



Number 32 of 2013

COURTS AND CIVIL LAW (MISCELLANEOUS PROVISIONS) ACT 2013



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Number 32 of 2013

COURTS AND CIVIL LAW (MISCELLANEOUS PROVISIONS) ACT 2013

An Act to amend the Civil Liability and Courts Act 2004, the Child Care Act 1991 and the Adoption Act 2010 to allow bona fide representatives of the Press to attend court during proceedings heard otherwise than in public except in certain circumstances; and to provide for the prohibition or restriction of the publication and broadcasting of matters by such representatives in certain circumstances; to amend various enactments for the purpose of increasing the monetary limit of the jurisdiction of the Circuit Court in personal injuries actions and other civil matters; to amend various enactments for the purpose of increasing the monetary limit of the jurisdiction of the District Court in civil matters; to repeal certain provisions of the Courts and Court Officers Act 2002; to amend the Courts (Establishment and Constitution) Act 1961 to increase the number of ordinary judges of the Supreme Court to nine; to amend the Juries Act 1976 to provide for the selection of additional jurors in lengthy criminal trials; to amend the Coroners Act 1962 and the Civil Legal Aid Act 1995 to provide for the provision of legal aid or advice, or both, in respect of coroners' inquests to families of deceased persons in certain circumstances; to amend the Bankruptcy Act 1988; to amend the Personal Insolvency Act 2012; and to provide for related matters. [24th July, 2013]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, commencement and collective citations

1. (1) This Act may be cited as the Courts and Civil Law (Miscellaneous Provisions) Act 2013.
- (2) *Sections 2 to 12* shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions, and those sections or any provision of them shall apply in relation to proceedings in any court whether instituted before or after the day so appointed in respect of the section or provision concerned.
- (3) *Part 3* shall come into operation on such day or days as the Minister for Justice and

Equality may appoint by order or orders either generally or with reference to any particular provision and different days may be so appointed for different provisions, but that Part or any provision of it shall not apply in relation to proceedings in any court instituted before the day so appointed in respect of the Part concerned or the provision concerned.

- (4) *Part 7* shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular provision and different days may be so appointed for different provisions.
- (5) *Part 8* shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular provision and different days may be so appointed for different provisions.
- (6) The Courts (Supplemental Provisions) Acts 1961 to 2012 and *section 17* may be cited together as the Courts (Supplemental Provisions) Acts 1961 to 2013.
- (7) The Coroners Acts 1962 and 2005 and *section 24* may be cited together as the Coroners Acts 1962 to 2013.

Repeals

2. (1) Sections 13 to 18 of the Courts and Court Officers Act 2002 are repealed.
- (2) Subsection (2) of section 40 of the Civil Liability and Courts Act 2004 is repealed.
- (3) Subsection (5) of section 31 of the Child Care Act 1991 is repealed.

PART 2

AMENDMENT OF RULES RELATING TO CERTAIN PROCEEDINGS HEARD OTHERWISE THAN IN PUBLIC

Interpretation (*Part 2*)

3. In this Part—

“Act of 1991” means the Child Care Act 1991;

“Act of 2004” means the Civil Liability and Courts Act 2004;

“Act of 2010” means the Adoption Act 2010.

Amendment of section 39 of Civil Liability and Courts Act 2004

4. Section 39 of the Act of 2004 is amended—

(a) in the definition of “Act of 1996”, by substituting “Family Law (Divorce) Act 1996;” for “Family Law (Divorce) Act 1996.”, and

(b) by inserting the following definitions:

“ ‘Act of 2010’ means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘broadcast’ has the same meaning as it has in section 2 of the Broadcasting Act 2009;

‘publish’ means publish, other than by way of broadcast, to the public or a portion of the public;

‘relevant enactment’ means any of the following provisions:

- (a) section 2(1B) (inserted by section 20 of the Courts Act 1971) of the Legitimacy Act 1931;
- (b) section 45 of the Courts (Supplemental Provisions) Act 1961 (in so far as it relates to matrimonial causes or matters, or minor matters);
- (c) section 25 of the Family Law (Maintenance of Spouses and Children) Act 1976;
- (d) section 10 of the Act of 1976;
- (e) section 36 of the Status of Children Act 1987;
- (f) section 34 of the Act of 1989;
- (g) section 7 of the Maintenance Act 1994;
- (h) section 33 or 38 of the Act of 1995;
- (i) section 38 of the Act of 1996;
- (j) section 16 of the Domestic Violence Act 1996;
- (k) section 18, 30, 31, 49, 54 or 92 of the Adoption Act 2010;
- (l) section 145 or 199 of the Act of 2010.”.

Amendment of section 40 of Civil Liability and Courts Act 2004

5. Section 40 of the Act of 2004 is amended by inserting the following subsection after subsection (3):

- “(3A) (a) Subject to paragraph (b), nothing contained in a relevant enactment shall operate to prohibit bona fide representatives of the Press from attending proceedings to which the relevant enactment relates.
- (b) Subject to paragraphs (c) and (d), where, in proceedings under a relevant enactment, a court is satisfied that it is necessary to do so—
- (i) in order to preserve the anonymity of a party to the proceedings or any child to whom the proceedings relate,
 - (ii) by reason of the nature or circumstances of the case, or
 - (iii) as it is otherwise necessary in the interests of justice,
- the court may, on its own motion, or on application to it by a party to the proceedings or by a person on behalf of a child to whom the proceedings relate, by order—
- (I) exclude, or otherwise restrict the attendance of, bona fide representatives of the Press from the court during the hearing or particular parts of it, or

- (II) prohibit or restrict the publication or broadcasting of any evidence given or referred to during the proceedings or any part of such evidence,
and any such order may, with regard to any restriction, contain such conditions as the court considers appropriate.
- (c) In determining whether or not to make an order under paragraph (b), a court shall have regard to the desirability of promoting public confidence in the administration of justice and to any other matter that appears to it to be relevant and shall, in particular, have regard to the following:
- (i) the best interests of a child to whom the proceedings relate;
 - (ii) the views, if any, of—
 - (I) a party to the proceedings, and
 - (II) a child to whom the proceedings relate who is, in the opinion of the court, capable of forming his or her own views;
 - (iii) whether information given or likely to be given in evidence is sensitive personal information;
 - (iv) the extent to which the attendance of bona fide representatives of the Press might inhibit or cause undue distress to a party to the proceedings or a child to whom the proceedings relate by reason of the emotional condition or any medical condition, physical impairment or intellectual disability of the party or the child concerned;
 - (v) the need to protect a party to the proceedings or a child to whom the proceedings relate against coercion, intimidation or harassment;
 - (vi) whether information given or likely to be given in evidence might be prejudicial to a criminal investigation or criminal proceedings;
 - (vii) whether information given or likely to be given in evidence is commercially sensitive information; and
 - (viii) whether information of the type referred to in subparagraphs (iii), (vi) and (vii) when taken together with other information would, if published or broadcast, be likely to lead members of the public to identify a party to the proceedings or a child to whom the proceedings relate.
- (d) In considering the views of a child referred to in clause (II) of paragraph (c)(ii), a court shall take account of the age and level of maturity of the child concerned.
- (e) Where evidence in proceedings to which a relevant enactment relates concerns a matter referred to in subparagraph (vi) of paragraph (c), an application under paragraph (b) may be made by or on behalf of the Director of Public Prosecutions.
- (f) In this subsection—
‘commercially sensitive information’ means—

