a position to offer live services through the EULIS web portal, www.eulis.org, in the first half of 2007. In time, this initiative will provide a valuable mechanism for conveyancing practitioners across Europe who act for clients who wish to buy or sell property in different jurisdictions.

Over the next three to five years, several initiatives will have a bearing on the activities of the PRA, for example, the substantial investment arising from the implementation of the National Development Plan in the area of infrastructure, including houses, roads, bridges, pipelines and tunnels, which will continue to have a major impact on the demand for the PRA's services.

The PRA will continue to respond effectively, through flexible and innovative strategies, to meet emerging developments arising from the dynamic environment in which it operates. **G**

Catherine Treacy is Chief Executive of the Property Registration Authority and is Registrar of Deeds and Titles.

Damaged GOODS

Awards of damages should aim to put injured parties in the same position they would have been in, had they not sustained the wrong. But what does this mean in practice with regard to future loss of income? Paul Hutchinson tots it up

It is well-settled that the award of damages in civil actions should be pitched as nearly as possible to the sum of money that will put the party who has been injured in the same position as he or she would have been in had they not sustained the wrong in question. In turn, damages can be subdivided into a number of categories (general, punitive, and so on) depending on the aspect of the civil wrong they are designed to remedy. In this regard, future loss of earnings falls into the category of ‘special damages’, or “damage arising out of the special circumstances of the case which, if properly pleaded, may be superadded to the general damage which the law implies” (*Ratcliffe v Evans*).

In this context, earnings can include the plaintiff’s salary, wages or professional fees; any dividend from a partnership or employee share scheme; any bonuses or quantifiable perks and, indeed, a host of other benefits. The problem, therefore, is this: given that damages must be awarded by way of a lump sum, a court must attempt to calculate the loss attributable to the wrong prospectively and to compensate the plaintiff for all future lost earnings – even where this potentially represents the rest of his or her working life. In turn, this presents a challenge for solicitors in advising their clients as to the value of a particular claim, or as to the choice of court in which to initiate proceedings.

Adding it up

In attempting to navigate this course, the courts adopt one of two quasi-actuarial approaches. The first is the ‘multiplier method’, whereby special damages for future loss of earnings are calculated by multiplying the assessed net loss suffered by the

plaintiff (the multiplicand) by the number of years it is expected to continue (the multiplier). This provisional figure is then adjusted upwards to reflect factors that, on the balance of probabilities, would have increased the level of lost earnings (but for the intervening civil wrong) and, conversely, the figure is subjected to various deductions to reflect probable income-limiting factors.

First impressions

The second method has been termed the ‘impressionistic method’, whereby the absence of conclusive evidence regarding the precise level of future lost earnings (in circumstances where there will definitely be future lost earnings) compels the court to impose notional figures to fill some of the evidential gaps. Naturally, this is dangerous ground for a trial judge. In *Chase International Express Ltd & Anor v McRae*, it was held that it was “necessary for the judge to have before him reliable evidence as to the claimant’s pre-accident earning capacity and as to his post-accident earning capacity”. Notwithstanding, it is still commonplace for courts to adopt this approach where an answer has to be reached, despite imperfections in the evidence. For example, in the decision of *O’Brien-Vaughan v Little*, matters were made difficult by the “absence of any satisfactory financial records”, but the court still went on to quantify the plaintiff’s loss of earnings. This scenario commonly arises in the case of the future lost earnings of a child plaintiff, where there is simply no evidence of prior work history before the court.

Once the provisional figure is reached by either method, the question arises as to what impact case-specific factors might have in either increasing or reducing the multiplicand.

MAIN POINTS

- Award of damages in civil actions
- Calculating future loss of earnings
- Relevant case law and recent developments



PIC: GETTY IMAGES

A number of factors may influence a court to revise a provisional figure. These factors vary widely, but would obviously include the prospect of promotion. However, this prospect must be a realistic one before it will merit an upward adjustment. In *Jeffers v Cabill and Legal Trade Collections Ltd*, the court was not prepared to disregard the plaintiff's actual qualifications and impute a likely career trajectory beyond what was likely on the balance of probabilities.

Additionally, an upward adjustment is applied in the unfortunate situation where the plaintiff's life expectancy is cut short by the incident in question. The view that these 'lost years' should constitute a deduction in special damage for loss of earnings was rejected by the Supreme Court in *Doherty v Bowaters Irish Wallboard Mills Ltd* – instead, it was held that those lost years of employment should be taken into account and compensated for (with an appropriate deduction for the cost of living during that period).

Conversely, there are a wide variety of factors that operate to limit the level of special damages for future lost earnings. In the Supreme Court decision of *Reddy v Bates*, it was held that a provisional figure alone would fail to "take into account any risk of unemployment, redundancy, illness, accident or the like". Accordingly, the level of damages for future loss of earnings in *Kelly v Hackett* was reduced by

only 15%, where these employment risks were deemed possible but not probable.

In addition to the general hazards that might well disrupt a plaintiff's earning potential, a number of specific deductions have been identified, including:

- The expenses associated with earning: for example, travelling expenses.
- The level of tax that would be payable on the earnings: see *Allen v O'Suilleabhain and Mid-Western Health Board*. Section 28 of the *Civil Liability and Courts Act 2004* permits a court to disregard income in respect of which a proper tax return has not been made.
- A residual ability to work enjoyed by the plaintiff: In *Ward v Walsh*, the fact that the plaintiff would never, as a result of the accident in question, qualify as an electrician in the family business was tempered by the fact that he remained "an extremely useful member of that business". By contrast, in *McEneaney v Monaghan County Council and Coillte Teoranta*, the court considered the paralysed plaintiff's hopes of work and for his future to be "significantly over-optimistic and unrealistic".

Generally speaking, collateral benefits (such as private insurance policies) are excluded from the calculation of the level of special damages payable in

these cases. Section 50 of the *Civil Liability Act 1961* and section 2 of the *Civil Liability (Amendment) Act 1964* prohibit a court (in both fatal and personal injury cases) from taking into account sums payable under an insurance policy, pension or gratuity in consequence of the injury when calculating damages.

In *Greene v Hughes Haulage Ltd*, the High Court interpreted “any contract of insurance” in this context to include a contract in respect of which the plaintiff was a beneficiary, regardless of the fact that he was not a party to that contract (in this case, an employee benefit plan).

Both sections have been since amended by section 27 of the *Civil Liability and Courts Act 2004*. The amendment precludes a court from taking account of a charitable gift in contemplation of the civil wrong, save where the defendant is the donor and also informs the plaintiff in advance of his intention to rely on the gift to reduce the level of damages. In the absence of this prior written notice, a court is permitted to take account of a charitable gift where the plaintiff is an employee of the defendant/donor, and the gift resembles, in amount and frequency, normal pay. This change appears to render *ex gratia* sick pay deductible from special damages for loss of earnings.

Additionally, a plaintiff's future social welfare entitlement is also deductible from the overall award pursuant to section 75 of the *Social Welfare (Consolidation) Act 1993*.

Finally, under section 6 of the *Criminal Justice Act 1993*, a criminal court is empowered to make a compensation order directing a convicted defendant

to financially compensate a victim for any personal injury or loss resulting from the offence. Where a compensation order is made, however, it has a bearing on any subsequent civil action. Section 9(b) states that, if the overall figure exceeds the compensation order, the court should only direct the excess to be paid. Furthermore, where the compensation order exceeds the subsequent civil damages, the court may (but not *must*) direct the excess to be repaid by the plaintiff. Although this does not constitute a deduction *per se*, the impact of the statutory benefit on the eventual award is still worth considering when advising a client.

Deep impact

The *Civil Liability and Courts Act 2004* has the potential to have a dramatic impact upon the law relating to special damages for future loss of income. Section 23 permits the Minister for Justice to set actuarial tables to regulate damages for future loss of income, while section 24 permits the minister to prescribe ‘discount rates’ limiting certain categories of future financial loss.

Despite this, section 24(3) reserves discretion for a court to apply a different discount rate where it considers that an injustice would otherwise be done (it is unclear as to whether this includes applying no discount rate at all).

In the meantime, solicitors and barristers can do no more than work within the confines of the law as it stands. In this regard, a good example of the law being applied with clarity comes from the Court of Appeal in *Brown v Ministry for Defence*. The plaintiff was an army recruit who injured her ankle during basic training and had to be discharged from the army. She quickly retrained in a different profession, but the level of her lost pension remained at issue.

The court was impressed by her aptitude and personal dedication to her career, and considered it a virtual certainty that she would have remained in the army six years after enlisting (the most common departure point for female recruits). Thereafter, they considered her to have a 50% chance of remaining in the army 12 years after enlisting, and a 30% chance of remaining in the army 22 years after enlisting.

On the evidence, the court considered it probable that she would have attained the rank of staff sergeant, with a 30% chance of attaining a higher rank. As such, her lost pension entitlement was calculated using the multiplicand of the entitlement of a staff sergeant (with the upward adjustment of 15% on that figure to represent the chances of promotion), and she was awarded the full value of the lost pension if she had retired six years into service, 50% of the difference had she retired after 12 years, and a further 30% of the difference had she retired after the full 22 years of service. **G**

Paul Hutchinson is a practising barrister.

LOOK IT UP

Cases:

- *Brown v Ministry for Defence* [2006] EWCA Civ 546
- *Chase International Express Ltd & Anor v McRae* [2003] EWCA Civ 505
- *Doherty v Bowaters Irish Wallboard Mills Ltd* [1968] IR 277
- *Greene v Hughes Haulage Ltd* [1997] 3 IR 109
- *Jeffers v Cahill and Legal Trade Collections Ltd*, unreported, High Court (Costello J), 21 May 1996
- *Kelly v Hackett*, unreported, High Court (O'Donovan J), 5 July 2005
- *McEaney v Monaghan County Council and Coillte Teoranta*, unreported, High Court (O'Sullivan J), 26 July 2001
- *O'Brien-Vaughan v Little*, unreported, High Court (de Valera J), 11 August 2003
- *O'Suilleabhain and Mid-Western Health Board*, unreported, Supreme Court, 11 March 1997
- *Ratcliffe v Evans* [1892] 2 QB 524
- *Reddy v Bates* [1984] ILRM 197
- *Ward v Walsh*, unreported, Supreme Court, 31 July 1991

Legislation:

- *Civil Liability Act 1961*, section 50
- *Civil Liability (Amendment) Act 1964*, section 2
- *Civil Liability and Courts Act 2004*, sections 23, 24(3), 27, 28
- *Criminal Justice Act 1993*, sections 6, 9(b)
- *Social Welfare (Consolidation) Act 1993*, section 75

GRAND plan

New rules have been introduced to address delays to strategic infrastructure in the planning consent process. These will effect important changes to the development of certain classes of transport, energy and environmental infrastructure. Brendan Slattery surveys the blueprints



PICTURE: KEVIN DWYER

MAIN POINTS

- **Planning and Development (Strategic Infrastructure) Act 2006**
- **Streamlined planning consent procedure**
- **Consent from local planning authority bypassed**

During July 2006, the *Planning and Development (Strategic Infrastructure) Act 2006* was signed into law, with parts coming into force in October and November last year. The remainder and more significant parts of the act came into force on 31 January 2007.

In a nutshell, the act provides a streamlined planning consent procedure for strategic infrastructure developments, with applications made directly to a new division within the planning appeals board – An Bord Pleanála – bypassing the need for consent from the local planning authority.

This will affect the development of:

- Large projects by or in partnership with a public authority,
- National roads and motorways, and
- Railway infrastructure (both heavy and light rail).

The act will have relatively limited impact for this kind of project, as the local planning authority was already bypassed. There was a single decision-maker and no appeal, although, under the act, the assessment of railway infrastructure will now be carried out by the board – and not the Minister for Transport.



Tara: hi-ho, hi-ho, it's off to work they go

However, the act will effect important changes to the development of certain classes of transport, energy and environmental infrastructure. Examples include power generation, oil refining, air/rail/port transport infrastructure, incineration, landfill, water supply and waste-water treatment.

For these projects to benefit, An Bord Pleanála must be satisfied that the infrastructure meets one of three further preconditions:

- 1) Strategic, economic or social importance to the state or region,
- 2) Substantial contribution to objectives of national or regional development guidelines, or
- 3) Significant effect on the area of more than one local planning authority.

The act does not cover topical and important projects relating to accommodation, healthcare, education or

sports. Also, it does not apply to nuclear energy, iron and steel production, pharma/chem or the offshore extraction of petroleum or gas.

Effect

If covered, a project will benefit from:

- Bypassing the need for local planning authority consent,
- Direct access to consultation with An Bord Pleanála,
- A new, streamlined consent procedure that usually involves six weeks of public consultation followed by an 18-week assessment period, although this can be extended, and
- The taking into account of the 'national interest' during assessment of the project. It is not at all clear what this is meant to add to the existing requirement for the board to have regard to the policies and objectives of the government.

It is not all good news. The act may prove something of a double-edged sword, as there are new burdens, such as the prospect of a condition requiring financial contribution to a community gain fund, and potential liability for the costs of any person involved in the consent process.

Ironically, it is possible that the new consent process will, in fact, delay some projects. The act provides for a basic 24-week consent process. Under the former procedures, it was possible to secure consent within 12 weeks – provided no appeal was made. This shorter lead-time was critical to the success of a new gas-fired power plant in County Galway, where success in a competition for new generation capacity required planning permission before a certain deadline; as well as a large number of wind and hydro projects that have not been the subject of any appeal.

Of course, in general, major projects are routinely appealed and, for them, the timeline is reduced from 30/40 weeks. This is best illustrated with waste infrastructure – where landfill and incinerator projects

STRATEGIC DEVELOPMENT ZONES

The new rules for strategic infrastructure should not be confused with the approach to 'Strategic Development Zones' (SDZ), which have been used to promote development at Adamstown, Clonmagadden Valley, Hansfield and Balgaddy.

With an SDZ, the government, the relevant development agency (usually the local planning authority or IDA Ireland) and the planning authority set out a clear development framework, by designating lands as an SDZ and making a planning scheme for the development of those lands. As a result, the planning risk for the private developer is reduced, as there is no appeal and his application for permission is almost certain to be granted (where it is consistent with the planning scheme).

Different modifications to the planning process have been made to promote the development of the 'Digital Hub' and the proposed development of lands at Grangegorman for a new university campus,

health and other facilities. With these, any developer would have the advantage that any strategic plan prepared by the digital hub or Grangegorman development agencies will be one of a number of factors relevant to the decision of a planning authority or An Bord Pleanála, but their planning application would be at risk of appeal and there is no certainty that permission would be granted.

Similarly, the act has no relevance to the special rules for development in the Dublin Docklands area, which apply to the IFSC, Spencer Dock and the proposed National Conference Centre. Once a planning scheme has been approved for the area, any person may carry out development without planning permission, where the Docklands Authority has certified the development to be consistent with the planning scheme. There is an express exemption from the *Planning Act* and there is no right of appeal to An Bord Pleanála.

promoted by private developers can sometimes take a year or more to secure planning consent. Where such projects are promoted by, or in partnership with, a public authority, the applications were already made directly to the board – the proposed Dublin Waste-to-Energy and Fingal Landfill projects being good examples.

Vexed question

With any major project, a vexed question can arise where changes are required to accommodate issues during construction, particularly where the rules on environmental-impact assessment apply. The former regime did not provide any clear procedure for securing amendments. For all of these kinds of strategic infrastructure consent, the act introduces new mechanisms for variation after a consent has been granted:

- Clerical or technical amendments and non-material alterations can be made without public consultation,
- With material alterations, there is a limited public consultation and assessment process, and
- With material alterations that require environmental impact assessment, there is provision for assessment of the variation only – and not the whole amended project.

Loose ends

The act introduces a new consent framework for electricity transmission lines and strategic gas infrastructure. With the latter, this represents a new form of consent entirely, without removing any of the several parallel layers of regulatory control that would have applied, for example, to the Corrib Gas Project.

The act is also relevant to the ordinary private developer. As with strategic infrastructure, the board must now have regard to the ‘national interest’ in every decision it makes.

The act reverses part of the Supreme Court decision in *Ashbourne Holdings*, where a planning condition that required a developer to provide a public right of way around his neighbouring golf course located on the Old Head of Kinsale was quashed. This was because it related to lands outside the site for planning permission and was of no benefit to the permitted development. The act now includes an express power to attach conditions of this kind where they are “for the purpose of conserving ... amenity for the public”, provided the effect would not be to unduly burden the developer.

Since 2002, a planning authority has been entitled to refuse permission where a developer has a chequered compliance history, but only after securing a High Court order permitting this. The act removes the need for any court application and there is no appeal from the refusal.

The procedures for oral hearings have been revised. The inspector has been given more power to regulate the oral hearing, including the requirement of

LOOK IT UP

Cases:

- *Ashbourne Holdings v An Bord Pleanála* [2003] 2 ILRM 446

Legislation:

- *Planning and Development Acts, 2000-2004*
- *Planning and Development (Strategic Infrastructure) Act 2006*
- *Planning and Development (Strategic Infrastructure) Act 2006 (Commencement) Order 2006* (SI no 525 of 2006)
- *Planning and Development (Strategic Infrastructure) Act 2006 (Commencement) (No 2) Order 2006* (SI no 553 of 2006)
- *Planning and Development (Strategic Infrastructure) Act 2006 (Commencement) (No 3) Order 2006* (SI no 684 of 2006)
- *Planning and Development Regulations 2006* (SI no 685 of 2006), part 18

submissions in advance, the power to limit time, and the power to refuse the making of a point in certain circumstances. The requirement to hold an oral hearing into every decision on compulsory purchase has been removed.

The valuation rules for compensation have been amended so that value of land more than ten metres below surface will be nil, unless it is shown to be of greater value by the claimant for compensation. Major subterranean projects, such as the metro and the interconnector, should benefit from this change.

Significant impact

The act will have limited impact for most kinds of strategic infrastructure. The impact on major transport, energy and environmental projects will be significant, but not always positive. If the power plant in Co Galway had been subject to the act, there is a very real risk that it would never have been commissioned.

The concern that the act will limit public participation is misplaced, but this perception is not likely to fade for some time, and early projects may attract adverse publicity for this reason.

The dubious merit of two-part legal challenges, with attending delay, had been questioned in the bill, which provided for a single contested challenge. The act reinstated the contested application for leave and practitioners will continue to weave solutions to secure early results from courts by other means. This, and the unnecessarily confused compulsory acquisition code, must stand in line for their long-awaited overhaul. **G**

Brendan Slattery is a senior associate with the environment and planning law group in Arthur Cox.

ARRESTED developments?

There has been much recent controversy about local authorities inserting conditions in planning permissions requiring the establishment of a management company in house-only developments. Suzanne Bainton looks through the keyhole

One of the major developments in conveyancing in recent years has been the large increase in the number of residential managed developments. Most of these are multi-unit developments, and it has recently been estimated that approximately 500,000 people live in multi-unit developments in Ireland. Where there are apartments in a development, a management structure is required due to the interdependence of the units on each other and for the maintenance of the common areas.

One of the issues that has recently been highlighted is the confusion among purchasers in managed estates about the issues involved, including the purpose of service charges and sinking funds, how management companies and managing agents operate, and the provision of information. Solicitors are one of the primary sources of information for purchasers and one of the first points of contact in the buying process.

The outline structure of the management scheme that needs to be explained to a client is as follows:

- That a management company has been incorporated and that this is usually a company limited by guarantee and not by shares,
- That the developer has signed a contract to transfer the common areas to the management company once all of the apartments/houses have been sold, and
- That the developer will transfer the common areas to the management company in due course and that control of the management company will then pass to the owners.

What can cause a lot of confusion for buyers is the difference between the management company and the managing agents.

Most developers will employ a firm of managing agents at an early stage to oversee the day-to-day running and maintenance of the development.

These agents usually carry out this role in the name of the management company rather than in the name of the developer. This means that, although the developer is legally responsible for the maintenance of the common areas, the owners will receive service charge demands in the management company's name and any issues in relation to the maintenance of the development will be dealt with through the agents. The owners will not often appreciate that, prior to the transfer of the common areas to the management company, it is the responsibility of the developer to provide the services as set out in the lease.

Before examining the management scheme, you should familiarise yourself with the development by reading the planning permission to see what type of units are involved in the overall scheme and the developer's obligations in relation to the management company. Sometimes there is an explanatory note in the booklet of title that can be very useful in setting out the type of scheme.

Managing the managers

In the case of a mixed development of apartments and houses, there has to be a separation as between the external and internal common areas. This is because the apartment owners will have an interest in both, whereas the house owners should only be responsible for the maintenance of the external common areas. The lease should provide for separate definitions, and the services provided will need to be split by reference to different schedules.

In some cases, two management companies are set up – one to look after the external common areas and one to look after the internal common areas. This can unnecessarily complicate matters. The only real need for a separate management company is where you have separate commercial and residential units with different concerns. However, in a case where there are commercial units within a primarily residential building, it usually makes more sense to have one

MAIN POINTS

- Residential managed developments
- Structure of the management scheme
- Covenants of the lease



PIC: REX FEATURES

management company owning and being responsible for the entire building. The different concerns of these owners would, however, have to be addressed in the lease and in the memorandum and articles of association of the management company.

Ark of the covenant

Whether your client is buying an apartment or a house in a managed residential development, he or she will have to enter into a lease with the developer and the management company.

In the case of an apartment, the lease is the foundation of the title. In the case of a house, the freehold title will be sold but will be held subject to the terms and conditions of a lease of easements. This is a type of legal fiction created to overcome the fact that positive freehold covenants do not bind successors in title. The law in this regard is to be amended in the *Land and Conveyancing Law Reform Bill 2006* but, until then, a mechanism is required to bind the successors in title of a freehold property in a managed estate to the necessary covenants between them and the management company.

One of the most important parts of the lease sets out the covenants on the part of the developer/management company and the owner.

Although many of the lessee's covenants are

standard, they should be read each and every time, and you should highlight any particularly onerous covenants to your client. It is also useful to copy the relevant schedule to your client.

Room service

One of the most important covenants on your client's behalf is to pay the service charge. The manner in which the cost of the services is split must be equitable. Usually, the fairest way to divide the service charge is by reference to floor area. This floor area should include only the internal square footage and not areas such as a patio or balcony. There may be a separate service charge in relation to a parking space, and this is usually divided by reference to the number of spaces. This is perfectly fair, as presumably the spaces will be the same size.