- (i) financial, commercial, scientific, technical or other information the disclosure of which could reasonably be expected to result in a material financial loss or gain to the person to whom it relates, or could prejudice the competitive position of that person in the conduct of his or her business or otherwise in his or her occupation, or
 - (ii) information the disclosure of which could prejudice the conduct or outcome of contractual or other negotiations of the person to whom it relates;
- ‘party to the proceedings’ includes a witness in the proceedings;
- ‘sensitive personal information’ means information about a person that would, in the ordinary course of events, be known only to the person or members of the family, or friends, of the person, and includes but is not limited to—
- (i) information relating to the medical, psychiatric or psychological history of the person,
 - (ii) information relating to the tax affairs of the person,
 - (iii) information relating to the sexual conduct or sexual orientation of the person.”.

Amendment of Part 3 of Civil Liability and Courts Act 2004

6. The Act of 2004 is amended in Chapter 2 of Part 3 by inserting the following section after section 40:

“Prohibition on publication or broadcast of certain matters

- 40A. (1) No person shall publish or broadcast or cause to be published or broadcast any information about a matter which would be likely to lead members of the public to identify the parties to proceedings to which a relevant enactment relates or any child to whom those proceedings relate.
- (2) If any matter is published or broadcast in contravention of subsection (1), each of the following persons, namely—
- (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical,
 - (b) in the case of any other publication, the person who publishes it, and
 - (c) in the case of a broadcast, any person who transmits or provides the programme in which the broadcast is made and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,
- shall be guilty of an offence and shall be liable—
- (i) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months or both, or
 - (ii) on conviction on indictment, to a fine not exceeding €50,000 or to imprisonment for a term not exceeding 3 years or both.
- (3) (a) Where an offence under this section is committed by a body corporate and it is

proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

- (b) Where the affairs of a body corporate are managed by its members, paragraph (a) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

(4) Nothing in this section shall affect the law as to contempt of court.”.

Amendment of section 2 of Child Care Act 1991

7. Section 2 of the Act of 1991 is amended by inserting the following definitions:

“ ‘broadcast’ has the same meaning as it has in section 2 of the Broadcasting Act 2009;

‘publish’ means publish, other than by way of broadcast, to the public or a portion of the public.”.

Amendment of section 29 of Child Care Act 1991

8. Section 29 of the Act of 1991 is amended by inserting the following subsection after subsection (5):

“(5A) (a) Subject to paragraph (b), nothing contained in this section shall operate to prohibit bona fide representatives of the Press from attending proceedings referred to in subsection (1).

- (b) Subject to paragraphs (c) and (d), where, in proceedings referred to in subsection (1), a court is satisfied that it is necessary to do so—

- (i) in order to preserve the anonymity of a party to the proceedings or any child to whom the proceedings relate,
- (ii) by reason of the nature or circumstances of the case, or
- (iii) as it is otherwise necessary in the interests of justice,

the court may, on its own motion, or on application to it by a party to the proceedings or by a person on behalf of a child to whom the proceedings relate, by order—

- (I) exclude, or otherwise restrict the attendance of, bona fide representatives of the Press from the court during the hearing or particular parts of it, or
- (II) prohibit or restrict the publication or broadcasting of any evidence given or referred to during the proceedings or any part of such evidence,

and any such order may, with regard to any restriction, contain such conditions as the court considers appropriate.

- (c) In determining whether or not to make an order under paragraph (b), a court shall have regard to the desirability of promoting public confidence in the administration of justice and to any other matter that appears to it to be relevant and shall, in particular, have regard to the following:
- (i) the best interests of a child to whom the proceedings relate;
 - (ii) the views, if any, of—
 - (I) a party to the proceedings, and
 - (II) a child to whom the proceedings relate who is, in the opinion of the court, capable of forming his or her own views;
 - (iii) whether information given or likely to be given in evidence is sensitive personal information;
 - (iv) the extent to which the attendance of bona fide representatives of the Press might inhibit or cause undue distress to a party to the proceedings or a child to whom the proceedings relate by reason of the emotional condition or any medical condition, physical impairment or intellectual disability of the party or the child concerned;
 - (v) the need to protect a party to the proceedings or a child to whom the proceedings relate against coercion, intimidation or harassment;
 - (vi) whether information given or likely to be given in evidence might be prejudicial to a criminal investigation or criminal proceedings; and
 - (vii) whether information of the type referred to in subparagraphs (iii) and (vi) when taken together with other information would, if published or broadcast, be likely to lead members of the public to identify a party to the proceedings or a child to whom the proceedings relate.
- (d) In considering the views of a child referred to in clause (II) of paragraph (c)(ii), a court shall take account of the age and level of maturity of the child concerned.
- (e) Where evidence in proceedings referred to in subsection (1) concerns a matter referred to in subparagraph (vi) of paragraph (c), an application under paragraph (b) may be made by or on behalf of the Director of Public Prosecutions.
- (f) In this subsection—
- ‘party to the proceedings’ includes a witness in the proceedings;
 - ‘sensitive personal information’ means information about a person that would, in the ordinary course of events, be known only to the person or members of the family, or friends, of the person, and includes but is not limited to—
 - (i) information relating to the medical, psychiatric or psychological history of the person,
 - (ii) information relating to the tax affairs of the person,

- (iii) information relating to the sexual conduct or sexual orientation of the person.”.

Amendment of section 31 of Child Care Act 1991

9. Section 31 of the Act of 1991 is amended—

(a) in subsection (1), by substituting “shall be published or broadcast” for “shall be published in a written publication available to the public or be broadcast”,

(b) in subsection (3)—

(i) in paragraph (c), by substituting “any person” for “any body corporate”, and

(ii) by substituting the following for “shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or both”:

“shall be guilty of an offence and shall be liable—

(i) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months or both, or

(ii) on conviction on indictment, to a fine not exceeding €50,000 or to imprisonment for a term not exceeding 3 years or both”,

and

(c) by inserting the following subsection after subsection (3):

“(3A) (a) Where an offence under this section is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(b) Where the affairs of a body corporate are managed by its members, paragraph (a) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.”.

Amendment of section 18 of Adoption Act 2010

10. Section 18 of the Act of 2010 is amended by inserting the following subsection after subsection (7):

“(8) An application for approval under this section shall be heard in private.”.

Amendment of section 30 of Adoption Act 2010

11. Section 30 of the Act of 2010 is amended by inserting the following subsection after subsection (7):

“(8) An application for approval under this section shall be heard in private.”.

Amendment of section 31 of Adoption Act 2010

12. Section 31 of the Act of 2010 is amended by inserting the following subsection after subsection (4):

“(5) Proceedings under this section shall be heard in private.”.

PART 3

JURISDICTION OF DISTRICT COURT AND CIRCUIT COURT

Interpretation (Part 3)

13. In this Part—

“Act of 1991” means the Courts Act 1991;

“Act of 2009” means the Defamation Act 2009;

“enactment” means a statute or an instrument made under a power conferred by statute.

Extension of monetary limit of jurisdiction of Circuit Court

14. Each provision specified in *column (3)* of *Part 1* of the *Schedule* of the enactments specified in the said *Part 1* conferring jurisdiction in a civil matter on the Circuit Court is amended—

(a) by substituting “€75,000” for “£30,000” in each place where it occurs,

(b) by substituting “€75,000” for “€38,092.14” in each place where it occurs, and

(c) by substituting “€75,000” for “€38,092” in each place where it occurs,

being the monetary limit for the time being standing specified of the jurisdiction so conferred.

Extension of monetary limit of jurisdiction of District Court

15. Each provision specified in *column (3)* of *Part 2* of the *Schedule* of the enactments specified in the said *Part 2* conferring jurisdiction in a civil matter on the District Court is amended—

(a) by substituting “€15,000” for “£5,000” in each place where it occurs,

(b) by substituting “€15,000” for “€6,348.69” in each place where it occurs, and

(c) by substituting “€15,000” for “€6,350” in each place where it occurs,

being the monetary limit for the time being standing specified of the jurisdiction so conferred.

Amendment of Courts of Justice Act 1936

16. The Courts of Justice Act 1936 is amended—

(a) in Part III, by inserting the following section before section 14:

“Interpretation (Part III)

12A. In this Part ‘personal injuries action’ has the same meaning as it has in section 2 of the Civil Liability and Courts Act 2004.’.

(b) by substituting the following for section 20:

“Jurisdiction of Circuit Court in certain remitted actions

20. (1) Subject to subsection (2), where an action claiming unliquidated damages is remitted or transferred by the High Court to the Circuit Court, the Circuit Court shall have jurisdiction to award damages in excess of €75,000.

(2) Where an action referred to in subsection (1) is a personal injuries action, the reference in that subsection to ‘€75,000’ shall be read as ‘€60,000’.

and

(c) in section 23—

(i) in subsection (1)—

(I) by substituting “Subject to subsection (4), no cause of action” for “No cause of action”, and

(II) by substituting “€75,000” for “£30,000”,

(ii) in subsection (2)—

(I) by substituting “Subject to subsection (4), a person having a cause of action” for “A person having a cause of action”, and

(II) by substituting “€75,000” for “£30,000” in each place where it occurs,

and

(iii) by inserting the following subsection after subsection (3):

“(4) Where an action referred to in subsection (1) or (2) is a personal injuries action, the reference in those subsections to ‘€75,000’ shall be read as ‘€60,000’.”

Amendment of Courts (Supplemental Provisions) Act 1961

17. The Courts (Supplemental Provisions) Act 1961 is amended—

(a) in section 33—

(i) in subsection (3), by substituting “€15,000” for “£5,000”,

(ii) in subsection (4)(a)—

(I) by substituting “Consumer Credit Act 1995 or to which section 17(2) of that Act refers” for “Hire-Purchase Acts, 1946 and 1960”, and

(II) by substituting “€15,000” for “£5,000” (inserted by section 6(2) of the Act of 1991),

(b) in the Third Schedule—

(i) at reference numbers 1, 2, 7, 11, 12, 13 and 29, in column (3), by substituting “€75,000” for “£30,000” (inserted by section 2(1)(a) of the Act of 1991),

(ii) at reference number 3—

(I) in column (2), by substituting “Consumer Credit Act 1995 or to which section 17(2)

- of that Act refers” for “Hire-Purchase Acts, 1946 and 1960”, and
- (II) in column (3)—
 - (A) by substituting “the said Act” for “the said Acts”, and
 - (B) by substituting “€75,000” for “£30,000” (inserted by section 2(1)(a) of the Act of 1991),
 - (iii) at reference numbers 4 and 5—
 - (I) in column (2), by substituting “Consumer Credit Act 1995 or to which section 17(2) of that Act refers” for “Hire-Purchase Acts, 1946 and 1960”, and
 - (II) in column (3), by substituting “€75,000” for “£30,000” (inserted by section 2(1)(a) of the Act of 1991),
 - (iv) at reference number 6—
 - (I) in column (2), by deleting “a defamation action within the meaning of the Defamation Act 2009,” (inserted by section 41(a) of the Act of 2009), and
 - (II) in column (3), by substituting the following for “Where the amount of the claim exceeds £30,000.” (as amended by section 2(1)(a) of the Act of 1991):

“Where—

 - (a) in a personal injuries action, within the meaning of the Civil Liability and Courts Act 2004, the amount of the claim exceeds €60,000, or
 - (b) in an action that is not an action referred to in paragraph (a), the amount of the claim exceeds €75,000.”,
 - (v) by deleting reference number 7A (inserted by section 41(b) of the Act of 2009), and
 - (vi) at reference number 14, by substituting “€75,000” for “£15,000” (inserted by section 2(1)(b) of the Act of 1991),
- and
- (c) in the Fifth Schedule, in column (3) opposite the mention in column (2) of the Attorneys’ and Solicitors’ Act 1870, by substituting “€75,000” for “£30,000” (inserted by section 2(2) of the Act of 1991).