Prior to signing the contract, your client should be given a service-charge budget. The budget should include provision for a sinking fund. It is important that you get a clear and precise reply to requisition 36.7.a, which asks whether it is proposed to establish a sinking or reserved fund. The obligation to do this is on the part of the developer until the common areas are transferred to the management company and the reply "this is a matter for the management company" is not acceptable. It is important that a

Rear window: you can choose your apartment, but you can't choose your neighbours

sinking fund is established from the beginning of the development, as otherwise the owners could be levied for once-off repairs.

When purchasing a new property, it is important to check that the service charge paid on closing is to cover a period of 12 months and will be apportioned in year two. In some instances, the service charge paid on closing relates to a period up to a specific date, irrespective of the day of closing, which is unfair to those closing at a later point in time.

The covenants of the developer/management company relate to the services to be provided. One of the most important covenants is to insure the apartment building and the common areas.

An important issue is how the insurance cost is divided if there are commercial or retail units in the development. If these units are in the same block as the apartments, it makes sense to have one block insurance policy. It is likely, however, that the commercial/retail units would have a higher loading than the apartments, and it is important that this is addressed. If the cost of insurance is simply split on the basis of floor area, then this could work out very expensive for the apartment owners.

In the case of a house in a mixed development, it is important to ensure that the owner only contributes towards the cost of insuring the external common areas and not the apartment block.

Snag list

The agreement between the developer and the management company would typically provide that the common areas are to be transferred within a fixed period of time after the sale of the last unit in the development. This means that, as long as any one unit remains unsold, the developer is under no contractual liability to transfer the common areas. If, after the development is complete, the common areas are not transferred in a timely manner, then the management company and the owners are prevented from taking over control of the management and the running of their own development.

The National Consumer Agency has recommended a legal obligation on the part of a developer's solicitor to transfer ownership to the management company within three months of the completion of an obligatory snag list. It is not clear how such an obligation could be imposed on a solicitor, as it would be impossible to comply with the undertaking without the co-operation of the client.

Another problem that can arise is when the management company has been struck off the register of companies, usually for failure to deliver returns. The effects of strike-off are extremely serious. The company no longer has any legal existence and its assets become subject to section 28 of the *State Property Act 1954*, which provides that, where a company is dissolved, its real and personal property becomes vested in the state and is held on the state's behalf by the Minister for Finance.

If the management company has been struck off the register within 12 months, then the restoration process is relatively simple. The application is made to the Registrar of Companies together with payment of the relevant fees.

If more than one year has elapsed, restoration is more difficult. In this case, the company must apply under section 12B(3) of the *Companies (Amendment) Act 1982* for a court order for reinstatement to the register. There are a number of conditions that the company must meet, and the process is both time-consuming and expensive.

Performance anxiety

If the developer is a company and has been dissolved or struck off the register prior to transferring the common areas to the management company, then this presents further difficulties. The management company cannot sue on foot of the management company agreement. The best solution in this instance is to apply to the Minister for Finance for a waiver of the right of the state to the property in favour of the management company, under section 31 of the *State Property Act 1954*.

If both the management company and the developer company are still in existence, one option to consider is proceedings for specific performance of the management company agreement. What can present a difficulty in this case is the fact that control of the management company may still be in the hands of the developer. If, in addition, the developer has weighted voting, then this can make things even more difficult for the owners.

However, all these issues can be raised at the management company's AGM. If these meetings are not being called, a complaint can be made to the Office of the Director of Corporate Enforcement, who will direct the company to hold its AGM in accordance with company law. Alternatively, if the owners have enough votes, they could requisition an EGM under section 132 of the *Companies Act 1963*. The agenda at that meeting would be the replacement of the current directors and the decision to bring specific performance proceedings.

Many of the difficulties that arise with residential managed estates are due to the fact that company law does not marry well with the requirements of not-for-profit organisations such as management companies. Company law is not tailored to suit the management company.

This is an area of the law that has, in recent times, attracted a lot of media and political attention. A good legislative framework and precedent documentation would greatly assist in making the management structure, at least on paper, a blueprint for the successful management of private residential estates. **G**

Suzanne Bainton is a partner in the Dublin law firm Liston & Co.

LOOK IT UP

Legislation:

- *Companies Act 1963*, section 132
- *Companies (Amendment) Act 1982*, section 12B(3)
- *Land and Conveyancing Law Reform Bill 2006*
- *State Property Act 1954*, section 28



Got an issue you would like addressed by our panel of practice doctors? Email: practicedoctor@lawsociety.ie



Paul Davis: managers can be afraid of tackling negative issues with their staff

DISRUPTIVE behaviour

Q *I'm currently having a problem with a member of staff, Liam (not his real name), who is a 32-year-old conveyancing solicitor. On the whole, his work is fine, but my one issue with him is that he can be disruptive during meetings.*

A In order to address the problem head-on, first you need to realise a couple of key points. Liam's behaviour, if it takes place during a meeting with a client, for instance, will affect the client's view of your firm. Likewise, if it takes place in the presence of other staff, then it might also influence their view, not only of Liam, but perhaps also of you as a manager. Therefore, the longer the problem continues, the worse its potential impact on staff or clients will be.

Managers can understandably be afraid of tackling negative issues with their staff. Performance reviews can fail for this reason, or because the way in which negative feedback is given can completely demotivate the staff member.

Giving Liam some feedback on his conduct will be most effective when it is timely, so you need to take him aside and talk to him as soon as possible. Ideally this would be immediately after the behaviour or incident takes place.

Get descriptive

When talking to him, you need to be clear and concise, using specific and descriptive words. You should be sure of your facts and have specific examples. Unless you have witnessed the behaviour yourself, avoid references to hearsay. Avoid being emotive, personal or judgemental in your feedback.

You should ask Liam questions, rather than

launching into criticism that will immediately put him on the defensive. This means you can corroborate and discuss the incident. This also shows him that you're being fair and that he has an opportunity to explain his side of the story.

It is also a good idea to express your disappointment at how his behaviour affects you, other staff and the practice as a whole. As well as this, try offering an alternative type of behaviour that should replace Liam's undesirable conduct, having clearly described its effects.

Remind him that his behaviour is the problem – not him as a person. A more constructive approach to feedback is that negative comment should only be stated after two pieces of positive feedback have first been given. By explaining how they are usually competent in other areas, you empower them to improve their performance after your meeting.

If other staff members exhibit behaviour similar to Liam's, then you should be consistent and have the same conversation with them, rather than singling out any one member of your staff.

Finally, and to reiterate the point, you should not wait until Liam's annual review to address his behaviour. The impact of any behaviour has the potential to worsen the longer it is allowed to continue, and this will have increasing negative consequences for your practice.

A more detailed article on staff management will appear in the April issue of the Gazette. **G**

Paul Davis is principal of Davis Business Consultants and is a Fellow of the Chartered Institute of Management Accounting.



The Society recently hosted a dinner in honour of the newly-appointed President of the High Court, Mr Justice Richard Johnson. Present were (front, l to r): Rosario Boyle SC, Yvonne Chapman, President Philip Joyce, Mr Justice Richard Johnson, Nuala Johnson and Mary Nolan. (Back, l to r): Director General Ken Murphy, Senior Vice President James MacGuill, Chair of the Complaints and Clients Relations Committee John P Shaw, Council member Joe Mannix, Registrar of Solicitors John Elliot, Chair of Regulation of Practice Committee John O'Connor and Pamela McGrath



At the launch of Round Table Mediation and Training in Cork, were (l to r): Siún Kearney, Kaye Ronayne, Minister for Enterprise, Trade and Employment Micheál Martin and Bernadette Barry-Murray



Law Society President Philip Joyce, welcomes Indian Ambassador Saurabh Kumar to the 'New Rules for the New Irish' conference, held at Blackhall Place on 27 January

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Studio contents of Limerick artist Geraldine O'Brien included in auction

24 Irish Artists

Waterford Law Society Annual Ball

The Waterford Law Society Annual Ball was held on 2 February at Faithlegg House Hotel. Special guests included

President of the Law Society Philip Joyce and his wife Rosario Boyle SC, President of Waterford Law Society Morette

Kinsella, District Judge Terence Finn and his wife Frances, Chief Superintendent of Waterford Garda Station PV Murphy and

his wife Julie, and president of the local Clinical Society Dr Evelyn Grant and her husband Dr Dan Grant.



At the Waterford Law Society Annual Dinner were (l to r): Judge Terence Finn, Frances Finn, President of the Law Society of Ireland Philip Joyce, President of the Waterford Law Society Morette Kinsella, and David Smyth



Enjoying the Waterford Law Society's Annual Dinner were (l to r): Paul Twohy (Kenny Stephenson Chapman), Kate Hyde, Cecilia Ogle (Peter O'Connor and Sons), and William Murray

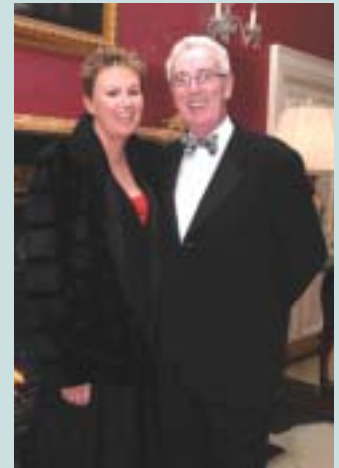
PICS: PHOTOZONE



Bringing style and glamour to the Waterford Law Society's Annual Dinner were (l to r): Sean Ormonde, Gill Murphy (Nolan Farrell & Goff), Leona McDonald (Newell Quinn Gillen), and Karl Griffin



Newly-qualified solicitors Rosa Eivers, Ellen Hegerty and Gill Mahony pictured at the dinner



Tom and Anne Murran (Peter O'Connor & Son) pictured at the Waterford Law Society Annual Dinner



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PIC: LENS MEN

Former presidents and Council members of the Law Society gathered on 18 January to celebrate the Outgoing President's Dinner, held in honour of Michael Irvine. In this photo of former Presidents of the Law Society are (*front, l to r*): Frank O'Donnell, Elma Lynch, Michael Irvine, President Philip Joyce, Moya Quinlan and Geraldine Clarke. (*Back, l to r*): Anthony Collins, Ward McEllin, Andy Smyth, Ray Monahan, Tom Shaw, Laurence K Shields, Frank Daly, Michael V O'Mahony, Owen Binchy and Gerry Griffin



Open book

At the Law Society of Ireland/Oxford University Press series launch on 31 January were (*l to r*): Lorcan Gogan (author, Dublin City Council), Brian Magee (author, formerly of Maurice E Veale & Company Solicitors), Stuart Gilhooly (chairman of the Education Committee), Gabriel Brennan (co-editor, *Conveyancing Manual*, 3rd edition) of the Law Society, Chief Justice Mr John L Murray, President of the Law Society of Ireland Philip Joyce, and Pat O'Brien (author, formerly chief examiner of titles in the Land Registry)



PIC: PAUL SHERWOOD

Sailors ahoy!

The Southside Solicitors' Association celebrated its 22nd annual dinner on 20 January at the Royal St George Yacht Club in Dun Laoghaire. (*l to r*): Judge Clare Leonard (Dublin Metropolitan District), President of the Law Society Philip Joyce, Director General Ken Murphy, Lisa Weston (Osborne Recruitment, sponsors), guest speaker and chairman of Arthur Cox, Eugene McCague, Chairman of Dun Laoghaire Rathdown County Council Eugene Regan and Mr Justice Vivian Lavan of the High Court

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Homage to Elvis, oil by John Shinnors
(Limerick auction)

student spotlight



League victory for Blackhall

The Blackhall men's gaelic team has created history by becoming the first team representing the Law Society to win the Higher Education League. In a hard-fought and, at times, tempestuous match, the Blackhall boys defeated Mater Dei Institute of Education on a scoreline of 2-08 to 0-08. Played on a bitterly cold evening under lights in UCD, Blackhall's greater desire and composure under pressure enabled the team to prevail over the determined efforts of Mater Dei.

It took time for the teams to settle, with some frantic play from both sides in the early stages. Having enjoyed the advantage of playing with the aid of a very strong wind, some wayward shooting saw a score approaching half-time of only 0-04 to 0-02 – in Blackhall's favour. In the last minute of the first half, however, in what proved to be the decisive period in the match, Blackhall scored a goal and a point. Peter Feeney slotted the ball home past the 'keeper after a trademark barrelling run through the defence, which was immediately followed by a point from Tadhg Boyle. Both scores gave Blackhall a six-point cushion at the break, 1-05 to 0-02.

In a tough second half, Blackhall withstood some uncompromising tackles as Mater Dei fought desperately to get back into the match. Improved accuracy from frees saw Mater Dei close the gap to three points, but once again that man, 'Fetcher' Feeney, made his presence felt by dispatching the ball to the net



They shoot, they score

after a flowing team move. Raucous support from Blackhall's students added valuable psychological pressure. There was no way back for Mater Dei as further scores from Gerry Byrne and Cian Duffy ensured Blackhall maintained advantage to the end.

Scenes of jubilation greeted the final whistle as players and supporters celebrated a



watershed achievement, especially for a college of relatively small student

numbers. The post-match banquet was hosted, as always, in The Boar's Head, where the celebrations started in earnest as the cup was passed around.

The team would like to express its thanks to the large number of students who attended the final and whose support and encouragement was greatly appreciated.

Team: Andrew O'Connell, Karol Murphy, Mike Commons, Declan Murphy, Ian Knight, Airy Cleere, Kevin Smith, Micheál Mulvey (captain), Paddy Walsh (0-01), Gerry Byrne (0-02), Tadhg Boyle (0-01), Fergal O'Sullivan (0-01), Colm Mullen (0-01), Peter Feeney (2-01), Gavin Hinchy. **Subs:** Cian Duffy (0-01), Ronan O'Brien, Niall Rooney, Liam Dunne. **Manager/trainer/coach:** Martin Travers.

Colm Mullen

Hardiman Cup victory for Law School

The Law School's rugby team has beaten King's Inns in the Hardiman Cup. Despite the squad only enjoying a small

number of games of tip rugby before Christmas and three full training sessions in the run up to the match, the trainee

solicitors were victorious by 61 points to 12.

This great sporting occasion, held on 31 January 2007, would not have occurred without the kind support of Fortis, who sponsored the Law School's team kit. Post-match catering was provided by A&L Goodbody.

Wanderers FC kindly hosted the match. Our esteemed King's Inns counterpart, John Berry, deserves much praise for his dedication in organising the event, while the commitment and fortitude of all players on the panel deserves a special mention.

Kevin Lavin



Rugby players play with oddly shaped balls



books

Emergency Law in Independent Ireland, 1922-1948

Seosamh Ó Longaigh. Four Courts Press (2006), 7 Malpas Street, Dublin 8. ISBN: 1-85182-922-9. Price: €55 (hardback).

For those with an interest in the genesis of the state, this book presents a new and specific perspective. The oft-quoted poetic metaphor of WB Yeats – “a terrible beauty is born” – might come to mind as the details of the use of ‘emergency’ law during the first quarter century after independence are starkly expounded by Dr Ó Longaigh, against the background of our physical-force beginning (the 1916 Rising), our physical-force middle (the War of Independence) and particularly our physical-force aftermath (the Civil War). This work describes with detailed facts and figures the use that our fledgling native government considered necessary to sustain the state against the ongoing physical-force proponents, both during the initial Cumann na nGaedheal period (1922-32) and during the subsequent Fianna Fáil period (1932-48). As the author reminds us, the ‘necessity’ rationale was vividly expounded by Minister for Home Affairs Kevin O’Higgins on 8 December 1922 (the day of the ‘reprisal’ shooting by the government of four anti-Treaty IRA leaders already in custody, immediately following the assassination of Sean Hales TD on the way to the Dáil) in arguing that all states rely on

the threat and the use of violence and adding: “While the existence of the nation is at stake there can be but one code ... *salus populi suprema lex*” (the welfare of the people is the supreme law).

In the Civil War period up to the end of May 1923, some 140 people came before the military courts, of whom nine were executed, and of the 1,039 people who came before the even less legally-formal military committees, 64 were executed and some 46% of suspects found guilty (mostly of possession of arms). In total, in that period, 77 were officially executed – a reminder of the subsequent oft-used anti-Cumann na nGaedheal/Fine Gael election slogan: “Remember the 77”.

During the Cumann na nGaedheal period of government up to 1932, there were a number of *Public Safety Acts* passed, which were readily admitted by the government to be draconian but were expressed to be necessary by the Kevin O’Higgins’ yardstick referred to above. It is sadly ironic that the *Public Safety Act 1927* was passed in the immediate aftermath of the assassination of O’Higgins himself in July 1927.

When Fianna Fáil came to government in 1932, after an



initial reluctance to apply laws that the party had strenuously opposed in opposition, Mr de Valera, by 1 August 1933, was saying in the Dáil (in relation to the IRA): “My present attitude is that the moment that the oath was removed, and it was possible for all sections of the people to be freely represented in this house, there was no excuse for anybody trying to use force or arming for the purpose of securing national freedom” and (in relation to the so-called Blueshirts): “We are not going, so far as we can do it, to allow public parades in which uniform is worn, and we are not going to allow any guns in public.”

By the end of 1933, and progressively up to the passing of the 1937 Constitution and afterwards, the de Valera government had become just as draconian, if not more so, in its ‘emergency’ legislation than during the Cumann na

nGaedheal period. By June 1939, the *Offences against the State Act 1939* had been passed, shortly followed, on the outbreak of World War II (‘the Emergency’), by the *Emergency Powers Act 1939* and orders thereunder in the following years.

A series of tables appended to the book sets out the numbers of people who were the subject of these ‘emergency’ laws during the 1922-48 period – the greatest number were during the Civil War period, but in the 1930s and 1940s significant numbers (mainly IRA, but in the mid-1930s also Blueshirts) were in custody pursuant to these laws.

Dr Ó Longaigh is to be congratulated in identifying and undertaking a study of this niche and still politically-sensitive area of our recent history and developing the subject through the first 25 traumatic years of statehood in such an objective and non-partisan way. The book is an offspring of the author’s PhD thesis at UCC and, to that extent, must also represent another triumph for the illustrious UCC Department of History. **G**

Michael V O’Mahony is a consultant with McCann FitzGerald.



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council report



Report of Law Society Council meeting held on 19 January 2007

Motion: proposed statutory amendment

"That this Council agrees that the current requirement that a solicitor have five years' post-qualification experience before taking on a trainee be reduced to four years and that a statutory amendment to allow this should be sought in the Civil Law (Miscellaneous Provisions) Bill 2006."

Proposed: Stuart Gilhooly
Seconded: James O'Sullivan

The Council agreed that, in order to increase the number of solicitors eligible to provide training contracts to trainee solicitors, an amendment should be sought in the *Civil Law (Miscellaneous Provisions) Bill* to reduce the statutory requirement from five years' to four years' post-qualification experience. The Council was satisfied that the proposed reduction would not affect educational standards.

EU Commission conveyancing study

The Council noted that the EU Commission was conducting a study of conveyancing, which involved a comparison of fees charged by lawyers and notaries throughout certain member states for certain conveyancing services. While the exercise involved a comparison of 'apples and oranges' and its conclusions were unreliable, it appeared that the legal systems involving lawyers, as opposed to notaries, had displayed more competitive fee systems.

Consideration of Competition Authority final report

The Council devoted the remainder of its meeting to a detailed consideration of the final report of the Competition Authority's study of the legal profession. It was noted that the authority's opinions and recommendations were essentially the same as in its preliminary report

published in February 2005. Those recommendations had been responded to in detail by the Society in its submission of July 2005. In addition, certain matters had moved on since 2005, principally because of the minister's proposals contained in the *Civil Law (Miscellaneous Provisions) Bill*.

The 29 recommendations made by the authority were considered by the Council. It was noted that the great majority were addressed to the minister, 13 were addressed to the Bar Council and just four were addressed to the Law Society.

The four recommendations addressed to the Law Society were that the Society should:

- Publish criteria for a voluntary system whereby solicitors who wish to represent their clients in Irish could be trained and examined to a high and consistent standard,
- Ensure that all unnecessary

barriers are removed for lawyers wishing to switch from one branch of the legal profession to the other,

- Amend its regulations to enable the designation of solicitors as specialists and to allow such solicitors to advertise as specialists, and
- In consultation with the National Consumer Agency, develop a consumer information page on its website.

The Council agreed to progress each of these recommendations, some of which already represented Council policy. The Council agreed that, notwithstanding the tedious and over-long process of the authority's study, it had provided an opportunity to the Society to critically review the fundamental principles underpinning the provision of legal services by the solicitors' profession and its stewardship by the Society. **G**

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BRIEFING

practice note



LITIGATION PRACTITIONERS: IMPORTANT NOTICE ON TIME LIMITS

Practitioners are reminded of the provisions of section 7 of the *Civil Liability and Courts Act 2004*. As and from 31 March 2005, the *Statute of Limitations* in respect of all personal injury actions expires after two years of the cause of action accruing. In respect of the causes of actions that accrued before that date, proceedings shall not be brought after the expiration of two years from 31 March 2005 or three years from the date of the cause of action accruing, whichever

occurs first. Practitioners should therefore ensure that either a PIAB application is made and fully registered before the relevant date, or, in the case of medical negligence cases (and other limited exceptions), proceedings are issued.

Accordingly, 30 March 2007 may be the deadline for some personal injury actions. Practitioners should ensure to examine their files to ascertain whether a PIAB application or proceedings should be brought

on or before 30 March 2007.

Practitioners should also note that, pursuant to section 50 of the *Personal Injuries Assessment Board Act 2003*, the period beginning with an application to the PIAB and ending six months from the date of issue of an authorisation shall be disregarded for the purposes of calculating the limitation period. Finally, please be aware that an application to PIAB is only deemed to be made and fully registered when a letter from PIAB is provided, confirming it to

be received and complete for the purposes of section 50 of the 2003 act.

A Law Society seminar on this and other PIAB-related issues will be held at the Radisson Hotel, Stillorgan, from 2pm to 5.30pm on 13 March 2007. A limited number of places are still available. For further information or to register, contact the CPD Applications Secretary, tel: 01 672 4802, fax: 01 672 4890, email: lawschool@lawsociety.ie.