Amendment of section 10 of Hotel Proprietors Act 1963

18. Section 10 of the Hotel Proprietors Act 1963 is amended—

- (a) in subsection (1)—
 - (i) by substituting “Subject to subsection (3), the Circuit Court shall” for “The Circuit Court shall”, and
 - (ii) by substituting “€75,000” for “£30,000”,
- (b) in subsection (2), by substituting “€15,000” for “£5,000”, and
- (c) by inserting the following subsection after subsection (2):

“(3) (a) Where an action referred to in subsection (1) is a personal injuries action, the reference in that section to ‘€75,000’ shall be read as ‘€60,000’.

(b) In this subsection ‘personal injuries action’ has the same meaning as it has in section 2 of the Civil Liability and Courts Act 2004.”.

Amendment of section 17 of Courts Act 1981

19. Section 17 (inserted by section 14 of the Act of 1991) of the Courts Act 1981 is amended—

(a) in subsection (2)—

(i) by substituting “Subject to subsection (3A), in any action” for “In any action”,

(ii) by substituting “€64,000” for “£25,000”, and

(iii) by substituting “€75,000” for “£30,000”,

(b) in subsection (3)—

(i) by substituting “Subject to subsection (3A), in any action” for “In any action”,

(ii) by substituting “€15,000” for “£5,000”, and

(iii) by substituting “€38,000” for “£15,000”,

(c) by inserting the following subsection after subsection (3):

“(3A) Where an action referred to in subsection (2) or (3) is a personal injuries action—

(a) the reference in subsection (2) to ‘€64,000’ shall be read as ‘€51,000’ and the reference to ‘€75,000’ shall be read as ‘€60,000’, and

(b) the reference in subsection (3) to ‘€38,000’ shall be read as ‘€30,000’.”,

and

(d) by substituting the following for subsection (6):

“(6) In this section—

‘personal injuries action’ has the same meaning as it has in section 2 of the Civil Liability and Courts Act 2004;

‘relief’ includes damages.”.

Amendment of section 15(2) of Courts Act 1991

20. Section 15(2) of the Act of 1991 is amended—

(a) by substituting “€15,000” for “£5,000”, and

(b) by substituting “€30,000” for “£10,000”.

Amendment of Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

21. The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 is amended—

- (a) in section 51(3), by substituting “€15,000” for “€6,350”, and
- (b) in section 140—
 - (i) in subsection (7), by substituting “€15,000” for “€6,350”, and
 - (ii) in subsection (10)(b), by substituting “€15,000” for “€6,350”.

PART 4

AMENDMENT OF COURTS (ESTABLISHMENT AND CONSTITUTION) ACT 1961

Amendment of section 1 of Courts (Establishment and Constitution) Act 1961

22. Section 1(2) (inserted by section 6(1) of the Courts and Court Officers Act 1995) of the Courts (Establishment and Constitution) Act 1961 is amended by substituting the following paragraph for paragraph (b):

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

PART 5

JURIES IN LENGTHY TRIALS

Amendment of Juries Act 1976

23. The Juries Act 1976 is amended—

- (a) by inserting the following section after section 15:

“Additional jurors

15A. (1) Subject to subsection (2), at any time before the selection of a jury in a trial of a criminal issue begins pursuant to section 15, a judge of the Circuit Court or the Central Criminal Court, as the case may be, may, on his or her own motion or on the application of the prosecution or the accused person, order that a specified number of persons not exceeding 15 in number be selected to serve as jurors and sworn in the trial concerned.

- (2) A judge shall not make an order referred to in subsection (1) unless the judge is satisfied that—

- (a) the duration of a trial is likely to exceed 2 months, and

- (b) the selection of additional jurors for the trial is an appropriate means of ensuring that there will be a sufficient number of jurors for the jury to remain properly constituted for the purposes of giving a verdict in that trial.

- (3) An application referred to in subsection (1) shall be made—

- (a) not later than 10 working days before the selection of a jury in the trial of a

criminal issue begins pursuant to section 15, and

(b) on notice—

(i) where the application is made by the prosecution, to each accused person in the trial, or

(ii) where the application is made by an accused person in that trial, to the prosecution and any other accused person in the trial concerned.

(4) Where an order is made pursuant to subsection (1), the number of persons specified in the order shall be selected to serve as jurors pursuant to section 15 and sworn in the trial concerned.

(5) Where—

(a) jurors have been sworn in the trial of a criminal issue following the making of an order under subsection (1), and

(b) immediately before the jury in the trial retires to consider its verdict the jury comprises more than 12 jurors,

the judge shall direct that from the jurors then constituting the jury 12 jurors be selected to retire and consider the verdict in the trial.

(6) The selection of jurors to retire and consider the verdict in a trial pursuant to a direction under subsection (5) shall be made by balloting in open court.

(7) Where a ballot is held pursuant to subsection (6)—

(a) a juror who is selected shall retire to consider the verdict in the trial concerned, and

(b) a juror who is not selected shall be discharged by the judge.

(8) A jury which has been selected pursuant to subsection (6) to retire and consider the verdict in a trial shall continue to constitute the jury for the purposes of the trial and that trial shall proceed and a verdict may be found accordingly.”

and

(b) in section 20—

(i) in subsection (2), by substituting “Subject to subsection (2A), in every trial of a criminal issue” for “In every trial of a criminal issue”, and

(ii) by inserting the following subsection after subsection (2):

“(2A) In every trial of a criminal issue which is tried with a jury in which jurors have been selected following the making of an order under section 15A, the prosecution and each accused person may challenge without cause shown eight jurors and no more.”.

PART 6

LEGAL AID AND LEGAL ADVICE IN RELATION TO CORONERS' INQUESTS

Amendment of Coroners Act 1962

24. The Coroners Act 1962 is amended—

(a) in section 29—

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

“(3) A coroner shall furnish a copy of any document preserved by him or her under this section to every person who applies for a copy of such document and, except where the application is made on behalf of—

- (a) a Minister of the Government,
 - (b) the Attorney General,
 - (c) the Garda Síochána,
 - (d) the Defence Forces,
 - (e) the Garda Síochána Ombudsman Commission, or
 - (f) an applicant within the meaning of section 60,
- shall charge for the copy such fee as may be prescribed.”,

and

(ii) by substituting the following subsection for subsection (4):

“(4) A county registrar shall furnish a copy of any document preserved by him or her under this section to every person who applies for a copy of such document and, except where the application is made on behalf of—

- (a) a Minister of the Government,
 - (b) the Attorney General,
 - (c) the Garda Síochána,
 - (d) the Defence Forces,
 - (e) the Garda Síochána Ombudsman Commission, or
 - (f) an applicant within the meaning of section 60,
- shall charge for the copy such fee as may be prescribed.”,

and

(b) by inserting the following section after section 59:

“Legal aid and legal advice for inquests

60. (1) Where an inquest in relation to the death of a person is to be held under Part III of this Act, a family member of the deceased (in this section referred to as ‘the

applicant') may apply to the coroner for a request to be submitted by that coroner to the Legal Aid Board in relation to the granting of legal aid or legal advice, or both, to the applicant pursuant to the Civil Legal Aid Act 1995.

- (2) An application referred to in subsection (1) shall be made before the commencement of the inquest, unless the coroner otherwise permits.
- (3) A coroner shall determine an application referred to in subsection (1) and shall notify the applicant of his or her determination within 10 working days of the receipt of the application.
- (4) Subject to subsections (5) and (6), where a coroner receives an application referred to in subsection (1) in respect of an inquest, he or she shall request the Legal Aid Board to grant legal aid or legal advice, or both, to the applicant in respect of the inquest concerned.
- (5) A coroner shall not make a request referred to in subsection (4) unless—
 - (a) the deceased was, at the time of his or her death or immediately before his or her death, in the custody of the Garda Síochána,
 - (b) the deceased was, at the time of his or her death or immediately before his or her death, in custody in a prison within the meaning of section 2 of the Prisons Act 2007,
 - (c) the deceased was, at the time of his or her death or immediately before his or her death, in service custody within the meaning of section 2 of the Defence Act 1954,
 - (d) the deceased was, at the time of his or her death or immediately before his or her death, involuntarily detained under Part 2 of the Mental Health Act 2001 in an approved centre within the meaning of section 2 of that Act,
 - (e) the deceased was, at the time of his or her death or immediately before his or her death, detained in a designated centre within the meaning of section 3 of the Criminal Law (Insanity) Act 2006 or was a person to whom section 20 of that Act refers,
 - (f) the deceased was, at the time of his or her death or immediately before his or her death, in custody in a remand centre within the meaning of section 3 of the Children Act 2001 or detained in a children detention school within the meaning of that section,
 - (g) the deceased was, at the time of his or her death or immediately before his or her death, a child in care, or
 - (h) the coroner is of the opinion that the death of the deceased occurred in circumstances the continuance or possible recurrence of which would be prejudicial to the health or safety of the public or any section of the public such that there is a significant public interest in the family member of the deceased person being granted legal aid or legal advice, or both, for the purposes of the inquest concerned.

- (6) Where legal aid or legal advice, or both, are granted by the Legal Aid Board to an applicant in respect of an inquest further to a request by a coroner under subsection (4), no further applications under subsection (1) may be made by a family member in respect of the inquest concerned.
- (7) In this section—
- ‘child in care’ means a child who was in the care of the Health Service Executive pursuant to section 4 or Part III, IV or IVA of the Child Care Act 1991;
- ‘family member’, in relation to a deceased person, means—
- (a) a parent, grandparent, child, brother, sister, nephew, niece, uncle or aunt, whether of the whole blood, of the half blood or by affinity, of the person,
 - (b) a spouse, a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or a cohabiting partner of the person,
 - (c) any other person who is ordinarily a member of the person’s household, or
 - (d) any child who has been placed in foster care with the person or any person referred to in paragraphs (a) to (c),
- and includes a reference to any such member of his or her family who is adopted;
- ‘legal advice’ has the same meaning as it has in the Civil Legal Aid Act 1995;
- ‘legal aid’ has the same meaning as it has in the Civil Legal Aid Act 1995.”.

Amendment of Civil Legal Aid Act 1995

25. The Civil Legal Aid Act 1995 is amended—

(a) in section 1—

(i) by substituting the following definition for the definition of “applicant”:

“ ‘applicant’ means, subject to subsection (1A), a person who makes an application for legal aid or advice, or both;”,

and

(ii) by inserting the following subsection after subsection (1):

“(1A) A person in respect of whom a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of the Coroners Act 1962 shall be deemed to be an applicant for the purposes of this Act.”,

(b) by inserting the following section after section 24:

“Restriction on right to apply for legal aid and advice

24A. A person shall not be granted legal aid or advice in relation to an inquest under Part III of the Coroners Act 1962 unless a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of that Act in respect of the person.”,

(c) in section 26(3), by substituting the following for paragraph (b):

“(b) a person shall qualify for legal advice, in respect of a matter referred to in section 28(9)(a), in the cases mentioned in subparagraphs (i) to (v) and (vii) of section 28(9)(c).”

(d) in section 27—

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

“(1) In this Act ‘legal aid’ means representation by a solicitor of the Board, or a solicitor or barrister engaged by the Board under section 11, in any civil proceedings to which this section applies or at an inquest under Part III of the Coroners Act 1962, and includes all such assistance as is usually given by a solicitor or barrister, as the case may be, in contemplation of, ancillary to or in connection with, such proceedings or inquest, and whether for the purposes of arriving at or giving effect to any settlement in proceedings or otherwise.”

and

(ii) in subsection (2), by substituting “This section applies to an inquest under Part III of the Coroners Act 1962 where a request for legal aid has been made to the Board by a coroner pursuant to section 60 of that Act and to all civil proceedings other than proceedings relating to” for “This section applies to all civil proceedings other than those relating to”,

and

(e) in section 28—

(i) in subsection (2), by substituting “under this section to a person, other than a person referred to in subsection (2A), if, in the opinion of the Board” for “under this section to a person if, in the opinion of the Board”,

(ii) by inserting the following subsection after subsection (2):

“(2A) Subject to sections 24 and 29 and the other provisions of this section and to regulations (if any) made under section 37, the Board shall grant a legal aid certificate under this section to a person in respect of whom a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of the Coroners Act 1962 if, in the opinion of the Board, the person satisfies the criteria in respect of financial eligibility specified in section 29.”

and

(iii) in subsection (9)(c), by substituting the following paragraphs for paragraph (vi):

“(vi) in respect of a conveyancing matter connected to a matter in which legal aid or advice has already been granted;

(vii) in respect of an inquest under Part III of the Coroners Act 1962 where a request for legal aid has been made to the Board by a coroner pursuant to section 60 of that Act.”