Litigation Committee



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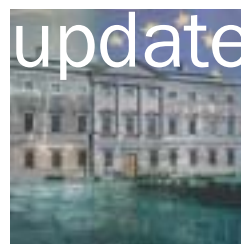
A limited number of places still remain. Participants are strongly encouraged to register online at www.lawsociety.ie. If online registration is not possible please contact Rachel O'Hare or Niamh McCrystal, Law Society Annual Conference 2007, c/o Ovation Group, 1 Clarinda Park North, Dun Laoghaire, Co. Dublin, Ireland. Tel +353 1 280 2641 - Fax +353 1 260 2665 - Email lawsociety@ovation.ie







legislation update



Acts passed in 2006

Details of commencement dates updated to 13/2/2007. Details of all bills, acts and statutory instruments since 1997 are on the library catalogue – www.lawsociety.ie (members' and students' area) – with updated information on the current stage a bill has reached and the commencement date(s) of each act.

Appropriation Act 2006

Number: 35/2006

Date enacted: 19/12/2006

Commencement date: 19/12/2006

Aviation Act 2006

Number: 7/2006

Date enacted: 4/4/2006

Commencement date: 4/4/2006

British-Irish Agreement (Amendment) Act 2006

Number: 32/2006

Date enacted: 11/12/2006

Commencement date: commencement order to be made (per s4(3) of the act)

Building Societies**(Amendment) Act 2006**

Number: 24/2006

Date enacted: 16/7/2006

Commencement date: 1/8/2006 for all sections of the act (per SI 394/2006)

Competition (Amendment) Act 2006

Number: 4/2006

Date enacted: 11/3/2006

Commencement date: commencement order(s) to be made (per s6(3) of the act); 20/3/2006 for all sections of the act, except s5(2) (repeal of the *Restrictive Practices Act 1972* insofar as it is unrepealed) (per SI 127/2006)**Criminal Justice Act 2006**

Number: 26/2006

Date enacted: 16/7/2006

Commencement dates: commencement orders to be made (per s1(2) and s1(3) of the act) – **1/8/2006** for the following provisions: part 1 (ss1-4, general); part 2 (ss5-14, investigation of offences), other than s9(c) and 9(d); part 3 (ss15-20, admissibility of certain witness statements); part 4 (ss21-24, appeals in certain criminal proceedings); part 5 (ss25-67, amendment of *Firearms Acts*) other than ss28, 30, 32, 33, 38, 40, 42, 57, 58, 59, 60, 61 and 65; part 6 (ss68-69, amendment of *Explosives Act 1875*); part 7 (ss70-79, organised crime); part 8 (ss80-86, misuse of drugs); part 15 (ss176-197, miscellaneous) and schedules 1 and 2; **2/10/2006** for the following provisions: part 9 (ss87-97, obligations of drug trafficking offenders to notify certain information), part 10 (ss98-112, sentencing) other than ss101(10), 101(12)(c), 102, 103(1)(d), 103(4)(d), 107, 108(4), 109, 111 and 112; schedule 3; **1/11/2006** for ss42, 57, 58, 59, 60, 61 and 65 of part 5 (per SI 390/2006); **16/10/2006** for the following provisions: (a) ss120, 121(a), 128, 129 and 130, and (b) s158 and schedule 4, insofar as they relate to the amendment of the provision of the *Children Act 2001* specified at reference number 5 of that schedule (per SI 529/2006); **29/11/2006** for s121(d) (per SI 586/2006); **14/12/2006** for s9(c) and (d) (per SI 622/2006); **1/1/2007** for part 11 (ss113-119, civil proceedings in relation to anti-social behaviour) (per SI 689/2006); **1/2/2007** for part 14 (ss167-175, criminal law codification advisory committee) (per SI 25/2007)**Criminal Law (Insanity) Act 2006**

Number: 11/2006

Date enacted: 12/4/2006

Commencement date: commencement order(s) to be made (per s26(2) of the act): 1/6/2006 for all sections, other than s13(1) (per SI 273/2006); 27/9/2006 appointed as the establishment day for the Mental Health (Criminal Law) Review Board under s10 of the act (per SI 499/2006)

Criminal Law (Sexual Offences) Act 2006

Number: 15/2006

Date enacted: 2/6/2006

Commencement date: 2/6/2006

Defence (Amendment) Act 2006

Number: 20/2006

Date enacted: 12/7/2006

Commencement date: 12/7/2006

Diplomatic Relations and Immunities (Amendment) Act 2006

Number: 10/2006

Date enacted: 12/4/2006

Commencement date: 12/4/2006

Electoral (Amendment) Act 2006

Number: 33/2006

Date enacted: 11/12/2006

Commencement date: 11/12/2006

Employees (Provision of Information and Consultation) Act 2006

Number: 9/2006

Date enacted: 9/4/2006

Commencement date: 24/7/2006 (per SI 382/2006)

Employment Permits Act 2006

Number: 16/2006

Date enacted: 23/6/2006

Commencement date: 1/1/2007 (per SI 682/2006)

Energy (Miscellaneous Provisions) Act 2006

Number: 40/2006

Date enacted: 24/12/2006

Commencement date: commencement order(s) to be made for ss4, 6, 8, 11 to 14 and 19 (per s1(2) of the act); 24/12/2006 for all other sections

European Communities (Amendment) Act 2006

Number: 18/2006

Date enacted: 28/6/2006

Commencement date: 30/1/2007 (per SI 38/2007); act deemed to have been in operation from 1/1/2007 to 30/1/2007 (per SI 39/2007)

Europol (Amendment) Act 2006

Number: 37/2006

Date enacted: 23/12/2006

Commencement date: 23/12/2006

Finance Act 2006

Number: 6/2006

Date enacted: 31/3/2006

Commencement dates: various – see act, and commencement order(s) to be made (per s130(9) of the act): **1/1/2006** for part 1 (chapters 1 to 5 – ss1 to 77), except where otherwise expressly provided in part 1 (per s130(8) of the act); **18/5/2006** for s18(1)(a) (per SI 256/2006); **26/6/2006** for s26 (per SI 322/2006); **26/6/2006** for s27 (per SI 323/2006); **26/6/2006** for s29 (per SI 324/2006); **26/6/2006** for s31

(per SI 325/2006); **26/6/2006** for s32 (per SI 326/2006); **26/6/2006** for paragraphs (a), (b)(i), (c)(i), (d) and (e) of s30(1) (per SI 327/2006); **26/6/2006** for paragraphs (a), (b)(i), (c) and (d) of s33(1) (per SI 328/2006); **26/6/2006** for s34 (per SI 332/2006); **5/10/2006** for s122(1) (per SI 520/2006); **1/11/2006** for ss93(1), 97(1)(b) and 99(1)(a) (per SI 549/2006); **23/1/2007** for s36 (per SI 20/2007)

Health (Repayment Scheme) Act 2006

Number: 17/2006
Date enacted: 23/6/2006
Commencement date: 30/6/2006 (per SI 338/2006)

Hepatitis C Compensation Tribunal (Amendment) Act 2006

Number: 22/2006
Date enacted: 16/7/2006
Commencement date: 16/7/2006 for ss1(b), 2 and 6; commencement order(s) to be made for all other sections (per s7(4) of the act)

Houses of the Oireachtas Commission (Amendment) Act 2006

Number: 39/2006
Date enacted: 23/12/2006
Commencement date: 1/1/2007 (per s13(3) of the act)

Industrial Development Act 2006

Number: 34/2006
Date enacted: 18/12/2006
Commencement date: 18/12/2006

Institutes of Technology Act 2006

Number: 25/2006
Date enacted: 16/7/2006
Commencement date: commencement order(s) to be made (per s1(2) of the act) but, in the absence of commencement order(s), all provisions will commence 16/7/2007 (per s1(3) of the act)

International Criminal Court Act 2006

Number: 30/2006
Date enacted: 31/10/2006
Commencement date: 31/10/2006

Investment Funds, Companies and Miscellaneous Provisions Act 2006

Number: 41/2006
Date enacted: 24/12/2006
Commencement dates: 24/12/2006 for ss1 to 6, 9, 10, 13, 14, 15 and 35; ss7 and 8 shall be deemed to have come into operation on 1/7/2005; commencement order(s) to be made for all other sections (per s2 of the act); 29/1/2007 for ss11, 12, 16 to 22 and 24 to 34 (per SI 23/2007)

Irish Film Board (Amendment) Act 2006

Number: 38/2006
Date enacted: 23/12/2006
Commencement date: 23/12/2006

Irish Medicines Board (Miscellaneous Provisions) Act 2006

Number: 3/2006
Date enacted: 4/3/2006
Commencement dates: 4/3/2006 for part 7 (s1 – amendment of *Animal Remedies Act 1993*); commencement order(s) to be made for all other sections (per s1(7) of the act); 8/6/2006 for s25 (per SI 306/2006)

Local Government (Business Improvement Districts) Act 2006

Number: 42/2006
Date enacted: 24/12/2006
Commencement date: 24/12/2006 for ss1, 7, 8 and 9; commencement order(s) to be made for remaining sections 2 to 6 (per s9(4) of the act)

National Economic and Social Development Office Act 2006

Number: 21/2006
Date enacted: 12/7/2006

Commencement date: 12/7/2006; 1/1/2007 appointed as the establishment day for the National Economic and Social Development Office (per SI 606/2006)

National Sports Campus Development Authority Act 2006

Number: 19/2006
Date enacted: 5/7/2006
Commencement date: 5/7/2006; 1/1/2007 appointed as the establishment day for the National Sports Campus Development Authority (per SI 688/2006)

Parental Leave (Amendment) Act 2006

Number: 13/2006
Date enacted: 18/5/2006
Commencement date: 18/5/2006

Patents (Amendment) Act 2006

Number: 31/2006
Date enacted: 11/12/2006
Commencement date: 11/12/2006 for ss1, 2(a), (f) and (g), 7, 10, 12, 15, 16, 18 to 25, 29(c)(ii), 31(c), 32, 34, 36 to 40 and 42 to 51; commencement order(s) to be made for all other sections (per s51(2) and (3))

Planning and Development (Strategic Infrastructure) Act 2006

Number: 27/2006
Date enacted: 16/7/2006
Commencement dates: commencement order(s) to be made (per s1(3) of the act): 17/10/2006 for ss1, 2, 6(a), 7 to 11, 13, 21, 24, 26, 28, 31, 43 to 46 and 48 (per SI 525/2006); 5/11/2006 for ss14, 15 and 16 (per SI 553/2006); 31/1/2007 for ss3, 4, 5, 6(b), (c) and (d), 12, 17 to 20, 22, 23, 25, 27, 29, 30, 32, 33 to 42, 47, 49, 50 and 51 (per SI 684/2006)

Registration of Deeds and Title Act 2006

Number: 12/2006
Date enacted: 7/5/2006

Commencement dates: 7/5/2006 for ss76 and 77 (amendment of ss16 and 28, respectively, of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*); commencement order(s) to be made for all other sections (per s2 of the act): 26/5/2006 for ss1, 2, 3, 5, 6, 50 (except paragraph (e)), 52 (except paragraphs (b) and (d)), 58, 59, 60, 63, 65, 68, 69 and 70 (per SI 271/2006); 4/11/2006 for the following provisions: (a) s4, except insofar as it applies to part 1 of the schedule, (b) part 2 (ss7 to 31) (Property Registration Authority), (c) ss46 to 48, (d) ss50(e), 51, 52(b) and (d) 53 to 57, 61, 62, 64, 67, 71 and 72, (e) ss74, 75 and 78, and (f) part 2 of the schedule; 1/1/2007 for s73 (per SI 511/2006); 4/11/2006 appointed as the establishment day for the Property Registration Authority under s7 of the act (per SI 512/2006)

Road Safety Authority Act 2006

Number: 14/2006
Date enacted: 31/5/2006
Commencement date: 31/5/2006; 1/9/2006 appointed as the establishment day for the Road Safety Authority (per SI 462/2006)

Road Traffic Act 2006

Number: 23/2006
Date enacted: 16/7/2006
Commencement dates: 16/7/2006 for section 21; commencement order(s) to be made for all other sections (per s23(2) of the act): 21/7/2006 for all other sections, except ss5, 6, 7, 10, 11, 13, 16 and 18 (per SI 384/2006)

Road Traffic and Transport Act 2006

Number: 28/2006
Date enacted: 4/10/2006
Commencement date: 4/10/2006

Sea-Fisheries and Maritime Jurisdiction Act 2006

Number: 8/2006

Date enacted: 4/4/2006

Commencement date: 4/4/2006; 1/1/2007 appointed as the establishment day for the Sea Fisheries Protection Authority (per SI 376/2006). Order to be made appointing a day on which the prosecution function will transfer from the Attorney General to the DPP (per s39 of the act)

Sea Pollution

(Miscellaneous Provisions)

Act 2006

Number: 29/2006

Date enacted: 31/10/2006

Commencement dates: commencement order(s) to be made (per s1(2) of the act: **8/12/2006** for part 1, part 3 (other than ss20 to 33, the second, third and fourth definitions in s34(c), and s35) and part 4; **14/6/2007** for ss20 to 33, the second, third and fourth definitions in s34(c) and s35 (per SI 605/2006)

Social Welfare Act 2006

Number: 36/2006

Date enacted: 19/12/2006

Commencement dates: various – see act

Social Welfare Law Reform and Pensions Act 2006

Number: 5/2006

Date enacted: 24/3/2006

Commencement dates: commencement order(s) to be made for ss4, 5, 6, 9 to 14, 16 to 27, 31 and 33 and part 3 (ss38 to 44) (per s1(4) of the act); see act for commencement dates of other sections; **1/1/2006** for ss5 and 6 (per SI 205/2006); **24/4/2006** for s26; **29/5/2006** for s27, insofar as it relates to one-parent family payment (other than where payable in respect of a widow or widower), and **30/5/2006** for s27 insofar as it relates to one-parent family payment payable in respect of a widow or widower (per SI 206/2006); **12/4/2006** for s39 (insofar as it inserts section 3B

into the *Pensions Act 1990*) (per SI 169/2006); **8/5/2006** for ss31 and 33; **28/7/2006** for ss4(4) and 4(5) and items 8, 9, 10, 11, 12, 13 and 14 of schedule 1 (per SI 246/2006); **24/5/2006** for ss38, 41, 43 and 44 (insofar as it relates to items 1, 2, 3, 4, 5, 7, 8, 9 and 10 of schedule 8) (per SI 291/2006). The following commencement dates are appointed by SI 334/2006: (a) **28/7/2006** for s4(1), insofar as it relates to orphan's (contributory) allowance and orphan's (non-contributory) pension, s4(4), s4(5) and items 8 to 14 of schedule 1; (b) **28/9/2006** for s4(1), insofar as it relates to retirement pension, ss4(6), 9, 10, 11, 12, 13, 14 and item 3 of schedule 1; (c) **29/9/2006** for s4(1), insofar as it relates to old age (contributory) pension, ss4(3), 16 to 25 and items 1 and 2 of schedule 1; (d) **2/10/2006** for s4(1), insofar as it relates to disability benefit and unemployment supplement, s4(2),

s4(9) and items 7 and 15 of schedule 1; (e) **4/10/2006** for s4(1), insofar as it applies to unemployment assistance, and s4(8) and items 4 and 5 of schedule 1; (f) **5/10/2006** for s4(1), insofar as it applies to unemployment benefit, and s4(7) and item 6 of schedule 1 (per SI 334/2006); **30/6/2006** for item 6 of schedule 8 (per SI 357/2006); **24/7/2006** for s40 (per SI 437/2006)

Teaching Council

(Amendment) Act 2006

Number: 2/2006

Date enacted: 4/3/2006

Commencement date: 4/3/2006

University College Galway

(Amendment) Act 2006

Number: 1/2006

Date enacted: 22/2/2006

Commencement date: 22/2/2006 **G**

*Prepared by the
Law Society Library*

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Saturday 26th May
Fun run/walk at Blackhall Place

Hope the training is going well! Sponsorship cards are available from **www.calcuttarun.com** or from your firm's representative. Remember our target is €250k so your target is €150 or more. This will go a long way towards helping homeless children in Calcutta and Dublin.

PG: CIAN REDMOND



Here is the second four weeks' brisk walk/jog programme

WEEK 5, 12 MARCH

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

WEEK 6, 19 MARCH

1. Walk 35 min, jog 5-7 min, walk 10 min
2. Jog 5-7 min, walk 35 min
3. Jog 10 min, walk 30 min, jog 10 min

WEEK 7, 26 MARCH

1. Jog 7 min, walk 35 min, jog 10 min
2. Jog 7 min, walk 35 min, jog 7 min
3. Walk 20 min, jog 10 min, walk 10 min

WEEK 8, 2 APRIL

1. Jog 10 min, walk 30 min, jog 7 min
2. Jog 10 min, walk 20 min, jog 10 min, walk 10 min
3. Jog 10-15 min, walk 30 min, jog 7 min

Always make sure you are warmed up before you jog!

For more information, contact your firm's Calcutta Run representative or visit **www.calcuttarun.com**

BRIEFING

Solicitors Disciplinary Tribunal

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

In the matter of Geraldine Scully, a solicitor of GA Scully & Company, Solicitors, 337 Ballyfermot Road, Dublin 10, and in the matter of the *Solicitors Acts 1954-2002* [4267/DT39/06]

Law Society of Ireland
(applicant)

Geraldine A Scully
(respondent solicitor)

On 2 November 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in her practice as a solicitor in that she failed to ensure that there was furnished to the Society an accountant's report for the year ended 31 December 2004 not later than six months after that date, in breach of regulation 21(1) of the *Solicitors' Accounts Regulations 2001*.

The tribunal ordered that the respondent solicitor:

- a) Do stand censured,
- b) Pay a sum of €2,500 to the compensation fund,
- c) Pay the whole of the costs of the Law Society of Ireland, as taxed by a taxing master of the High Court in default of agreement.

In the matter of Niall Sheerin, a solicitor practising as Niall Sheerin & Company, Solicitors, at Joyce House, 15 Ushers Island, Dublin 8, and in the matter of the *Solicitors Acts 1954-2002* [5132/DT47/06]

Law Society of Ireland
(applicant)

Niall Sheerin
(respondent solicitor)

On 2 November 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his

practice as a solicitor in that he failed to ensure that there was furnished to the Society an accountant's report for the year ended 31 March 2005 within six months of that date, in breach of regulation 21(1) of the *Solicitors' Accounts Regulations 2001*.

The tribunal ordered that the respondent solicitor:

- a) Do stand censured,
- b) Pay a sum of €1,000 to the compensation fund,
- c) Pay the whole of the costs of the Law Society of Ireland as taxed by a taxing master of the High Court in default of agreement.

In the matter of Valentine Stone, a solicitor practising as Val W Stone & Co, Solicitors, at 14 North Main Street, Wexford, and in the matter of the *Solicitors Acts 1954-2002* [5869/DT30/06]

Law Society of Ireland
(applicant)

Valentine Stone
(respondent solicitor)

On 14 November 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he was a party to a transaction that failed to disclose the full consideration of £250,000 on the face of it (having deliberately underestimated the actual consideration by £50,000), with the direct intention and effect of defrauding the Revenue Commissioners.

The tribunal ordered that the respondent solicitor:

- a) Do stand censured,
- b) Pay the sum of €10,000 to the compensation fund,
- c) Pay the whole of the costs of the Law Society of Ireland as

taxed by a taxing master of the High Court in default of agreement.

In the matter of Michael O'Connor, a solicitor of DJ O'Malley & Co, practising at 9/10 Glentworth Street, Limerick, and in the matter of the *Solicitors Acts 1954-2002* [6218/DT44/06]

Law Society of Ireland
(applicant)

Michael O'Connor
(respondent solicitor)

On 21 November 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

- a) Drew or allowed to be drawn solicitor/client fees from the client account by means of client account cheques payable to the relevant clients without recording same in the office account books and without lodging same in the office account in breach of the *Solicitors' Accounts Regulations 2001*,
- b) Allowed professional fees to be posted to the debit of the office ledger when the costs were transferred from the client account to the office account instead of when bills were issued,
- c) Allowed party-and-party professional fees to be transferred from client account to office account without having been billed to the clients involved as required by regulation 11(1).

The tribunal ordered that the respondent solicitor:

- a) Do stand advised and admonished,
- b) Pay a sum of €3,000 to the compensation fund,

- c) Pay the whole of the costs of the Law Society of Ireland, as taxed by a taxing master of the High Court, in default of agreement.

In the matter of Kiran P O'Duffy, a solicitor previously practising as principal of O'Duffy & Associates, 10 Blessington Street, Dublin 7, and now at 37 Brighton Road, Dublin 6, and in the matter of the *Solicitors Acts 1954-2002* [3510/DT48/06]

Law Society of Ireland
(applicant)

Kiran P O'Duffy
(respondent solicitor)

On 21 November 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he had:

- a) Allowed a deficit in client monies as of 28 April 2004, estimated at €186,053, to arise;
- b) Permitted the existence of debit balances in 20 client ledger accounts, that is to say, where money in excess of monies held to the credit of those clients, in the amount of €186,053, had been withdrawn;
- c) The largest debit balance was recorded in a client ledger account titled 'KODUN-REFERENCED', where a debit balance of €173,685 was in existence at 28 April 2004;
- d) On various dates between 8 January 2004 and 16 April 2004, the solicitor made 13 separate client cheque payments from the client to the office account, totalling €175,685, which were debited to the client ledger

account titled 'KODUN-REFERENCED';

- e) Debit balances were created on numerous occasions when monies were taken from the client account to office account, apparently in anticipation of fees but before fees were received;
- f) Allowed the existence of such debit balances, which is in breach of regulation 7(2) of the regulations;
- g) Allowed a credit balance of €177,959 on the office side of the client ledger account 'KODUNREFERENCED', in breach of regulation 10(5).

The tribunal ordered that the respondent solicitor:

- a) Do stand censured,
- b) Pay a sum of €7,000 to the compensation fund,
- c) Pay the whole of the costs of the Law Society of Ireland as taxed by a taxing master of the High Court in default of agreement.

In the matter of Michael Petty, a solicitor practising under the style and title of M Petty & Company, Parliament Street, Ennistymon, Co Clare, and in the matter of the Solicitors Acts 1954-2002 [3387/DT61/06]

Law Society of Ireland

(applicant)

Michael T Petty

(respondent solicitor)

On 21 November 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he had:

- a) Failed to furnish any account to the beneficiaries setting out monies in the estate, monies paid out, tax paid, tax deducted or to be deducted.
- b) Allowed confusion to arise in relation to the exact disbursement of funds held by the respondent solicitor. In his letter of 7 August

2003, the solicitor referred to €153,247.89 held in his client account, yet after disbursing €108,000, in December 2004, the respondent solicitor still retained €100,633.49 at the date when he handed over the file to the Law Society.

- c) Failed to take action in relation to the sale of a house in Ennistymon, which is apparently subject of a lease to a third party. No action has been taken in relation to this property by the respondent solicitor, and this property forms part of the estate assets.

- d) Grossly delayed, without reasonable explanation, the administration of this estate, the deceased person having died nine years ago.

- e) Showed a complete disregard for the interests of the beneficiaries, whom he knew to be elderly and, by his conduct, deprived two of the beneficiaries, who died during his stewardship, of their enjoyment of their share in the estate.

- f) Failed to deal with correspondence in relation to the complaint in a timely manner, and in particular failed to respond to the following letters at all: 26 April 2005 (Law Society to respondent solicitor), 11 May 2005 (Law Society to respondent solicitor), 11 May 2005 (Law Society to respondent solicitor), 2 June 2005 (Law Society to solicitor).

The tribunal ordered that the respondent solicitor:

- a) Do stand censured,
- b) Pay a sum of €6,000 to the compensation fund,
- c) Pay the expenses of the complainant in respect of his attendance at the inquiry and pay the whole of the costs of the Law Society of Ireland as taxed by a taxing master of the High Court, in default of agreement.

In the matter of Patrick Gillespie, a solicitor carrying on practice under the style and title of P Gillespie and Company, Solicitors, of Bury Street, Ballina, Co Mayo, and in the matter of the Solicitors Acts 1954-2002 [6919/DT50/06]

Law Society of Ireland

(applicant)

Patrick Gillespie

(respondent solicitor)

On 23 November 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

- a) Failed to comply with his undertaking dated 24 October 2003 to ACC Bank relating to sites 6 and 23 Brusna Court, Co Mayo, and in particular his obligation pursuant to that undertaking to register ACC's charge over the property;

- b) Is in breach of his letter of undertaking dated 4 November 2003 to ACC Bank relating to the sale proceeds of dwelling houses on sites 6 and 23 Brusna Court, Shanaghy, Ballina, Co Mayo, in that the solicitor paid the proceeds directly to his clients in breach of his undertaking;

- c) Failed to comply with his undertaking dated 9 July 2003 in respect of sites 8 and 22 Brusna Court, by failing to register the charge of ACC Bank over his clients sites;

- d) Is in breach of his letter of undertaking dated 23 July 2003 to ACC Bank relating to the sale proceeds of houses constructed under number 8 and 22 Brusna Court, Shanaghy, Ballina, Co Mayo, by paying out the proceeds of same to his clients rather than lodging same with the bank in accordance with the terms of the undertaking;

- e) Is in breach of his undertaking dated 24 April 2004 in

respect of sites 9-21 Brusna Court, Shanaghy, Co Mayo, by failing to register the charge of ACC over his client's properties in accordance with his undertaking;

- f) Failed to correspond with the bank, in particular the bank's letters of enquiry dated 23 September 2005, 17 October 2005, 20 October 2005, and 24 October 2005;
- g) Failed to correspond with the complainant on behalf of the bank, and in particular failed to respond to the letters of the complainant dated 8 November 2005 and 18 November 2005;
- h) Failed to correspond with the Society, and in particular failed to respond to the Society's letters dated 3 January 2006, 16 January 2006 and 26 January 2006 in a timely manner.

The tribunal ordered that the respondent solicitor:

- a) Do stand censured,
- b) Pay a sum of €15,000 to the compensation fund,
- c) Pay the whole of the costs of the Law Society of Ireland, or any other person appearing before them, as taxed by a taxing master of the High Court in default of agreement.

In the matter of Thomas Byrne, a solicitor practising as Thomas Byrne & Co, Solicitors, at 78 Walkinstown Road, Dublin 12, and in the matter of the Solicitors Acts 1954-2002 [6095/DT20/06]

Law Society of Ireland

(applicant)

Thomas Byrne

(respondent solicitor)

On 7 December 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

- a) Allowed a deficit of €1,696,969 on the client

- account as of 31 May 2005.
- b) In breach of regulation 7(2) of the *Solicitors' Accounts Regulations 2001*, the solicitor allowed debit balances to arise in the amount of €1,696,969.
- c) In the period 1 November 2004 to September 2005, the solicitor was in breach of regulation 12(1) by failing to maintain proper books of account. During the period 1 June 2005 to October 2005, no ledger cards were maintained.
- d) Breached regulation 20(1)(f), in that not all client account cheques were returned by the bank as identified by the solicitor's reporting accountant's report.
- e) In breach of regulation 12(1), failed to ensure that receipts into and payments from the client bank account were supported by third party documentation.
- f) Failed to transfer fees to which the solicitor was entitled to the office bank account within three months from the client account in breach of the regulations.
- g) Failed to ensure that all inter-client transfers were supported by documentation on the file.
- h) Allowed personal trans-

actions of the solicitor himself to be drawn from the client bank account, where no cleared funds were held on his behalf.

The tribunal ordered that the respondent solicitor:

- Do stand censured,
- Pay a sum of €15,000 to the compensation fund,
- Pay the whole of the costs of the Law Society of Ireland as taxed by a taxing master of the High Court in default of agreement.

In the matter of Niall O'Kelly, a solicitor previously practising as principal of Niall O'Kelly, Solicitors, 52 Fortfield Park, Terenure, Dublin 6W, and in the matter of the Solicitors Acts 1954-2002 [5202/DT43/05]
Law Society of Ireland (applicant)
Niall O'Kelly (respondent solicitor)

On 7 December 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

- Failed to comply with his undertaking of 20 December 2001 in a timely manner to

furnish the complainant with an original indenture of lease dated 3 November 1999 and made between a named company of the one part and the vendors (his clients) of the other part, duly registered in the registry of deeds, as soon as possible after completion;

- Failed to respond to the Society's correspondence of 2 November 2004, 21 February 2005, 7 March 2005, 21 March 2005, 21 April 2005;
- Misled the Society in his letter of 15 December 2004 by indicating that he had requested a named solicitor to take over the file when this was not the case.

The tribunal ordered that the respondent solicitor:

- Do stand censured,
- Pay a sum of €500 to the compensation fund,
- Pay €500 towards the costs of the Law Society of Ireland.

In the matter of Hilary Molloy, a solicitor of Blake & Kenny, Solicitors, 2 Francis Street, Galway, and in the matter of the Solicitors Acts 1954-2002 [5607/DT480/04]
Clients of the respondent

solicitor (applicants)
Hilary Molloy (respondent solicitor)

On 12 December 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in her practice as a solicitor for the following reasons:

- The respondent solicitor was retained by the applicants in March 2001 to provide legal services for the land registry of their family home. They have received no correspondence from the respondent solicitor as to the completion of this work.
- The respondent solicitor failed to carry out the said work in a timely fashion. That she, in her responding affidavit dated 26 November 2004, has falsely tried to implicate the applicants as the reason for her lack of attention to their file.

The tribunal ordered that the respondent solicitor:

- Do stand admonished and advised,
- Pay the sum of €200 to the compensation fund,
- Pay the sum of €1,000 towards the costs of the applicants. **G**

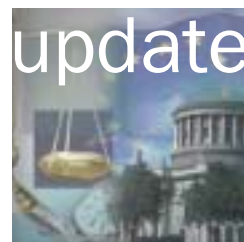
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CRIMINAL LAW

Evidence

Personal rights – statutory interpretation – purpose of taking tissue sample – application for extension of time for retention of sample – extent of district judge's discretion to make order – Constitution – whether good reason to authorise retention of tissue samples for further period – Criminal Justice (Forensic Evidence) Act 1990 (No 34), section 4(5).

Section 2 of the *Criminal Justice (Forensic Evidence) Act 1990* provides that a garda may take a sample of bodily tissue from a criminal suspect for the purposes of forensic testing. Section 4(5) of the act provides that “if a court is satisfied, on an application being made to it by or on behalf of the Director of Public Prosecutions ... that there is good reason why records or samples ... should not be destroyed [within six months of its being taken] ... it may make an order authorising the retention of such records and samples for such purpose or period as it may direct.”

A sample of bodily tissue was taken from the applicant when he was arrested in connection with the investigation of an aggravated burglary. A forensic report was prepared on the basis of that sample. An application was then made by the gardaí to the first respondent to extend the time for the retention of the sample for two months, pursuant to section 4(5) of the 1990 act, on the basis that a file had been sent to the DPP a week earlier and that directions from the DPP were imminent. The first respondent granted an extension for 28 days. The applicant was

granted leave to seek an order of *certiorari* quashing the order on the basis, among other things, that there was no “good reason” to extend the time and that the phrase had to be interpreted in conformance with the Constitution and particularly with its guarantee of bodily integrity.

Mr Justice Peart refused the application, holding that:

- 1) In legislating in a way that permitted the invasion of the right to bodily integrity by the taking of bodily samples, the Oireachtas had to do so in a proportionate manner.
- 2) In interpreting the phrase “good reason” in section 4(5) of the 1990 act, the court was obliged to consider the act as a whole in order to discern the intention of the Oireachtas. In that context, the taking of the sample had a purpose beyond its mere existence for the purpose of being tested and such testing could result in the sample acquiring the status of potential evidence at trial.
- 3) Available evidence, within the bounds of constitutional fairness, had to be retained and preserved until the conclusion of any trial in which it was required.

McGinley (applicant) v Judge Reilly (respondent), High Court, Mr Justice Peart, 15/11/2006, 2006 no 373 JR [FL13183]

IMMIGRATION LAW

Human rights

Irish born child – administrative scheme operated by minister – Irish Born Child Scheme 2005 – fair procedures – whether respondent performing functions in manner

incompatible with state's obligations under European Convention on Human Rights – right to respect for family life – whether refusal to consider application under administrative scheme ultra vires – European Convention on Human Rights Act 2003, section 3(1) – Bunreacht na hÉireann, article 40.3.

The first applicant is a non-national and the father of the second applicant, who was born in the state. He made an application under an administrative scheme, known as the Irish Born Child Scheme 2005, to the respondent for permission to remain in the state on the basis that he was the father of the second applicant. That application was refused on the basis that he had not been residing in the state on a continuous basis with the second applicant since that child's birth. Leave was granted by the High Court to seek an order quashing that refusal.

Ms Justice Finlay Geoghegan granted the applicants an order of *certiorari*, holding that the decision taken by the respondent on the application under the scheme was unlawful, as it had been taken in breach of the second applicant's rights under article 40.3 of the Constitution and under section 3(1) of the *European Convention on Human Rights Act 2003*, as it had been taken in a manner incompatible with the state's obligations to the second applicant under article 8 of the convention.

Fares (applicant) v Minister for Justice, Equality and Law Reform (respondent), High Court, Miss Justice Finlay Geoghegan, 14/11/2006, 2005 1234 JR [FL13166]

NEGLIGENCE

Statutory interpretation

Time limits – generalia specialibus non derogant – whether section of act disappplied by virtue of another section of same act – Civil Liability Act 1961, sections 9, 31.

Section 9(2) of the *Civil Liability Act 1961* provides that: “No proceedings shall be maintainable in respect of any cause of action whatsoever which has survived against the estate of a deceased person unless either (a) proceedings against him in respect of that cause of action were commenced within the relevant [limitation] period ending at the date of his death, or (b) proceedings are commenced in respect of that cause of action within the relevant period or within the period of two years after his death, whichever period first expires.” Section 31 of the act provides that: “An action may be brought for contribution within the same period as the injured person is allowed by law for bringing an action against the contributor, or within the period of two years after the liability of the claimant is ascertained or the injured person's damages are paid, whichever is the greater.”

The High Court found that the first defendant had breached a duty owed by it to the plaintiff and that the plaintiff was entitled to an award of damages from it as a result. The first defendant claimed that it was entitled to an indemnity and/or contribution from the estate of the second defendant. The estate of the second defendant resisted the claim on the basis that section 31 of the 1961 act had no application to the case, given that a claim for contribution had to

be categorised as a 'proceeding' within the meaning of section 9 of the act and that, following the maxim *generalia specialibus non derogant* (general things do not derogate from special things), the express provisions of section 9 should be preferred to the more general provisions of section 31.

Mr Justice Quirke dismissed the first defendant's claim against the estate of the second defendant, holding that the provisions of section 9(2) of the 1961 act were clear, precise and unambiguous. The relevant provisions of section 31 of the act were inconsistent with the provisions of section 9(2). Accordingly, the first defendant's claim against the second defendant's estate comprised a 'proceeding' within the meaning of section 9 of the act.

Keane (plaintiff) v Western Health Board (defendant) (addendum), High Court, Mr Justice Quirke, 22/11/2006, 2000 no 8232P [FL13256]

PRACTICE AND PROCEDURE

Costs

Powers of the Master of the High Court – order 99, rule 7 of the Rules of the Superior Courts – Court Officers Act 1926 – Courts (Supplemental Provisions) Act 1961 – Courts and Court Officers Act 1995 – whether the master had the power to make an order directing a solicitor to personally repay to his client any costs that the client may be ordered to pay to the other party to the proceedings.

The plaintiff appealed against the decision of the Master of the High Court ordering, pursuant to order 99, rule 7, RSC, that the costs of the plaintiff's motion for interrogatories and the order of the plaintiff's solicitor be disallowed and that the plaintiff's solicitor repay to his client any costs that the client had been ordered to pay to the defendant. The master further ordered that, in the event of the solicitor for the plaintiff making an

application to the High Court pursuant to order 63, rule 9, RSC, in respect of the aforementioned order, a specific named individual would be appointed as solicitor to represent the plaintiff at the hearing of that application. In his decision, the master determined that the costs of the motion were incurred without any reasonable cause.

Finnegan P allowed the appeal, holding that the jurisdiction to make the order under order 99, rule 7 did not arise in this case, as the solicitor for the plaintiff was not guilty of negligence that could be characterised as gross, nor was he guilty of misconduct. In any event, the master did not have the power to make the order that was the subject matter of this appeal. Order 99, rule 7 does not apply to proceedings before the master, and the phrase "the court" in the context of order 99, rule 7 does not include the master, as his powers as to costs

are dealt with separately in order 63, RSC. Jurisdiction to make the said order was not conferred on the master by statute, rules of court or by allocation by the President of the High Court. Furthermore, the master did not have the power to make an order under order 99, rule 7 referring the matter to the taxing master for inquiry and report and nominating a solicitor to attend and take part in such inquiry.

Kennedy (claimant) v Killeen Corrugated Products Ltd & Door Fix Ltd (respondent), High Court, Mr Justice Finnegan, 28/11/2006, 2005 no 1050P [FL13231] 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.

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

Recent developments in European law

ADVERTISING

Case C-356/04, *Lidl Belgium GmbH & Co KG v Etablissements Franz Colruyt NV*, 19 September 2006. Lidl and Colruyt operate chains of shops in Belgium. Lidl brought proceedings in Belgium seeking an order requiring Colruyt to cease various practices that it claimed amounted to comparative advertising. The matter was referred to the ECJ. Two advertising methods were contested. In the first, Colruyt compared the general level of the prices charged by itself and its competitors in respect of their ranges of comparable products and inferred from this the amount that consumers can save. The price levels were determined monthly and annually on the basis of a daily record of the individual prices of a very wide sample of basic consumer goods (both branded and unbranded products). The second method of advertising was based on the assertion that all of Colruyt's products with a red label bearing the word 'BASIC' are sold by it at the lowest price in Belgium. The red label was affixed to branded products, unbranded products and some sold under Colruyt's own brand name.

The ECJ held that comparative advertising helps to demonstrate objectively the merits of various comparable products and thus stimulates competition between suppliers of goods and services to the consumer's advantage. Thus, it is settled case law that the conditions required of compara-

tive advertising must be interpreted in the sense most favourable to such advertising. In principle, the *Comparative Advertising Directive* does not preclude comparative advertising relating to selections of basic consumer goods sold by two competing chains of stores, insofar as those selections consist of individual products that, when viewed in pairs, satisfy the requirement of comparability. The directive requires that, in such a case, the advertiser must indicate where and how the persons to whom the advertisement is addressed may examine the details of the comparison with a view of verifying their accuracy or having it verified. Comparative advertising claiming that the advertiser's general price is lower than his main competitors', where the comparison has related to a sample of products, may be misleading when the advertisement: (a) does not reveal that the comparison related only to such a sample and not to all the advertiser's product, (b) does not identify the details of the comparison made or (c) inform the persons to whom it is addressed of the information source where such identification is possible or contains a collective reference to a range of amounts that may be saved by consumers who make their purchases from the advertiser rather than from his competitors, without specifying individually the general level of the prices charged by each of those competitors and the amount that consumers are liable to

save by making their purchases from the advertiser rather than from each of the competitors. It is for the national court to determine whether the advertisements at issue in the main proceedings display such characteristics.

COMPETITION

Case C-519/04 P, *David Meca-Medina and Igor Majcen v Commission of the European Communities*, 18 July 2006. The applicants are two professional athletes who compete in long-distance swimming. The International Swimming Federation (FINA) suspended them for four years under the Olympic Movement's anti-doping code. The Council of Arbitration for Sport reduced the term to two years. The athletes complained to the commission, arguing that the International Olympic Committee's rules on doping control were not compatible with EC rules on competition and the freedom to provide services. The commission rejected their complaint. They challenged this before the CFI unsuccessfully and appealed to the ECJ.

The ECJ pointed out that sport is subject to EC law insofar as it is an economic activity. The provisions of the treaty on free movement of persons and the freedom to provide services do not affect rules concerning questions of purely sporting interest and that have nothing to do with economic activity. The court held that the penal nature of the rules at issue and

the magnitude of the penalties applicable if they are breached are capable of producing adverse effects on competition. In order to escape the prohibition on distortion of competition laid down by the treaty, the restrictions imposed by those rules must be limited to what is necessary to ensure the proper conduct of competitive sport. Rules of that kind could prove excessive as a result of the way in which the dividing line between circumstances that amount to doping in respect of which penalties may be imposed, and those that do not, is drawn and the severity of those penalties. However, in the present case it was not established that the anti-doping rules were disproportionate.

Cases C-295/04 to C-298/04, *Vincenzo Manfredi and Others v Lloyd Adriatico Assicurazioni SpA and Others*, 13 July 2006. In July 2000, the Italian competition authority found that a number of insurance companies had implemented an unlawful agreement for the purpose of exchanging information on the insurance sector. The agreement facilitated the increase in premiums for compulsory civil liability insurance relating to accidents caused by motor vehicles, vessels and mopeds that were not justified by market conditions. Mr Manfredi and others brought actions in the Italian courts against the insurance companies for restitution of the increase in the premiums paid, by reason of the arrangement declared unlawful. The Italian courts

referred several questions to the ECJ. They asked whether the agreement infringed not only Italian law but also the *EC Treaty*, insofar as insurance companies of other member states, also carrying on activities in Italy, took part in the agreement ruled unlawful. They asked whether third parties might claim damages for harm caused by the prohibited agreement. There were also a number of other miscellaneous questions.

The ECJ held that an arrangement such as the one at issue can infringe both national competition rules and the *EC Treaty*. It may be in breach of the treaty if there is a sufficient degree of probability that the arrangement may have an influence on the sale of insurance policies in the member state by operators established in other member states and that the influence is not insignificant. Article 81 of the treaty produces direct effects in relations between individuals. Any individual can rely on it to claim invalidity of an arrangement prohibited under article 81 and claim compensation for the harm suffered where there is a causal relationship between that harm and an arrangement or practice prohibited under that article. In the absence of EC rules governing the matter, it is for the member states to designate the courts or tribunals having jurisdiction and to prescribe the detailed procedural rules governing actions for safeguarding rights that individuals derive directly from EC law, provided that such rules are not less favourable than those governing similar domestic actions and that they do not render practically impossible or excessively difficult the exercise of rights conferred by EC law. It is also for the member states to prescribe the limitation period for seeking compensation for harm caused by an arrangement or

practice prohibited under article 81 and to set the criteria for determining the extent of the damages. It is for the national court to determine whether a national rule that provides that the limitation period for seeking compensation begins to run from the day on which the prohibited arrangement or practice was adopted. In relation to damages, the court held that, if it is possible to award particular damages, such as exemplary or punitive damages in domestic actions similar to those founded on EC competition rules, it must also be possible to award them in actions founded on EC rules. Injured persons must be able to seek compensation not only for actual loss but also for loss of profit plus interest.

CRIMINAL LAW

Case C-303/05, *Advocaten voor de Wereld v Leden van de Ministerraad*, 12 September 2006, opinion of Advocate General Ruiz-Jarabo. The European arrest warrant was adopted by the council in 2002 (council framework decision 2002/584/JHA). The arrest warrant is a decision from a court in a member state addressed to the authorities of another member state, seeking the arrest and surrender of an individual for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order. For a warrant to be issued, it is sufficient that the acts to which it relates be punishable by the law of the issuing member state by a custodial sentence, although surrender may be made subject to the condition that the act constitute an offence in the state of destination. That option is not available in the case of the most serious offences. The applicant brought an action contesting the Belgian law transposing the decision into national law. The

Belgian court asked the ECJ to rule on the appropriateness of the instrument used and on whether the prohibition, in certain circumstances, on making the execution of the arrest warrant subject to the condition that the facts on which it is based must also constitute an offence in the state of execution breaches the fundamental rights to equality before the law and to the legality of criminal proceedings.

The advocate general took the view that the only alternative to a framework decision for the arrest warrant would be an international convention. The *Treaty of Amsterdam* provided for the framework decision as a new legal instrument to circumvent the difficulties arising from the ratification of international treaties. The commission, in its proposal for a framework decision, stated that this instrument was chosen for reasons of effectiveness in view of the limited success of the previous conventions. He concluded that the member states and the institutions are required to achieve the objectives laid down by the treaty of the EU, which include the maintenance and development of an area of freedom, security and justice, using the most appropriate measures. They are also bound to ensure the effectiveness of EC law. Thus, the council was not only entitled, but obliged to establish a mechanism for the European arrest warrant and surrender procedure in a framework decision.