PART 7

BANKRUPTCY

Interpretation (Part 7)

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

Amendment of section 3 of Act of 1988

27. Section 3 of the Act of 1988 is amended—

(a) by the substitution of the following definition for the definition of “the Bankruptcy Inspector”:

“ ‘Bankruptcy Inspector’ means a person standing appointed for the time being—

- (i) to the position of Bankruptcy Inspector in the Office of the Official Assignee in Bankruptcy on the day before the coming into operation of *section 29* of the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*, or
- (ii) to the position of Bankruptcy Inspector pursuant to section 12 of the Personal Insolvency Act 2012;”

(b) by the insertion of the following definition:

“ ‘Director’ means the Director of the Insolvency Service;”

and

(c) by the substitution of the following definition for the definition of “the Official Assignee”:

“ ‘Official Assignee’ means a person standing appointed for the time being—

- (i) to the position of Official Assignee in Bankruptcy in the Office of the Official Assignee in Bankruptcy on the day before the coming into operation of *section 29* of the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*, or
- (ii) to the position of Official Assignee pursuant to section 12 of the Personal Insolvency Act 2012;”

Amendment of section 8 of Act of 1988

28. Section 8 of the Act of 1988 is amended—

(a) in subsection (1) (substituted by section 144 of the Personal Insolvency Act 2012), by the substitution in paragraph (c) of “notice in the prescribed form to the debtor” for “notice to the debtor”, and

(b) in subsection (3), by the substitution of “within 14 days” for “within four days”.

Amendment of section 60 of Act of 1988

29. The Act of 1988 is amended by the substitution of the following for section 60:

“The Official Assignee

60. (1) The Official Assignee shall have such functions as are assigned to him by or under this Act or any other enactment, and subject to this section, sections 60A to 60C and the Personal Insolvency Act 2012, such powers and functions as were heretofore exercisable by the Official Assignee in Bankruptcy continue to be exercisable by the Official Assignee.
- (2) The Official Assignee shall be a member of the staff of the Insolvency Service.
- (3) Subject to subsections (4) to (6), the Official Assignee shall be independent in the performance of his functions under this Act and any other enactment.
- (4) The Official Assignee shall, in relation to matters of general administration, be subject to the general direction of the Director.
- (5) The Official Assignee, when performing any function relating to the business of a court, or acting under or pursuant to an order of a court, shall observe and obey such directions as are given to him by the court.
- (6) The Official Assignee shall be an officer of the court for the purposes of the performance of his functions under this Act or any other enactment.
- (7) Subject to sections 60B and 60C, subsections (3) to (6) shall apply to a member of the staff of the Insolvency Service—
- (a) to whom functions of the Official Assignee have been delegated under section 60B, as respects those functions, or
- (b) who is designated under section 60C, as respects those functions,
- for so long as the delegation or designation remains in force and is exercisable by the member of staff concerned.
- (8) The Official Assignee shall not, without the approval of the Director, hold any other office or position in respect of which remuneration is payable, or carry on any business, trade or profession.
- (9) In this section and sections 60A to 60C a reference to an enactment means—
- (a) an Act of the Oireachtas,
- (b) a statute that was in force in Saorstát Éireann immediately before the date of the coming into operation of the Constitution and that continues in force by virtue of Article 50 of the Constitution, or
- (c) an instrument made under—
- (i) an Act of the Oireachtas, or
- (ii) a statute referred to in paragraph (b).

Office of Official Assignee — Transfer of staff

60A. (1) This section applies to—

- (a) the person who immediately before the coming into operation of this section held the office of Official Assignee in Bankruptcy (otherwise referred to as the Official Assignee), and
 - (b) every person who immediately before the coming into operation of this section was a member of the staff of the Courts Service assigned to the Office of the Official Assignee in Bankruptcy.
- (2) On the coming into operation of this section every member of the staff of the Courts Service to whom this section applies shall be seconded to the Insolvency Service for a period of 2 years.
- (3) On the expiry of the period of secondment referred to in subsection (2) each person seconded under that subsection shall—
- (a) transfer definitively to the staff of the Insolvency Service, or
 - (b) subject to subsection (4), exercise a right to return to a suitable vacancy on the staff of the Courts Service.
- (4) If a person seconded under subsection (2) exercises a right under subsection (3)(b) to return to the staff of the Courts Service but no suitable vacancy on the staff of the Courts Service exists, the person concerned shall be transferred to a suitable vacancy in a public service body.
- (5) A person who—
- (a) is seconded under subsection (2),
 - (b) is transferred under subsection (3)(a) or subsection (4), or
 - (c) returns to the Courts Service under subsection (3)(b),
- shall not, except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, receive a lesser scale of pay or less favourable superannuation benefits than the scale of pay and superannuation benefits to which he was entitled immediately before the secondment, transfer or return concerned.
- (6) A person seconded under subsection (2) shall be deemed to be a member of the staff of the Insolvency Service during the period of the secondment.
- (7) Subject to subsection (3)(a)—
- (a) the person who immediately before the coming into operation of this section held the office of Official Assignee in Bankruptcy shall continue in office as Official Assignee, and
 - (b) the person who immediately before the coming into operation of this section held the position of Bankruptcy Inspector shall continue to hold the position of Bankruptcy Inspector.

- (8) In this section—
- (a) ‘public service body’ has the meaning assigned to it by section 5 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;
 - (b) ‘recognised trade union or staff association’ means a trade union or staff association recognised by the Minister for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees.

Delegation of functions of Official Assignee

- 60B. (1) The Official Assignee may in writing delegate to a specified member of the staff of the Insolvency Service—
- (a) any of his functions under this Act in relation to a specific bankruptcy or arrangement matter, or
 - (b) any of his functions under any other enactment.
- (2) A delegation under subsection (1) shall be subject to such conditions or limitations as to the performance of any of the functions delegated, or as to time or circumstance, as may be specified in the delegation.
- (3) The Official Assignee may in writing revoke or vary a delegation made under subsection (1).
- (4) More than one delegation may be made and have effect under subsection (1) at any one time.
- (5) Subject to subsection (2), a person to whom functions of the Official Assignee have been delegated under subsection (1), shall, while the delegation remains in force, have all the powers of the Official Assignee in respect of the functions delegated to him as fully as if he held that office, and such powers shall, where the delegation so specifies, include the power to sell, transfer or otherwise dispose of property or assets in the name of and on behalf of the Official Assignee.
- (6) Nothing in this section shall affect the vesting of property in the Official Assignee in accordance with section 44.
- (7) In any legal proceedings, a certificate that—
- (a) is signed by the Official Assignee,
 - (b) states that any function of the Official Assignee in relation to a bankruptcy matter was on a specified date delegated to a specified member of staff of the Insolvency Service, and
 - (c) states that the delegation of the function remained in force on a specified date,
- is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.
- (8) A certificate referred to in subsection (7) that appears to be signed by the Official Assignee is admissible in any proceedings as evidence of the matters stated in the certificate without proof of his signature.