He then turned to consider the principle of equality before the law. He took the view that the introduction of a different regime on the basis of the nature of the facts does not breach that principle, since it does not take account of a personal situation but of the nature of the offence. Where there are differences between offences and they are of differ-

ing seriousness, the individuals who commit them cannot be compared to one another. The differences that may arise from the execution of a European warrant are objective, as they correspond to the nature of the offence and the penalty for it. They are reasonable and justified, as they are aimed at combating crime in an area of freedom, security and justice. They are proportionate, as they ensure the surrender by a member state of a person accused or convicted of a serious offence to the authorities to a comparable judicial system, which respects the principles of the rule of law and guarantees the fundamental rights of the individual concerned, including the rights that apply during the course of criminal proceedings. The advocate general concluded that the principle of equality in the application of the law is not breached when different courts hand down conflicting judgments. The framework decision provides for the accurate exchange of information and direct contact between the courts involved. Should any uncertainty remain, the procedure for referring a preliminary ruling facilitates a uniform interpretation within the territory of the EU. A European warrant that is correctly issued must be based on acts that are defined as offences in the issuing state. The arrest and surrender procedure entailed in the execution of a European arrest warrant is not punitive in nature. The court responsible for executing the warrant must establish that the conditions for handing over an individual who is in its jurisdiction have been satisfied. The executing court is not required to hear the substance of the case, except for the purposes of the surrender proceedings, and must refrain from assessing the evidence and delivering a judgment as to guilt. **G**

LOST LAND CERTIFICATES

Registration of Deeds and Title Acts 1964 and 2006

An application has been received from the registered owners mentioned in the schedule hereto for an order dispensing with the 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. The land certificate will be dispensed with 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.

Property Registration Authority,
Chancery Street, Dublin 7
(Published 2 March 2007)

Regd owner: Anthony Scanlon, Canbeg, Dowra, Co Cavan; folio: 14714; lands: Moneen; **Co Cavan**

Regd owner: Patrick (Simon) Smith, Drumroragh, Ballyjamesduff, Co Cavan; folio: 760 part of (18649); lands: Kilnacrott; **Co Cavan**

Regd owner: Donal Smith, Philip Smith, and Michael Brady, c/o Philip Smith, Secretary, Smith Brady Smith Partnership, Mullakeel, Ballinagh, Co Cavan; folio: 11143; lands: Coolkill; **Co Cavan**

Regd owner: Thomas Finn and Lucy Finn; folio: 9170F; lands: townland of Lackshannagh and barony of Clonderalaw; area: 0.2060 hectares; **Co Clare**

Regd owner: Michael Doherty; folio: 16753; lands: plot of ground situate in the townland of Ballyrobert in the barony of Barrymore and in the county of Cork; **Co Cork**

Regd owner: Arthur O'Connor; folio: 2240F; lands: plot of ground situate in the townland of Killough East in the barony of Kilmainham and in the county of Cork; **Co Cork**

Regd owner: John O'Connell; folio: 9679F and 14514F; lands: plot of ground situate in the townland of Hoddersfield in the barony of Kerrycurrihy and in the county of Cork; **Co Cork**

Regd owner: Cornelius Counihan; folio: 35086; lands: plot of ground situate in the townland of Templemary in the barony of Orrery and Kilmore and in the county of Cork; **Co Cork**

Regd owner: Nora O'Brien and Patrick O'Brien (deceased); folio: 32603; lands: plot of ground situate in the townland of Derreenaclogh in the barony of Carbery West (west division) and in the county of Cork; **Co Cork**

Regd owner: Patsy O'Brien and Martin O'Brien; folio: 54159F; lands: plot of ground known as 25 Ard Na Laoi, Montenotte, situate in the parish of St

LAW SOCIETY Gazette

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Anne's-Shandon and in the city of Cork; **Co Cork**

Regd owner: Barry O'Driscoll and Margaret O'Driscoll; folio: 80019F; lands: plot of ground situate to the east side of Bantry town in the townland of Sheskin in the barony of Bantry and in the county of Cork; **Co Cork**

Regd owner: Patrick Joseph Cronin (deceased); folio: 59084; lands: a plot of ground situate in the townland of Curra (ED Ballymartle) in the barony of Kinalua and in the county of Cork; **Co Cork**

Regd owner: John Henry Hegarty, Shore Road, Buncrana, Co Donegal; folio: 3778F; lands: Figary; **Co Donegal**

Regd owner: Brian McSharry, Townasligo, Bruckless, Co Donegal; folio: 45665F; lands: Tawnasligo; **Co Donegal**

Regd owner: Angela Conway; folio: DN2134F; lands: property situate in the townland of Ballydowd and barony of Newcastle; **Co Dublin**

Regd owner: Finbarr Fahy and Margaret Fahy; folio: DN49120L; lands: property known as 66 Dale View Park, situate on the south side of Dale View in the parish of Killiney and borough of Dun Laoghaire; **Co Dublin**

Regd owner: Vera Herbert; folio: DN61057F; lands: property situate in the townland of Knockmitten and barony of Uppercross; **Co Dublin**

Regd owner: Matthew Kilduff; folio: DN19093; lands: property situate in the townland of Lucan and Pettycannon and barony of Newcastle; **Co Dublin**

Regd owner: Edward J Breslin and Stella Mulvany; folio: DN63350F; lands: property situate on the west side of Sea Road in the town of Malahide in the townland of Yellow Walls and barony of Coolock; **Co Dublin**

Regd owner: Nora McDonagh; folio: 18714F; lands: townparks; area: 0.02 acres; **Co Galway**

Regd owner: Glencullen Properties

Limited; folio: 22824; lands: townland of Killeggy Upper and Cloghereen Upper and barony of Magunihiy; **Co Kerry**

Regd owner: Anna T Nolan; folio: 27039; lands: townland of Feohanagh and barony of Corkaguiny; **Co Kerry**

Regd owner: Liam Sheehy; folio: 28437F; lands: townland of Duagh and barony of Clanmaurice; **Co Kerry**

Regd owner: Finbarr Murphy; folio: 15888; lands: townland of Gleesk and Derreendrigh and barony of Dunkerron South; **Co Kerry**

Regd owner: Patrick J O'Brien and Mary O'Brien; folio: 46580F; lands: townland of Grange Beg and barony of Naas South; **Co Kildare**

Regd owner: William McConn and Mary McConn; folio: 11769; lands: townlands of Oldgrange and Globeisland and barony of Offaly West; **Co Kildare**

Regd owner: Dymphna Hannon; folio: 7649F; lands: townland of Sallins and barony of Naas North; **Co Kildare**

Regd owner: Thomas McGovern; folio: 1235; lands: Dorrusawillin; area: 9.8541 hectares; **Co Leitrim**

Regd owner: Patrick McGowan, Mullinaduff, Castlegal, Co Leitrim; folio: 15853; lands: Mullanyduff; **Co Leitrim**

Regd owner: John Cannon, Moher, Aughamore PO, Carrick-on-Shannon, Co Leitrim; folio: 2712; lands: Treanmore; **Co Leitrim**

Regd owner: Donal Danagher and Gabrielle Danagher; folio: 25101; lands: townland of Rathjordan and barony of Clanwilliam; **Co Limerick**

Regd owner: Gerard Garvey; folio: 14266; lands: Islandduane and barony of Pubblebrien; **Co Limerick**

Regd owner: Gerard and Margaret Benson; folio: 30208F; lands: townland of Gouldavoher and barony of Pubblebrien; **Co Limerick**

Regd owner: Mary McElligott; folio: 8155, 5888F, 6803F; lands: townland

of Kilcullane and Raheenmadra and barony of Smallcounty and Coshlea; **Co Limerick**

Regd owner: Karl and Yvonne Widger; folio: 34841F; lands: townland of Newtown and barony of Clanwilliam; **Co Limerick**

Regd owner: Dermot McCormack, Kilcurry, Ballymahon, Co Longford; folio: 7600F; lands: Kilcurry; area: 18.4900 hectares; **Co Longford**

Regd owner: Anthony Donnelly and Teresa Donnelly, c/o John Woods, solicitor, Francis Street, Dundalk, Co Louth; folio: 1689F; lands: Aghnakeagh; area: 3.3513 hectares; **Co Louth**

Regd owner: the Representative Church Body; folio: 29276; lands: situate in the barony of Tirawley, townland of Knockglass; area: 21.1245 hectares; **Co Mayo**

Regd owner: John Farragher and Susan Farragher; folio: 10539F; lands: townland of Garreens and barony of Kilmaine; **Co Mayo**

Regd owner: Denis Farrelly of Eden, Kilmainhamwood, Kells, Co Meath; John Joseph Crosbie of Whitewood, Kilmainhamwood, Kells, Co Meath; John Gilsenan of Aghamore, Kilmainhamwood, Kells, Co Meath; Colm Cromwell of 121 Troytown Heights, Navan, Co Meath and Michael Delany of Castletown, Portlaoise, Co Laois; folio: 17516F; lands: Boynagh; **Co Meath**

Regd owner: Simon Smith, Drumrora, Ballyjamesduff, Co Cavan; folio: 8672; lands: Kilmainham; **Co Meath**

Regd owner: Francis Troy; folio: 167 and 3539; lands: Macnahanny or Furlough, Corgarve South, Kilmeelchon and barony of Garrycastle; **Co Offaly**

Regd owner: William Madden (deceased); folio: 114; lands: Ballymacoolaghan and barony of Garrycastle; **Co Offaly**

Regd owner: Aidan Kenny; folio: 11673; lands: Clonboniff and barony of Garrycastle; **Co Offaly**

Regd owner: John Kelly and Phyllis Kelly;

folio: 33348; lands: Cortober; area: 0.5 acres; **Co Roscommon**
 Regd owner: James Waters; folio: 1766; lands: townland of Mullaghaneane and barony of Carbury; area: 16 acres, 3 roods, 15 perches; **Co Sligo**
 Regd owner: Eugene and Claire Doyle; folio: 27871F; lands: Toor and barony of Eliogarty; **Co Tipperary**
 Regd owner: Patricia Hogan; folio: 18931 and 26884; lands: townland of Stradavoher and barony of Eliogarty; **Co Tipperary**
 Regd owner: Patrick Christopher (deceased); folio: 4879 (part of 7915F); lands: plots of ground situate in the townland of Dromore in the barony of Decies within Drum and in the county of Waterford; **Co Waterford**
 Regd owner: Stephen Hales and Mary Teresa Hales; folio: 7181; lands: plot of ground situate in the townland of Curraheen South in the barony of Coshmore and Coshbride and in the county of Waterford; **Co Waterford**
 Regd owner: Donal P Ryan, Vilanstown, Gaybrook, Mullingar, Co Westmeath; folio: 6160; lands: Vilanstown; **Co Westmeath**
 Regd owner: James Murphy; folio: 9455; lands: Taulaght and barony of Shelburne; **Co Wexford**
 Regd owner: James O'Connor; folio: 20634F; lands: Clonroche and barony of Bantry; **Co Wexford**
 Regd owner: Margaret (Peggy) Byrne; folio: 11248; lands: situate in the townland of Seven Churches or Camaderry, in the barony of Ballinacor North and county of Wicklow; **Co Wicklow**
 Regd owner: Mary Kelly; folio: 10778; lands: townland of Kilcoole and barony of Newcastle; **Co Wicklow**

WILLS

Barden, John (otherwise Jack) (deceased), late of St Senan's Hospital, Enniscorthy, Co Wexford, and formerly of Ralph/Grange, Fethard-on-Sea, New Ross, Co Wexford. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 22 February 2004, please contact Coghlan Kelly, Solicitors, Trinity Chambers, South Street, New Ross, Co Wexford; tel: 051 429 100, fax: 051 422 793

Hynes, Thomas (deceased), late of St Vincent's Hospital, Athy, Co Kildare and formerly of Boherkill, Rathangan, Co Kildare. Notice is hereby given for any relatives of Thomas Hynes (deceased) to furnish full details of their name, address and relationship to the deceased Thomas Hynes, late of St Vincent's Hospital, Athy, Co Kildare and formerly of Boherkill, Rathangan, Co Kildare, who died on 21 August 2006. Details should be furnished to the undersigned solicitors on or before 31

March 2007: Wilkinson and Price Solicitors, South Main Street, Naas, Co Kildare; tel: 045 897 551

McDermott, William (deceased), late of St Joseph's Hospital, Stranolar, Co Donegal and formerly of Glencar Scotch, Letterkenny, Co Donegal. Would any person having knowledge of a will executed by the above-named deceased, who died on 11 December 2006 at St Joseph's Hospital, Stranolar, Co Donegal, please contact Margetson and Greene, Solicitors, 35 Lower Baggot Street, Dublin 2, tel: 01 676 4845, fax: 01 676 6549

McGilligan, Roderick J (deceased), late of Pursers Garden, Rathmines, Dublin 6. Would any person with knowledge of any will made by the above-named deceased, who died on 9 December 2006, please contact Matheson Ormsby Prentice (Graham Richards), 30 Herbert Street, Dublin 2; tel: 01 619 9000

O'Connor, Thomas (deceased), late of Garrymore, Clogheen, Co Tipperary. Would any person having knowledge of a will made by the above-named deceased, who died on 5 June 2006, please contact Albert C O'Dwyer & Co, Solicitors, Barrack Street, Cahir, Co Tipperary; tel: 052 41280, fax: 052 41170

Weldon, Maureen (deceased), late of 5 Harold Road, Stoneybatter, Dublin 7. Would any person having knowledge of the whereabouts of a will made by the above-named deceased, who died on 25 January 2007, please contact Keith Weldon, 5 Harold Road, Stoneybatter, Dublin 7; tel: 01 670 5633 or mobile 086 203 1047

MISCELLANEOUS

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: seven-day publican's licence (ordinary). Apply to Garavan & O'Connor, Solicitors, Main Street, Castlebar, Co Mayo; ref: ROC/AR

TITLE DEEDS

62 Beechpark Drive, Foxrock, Dublin 18 (the property). Would any person having knowledge of the whereabouts of title deeds referable to the property (owners: Germain Michael O'Boyce, now deceased, and Anatasia O'Boyce)

please contact Rutherfords, Solicitors, 41 Fitzwilliam Square, Dublin 2; tel: 01 661 5732, fax: 01 661 2071

Fee simple interest. Any solicitor who has any knowledge of the persons who act on behalf of the estates of those parties who hold the fee simple interest in the property held under lease dated 17 April 1877 and made between Catherine Charlotte Ingram of the first part, Francis John Hannon of the second part, Richard Wolsey and Mary Reeves Wolsey of the third part and Russell Martin of the fourth part, as more particularly described as all that and those the dwelling house, out offices, three acres of ground more or less and premises known as Trafalgar, Middle Glanmire Road, in the city of Cork, please contact McCarthy & McCarthy, Solicitors, Premier House, Main Street, Ballincollig, Co Cork; tel: 021 487 0550, fax: 021 487 2341, email: ballincollig@mcmc.ie

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 Ballybrit Investments Limited

Any person having an interest in the freehold estate or any superior interest in the property known as all that the plot of ground situate at the rear of no 10 Lower Abbeygate Street, Galway, now known as no 5 Arch Mews, held (*inter alia*) under a sub-lease dated 5 November 1930 and made between Charles F Kirwan and Simon P Corbett of the other part for a term of 199 years from 29 September 1875 (less one day), subject to an annual rent of £1.

Take notice that the applicant, Ballybrit Investments, intends to submit an application to the county registrar for the county and city of Galway for the 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 is called upon to furnish evidence of title to the aforesaid property to the below named within 21 days from the date of this notice.

In default of any such notice being received, the applicant, Ballybrit Investments Limited, intends to proceed with the application before the county registrar for the county and city of Galway for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interests are unknown or unascertained.

Date: 2 March 2007

Signed: Kieran Murphy & Company (solicitors for the applicant), 9 The Crescent, Galway

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-1978 and in the manner of a proposed arbitration pursuant to section 17 of the Landlord and Tenant (Ground

Rents) Act 1967 and in the matter of an application by the Teissier Limited Partnership, the Boylan Limited partnership and the McCarthy Limited partnership

To: unknown and unascertained persons, being the successors in title to the interests of John White of no 22 Victoria Road, Rathgar, in the county of Dublin, and Jane Davis of no 50 Morely Road, East Wickenham, Middlesex, England, and any persons having a freehold estate or any intermediate estate in all that and those the properties now known as 40/40A Lower Kevin Street, Dublin (and formerly known as 41 Lower Kevin Street, Dublin), as was demised by means of an indenture of lease made on 12 October 1914, and between the aforesaid John White and Jane Davis of the one part as lessors and the Moravian Union Incorporated of the other part as lessee.

Take notice that Teissier Limited Partnership, the Boylan Limited Partnership and the McCarthy Limited Partnership, who are now entitled to the lessee's interest under the above-mentioned lease and are the persons entitled under section 3 of the *Landlord and Tenant (Ground Rents) Act 1967*, propose to purchase the fee simple in the land held under the said indenture of lease.

Take notice that the said parties intend to submit an application to the county registrar for the city of Dublin for the acquisition of the freehold interest in the aforesaid properties, and any parties asserting that they hold a superior interest to the applicants in the aforesaid premises (or any of them) are called upon to furnish evidence of title to the aforementioned premises to the below-named agents for the applicants within 21 days of the date of this notice.

In default of such notice being received, the applicants intend to proceed with the application before the said county registrar at the expiry of 21 days of the date of this notice and will apply to the county registrar for the city of Dublin for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interests including the freehold reversion in the said premises are unknown and unascertained.

Date: 2 March 2007

Signed: Creagh Joy & Company (solicitors for the applicant), 2 Prince of Wales Terrace, Bray, Co Wicklow

In the matter of the Landlord and Tenant Acts 1967-1984 and of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Sean Clifford and Sally Clifford

Take notice that Sean Clifford and Sally Clifford intend to submit an application to the county registrar for the county of Wicklow for the acquisition of the freehold interest in the following property: all that and those the hereditaments and premises known as 11 Longford Terrace, Eglington Road, Bray, in the county of Wicklow.

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And take notice that any person having an interest in the freehold estate of the aforesaid property and any party asserting that they hold a superior interest in the aforesaid property (or any of them) are called upon to furnish evidence of title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, Sean Clifford and Sally Clifford intend to proceed with the application before the county registrar at the end of the 21 days from the date of this notice and will apply to the county registrar for the county of Wicklow for directions as may be appropriate on the basis that the person or person beneficially entitled to the superior interest including the freehold reversion in each of the aforesaid premises are unknown or unascertained.

Date: 2 March 2007

Signed: Lockhart & Company (solicitors for the applicant), 7 Annesley Bridge Road, Fairview, Dublin 3

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*: an application by Miriam Hennessy, Mary Judge, and Geraldine Byrne

Take notice that any person having any interest in the freehold interest of the following property: all that and those

the lands more particularly described in an indenture of lease dated 22 November 1941 (the lease) between the Right Reverend Monsignor Michael Cronin PP CG, the Reverend Thomas O'Donnell and the Reverend Patrick Dune of the first part; the Most Reverend John Charles McQuaid, the Very Reverend Daniel Hickey, Josephine Dodd, Frances Heskin and Elizabeth O'Connor of the second part; and the Minister for Education of the third part, as all that lot of ground described in the map thereof on these present delineated situate in the townland of Crumlin, parish of Crumlin, barony of Upper Cross, and county of Dublin, containing the several admeasurements, and bounded respectively as more particularly described and delineated on the said map and now occupied by St Agnes primary school and Scoil Eoin, Armagh Road, Crumlin, Dublin 12, held under the lease for a term of 99 years from 22 November 1941, subject to the yearly rent of one penny.

Take notice that the applicants, Miriam Hennessy, Mary Judge and Geraldine Byrne, 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 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 premises to the

below named within 21 days from the date of this notice.

In default of such notice being received, the applicants intend to proceed with the application before the county registrar for the county/city of Dublin for directions as may be appropriate on the basis of the person or persons beneficially entitled to the superior interest including the freehold reversion in the above premises are unknown or unascertained.

Date: 2 March 2007

Signed: Arthur Cox & Co (solicitors for the applicants), Earlsfort Centre, Earlsfort Terrace, Dublin 2

Landlord and Tenant (Ground Rents) Acts 1967-1984: notice requiring information from a lessor (section 7(1))

To: Mr Peter Raymond, c/o Cripps Harries Hall LLP, Wallside House, 12 Mount Ephraim Road, Tumbridge Wells, Kent TN1 1EG, United Kingdom; and to: Mr Patrick McCoy, 21 Dundela Park, Sandycove, Co Dublin; and to: Michael J Fisher and Bridget M Fisher, Ardeevin House, Ardeevin Road, Dalkey, Co Dublin; and to: Bryce Leonard Levinge and Avice Ethel Mary Robinson (formerly Shephard), c/o Ms Joanna Jackson, Orpen Franks Solicitors, 28/30 Burlington Road, Dublin 4; and to: all persons concerned.

1) Description of land to which this notice refers: Shell Service Station situate at

Ulverton Road, Dalkey, Co Dublin, together with the right of way granted in the sub-lease set out in paragraph 2.

2) Particulars of applicant's lease: sub-lease dated 17 January 1956 and made between (1) Patrick McCoy and (2) Irish Shell Limited (now known as Topaz Energy Limited);

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term: 200 years from 1 January 1956; year rent of €26 by equal half-yearly payments, modern day rent: €33.01.

Take notice that Topaz Energy Limited (formerly known as Irish Shell Limited), registered office: Topaz House, Beech Hill, Clonskeagh, Dublin 4, being a person entitled under the above act to acquire the fee simple in the land described above, require you to give me, within one month after the service of this notice on you, the following information:

- The nature and duration of your reversion in the land,
- The nature of any incumbrance on your reversion in the land, and
- The name and address of (i) the person entitled to the next superior interest in the land, and (ii) the owner of any such incumbrance.

Date: 30 January 2007

Signed: Arthur Cox (solicitors for the applicant), Earlsfort Centre, Earlsfort Terrace, Dublin 2

Landlord and Tenant (Ground Rents) Acts 1967-1984: notice of intention to acquire fee simple (section 4)

To: Mr Peter Raymond, c/o Cripps Harries Hall LLP, Wallside House, 12 Mount Ephraim Road, Tumbidge Wells, Kent TN1 1EG, United Kingdom; and to: Mr Patrick McCoy, 21 Dundela Park, Sandycove, Co Dublin; and to: Michael J Fisher and Bridget M Fisher, Ardeevin House, Ardeevin Road, Dalkey, Co Dublin; and to: Bryce Leonard Levinge and Avice Ethel Mary Robinson (formerly Shephard), c/o Ms Joanna Jackson, Orpen Franks Solicitors, 28/30 Burlington Road, Dublin 4; and to: all persons concerned.

- Description of land to which this notice refers: Shell Service Station situate at Ulverton Road, Dalkey, Co Dublin, together with the right of way granted in the sub-lease set out in paragraph 2.
- Particulars of applicant's lease or tenancy: sub-lease dated 17 January 1956 and made between (1) Patrick McCoy and (2) Irish Shell Limited (now known as Topaz Energy Limited); term: 200 years from 1 January 1956; year rent of €26 by equal half-yearly payments, modern day rent: €33.01.

Take notice that Topaz Energy Limited (formerly known as Irish Shell Limited), registered office: Topaz House, Beech Hill, Clonskeagh, Dublin 4, being a person entitled under section 9 of the 1978 no 2 act, proposes to purchase the fee simple in the land described in paragraph 1.

Date: 30 January 2007

Signed: Arthur Cox (solicitors for the applicant), Earlsfort Centre, Earlsfort Terrace, Dublin 2

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Martin Doyle & Sons (Carlow) Limited

Any person having a freehold estate or any intermediate interest in all that and those that plot or piece of ground the subject of an indenture of lease dated 2 June 1908 between Mary Walsh of the one part and Marie-Anne Byrne of the other part for the term of 98 years from 25 March 1908 at a yearly rent of stg£20.5.6 and therein described as all that and those the dwellinghouse, yard and garden at the rear thereof, situate in the north side of Tullow Street in the town of Carlow, containing a front thereof 22 feet and the rear 22 feet and from front to rear 267 feet or thereabouts, which premises were and are at the date hereof known as 83 Tullow Street, Carlow.

Take notice that Martin Doyle & Sons (Carlow) Limited intend to submit an application to the county registrar of the county of Carlow 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 applicant intends to proceed with the application before 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 to the property are unknown or unascertained.

Date: 2 March 2007

Signed: McNulty Boylan & Partners (solicitors for the applicants), 26-28 South Terrace, Cork

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 Michael Duncan

Take notice that any person having interest in the freehold estate of the following property: 55 Upper Leeson Street, Dublin 2, more particularly described in an indenture of lease dated 31 August 1954 between John Berkley Moses and Henry Derek Hurley of the first part,

Sydney Margaret Courtney, Adeline Dora Courtney and Dame Kathleen D'Olier Courtney of the second part, and William Hogan Saul of the third part, for the term of 99 years from 25 March 1952, subject to the covenants on the lessee's part and conditions therein contained.

Take notice that Michael Duncan intends to submit an application to the county registrar for the county/city of Dublin for the acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the aforementioned property to the below named within 21 days of the date of this notice.

In default of any such notice being received, Michael Duncan 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/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: 2 March 2007

Signed: Partners at Law (solicitors for the applicant), 8 Adelaide Street, Dun Laoghaire, Co Dublin

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Michael Duncan

Take notice that any person having interest in the freehold estate of the following property: 56 Upper Leeson Street, Dublin 2, more particularly described in an indenture of lease dated 3 August 1966 between Louis Wilfred Webb and Ralph Joseph Walker of the first part and Ernest Richard Patterson of the second part for the term of 86 years from 29 September 1964, subject to the yearly rent of £20 and to the covenants on the lessee's part and conditions therein contained.

Take notice that Michael Duncan intends to submit an application to the county registrar for the county/city of Dublin for the acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the aforementioned property to the below named within 21 days of the date of this notice.

In default of any such notice being received, Michael Duncan 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/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: 2 March 2007

Signed: Partners at Law (solicitors for the applicant), 8 Adelaide Street, Dun Laoghaire, Co Dublin

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Thomas G Marren

Take notice that any person having an interest in the freehold estate in the following property: all that and those part of the lands of Bullock with the premises erected thereon, now known as number three Castle Street, Dalkey, as more particularly described in the map endorsed on these presents and thereon outlined red, situate in the barony of Rathdown and county of Dublin.

Take notice that Thomas G Marren intends to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the fee simple interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property is called upon to furnish evidence of title to the aforementioned property to the below named within 21 days from the date of this notice.

In default of any such notice being received, the applicant, Thomas G Marren, 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 reversion in the aforesaid property are unknown or unascertained.

Date: 2 March 2007

Signed: Reddy, Charleton & McKnight (solicitors for the applicant), 12 Fitzwilliam Place, 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 65 O'Connell Street, Dublin 1: an application by National Irish Bank Limited

Take notice that any person having an interest in the freehold estate or in any superior interest in the property known as 65 O'Connell Street, Dublin 1, being the property comprised in a lease dated 4 October 1860 from John Rose Byrne and Benjamin Tilly to William Thomas Thomson, trustee for and on behalf of the Colonial Insurance Company.

Take notice that the applicant, National Irish Bank Ltd, intends to submit an application to the county registrar for the city of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7 for the acquisition of the fee simple interest in the aforesaid property, and that any party asserting that they hold a superior interest in the aforesaid property are

called upon to furnish evidence of title to the below named within 21 days from the date of this notice.

In default of any such notice being received, National Irish Bank Ltd intends to proceed with the application before the said county registrar at the end of 21 days from the date of this notice and will apply to said county registrar for the city of Dublin for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the fee simple in the aforesaid property are unknown and unascertained.

Date: 2 March 2007

Signed: Matheson Ormsby Prentice (solicitors for the applicant), 30 Herbert Street, Dublin 2

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Ignatius Investment Holdings Limited

To any person having an interest in the freehold estate or any intermediate estate in the following: all that the part or parts of the property, the entire of which was demised by indenture of lease dated 8 August 1878, the Honourable Charles Spencer Cowper to Maurice Butterly (hereinafter 'the said lease') for a term of 200 years from 25 March 1878, subject to a yearly rent of £97, which parts are shown on the map annexed to an indenture of conveyance and assignment dated 6 April 1981, John F Newman and Son Limited to Playprint Limited ('the 1981 deed'), (a) as to portion thereof situate at the rear of the houses numbers 73 to 79 (inclusive) Saint Ignatius Road, Drumcondra, parish of Saint George and city of Dublin, and shown coloured red on the said map to the 1981 deed, and (b) as to portion thereof located between the laneway at the rear of the premises numbers 80, 81 and 83 Saint Ignatius Road and Innisfallen Parade, Drumcondra, in the parish of St George in the city of Dublin, shown coloured blue on the said map to the 1981 deed, which said parts are indemnified against the entire of the said rent of £97 per annum.

Take notice that Ignatius Investment Holdings Limited, the party currently entitled to the lessee's interest in the said lease, being a party entitled under sections 8, 9 and 10 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, proposes to acquire the fee simple and all and any intermediate interests in said property, and any party asserting that they hold a superior interest to that of the applicant in the said property are called upon to furnish evidence of title to the said property to the below-named solicitors for the applicant within 21 days from the date of this notice.

In default of any such notice being received, the applicant intends to proceed with an application to the county registrar for Dublin county borough and county of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7 for such directions

as may be appropriate on the basis that the lessor or persons beneficially entitled to any superior interest including the freehold reversion in the said property are unknown or unascertained.

Date: 2 March 2007

Signed: Young & Company (solicitors for the applicant), 2 Charleston Road, Dublin 6

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Ignatius Investment Holdings Limited

To any person having an interest in the freehold estate or intermediate estate in the following: all that the part or parts of the property, the entire of which was by indenture of lease dated 24 August 1883, Maurice Butterly to Thomas White (hereinafter 'the said lease'), for a term of 190 years from 1 May 1883, subject to the yearly rent of £12, but indemnified against £9 thereof, which part comprises the plot of ground with the dwelling-house thereon now known as number 80 Saint Ignatius Road, Drumcondra, situate in the parish of St George and city of Dublin, being portion of the premises comprised in and demised by the said lease, the entire of the said premises demised by the said lease being therein described as "all that and those that piece or plot of ground situate on the south side of Saint Ignatius Road, containing in front to the said road 80 feet, in the rear a like number of feet, and in depth from front to rear on the east side 125 feet or thereabouts, and on the west side 150 feet or thereabouts, bounded on the north by Saint Ignatius Road aforesaid, on the west by land in the possession of the said Maurice Butterly, on the east by premises already built by the said Thomas White, and the south by an intended laneway or passage, which said piece or plot of ground hereby demised is more particularly delineated and described on the map or terchart in the margin hereof and is situate in the parish of Saint George and county of the city of Dublin".

Take notice that Ignatius Investment Holdings Limited, the party currently entitled to the lessee's interest in the said lease, being a party entitled under sections 8, 9 and 10 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, proposes to acquire the fee simple and all and any intermediate interests in said property, and any party asserting that they hold a superior interest to that of the applicant in the said property are called upon to furnish evidence of title to the said property to the below-named solicitors for the applicant within 21 days from the date of this notice.

In default of any such notice being received, the applicant intends to proceed with an application to the county registrar for Dublin county borough and county of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7 for such directions

as may be appropriate on the basis that the lessor or persons beneficially entitled to any superior interest including the freehold reversion in the said property are unknown or unascertained.

Date: 2 March 2007

Signed: Young & Company (solicitors for the applicant), 2 Charleston Road, Dublin 6

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Ignatius Investment Holdings Limited

To any person having an interest in the freehold estate or intermediate estate in the following: all that the piece or parcel of ground situate at the rear of number 66 Dorset Street Lower in the city of Dublin, held forever free of the rent reserved by conveyance of the Landed Estates Court dated 30 July 1892, made between the Right Honourable John Monroe of the one part and Michael Waters, Timothy Kenny and John Verdon of the other part, and all that the piece or parcel of ground containing approximately 45 feet, 2 inches in length and 12 feet in breadth on the north side of the aforesaid ground at the rear of Saint Francis Xavier School, Dorset Street Lower in the city of Dublin, being part of the premises demised by the lease of the 6 June 1879 Maurice Butterly to the Reverend John Gaffney, held for a term of 195 years from 25 March 1879, subject to the annual rent of £1.80, but indemnified against payment thereof. And all of which said property is now known as number 96A, Saint Ignatius Road in the city of Dublin.

Take notice that Ignatius Investment Holdings Limited, the party currently entitled to the lessee's interest in the said lease, being a party entitled under sections 8, 9 and 10 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, proposes to acquire the fee simple and all and any intermediate interests in said property, and any party asserting that they hold a superior interest to that of the applicant in the said property are called upon to furnish evidence of title to the said property to the below-named solicitors for the applicant within 21 days from the date of this notice.

In default of any such notice being received, the applicant intends to proceed with an application to the county registrar for Dublin county borough and county of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7 for such directions as may be appropriate on the basis that the lessor or persons beneficially entitled to any superior interest including the freehold reversion in the said property are unknown or unascertained.

Date: 2 March 2007

Signed: Young & Company (solicitors for the applicant), 2 Charleston Road, Dublin 6

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act

1978: an application by Manus MacCrosain and Seamus MacCrosain

To any person having an interest in the freehold estate or intermediate estate in the following: all that the part or parts of the property, the entire of which was demised by indenture of lease dated 8 August 1878, the Honourable Charles Spencer Cowper to Maurice Butterly (hereinafter 'the said lease') for a term of 200 years from 25 March 1878, subject to a yearly rent of £97, which part comprises the premises known as 87A St Ignatius Road, Dorset Street in the city of Dublin, being all the property comprised in folio 77311L of the register, County Dublin, held under the said lease but indemnified against the entire of the yearly rent of £97 thereby reserved.

Take notice that Manus MacCrosain and Seamus MacCrosain, the persons currently entitled to the lessee's interest in the said lease, being persons entitled under sections 8, 9 and 10 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, propose to acquire the fee simple and all and any intermediate interests in said property, and any party asserting that they hold a superior interest to that of the applicants in the said property are called upon to furnish evidence of title to the said property to the below-named solicitors for the applicant within 21 days from the date of this notice.

In default of any such notice being received, the applicants intend to proceed with an application to the county registrar for Dublin county borough and county of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7 for such directions as may be appropriate on the basis that the lessor or persons beneficially entitled to any superior interest including the freehold reversion in the said property are unknown or unascertained.

Date: 2 March 2007

Signed: Young & Company (solicitors for the applicant), 2 Charleston Road, Dublin 6

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 Michael O'Connor and in the matter of the premises 120 Terenure Road North, Terenure, in the city of Dublin

Take notice that any person having any interest in the freehold estate of the property all that and those all that plot or piece of ground being part of the lands of Terenure, situate in the parish of Rathfarnham, barony of Newcastle and county of Dublin, and measuring in front to Harold's Cross Road 30 feet, 9 inches and in the rear 23 feet, 10 inches, and from front to rear on the north side 60 feet, and from front to rear on the south side 26 feet, be the said several admeasurements more or less and being the hereditaments and premises comprised in and demised by indenture of lease made 5 June 1908 (one thousand nine hundred and eight) between Helena Diana Maud Mary Billing and Jane Helen Johnson, Charles Eyre Coote Townsend and

Robert Massy Dawson Saunders of the one part and Christopher O'Reilly of the other part and held for the term of 99 (ninety nine) years from 25 March 1908 (nineteen hundred and eight), subject to the yearly rent of £16 (sixteen pounds) thereby reserved and to the covenants on the part of the lessee and conditions therein contained, and all of which said hereditaments and premises are now known as 120 Terenure Road North in the city of Dublin.

Take notice that the applicant, Michael O'Connor, intends to submit an application to the county registrar for the county and city of Dublin for the acquisition of the freehold interest and any intermediate interest in the aforesaid property, 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 hereof.

In default of such notice being received, Michael O'Connor intends to proceed with the application before the county registrar for the county and 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 to the property are unknown and unascertained.
Date: 2 March 2007

Signed: Fagan Bergin (solicitors for the applicant), 57 Parnell Square West, 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* and in the matter of premises forming part of the Cootehill Workhouse, situate in the townland of Cootehill, Co Cavan
Take notice any person having any interest in the freehold estate of or superior interest in the following premises: all that and those that piece or parcel of ground with the shed standing thereon, forming part of the Cootehill Workhouse, situate in the townland of Cootehill, Co Cavan, held under an indenture of lease dated 24 October 1939 made between the Minister for Local Government and Public Health of the

one part and the Cavan and Monaghan Farmers' Co-operative Society Limited of the other part for the term of 99 years from 1 November 1938, subject to the yearly rent of £25 (old currency).

Take notice that the applicant, Thomas Lynch, being the person entitled under sections 9 and 10 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, intends to submit an application to the county registrar for the county of Cavan for the acquisition of the freehold interest and any intermediate interests in the aforesaid property, 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 premises to the below within 21 days from the date of this notice.

In default of any such notice being received, Thomas Lynch 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 Cavan for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid premise are unknown or unascertained.
Dated: 2 March 2007

Signed: Maples and Calder (solicitors for the applicant), 75 St Stephen's Green, Dublin 2

RECRUITMENT

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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*.

Experienced general practitioner available for locum work, Dublin and surrounding areas; tel: 01 495 4851

Galway city: general practice solicitor required with a leaning towards family law. Experience necessary. Starting date: mid March 2007. Elizabeth Cazabon & Co, Solicitors, 27 Woodquay, Galway, DX 4528. Contact: Sarah Cazabon; tel: 091 564 226/229, fax: 091 564 245, email: sarahcazabon@cazabon.solicitors.com

Solicitor required for legal executive practice in Monaghan town. Ideally with strong litigation skills together with general practice experience. Excellent opportunity for career progression. Please reply to **box no 20/07**

Solicitor required for Kilkenny general practice for six months from 1 June 2007. This role mainly involves residential conveyancing and probate. Previous experience essential. Salary commensurate with experience. Please forward CV and covering letter to email: martina@jacanny.com or by post: JA Canny & Co, Solicitors, 44 Friary Street, Kilkenny, or fax: 056 777 1005

Solicitor with experience in conveyancing/probate required for busy, progressive solicitors' practice in the Letterkenny/Ballybofey area. Experience in commercial conveyancing an advantage. Attractive remuneration package and good opportunity for career development. Applications with CV to the Human Resources Manager, VP McMullin, Solicitors, Port Road, Letterkenny, Co Donegal; email: hnanlan@vpmmcullin.com

Professional support lawyer required for leading corporate law firm. Would suit experienced corporate/financial sector lawyer seeking new challenges and reasonable working hours. Role includes drafting precedents and know how, monitoring legal developments, delivering information via knowledge management system, providing professional support to fee earners and related training. Reply to: recruit@williamfry.ie

Hardworking, confident and bright solicitor seeks a position with a Dublin city office that can offer variety of work in conveyancing, probate, litigation and other areas of general practice. Highly respectable CV. Send details to john128@eircom.net

Solicitor required for busy general practice. Experience in litigation, probate and family law essential. Reply to Gerrard L McGowan Solicitors, The Square, Balbriggan, Co Dublin

Solicitor's practice. Tired of city congestion? Energetic solicitor required to take over busy practice in a major town. Owner retiring early for private reasons. Reply to **box no 21/07**

Solicitor seeks part-time employment. Has worked in the areas of probate, family law and conveyancing, in particular. Carlow/Kildare area preferred. Reply to **box 22/07**

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A selection of opportunities for March 2007.

Banking Solicitor – Junior to Mid Level

PP0014

This front ranking practice seeks junior to mid level banking solicitors for its rapidly expanding department. You will be dealing with an interesting and diverse workload and have a solid background in commercial lending matters.

Corporate/Commercial Solicitor – Associate Level

A progressive mid tier firm is seeking an ambitious solicitor to deal with a range of high quality work including mergers and acquisitions, private equity, IPOs and venture capital investments. Working closely with the managing partner, this is an excellent opportunity for rapid career advancement.

Commercial Conveyancing Solicitor – Associate Level

PP0156

A leading Dublin-based law firm is seeking an experienced solicitor to join its commercial conveyancing department. The successful candidate will be an ambitious and enthusiastic practitioner.

Company Secretarial Assistant

PP0181

Our client is seeking a top-class Company Secretarial Assistant to join the busy Company Secretarial Department. You will work within a team of highly experienced company secretarial professionals. The department provides the full spectrum of company secretarial services, including annual secretarial services, management of changes in officers and constitution, corporate restructuring, corporate governance advice and transaction support.

Corporate Commercial Solicitors – Associate to Senior Associate Level

PP0154

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

Experienced Professional Support Lawyer

PP0172

One of Ireland's leading corporate law firms is seeking a Professional Support Lawyer to join its existing team. You will assist with the ongoing development of a Knowledge Management System for professional staff and provide professional support services to Fee Earners specifically in Corporate/Commercial, Financial Services, Banking, Asset Management and Investment Funds.

IT/IP Solicitor – Associate Level

Leading Dublin firm requires a solicitor with strong exposure to IT/IP work to join its existing team. You will be dealing with an interesting and varied workload of high quality work. The group is an expanding and profitable part of the firm's practice.

Projects/Energy Lawyer – Associate Level

PP0176

You will be dealing with all aspects of energy law from exploration, development and production, through to refining and sales. Specific areas of experience should include some of the following: CCGT power station development, wind farm development, waste-energy power station development and project financing of energy projects including gas pipelines. You should have excellent academics and strong technical skills. Previous exposure to project work will be an advantage.

For more vacancies, please visit our website or contact

Michael Benson bcl solr. in strict confidence, at:
Benson & Associates, Carmichael House,
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You'll cover a range of contractual work such as single or multi-site acquisitions, retail leases and procurement service and supply agreements. In addition, you'll translate our international strategy

into national law, review our processes, advise the business, identify legal issues and bring them to a swift resolution.

Combining an Irish Law degree with a thorough knowledge of property and commercial contracts, you'll have substantial private practice or in-house post-qualification experience. Whatever your background, you'll need the influential communication skills to explain legal issues to non-lawyers and the flexibility to handle change. Most of all, you'll need the confidence and credibility to make decisions that will influence the company's direction in Ireland.

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New Appointment at Brightwater

Hilary Flynn

Legal, In-House Specialist

Due to the continuing growth and success of Brightwater's Legal Division, Brightwater is proud to announce the key appointment of Hilary Flynn as a dedicated in-house legal recruiter in our Dublin office.

Hilary joined Brightwater in 2005 and has held a number of positions within the Legal and Financial Services arena. She is now responsible for recruiting in-house lawyers for a range of companies across the financial services and industry arena.

The in-house legal market in Ireland has grown substantially over the last number of years as many companies recognise the benefit of employing an in-house general counsel. As the market leader in legal recruitment, Brightwater is delighted to add Hilary to their team of expert legal consultants.