Deputy for Official Assignee

- 60C. (1) The Director may in writing designate a member of the staff of the Insolvency Service to be the deputy for the Official Assignee, and the member of staff so designated shall, during every temporary absence and every temporary incapacity through illness of the Official Assignee and every occasion on which the office of the Official Assignee is vacant occurring while such designation remains in force, perform the functions assigned to the Official Assignee under this Act or under any other enactment.
- (2) A designation under subsection (1) shall be subject to such conditions or limitations as to time or circumstance as may be specified in the designation.
- (3) The Director may in writing at any time revoke or vary a designation made under subsection (1).
- (4) Subject to subsection (2), a person designated under subsection (1) shall, while he performs the functions of the Official Assignee, have all the powers of the Official Assignee as fully as if he held that office, and such powers shall include the power to sell, transfer or otherwise dispose of property or assets in the name of and on behalf of the Official Assignee.
- (5) In any legal proceedings, a certificate that—
- (a) is signed by the Director,
 - (b) states that a specified member of staff of the Insolvency Service was designated on a specified date, in accordance with subsection (1), to be the deputy for the Official Assignee, and
 - (c) states that the designation remained in force on a specified date,
- is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.
- (6) A certificate referred to in subsection (5) that appears to be signed by the Director is admissible in any proceedings as evidence of the matters stated in the certificate without proof of his signature.

Transfer of records to Insolvency Service

- 60D. All documents and records in the custody and control of the Courts Service relating to the Office of the Official Assignee in Bankruptcy immediately before the coming into operation of *section 29* of the *Courts and Civil Law (Miscellaneous Provisions) Act 2013* shall on the coming into operation of that section be transferred to the Insolvency Service.”.

Amendment of section 63 of Act of 1988

- 30.** Section 63 of the Act of 1988 is amended in paragraph (b) by the substitution of “regulations made by the Minister under this Act” for “rules of court”.

Amendment of section 69 of Act of 1988

31. Section 69 of the Act of 1988 is amended—

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

“(3) All money and securities received by the Official Assignee, being part of a bankrupt’s estate, shall be forthwith lodged by him in an account in the Central Bank of Ireland or a bank authorised to carry on business in the State and shall be kept there to the credit of the Official Assignee subject to the provisions of this Act, any regulations made under subsection (6) and the directions of the Court.”,

and

(b) by the insertion of the following subsection after subsection (5):

“(6) The Minister may, following consultation with the Insolvency Service, by regulations make provision for the manner in which the Official Assignee shall maintain accounts referred to in subsection (3) and for matters relating to the keeping of such accounts.”.

Repeal of section 83 of Act of 1988

32. Section 83 of the Act of 1988 is repealed.

Amendment of section 84 of Act of 1988

33. The Act of 1988 is amended by the substitution of the following for section 84:

“Official Assignee — Unclaimed Dividend Account

84. (1) The Official Assignee shall cause an account to be opened—

(a) in the Central Bank of Ireland, or

(b) a bank authorised to carry on business in the State,

and any such account shall be called the “Official Assignee — Unclaimed Dividend Account” and a reference in this section to a “relevant account” is to be construed as a reference to such an account.

(2) The Official Assignee shall pay into a relevant account all unclaimed dividends and all money unclaimed, being part of any bankrupt’s estate.

(3) (a) The Official Assignee shall be entitled to pay out of a relevant account all dividends lawfully claimed as well as the sums provided for by section 61(3)(k).

(b) In order to provide temporarily for payments for which no funds are immediately available in the particular estate against which they are chargeable, there may be paid out of a relevant account to the credit of the Official Assignee in a separate account in the said bank such sums, subject to such conditions, as may be prescribed by regulations made by the Minister.

(4) The Official Assignee, with the leave of the Court, may from time to time invest the whole or any part of the money standing to the credit of a relevant account, and the

interest on the investments shall be paid into a relevant account.

- (5) The Court may order that the Official Assignee shall be paid out of a relevant account such sum by way of indemnity in respect of any damages, costs or expenses payable or incurred or to be payable or incurred by him for or by reason of any act or matter done by him while acting as Official Assignee as the Court thinks just, including the costs of any proceedings taken by the Official Assignee with the leave of the Court where there are insufficient funds in the matter.
- (6) A relevant account shall not be available for any purpose other than the purposes of this section.
- (7) The Minister may, following consultation with the Insolvency Service, by regulations prescribe—
 - (a) the manner in which the Official Assignee shall maintain a relevant account,
 - (b) the purposes for which funds may be withdrawn from a relevant account pursuant to subsection (3)(b),
 - (c) the monetary limits relating to the withdrawal of funds from a relevant account pursuant to subsection (3)(b), and
 - (d) the conditions subject to which funds may be withdrawn from a relevant account pursuant to subsection (3)(b)."

Amendment of section 85B of Act of 1988

34. Section 85B of the Act of 1988 (inserted by section 157 of the Personal Insolvency Act 2012) is amended by the insertion, after subsection (2), of the following:

“(2A) An order of discharge shall provide that any property of the bankrupt then vested in the Official Assignee shall be re-vested in or returned to the bankrupt, and that order shall for all purposes be deemed to be a conveyance, assignment or transfer of that property to the bankrupt and, where appropriate, may be registered accordingly.”.

Insertion of section 86A in Act of 1988

35. The Act of 1988 is amended by the insertion, after section 86 but in Part IV, of the following section:

“Prohibition on presentation of petition for arrangement under section 87

86A. A person shall not present a petition to the Court under section 87 after the coming into operation of *section 35* of the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*.”.

Amendment of section 144 of Act of 1988

36. The Act of 1988 is amended by the substitution of the following for section 144:

“Regulations and orders

144. (1) A regulation under this Act may contain such incidental, supplementary and consequential provisions as the Minister considers necessary or expedient for the

purposes of the regulations.

- (2) Every regulation made under this Act and every order made under section 142(2) or 143 shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.”.

Repeal of section 6 of and Schedule 1 to Personal Insolvency Act 2012

37. Section 6 of and Schedule 1 to the Personal Insolvency Act 2012 are repealed.

Amendment of section 9 of Personal Insolvency Act 2012

38. Section 9(1) of the Personal Insolvency Act 2012 is amended by the insertion of the following paragraph after paragraph (j):

“(ja) subject to section 60(3) of the Bankruptcy Act 1988, administer the functions assigned to the Official Assignee by the Bankruptcy Act 1988 or any other enactment,”.