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www.brightwater.ie



49 South Mall, Cork
Tel: 021 422 1000
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www.brightwater.ie

DUBLIN

CORPORATE €60,000+

Market-leader in corporate in Ireland. This is an excellent position for a corporate lawyer looking to work on high profile transactions. Large-scale M&A matters and corporate advisory work. **Ref: 12373**

TECHNOLOGY €60,000+

Are you looking to specialise in IT law? Opportunity to work with one of Ireland's leading partners. Caseload includes IT, intellectual property, outsourcing and e-commerce. **Ref: 308280**

COMM LITIGATION €55,000+

Specialist role in the dispute resolution team of this top-tier Dublin practice. Ideally candidates will have a general commercial litigation background and be seeking a niche move into DR. **Ref: 12353**

TAX €65,000+

Our client is seeking a tax specialist to assist all areas of its commercial business including the corporate tax department. Ideal candidates will have legal/tax backgrounds. **Ref: 12313**

INSURANCE €65,000+

Major player in the Irish insurance sector. Working with large corporates and financial institutions across Ireland and Europe. Candidates must have at least 6 months' experience in this field. **Ref: 12303**

BANKING €55,000+

Interesting role for a general banking lawyer looking to develop a niche commercial/retail banking team for this established firm. Excellent opportunity to make your mark. **Ref: 319130**

INVESTMENT FUNDS €60,000+

Working primarily on large hedge funds, this position offers the chance to work with clients across Europe. Large team offering excellent training and a supportive environment. **Ref: 13523**

IN-HOUSE LEGAL €90,000+

Leading international funds company is looking to appoint an additional in-house legal advisor to assist with corporate, products and general financial services matters. Excellent package. **Ref: 13393**

HEAD OF LEGAL €150,000+

Unique position with this global financial services company. As Head of Legal you will manage a small legal team and advise on legal matters across the group. Funds background essential. **Ref: 14403**

LEGAL MANAGER €100,000+

In-house counsel role for a large Irish company. You will be responsible for a team of 6 in-house lawyers and will advise on general commercial matters. **Ref: 493450**

COMMERCIAL PSL €65,000+

Our client seeks an experienced PSL lawyer to assist the non-contentious groups within this reputable Dublin firm. A rewarding position offering an excellent work/life balance. **Ref: 13303**

EU / COMPETITION €60,000+

With one of the largest, dedicated EU/competition departments in Ireland this is a fantastic role for candidates looking to move to a large commercial firm. **Ref: 329910**

LONDON

BANKING £55,000-£65,000

An excellent opportunity to work in this top City firm's highly-regarded banking group. A chance to gain wide ranging and varied experience in a supportive and friendly atmosphere. **Ref: 352630**

PROJECTS £60,000-£90,000

Great opportunity to work in international project finance and PFI/PPP. Advising governments, sponsors, banks, ECAs, MLAs and project companies on financing/developing projects. **Ref: 187730**

CORPORATE £65,000-£75,000

Highly-regarded and friendly City firm is seeking an associate to work on an unusually varied range of corporate work. Encouragement to engage in client-facing & marketing offered. **Ref: 376910**

REAL ESTATE £60,000-£70,000

Tremendous career development potential and variety of commercial work for a varied blend of prestigious UK and international clients. Business development & marketing welcomed. **Ref: 478920**

IT / OUTSOURCING £75,000+

IT/outsourcing lawyer sought to join a leading City team to assist in developing the practice and client base. Work on headline projects with both public/private sectors and suppliers. **Ref: 341420**

CORPORATE £85,000

Niche City firm with international outlook is undertaking excellent work and continuing to build its practice. Chance to join a different type of firm and be part of the team. **Ref: 480130**

CAPITAL MARKETS £82,000-£115,000

Join an international powerhouse. Work in a team of recognised experts for household name clients. DCM, securitisation or derivatives experience highly sought-after. Excellent package. **Ref: 496280**

PROJECTS £90,000-£120,000

Exceptional role for a specialist to join an internationally regarded team. Work on a mix of high profile PPP/PFI deals. This firm is known for the quality of its work. **Ref: 413900**

COMM PROPERTY £55,000-£70,000

Great chance to join a market-leading property team. Work to include £multi-million transactions, commercial landlord/tenant matters and portfolio acquisitions and disposals. **Ref: 249860**

CORPORATE £60,000-£80,000

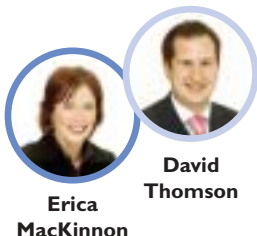
This top-tier UK firm is offering Irish lawyers the opportunity to work on some of the largest and most complex high-brow deals in a challenging and cross-cultural environment. **Ref: 262490**

IT / OUTSOURCING £75,000+

IT/outsourcing lawyer sought to join a leading City team to assist in developing the practice and client base. Work on headline projects with public/private sectors and suppliers. **Ref: 341420**

REAL ESTATE £80,000

Opportunity to gain real estate experience. The firm acts for developers/major investors on high profile property matters. You will have strong experience and be seeking a new challenge. **Ref: 325110**



TAYLOR ROOT IN DUBLIN

David Thomson and Erica MacKinnon will be available to meet with you in Dublin on **22nd and 23rd March**. If you are considering a move to London, or overseas, please contact them to arrange a confidential meeting to discuss your requirements.

Contact Erica MacKinnon or David Thomson
on +44 (0)131 226 0640.
E: ericamackinnon@taylorroot.com
E: davidthomson@taylorroot.com

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Have you ever wanted to transfer to Commercial Property?

Dublin

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Our client, one of the most prestigious legal practices in Dublin has a strong reputation in the property sector. Due to the continued success and expansion of their business portfolio, the Head of Commercial Property is looking to appoint an experienced conveyancing solicitor who wishes to make the transfer to commercial property.

This is a unique opportunity and will suit an ambitious lawyer who seeks a new challenge. The position offers outstanding potential to develop a profile in the commercial property market.

The Role

- Advise on all aspects of property law to include Development, Investment and Landlord & Tenant matters.
- Work will include large hotel complexes and major commercial developments.
- Carry out due diligence and negotiate contracts
- Maintain existing client relationships & develop new business.

The Candidate

- Qualified Solicitor of the highest calibre with excellent property experience.
- Must have excellent conveyancing skills.
- Ability to influence with exceptional negotiation skills.
- Experience in commercial property an advantage.
- Team player with an approachable and friendly personality.

The position offers superb training and the opportunity to become a high profile commercial property solicitor.

For a confidential discussion on this role please contact John Macklin on 01 6621000, or email your CV to: j.macklin@brightwater.ie



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ANAGRAM COAT WISELY

LEGAL COUNSEL

This major Irish bank has an immediate vacancy for a new General Counsel. You will be a very senior lawyer with extensive experience in banking and/or commercial/corporate law with excellent management skills. As the head of an expanding and increasingly busy department you will oversee the provision of legal services across all of the Bank's business areas and responsible for a team of legal professionals. You will be a personable individual with a proven professional track record of people management and business development. Would suit a senior legal professional who has worked in private practice and in house at a senior level. This position presents a fantastic career move for the successful individual.

COMMERCIAL LAWYER

This boutique firm in Dublin has a requirement for a commercial lawyer. You will have a solid background in general commercial practice, and whilst experience and/or exposure to IP practice is not a necessity it would be a distinct advantage. The ideal candidate will be a team player but also able to work on their own initiative. This position represents an opportunity to develop your career within one of the most highly regarded commercial practices as well as enjoy excellent client contact and opportunities for business development.

TAX LAWYER

This big five practice has an immediate vacancy for an experienced tax lawyer. You will have a number of years experience in tax or a genuine interest in further developing your practice in this area. Working as part of a highly respected team you will work with accountants and consultants to advise a broad range of clients across a broad range of major business sectors. Experience of tax within other practice areas would be a huge advantage. An AITI qualification would be beneficial but is not essential. An excellent opportunity with an excellent package to match!

BANKING LAWYER

An exciting opportunity has arisen for a first class banking lawyer to join one of the legal banking teams in Dublin. Experience in general asset and tax based finance, financial services, corporate banking and international banking would all be desirable. This is a fantastic opportunity to work in a fast paced environment with excellent quality work as part of a well respected team. The successful candidate will be an excellent team player and have excellent communication and presentation skills.

SENIOR PROPERTY LEGAL EXECUTIVE

A fantastic opportunity has arisen for an experienced legal executive to join the legal department of this leading insurance company. You will be part of a dynamic team and be responsible for managing a team of legal executives. The provision of legal advice to the legal and other business departments as well as training procedures within the business will be an integral part of this role. You will have an excellent working knowledge of Irish Property Law, an ability to communicate at all levels within the business. Excellent organisational and communication skills are essential. A truly exceptional salary and benefits package is offered to the successful candidate. €Excellent + excellent bens

CORPORATE LEGAL EXECUTIVE

This leading law firm has a vacant position for a Corporate legal executive with excellent commercial acumen. The successful candidate will come from a strong commercial/corporate department within a similar sized law firm and have a proven track record in assisting with deals of varying levels of complexity. The ideal candidate will have a can do attitude and an ability to juggle a number of tasks at the same time. Excellent communication and presentation skills are essential. A fantastic opportunity for a first class legal executive.

ANAGRAM SOLUTION: LAW SOCIETY



Lisa Weston BL MA(Oxon), Osborne Recruitment, 104 Lower Baggot Street, Dublin 2
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Canada Life is one of Ireland's leading providers of Life, Pension and Investment products. We have over 100 years experience in Ireland serving the financial planning needs of our clients. Today Canada Life is part of Great-West Lifeco Inc., one of the world's leading financial services companies and as part of our aggressive market growth strategy we continue to make significant investments in our business. As our business grows so too does our need for experienced professionals and we are now seeking to fill the following position.

Tax Lawyer

Ref CL0362

Canada Life requires a solicitor or barrister with a tax and/or pensions background.

Reporting to the Company Secretary and Chief Compliance Officer, the Tax Lawyer will manage the legal and tax aspects of new products and, in particular, will provide support as part of a multi-disciplinary team of specialists on pensions-related property acquisitions both domestically and in Europe (conveyancing is not a part of the role). The Tax Lawyer will also provide legal support to Canada Life's wider pension business.

Requirements

- Qualified solicitor or barrister
- AIT or equivalent experience
- Pensions law experience desirable but not essential
- Financial services experience desirable but not essential

The closing date for applications is Friday 16th March. Please send your CV to hr@canadalife.ie quoting the job reference number. Further opportunities can be found on our website www.canadalife.ie.

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Solicitor

Ref: 5496

London Up to £75k + excellent benefits package

Our client, a US firm, is a top 20 global law firm and their award winning London office has been involved in Europe's largest M&A transactions and is regarded as one of the premier international funds practices. The London office continues to expand and our client is currently looking to recruit high quality experienced lawyers in the following disciplines, across all levels of qualification: FUNDS, CORPORATE PRIVATE EQUITY and ACQUISITION FINANCE.

These are significant opportunities with transparent prospects that will see you work in one of the Cities most dynamic and enterprising offices.

Projects Lawyer

Ref: 5533

Belfast City Centre

£Neg

Our client, a well sought after, Legal firm who is one of Northern Ireland's top law firms, have a superb opportunity to join them. You will be expected to advise on major infrastructure transactions acting for a broad range of public and private sector clients including drafting, reviewing and negotiating concession agreements, sub-contracts and related documentation. Experience of PPP/project finance is essential. Excellent salary and benefits package. This post will suit someone with substantial experience.

Banking Lawyer

Ref: 5208

Belfast

£Neg

Our client, one of Ireland's leading law firms, have a superb opportunity for an ambitious lawyer to join their team. Our client is involved in an extensive range of transactions for a wide variety of clients. You will have banking law experience in a commercial practice in the UK. Attractive salary and benefits package available.

Corporate Law Solicitor

Ref: 5209

Belfast

£Neg

Our client is widely recognised in the fields of mergers, acquisitions and corporate finance. Their general corporate and commercial experience in Ireland is second to none and their Corporate Group is well known. You will be an experienced Corporate Lawyer who is keen to join a thriving and busy team where you will undertake a busy caseload. Attractive basic salary and excellent benefits package.

To discuss the above positions and relocation opportunities please call Orla at PRG LawSearch now on 028 90 314644 or 07793200241 or email orlamilligan@prglawsearch.com

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Assistant Legal Adviser

Ref: SFALA0207

Location: Belfast

Salary: circa £27K plus attractive benefits

The Assistant Legal Adviser will provide comprehensive legal advice on all aspects of police work including civil litigation and employment cases, which are connected with the rights and responsibilities of the Police Service of Northern Ireland.

The role holder will also provide advice on specific policing issues to ensure legal compliance and public acceptability and manage civil litigation cases, whilst acting as an ambassador for the organisation.

If you are a qualified solicitor or barrister with experience in civil litigation, employment law, human rights, anti-discrimination law and administrative law and are interested in this role please visit www.thesupportteam.org to apply online or contact 028 9055 6371 or text ALA to 80039.

Deadline for applications: 5pm Friday 16th March 2007.

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IN-HOUSE

Legal Counsel - Banking Ref: SK J19646 to €120,000

Serving as Legal Counsel to the Board of Directors and Chief Regulatory Counsel for Europe, you will be responsible for the Legal and Company Secretarial functions, providing strategic and commercial legal advice, guidance and services to the Bank and its business lines. You will be an experienced qualified Solicitor or Barrister having worked in-house or in private practice, ideally with pan-European or international experience.

In House Counsel Ref: SK J20137 to €80,000

Our client is one of Ireland's leading organisations. As a qualified Barrister or Solicitor your role will involve but not be limited to advising on contractual, corporate, commercial, e-commerce, consumer and product liability issues. Drafting, negotiating and reviewing a wide range of contracts, drafting terms and conditions for new products and services. You will be an experienced Lawyer coming either directly from the Commercial Department in a Private Practice or you will have good industry experience. This is an excellent opportunity for candidates wishing to pursue a career within a large organisation.

Legal Manager - Funds Ref: SK J17375 to €120,000

One of the world's leading Funds organisations are currently recruiting for the role of Legal Manager. Reporting to the Head of Legal, you will have gained experience in a top legal practice or investment bank, and possess strong academics. You will be responsible for drafting, charge agreements, ISDA master agreements and reviewing fund offering documentation. You will also carry out general legal due diligence of prospective clients, liaise with the IFSC and other statutory bodies and in addition to this, you will advise the bank on regulatory and corporate governance issues. This is an exciting and challenging opportunity within a progressive organisation.

Assistant Legal Counsel Ref: AW 17428 to €70,000

Our client, a leading international funds firm with offices in the IFSC

currently require an Assistant Legal Counsel to work in a busy, professional, commercial environment. Dealing with a range of blue-chip clients on all legal matters relating to financial services, the role includes drafting all legal contracts and documents - ISDA master agreements, credit facility letters, charge agreements etc as well as ensuring compliance regulations are adhered to. This is an excellent opportunity to develop hugely sought after experience and there is a very competitive remuneration and benefits package on offer to the successful applicant.

In-house Lawyer Ref: AW 20163 to €70,000

An international investment firm with a great reputation require a solicitor to work in their Legal and Compliance Department. Responsibilities include dealing with Company Secretarial matters as necessary, drafting and reviewing legal documentation, working on compliance issues including AML and ensuring staff are trained in these procedures. The successful candidate will be a qualified lawyer with experience in life insurance and have a good knowledge of compliance. There are great opportunities for training and development as well as a competitive package.

Regulatory Compliance Mgr. Ref: AW 19321 to €65,000

A Regulatory Compliance Manager is sought for our client, one of the largest Corporate and Investment Banks in Ireland. You will provide compliance and risk advice working in a multi-jurisdictional environment and develop within a strong, professional team. You will be the main point of contact regarding all compliance and regulatory matters affecting the business, draft and implement all compliance policies and procedures and provide monitoring and co-ordination of regulatory reports. You will be experienced in compliance and have a strong interest in the area. There is huge scope for progression in this role and an excellent remuneration package on offer for the successful candidate

Banking Ref: SK18184 to €90,000

Our client is a successful Irish law firm who, due to expansion, are currently recruiting for solicitors with experience in any of the following areas; corporate lending, acquisition finance, project finance, property finance and asset finance. You will be rewarded with a structured career path and definite partnership prospects.

Funds Ref: SK18201 to €90,000

Our client is a dynamic and well reputed Irish law firm who are currently looking for enthusiastic and professional lawyers to join their team. Working in the investment funds and regulatory Department, you will assist fund promoters and service providers to establish investment funds in Ireland as well as providing advice to a range of financial services clients on the regulatory framework. Candidates need not have a funds background but must have a strong corporate and commercial skill set.

Construction Lawyer Ref: SK J19602 to €90,000

One of Dublin's most respected firms is currently recruiting a Construction Lawyer. The position is in the Commercial Property Department. You will have a strong commercial property background with experience in some or all of the following: construction law issues, drafting bespoke construction contract documentation, drafting amendments to standard forms and negotiating and completing agreements.

Corporate/ Comm. Lawyer Ref: AW 16682 to €70,000

One of the top 5 firms with strong corporate/ commercial fields and experts in dealing with domestic and international clients require a lawyer to join their expanding team. The successful candidate will be required to work on high profile and complex cases, M&A's, private equity and venture capital transactions. They will also deal with joint ventures and provide general advice to high level clients.

On the commercial side they will be required to draft licensing agreements, contracts and all relevant policies and procedures. Ideally they require a strong individual with a proven record and excellent communication skills. There is a lot of growth in this department and rapid progression for the right person is expected.

Corporate Tax Lawyer Ref: AW 19798 to €65,000

One of the top 5 Legal Practices is recruiting for an experienced Tax Lawyer for the corporate tax and financial services department in Ireland. As one of the leading firms and experts in this area, this is a great opportunity gain specialist knowledge and work with a high-level client base. The role involves provision of legal and tax advice regarding corporate transactions, ranging from domestic company acquisitions and MBOs to complex cross-border mergers and asset financings, assisting in tax matters in M&A, corporate investments, capital markets, Stamp Duty and Tax. The successful applicant will have good tax experience and ideally experience in international transactions and private equity. There are some great opportunities arising with this firm and this is an expanding role working with a high calibre team.

Listing Advisor Ref: AW 19892 to €55,000

A leading Legal Practice in Ireland with an excellent working environment and friendly professional outlook currently require a Listing Advisor to work in the area of specialist debt securities. The role includes the review and listing of prospectus and close liaison with international investment banks and advisors. You will develop an understanding of international bonds and apply listing rules to the debt products. The successful candidate will have strong experience, ideally in funds, investment or compliance. A law or business degree is necessary as well as excellent analytical and organisational skills. There is a very attractive package for the right candidate.

For more information on these roles, please contact Sarah Kelly or Allison Watson (01) 637 7012 or email sarahk@thepanel.com or allison@thepanel.com



20 Years
THE PANEL
recruiting professionals

In-House Solicitor

Dublin



€Excellent

Norwich Union International is the offshore investment subsidiary of the Aviva Group. Aviva is the world's sixth largest insurance group and the biggest in the UK. It is one of the leading providers of life and pensions products to Europe and has substantial businesses elsewhere around the world.

Norwich Union International currently has a vacancy in their Legal & Compliance team for a Qualified Solicitor. The successful candidate will be an excellent communicator with the ability to influence at all levels.

The Role

- Draft, amend, negotiate and sign off documentation.
- Carry out due diligence and negotiate contracts.
- Provide advice across the business at all levels on a wide range of legal matters including regulatory and compliance issues.
- Assess, maintain and resolve complaints including those received through the Financial Ombudsman.

The Candidate

- Must be a qualified Solicitor/Barrister ideally from an international life company or with a financial services background.
- Excellent attention to detail & communication skills.
- Ability to communicate legal terminology in an understandable format to other areas of business.
- Must be commercially astute and a self starter.

Interested candidates should contact Hilary Flynn in the strictest confidence on 01 662 1000 or email your CV to h.flynn@brightwater.ie



36 Merrion Square, Dublin 2
Tel: 01 662 1000

Email: dublin@brightwater.ie
Web: www.brightwater.ie

FIRST AMERICAN

Established in Ireland in 1998, First American has pioneered the concept of title insured remortgaging. To support our continued growth and expansion we are currently looking to fill the following positions:

Senior Conveyancing Legal Executive

Dublin

q Excellent

Excellent opportunity to join a dynamic team to provide legal advice to the legal department and the general business whilst investigating conveyancing files. You will have experience managing and training teams within a conveyancing unit. Candidate must have excellent organisation and problem solving skills. **Ref: SCLE 02**

Conveyancing Legal Executive

Dublin

q Excellent

Purpose of this role is to support the business in Conveyancing matters whilst dealing directly with solicitors and financial institutions on conveyancing issues. Successful candidate will have a good knowledge of the Irish residential conveyancing market. Litigation experience would be desirable, but not essential. **Ref: CLE 03**

Interested applicants should send a detailed curriculum vitae quoting the relevant reference number to CV@firstamerican.ie

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The Law Reform Commission

AN COMIISIÚN UM ATHCHOIRIÚ AN DLI

STATUTE LAW RESTATEMENT

&

CHRONOLOGICAL TABLES OF STATUTES

RECRUITMENT OF 2 PROJECT MANAGERS AND 2 RESEARCHERS

The Law Reform Commission is an independent statutory body established by the Law Reform Commission Act 1975. The Commission has been asked by the Government and the Attorney General to undertake a **Programme of Statute Law Restatement** and to take responsibility for the compilation of the **Chronological Tables of Statutes**.

Statute Law Restatements (which are made under the Statute Law (Restatement) Act 2002) involve the administrative consolidation of, for example, an Act of the Oireachtas to incorporate into a single text all amendments made by subsequent Acts. The **Chronological Tables of Statutes** is a document which contains a detailed list of the amendments made to all existing Acts by new legislation.

The Commission is now recruiting legal staff (2 Project Managers and 2 Legal Researchers) for the Programme of Restatement and for the compilation of the Chronological Tables of Statutes.

Project Managers:

Candidates will be qualified lawyers. Project management experience is essential as are planning, organisational and leadership skills. The persons appointed will have drafting skills with an eye to detail and will be responsible for the supervision of a small team and the timely delivery of work and the implementation and ongoing review of quality control of the respective projects.

Researchers:

Candidates will be law graduates (at least at 2:1 level) who normally possess a postgraduate degree in law. Practical experience or aptitude in conducting legal research are essential, as are a capacity to write well, facility with IT and ability to work as part of a team. Appointments will be on contract for a fixed period.

Applications in writing with details of qualifications and experience (to be received by noon on Monday 16 April 2007) should be addressed to:

The Secretary/Head of Administration,
Law Reform Commission
35-39 Shelbourne Road
Dublin 4

Telephone: 01-6377600
Email: info@lawreform.ie
Website: www.lawreform.ie



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BANKING & FINANCE
ENERGY & RESOURCES

AUSTRALIA JUNIOR AND MID-LEVEL

If you'd like to swap the Liffey for Sydney Harbour, you may be in luck. We're currently looking for lawyers for our corporate, banking & finance and energy & resources departments. We are also interested in speaking with outstanding candidates with other commercial expertise.

Some of our partners will be travelling to the UK during March, to give you an opportunity to meet and discuss what AAR can offer you personally.

For further information contact our exclusive consultant, Sharon Swan of Laurence Simons International on 1 477 3066 or sharonswan@laurencesimons.com, or visit our website, www.ukdownunder.com.

And if you're worrying about compromising your career for your lifestyle, don't. We've been named Best Large Professional Services Firm of the Year and Best Large Law Firm 2006 *BRW-St. George Client Choice Awards*, ranked in the top tier for Banking & Finance, Competition, Corporate/M&A, Debt Capital Markets, Dispute Resolution, Energy & Natural Resources, Intellectual Property, Projects and Tax *Chambers Global*.

Where will the future take you?

Dublin In-House

In-House Legal Counsel

€90,000

An opportunity in a leading international bank where the successful candidate will report directly to the company's Chief Executive Officer. You will have responsibility for derivatives, product coverage, commercial lending/loan trading and general legal services. The right individual will have had exposure to international swaps and derivatives association as well as experience in commercial contracts and corporate/compliance. Ref: 29374

Regulatory Lawyer - In-House

€80,000

Our client, a large semi-state organisation, seeks a solicitor or barrister with experience in regulatory/compliance law. The successful candidate will have responsibility for developing and implementing a legal strategy designed to maximise commercial benefit in a regulatory environment. Ideally you will have experience of regulatory or competition law, gained either in-house or in private practice with exposure to judicial review an. Ref: 18442

Legal Advisor -In -House/Dot.com

€70,000

Our reputable client is offering an exciting opportunity for a qualified solicitor to join their leading dot com business. You would ideally come from a corporate, commercial or financial services background and have solid experience in contracts, licensing and leases. This is an excellent position which would suit an experienced solicitor who deals mainly with business contracts and is looking for a role on a part time basis.

Legal Advisor -In-House/Funds

€65,000

A fantastic opportunity now exists in the world's leading asset management companies. The successful individual will take responsibility for all legal and regulatory issues affecting the distribution of product range of funds. You will also liaise with external counsel, regulators and other third parties to ensure compliance. You will have excellent organisation skills with good judgement and enthusiasm as well as a willingness to learn.

Dublin Practice

Commercial Partner - Equity

€150,000 + Equity

Our well respected client is based in Dublin city centre and has enjoyed rapid growth over the last number of years. They are currently seeking a commercial partner to build and develop their busy commercial department. Applicants will be commercially astute, adept at business development and convey strong interpersonal and communication skills. In return, our client is willing to consider immediate equity. Ref: 29012

Head of Private Client

€85,000

As the head of private client you will be managing a busy, hard working team. You will lead from the front in offering a professional service to the firm's private clients. This position will be an going marketing/practice development role. Here you will have the opportunity to exploit synergies across other practice areas of the firm. You will have a wealth of experience in dealing with all aspects of residential property. Ref: 28483

IP Lawyer

€70,000+

Our client is a leading player in the IP field in Ireland. They are currently seeking to hire an experienced IP lawyer to join their busy team. This exciting position involves a full range of IP advisory and litigation expertise in all areas of intellectual property practice including patent, trademark, copyright, designs and trade secrets. This is an excellent opportunity offering a competitive salary for the right candidate. Ref: 29719

Commercial Property Lawyer

€65,000

Our client is a well respected boutique practice. They are currently seeking to employ an ambitious commercial property lawyer who has extensive experience in the commercial property area. The successful applicant will join their small but fast growing, highly reputable commercial property department. This is an ideal position for a candidate who is currently looking to develop their career. Ref: 21361



Cork

Commercial Solicitor

€65,000 - €85,000

An opportunity has arisen for an experienced commercial property solicitor to join a highly respected team in County Cork. Our client represents a broad commercial and institutional client base in the acquisition, disposal and financing of investment properties and business premises. They act in the purchase of offices, hotels, pubs, investment properties, retail units and industrial units for a large base of corporate and private clients. Ref:25445

Commercial Solicitor

€65,000 - €75,000

Commercial law is central to this firm's strategy so you will join a thriving, buoyant team which has enjoyed impressive growth. This firm is looking for commercial lawyers to slot into a friendly and progressive team. At this level you will be expected to play a front line role in managing client relationships. Salaries are competitive but without punishing hours and this is a really friendly firm with well rounded partners and peers. Ref: 24574

General Practice Solicitor

€55,000 - €70,000

Our West Cork client is offering a qualified solicitor an opportunity to relocate out of the city and enjoy a challenging and rewarding legal career. Great interpersonal skills are a must as there will be a great deal of interaction with the company's well established clients. An ideal practice in which to further your career, as there is a dynamic working atmosphere with the emphasis on an excellent service. A wide range of candidates will be considered. Ref: 2776

Litigation Solicitor

€45,000 - €65,000

An established Cork city firm seeks to recruit a litigation solicitor with solid litigation experience. This role offers varied work and will give the successful candidate the opportunity to join a growing firm who have a reputation for excellence. This is an outstanding opportunity to be part of an expanding and ambitious litigation team. There is an excellent package on offer for the most suitable candidate. Ref: 29447.

Conveyancing Solicitor

€45,000 - €60,000

An experienced solicitor is required for a busy practice located conveniently outside of Cork city centre. The role will be varied but the main focus will be on conveyancing, both residential and commercial. This is an exciting opportunity, as the practice is constantly growing and attracting new business. This practice has convenient parking facilities available for all staff and a superb package will be put on offer for the right candidate. Ref: 27632

Conveyancing Solicitor

€45,000 - €55,000

Our client is a small friendly Galway practice. They currently seek a solicitor with strong experience in conveyancing. Probate experience is preferable but not essential. The ideal candidate will be a confident self starter with the ability to work on their own initiative handling files from inception to conclusion. The applicant will also be expected to work as part of a team and work closely with the firm's long established clients. Ref: 18367



outstanding legal opportunities

In-House

Legal Counsel

€100k + Bonus and Benefits

An established telecommunications company has an exciting opening for an in-house counsel. The successful candidate will be a solicitor or barrister with experience in a top legal practice or investment bank. You will possess strong academics, excellent organisational, interpersonal and drafting skills. You must also be capable of working on your own initiative.

Ref: JO521090

Investment Funds Lawyer

€75k + Bonus and Benefits

A boutique financial services company seeks a qualified solicitor. This role is varied and includes assisting the Head of Legal with fund launches, documentation and various client legal matters. An exceptional opportunity for a solicitor with strong funds, banking or corporate experience to move in-house.

Ref: JO119116

Aircraft Finance Lawyer

€70k + Bonus and Benefits

Our client, a leading global aircraft operating lease business, seeks to appoint an in-house counsel for their Dublin operation. Knowledge of general banking, aircraft finance or leasing is desirable but not essential. The role will report directly to the CEO and represents an excellent opportunity within a global company.

Ref: JO509640

Funds Lawyer

€90k + Bonus and Benefits

A leading financial services institution seeks to appoint a strong Funds Lawyer to join their dynamic legal team. Ideally, you will have some experience in fund administration and general financial services or banking experience. You will also possess exceptional communication and organisational skills.

Ref: JO116663

Pensions Lawyer

€70k + Bonus and Benefits

This leading insurance company is currently looking for an in-house lawyer to join their busy team. The ideal candidate will be a qualified solicitor or barrister who will already have knowledge of various aspects of pensions law. Experience in financial services compliance would be a distinct advantage.

Ref: JO1164521

Junior Commercial Lawyer

€55k + Bonus and Benefits

One of the country's leading commercial banks seeks to appoint a Junior Commercial Lawyer. Ideally, you will be a qualified solicitor who has gained experience in banking. You will provide legal advice and direction to branches and departments on a diverse range of banking issues. Exceptional career progression is on offer to the right candidate.

Ref: JO530030

Interested candidates should forward their Curriculum Vitae to **Claire Dunwoody** at claire.dunwoody@robertwalters.com or call (01) 633 4111.

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www.robertwalters.com

AUSTRALIA

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HONG KONG

IRELAND

JAPAN

LUXEMBOURG



Private Practice

Head of Commercial Property €100k + Bonus

A specialist law firm based in Dublin requires a solicitor to head its successful commercial property practice. The ideal candidate will have knowledge of commercial property and possess excellent communication, analytical and drafting skills. This is an excellent opportunity for you to join a growing team in one of Dublin's most prestigious niche firms.

Ref: JO/356020

Corporate Solicitor €75k + Bonus

An excellent opportunity exists for a corporate lawyer to join a prestigious practice based in Dublin. You will have excellent technical skills, good knowledge of Irish companies legislation, strong drafting skills and solid knowledge of IP law. This is an outstanding opportunity to work with leading Irish and international companies as well as various public and private sector bodies.

Ref: JO/355980

EU and Competition Law Solicitor €60k + Bonus

Our client, a medium sized law firm, seeks to appoint a solicitor with experience in EU and competition law. You will advise a wide range of public and private clients on EU, competition and sectoral regulation law. This is an opportunity for a solicitor with strong academics and analytical skills to develop a niche in a progressive law firm.

Ref: JO/314660

Structured Finance Solicitor €95k + Bonus

Our client, a top Dublin law firm, wishes to appoint a senior associate into its structured finance unit. The ideal candidate will have knowledge of structured finance and securitisation transactions, including some experience advising on legal issues related to bond packaging. This is a significant career enhancing opportunity for a solicitor with energy and drive.

Ref: JO/394654

Tax Solicitor €65k + Bonus

This highly regarded tax group in one of Dublin's top law firms provides comprehensive advice to domestic and international clients in many areas. The group is now seeking to appoint a tax solicitor or barrister who possesses a tax qualification. Excellent career progression is available for the right candidate.

Ref: JO/355982

PPP Solicitor €60k + Bonus

A boutique law firm seeks to appoint a PPP solicitor to its projects team. You will have experience in projects and privatisation related work as well as experience in energy, oil or gas field developments. This is a highly challenging and rewarding role for someone looking to fast track their career in a small but highly regarded firm.

Ref: JO/355970

Interested candidates should forward their Curriculum Vitae to **Louise Noone** at louise.noone@robertwalters.com or call (01) 633 4111.

ROBERT WALTERS

Dublin Corporate & Commercial

☎ 01 619 0400

Dublin Corporate & Commercial

Asset Finance

Top 5 practice requires an Assistant Solicitor to join their expanding finance team. Applicants should have a strong academic background with excellent technical and drafting skills. Relevant experience in the funds industry or asset management is essential. (ref: 15866/7)

Banking

Prestigious mid-tier corporate practice is seeking Assistant or Associate Solicitors to join their expanding banking team. Performing all aspects of corporate lending, acquisition finance, project finance, property and construction finance and asset finance you will have extensive experience and good business acumen. Excellent remuneration and career prospects offered in this very progressive firm. (ref: 16457/3)

Banking

Prestigious law firm requires solicitors to join their leading banking team of 30. You will be working alongside the partners and have experience in banking, securitisation, structured finance, asset finance and corporate banking work. International blue chip client list. This is an outstanding opportunity to progress your career with one of Ireland's leading law firms. (ref: 15950/1)

Commercial Property (In House)

Prestigious development company are looking to appoint a senior solicitor for a new role within their organisation. The ideal candidate will have extensive experience and a background in commercial property, licensing and planning. This is an excellent opportunity to join a high profile organisation and the excellent salary and benefits are commensurate with experience. (ref: 19043/1)

Commercial Property

This renowned practice requires an experienced property solicitor to strengthen their expanding commercial property team. You should be fully conversant in all aspects of commercial property, including landlord and tenant, commercial leases and industrial, office and retail developments. This is a great opportunity to join a high profile team within a leading practice. Salary and benefits are commensurate with experience. (ref: 15613/6)

Commercial Property

Commercial Property associates required to join the expanding practice in one of Ireland's top 5 law firms. Representing international investors, developers and large financial institutions, you will have a strong property background with experience in commercial developments and investments. This is an excellent opportunity to become an integral part in some of Ireland's major commercial property deals. Real career prospects and excellent financial package are offered. (ref: 15950/11)

Construction

Leading law firm requires an experienced solicitor to join their talented construction and projects practice. Advising a wide range of private and public bodies on all aspects of construction you will have similar experience gained in a large or medium size practice. Experience in arbitration, conciliation and other dispute resolution mechanisms a distinct advantage. Fantastic remuneration and benefits package offered. (ref: 15866/1)

Construction

Exciting opportunity exists to join this leading domestic firm in their expanding construction team. Ideally you will have extensive commercial experience gained in a similar environment along with the ability and competence to manage a blue chip client list in all aspects of construction law. Excellent drafting and interpersonal skills essential. Excellent remuneration and benefits package offered along with an outstanding office environment. (ref: 15613/5)

Corporate

Following a period of sustained growth and in-line with business projections this corporate practice is seeking experienced solicitors. Working in a fantastic new purpose built environment, your experience may not be in corporate law, but you will possess good business acumen and a desire to succeed. Excellent remuneration and career prospects offered. (ref: 16457/1)

Corporate Investments

Due to ongoing expansion within the financial services team and the company overall this prestigious mid-tier firm is seeking assistant and Associate Solicitors. Advising fund promoters and service providers on the establishment and ongoing operation of investment funds in Ireland, this is a fantastic opportunity to work for a progressive corporate firm in a fantastic new office environment. (ref: 16457/2)

EU/Competition

This mid tier law firm is looking to strengthen its EU/Competition group and is seeking to hire a talented lawyer. This group has an excellent reputation within the market and this role will involve advising on a range of European competition law, both national and supranational. This role will provide the opportunity to do top quality big international firm work, while operating in a friendly and informal environment. (ref: 15616/3)

Funds

Opportunity to join one of Ireland's leading law firms in their renowned funds team. Ideally you will have experience in a funds environment, but strong candidates from other disciplines will be considered. You should be ambitious and have the skills to progress in this prestigious firm. An excellent remuneration package is offered as well as fantastic career prospects. (ref: 15950/3)

Insurance

Prestigious city firm requires Associate Solicitors to join their progressive insurance practice to advise the growing domestic and international insurance sectors in Ireland. Working directly with partners from both Insurance and Corporate practices, work will involve Insurance M&A's, portfolio transfers and other transactions including trade sales and demutualisations. Dealing with largely non-contentious issues, candidates from a strong general corporate background are encouraged to apply. Extensive benefits package and fantastic salary offered. (ref: 15950/26)

Dublin Office

☎ +353 (0)1 619 0400 ☎ +353 (0)1 611 4448 ✉ dublin@g2legal.ie 18 Fitzwilliam Square Dublin 2 Ireland

Out of Office Hours Paul Fahey 087 9109745 Alan Whelan 087 9374022 Neasan Cavanagh 087 9100067

Offices also in Birmingham • Brighton • Bristol • Edinburgh • Glasgow • Leeds • London • Manchester



t 01 619 0400

General Practice Dublin & Regions

t 01 619 0400

IT/IP

Opportunity to join a leading practice within one of Ireland's top tier law firms. International and domestic clients list covering a broad range of IP and IT issues. This is an outstanding opportunity to work alongside renowned practitioners in a fantastic environment. (ref: 15950/20)

Life Sciences

Excellent opportunity to join the Life Sciences and Healthcare Department within this leading law firm. Applicants should have relevant experience gained in private practice or industry either in Ireland or elsewhere in the following areas; Regulatory advice applicable to the Life Sciences & Healthcare sector; General commercial and intellectual property advice with a specific focus on commercial agreements specific to the sector and a desire to assist in and be part of the continuing development of a dynamic practice. (ref: 15866/11)

Pensions

This is an exciting opportunity to join the pension's team of this top 5 firm. Advising international and domestic companies, scheme trustees and individuals on all pension scheme aspects and related matters. Responsibilities include drafting and reviewing scheme documentation, advising on the pension aspects of M&A transactions, dealing with scheme mergers and wind-ups, assisting with pensions litigation and handling complaints before the Pensions Ombudsman. (ref: 15866/10)

PSL Banking

Opportunity to join the Banking and Capital Markets team as a Professional Support lawyer in this top tier firm. Previous experience in financial services or as a Professional Support Lawyer essential. Good career prospects and fantastic benefits package offered to the successful candidate. (ref: 15866/9)

Tax

Opportunity for Tax Consultants to join this prestigious practice within one of Ireland's leading law firms. The team comprises of tax lawyers, accountants and consultants serving a broad range of international and domestic clients in all major business sectors including finance, technology, communications, construction, leisure and entertainment. AITI qualification essential and applications are welcome from qualified accountants, tax consultants and solicitors. Remuneration commensurate with experience but above market rate. (ref: 15950/5)

Conveyancing Dublin City Centre

Medium tier full service practice located in Dublin 2 requires an experienced conveyancing solicitor to join their team. Working with an enviable client portfolio, candidates will need to be fully experienced in all aspects of conveyancing, with commercial experience being an advantage. (ref: 16257/2)

General Practice Cork

Regional general practice looking for a qualified solicitor to join their practice. Ideal candidate will have extensive experience in all matters of conveyancing, probate and tax matters. This is an excellent opportunity to join a busy firm where hard work will be rewarded. (ref: 17800/1)

General Practice Cork

Our client, a small general practice firm are looking to add an experienced Solicitor to their team. The ideal candidate will have a proven track record in all matters of conveyancing, litigation and probate. Excellent opportunity to be the face of the company and will allow autonomy in the role. (ref: 17845/1)

Litigation Cork

Our Client, a progressive firm in Cork are looking to recruit an experienced Litigation Solicitor in a locum capacity for a period of six months, with the possibility of this appointment being made permanent. The ideal candidate will have experience in the areas employment, family and commercial case files in all court jurisdictions. Salary and benefits are commensurate with experience. (ref: 17737/1)

General Practice Dublin City Centre

General practice in Dublin city centre requires an experienced solicitor to join their team. This role will involve a mix of general litigation and residential conveyancing and is an excellent opportunity for candidates looking for a role with long term prospects. Salary and benefits are commensurate with experience. (ref: 15844/1)

General Practice Tipperary

Our Client, an established firm are looking to add a qualified solicitor to their general practice. The ideal candidate will have extensive experience in all matters of conveyancing, probate and litigation with a proven track record in managing a large caseload. Realistic prospect of future partnership for the right candidate. Salary and benefits are commensurate with experience. (ref: 17118/1)

Litigation Dublin City Centre

Litigation solicitor required for in-house defence litigation practice. Candidates should ideally have experience of defence litigation at circuit and high court levels. The excellent salary and benefits package is commensurate with experience and the local market. (ref: 15969/1)

Litigation & Immigration Dublin City Centre

General practice located in Dublin 1 requires a solicitor to join their team. This role will mainly involve immigration work as well as some criminal and civil litigation. All candidates with immigration experience will be considered. Salary and benefits are dependent on experience. (ref: 16278/1)

Residential Property Cork

Small firm in Cork are currently looking for an experienced conveyancing solicitor to fill a locum position for three months. Ideal candidate will be experienced in all aspects of conveyancing and managing files from start to finish. Salary and benefits are commensurate with experience. (ref: 17732/1)

Legal Executive Conveyancing

General Practice firm located in Dublin 15 requires a legal exec/secretary for their busy conveyancing team. Candidates will ideally have experience of drafting contracts, transfer of deeds and completing registration forms. This is an excellent opportunity to join an established firm on the outskirts of Dublin. (ref: 16474/1)

General Counsel - Dublin

Our Client, a global investment group and established worldwide leader in asset management, is seeking to recruit a General Counsel for their Dublin operations. The General Counsel will provide pro-active and creative legal advice to ensure the company products, services and contacts are positioned in a speedy and advantageous way while protecting its interests from a legal perspective.

The successful applicant will be a key member of the senior management team and as part of this dynamic team s/he will be constantly working on creative solutions to capitalize on business opportunities.

This position will suit an ambitious and respected Lawyer with natural leadership qualities.

The Role:

- Provide the full range of legal services and advice to the group of companies represented
- Create new products and funds by putting in place all appropriate legal documentation required
- Review and keep abreast of legislation, tracking any changes or developments and advise Directors on the impact on the business as well as any related risks
- Review all legal agreements entered into by the group and be skillful in identifying potential legal issues from the outset
- Maintain and further develop existing working relationships with internal and external business groups e.g. IFSRA
- Manage and oversee the corporate secretarial function for the group companies and be accountable for dealing with any legal issues that may arise

The Person:

- Qualified Lawyer, with a degree from an accredited university
- Relevant legal experience from a leading law firm or an international investment organisation, with a strong emphasis on mutual funds and UCITS
- Ability to lead, manage and motivate a qualified legal team to ensure that all projects are fast tracked through the legal department in an efficient manner
- Solid commercial experience and dedication to meeting the expectations and requirements of internal / external clients
- Excellent negotiation skills combined with strong interpersonal skills to maintain effective working relationships at all levels
- Ability to pro-actively identify key risks, remain energized by tough challenges and provide innovative solutions within legal boundaries
- Business oriented approach with the ability to multi-task and deliver results within a deadline oriented environment

This is an exciting role where you will work closely with the business and have the gravitas necessary to succeed in a fast paced challenging environment. An excellent remuneration package will reflect the importance of the role.

Interested applicants should contact our retained consultant, Yvonne Keane of Keane McDonald on +353 1 8415614 or email your CV to ykeane@keanemcdonald.com.



Keane M^cDonald
executive legal recruitment

Keane McDonald
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In-house Solicitor MN0702-122

An experienced Solicitor is required to provide legal and compliance expertise in the area of Life Assurance. Applicants will be expected to have excellent drafting and negotiating skills and to have the ability to deal and manage a varied and heavy workload within the necessary timescales while maintaining client's expectations. Excellent package available.

Construction Lawyer MN0702-107

Dublin is booming and this prestigious highly regarded top tier firm requires additional construction lawyers to join its collegiate team. Fantastic salaries.

General practice MN0702-127

Join a busy and expanding six Solicitor practice in Dublin city centre where there is a wide mix of legal work available. Ability to work on own initiative is required.

Commercial Property/Planning Solicitor - In-house MN0702-106

An experienced commercial property solicitor is required by this company to advise on and prepare documentation relating to contractual arrangements entered into by the company in relation to the following: Licensing events, Short and long term lettings, Way leaves, Commercial leases and Development agreements. Excellent salary and flexibility is on offer.

IP & IT Solicitor MN0701-216

Distinguished firm with award winning culture requires a talented junior solicitor with interest and experience in IP and IT. Excellent opportunities like this are rare, so call to discuss today.

Corporate Solicitor MN0702-79

This is a superb role for a lawyer looking for a smaller alternative to one of the 'Top 5' firms. Work is still top quality and ranges from M&A through to restructurings. Sensible hours and targets are on offer.

Golden Circle Firm - London MN0701-96

Applications from Solicitors of all levels with a background in finance are encouraged to respond. Excellent benefits and relocation package are on offer.

Commercial Solicitor MN0702-84

If you are highly ambitious and have a strong commercial awareness - then this could be the position for you! The position will include dealing with all aspects of commercial law, including property. Great career prospects are on offer to the right candidate.

Commercial Banking & Finance Lawyer - Partner Potential MN0702-28

Renowned for its national commercial banking practice, this firm is large enough to meet the needs of its impressive client base yet small enough to foster a social and flexible culture where lawyers enjoy great work and autonomy. Top remuneration offered.

Commercial Property Lawyer MN0702-09

Leading mid-tier firm has a brand new opportunity for a mid level commercial property lawyer to join its team. Gain exposure to the whole ambit of property work in a well resourced, supportive environment. Great career prospects are on offer.

In addition to these vacancies, we currently have a wide variety of opportunities for all levels of Solicitors in many areas of law. Visit our website to view further opportunities.

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