Amendment of section 17 of Personal Insolvency Act 2012

39. Section 17 of the Personal Insolvency Act 2012 is amended by the substitution of the following subsections for subsection (2):

- “(2) Subject to subsection (2A), the Insolvency Service shall keep in such form and in respect of such accounting periods as may be approved of by the Minister, with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts—
- (a) of moneys received and spent by the Insolvency Service, including an income and expenditure account and a balance sheet, and
- (b) relating to the functions of the Official Assignee under the Bankruptcy Act 1988 or any other enactment.
- (2A) Accounts which are required to be maintained by the Official Assignee under the Bankruptcy Act 1988 in relation to the estates of bankrupts or in respect of unclaimed dividends shall be kept in such a manner that monies or securities or interest accrued or earned thereon in relation to the estates of bankrupts or unclaimed dividends are not intermingled with monies otherwise held by the Insolvency Service.”.

Amendment of section 20 of Personal Insolvency Act 2012

40. Section 20 of the Personal Insolvency Act 2012 is amended—

- (a) by the substitution of the following for subsection (1):

“(1) Subject to subsection (5), the Insolvency Service, with the consent of the Minister,

may, and if directed by the Minister to do so and in accordance with the terms of the direction, shall, prescribe by regulations the fees to be paid to it and when they fall due in respect of—

- (a) (i) the performance of functions,
- (ii) the provision of services, and
- (iii) the carrying on of activities,
- by it under this Act, and
- (b) the performance of functions by the Official Assignee under the Bankruptcy Act 1988 or any other enactment.”,

and

- (b) in subsection (5), by inserting “or in the performance by the Official Assignee of his or her functions under the Bankruptcy Act 1988 or any other enactment” after “this Act”.

Miscellaneous amendments to enactments consequential on transfer of Official Assignee to Insolvency Service

- 41.** (1) Section 32(3) of the Solicitors (Amendment) Act 1960 is amended by the substitution of “such fee as may be prescribed under section 20 of the Personal Insolvency Act 2012” for “in the Bankruptcy Office such court fees as are payable on a realisation account of the Official Assignee in a bankruptcy matter”.
- (2) The Eighth Schedule to the Courts (Supplemental Provisions) Act 1961 is amended—
- (a) in paragraph 2, by deleting “The Office of the Official Assignee in Bankruptcy,”,
 - (b) in paragraph 3, by deleting “The Official Assignee in Bankruptcy,”, and
 - (c) by deleting paragraph 9.
- (3) Part 2 of the Schedule to the Dormant Accounts Act 2001 is amended—
- (a) in paragraph 1, by deleting subparagraph (g), and
 - (b) by the insertion, after paragraph 3, of the following:

“3A. An account held by the Official Assignee.”.
- (4) Section 2(1) of the Personal Insolvency Act 2012 is amended by the insertion of the following:
- “ ‘Official Assignee’ has the same meaning as it has in the Bankruptcy Act 1988;”.

PART 8

AMENDMENT OF PERSONAL INSOLVENCY ACT 2012

Definition (Part 8)

- 42.** In this Part, “Act of 2012” means the Personal Insolvency Act 2012.

Amendment of section 5 of Act of 2012

43. Section 5 of the Act of 2012 is amended by substituting the following for subsection (2):

“(2) An application to the Circuit Court under this Act shall be made in the circuit in which—

- (a) the debtor to whom the application relates is residing at the time of the making of the application or has resided within one year of the time of the making of the application, or
- (b) the debtor to whom the application relates has a place of business at the time of the making of the application or has had a place of business within one year of the time of the making of the application.”.

Amendment of section 8 of Act of 2012

44. Section 8(4) of the Act of 2012 is amended, in paragraph (a), by substituting “or” for “and”.

Amendment of section 9 of Act of 2012

45. Section 9(1) of the Act of 2012 is amended by the substitution of the following for paragraph (g):

“(g) in accordance with section 47—

- (i) authorise a person or class of persons to perform the functions of an approved intermediary,
- (ii) supervise and regulate persons or classes of persons authorised to perform the functions of an approved intermediary.”.

Amendment of section 13 of Act of 2012

46. Section 13(1) of the Act of 2012 is amended by substituting “may” for “shall, as soon as may be after the establishment day”.

New section 21A in Act of 2012

47. The following section is inserted after section 21 of the Act of 2012:

“Retention of information by Insolvency Service

21A. Notwithstanding the Data Protection Act 1988, the Insolvency Service shall retain such information or data obtained by it under this Act as is necessary for the performance of its functions under this Act.”.

Amendment of section 25 of Act of 2012

48. Section 25 of the Act of 2012 is amended, in paragraph (a)(iv) of the definition of “qualifying debt”, by deleting “such as a guarantee given by a debtor that has been called up that any amount guaranteed is due and payable by the debtor.”.

Amendment of section 27 of Act of 2012

49. Section 27 of the Act of 2012 is amended—

(a) by substituting the following for subsection (4):

“(4) The debtor, as soon as practicable after he or she has made the confirmation referred to in subsection (3), shall—

(a) provide information that fully discloses his or her financial affairs to the approved intermediary, and

(b) give his or her written consent to the—

(i) making by the approved intermediary of an enquiry under subsection (9), and

(ii) disclosure by the approved intermediary of personal data of the debtor, to the extent necessary for such an enquiry.”,

and

(b) by substituting the following for subsections (9) to (12):

“(9) The approved intermediary may, for the purposes of subsections (5) and (6), make such enquiries as he or she considers appropriate to verify the value of a debt or other liability disclosed by the debtor under this section.

(10) Where a creditor who receives an enquiry from the approved intermediary pursuant to this section does not furnish the information requested within 21 days of the making of the enquiry, the approved intermediary shall be entitled for the purposes of subsection (6) to presume that the value of the debt or liability concerned is that disclosed by the debtor.”.

Amendment of section 29 of Act of 2012

50. Section 29(2) of the Act of 2012 is amended—

(a) by substituting the following for paragraph (c):

“(c) the Prescribed Financial Statement completed under section 27, in relation to which the statement referred to in paragraph (a) was made, and a statutory declaration made by the debtor confirming that the Prescribed Financial Statement is a complete and accurate statement of the debtor’s assets, liabilities, income and expenditure;”,

and

(b) in paragraph (d), by substituting “debts concerned, as specified in the Prescribed Financial Statement referred to in paragraph (c)” for “debts concerned”.

Amendment of section 31 of Act of 2012

51. Section 31 of the Act of 2012 is amended—

(a) in subsection (1), by substituting the following for paragraph (a)(ii):

“(ii) furnish that certificate together with a copy of the application and the supporting documentation (other than the documents referred to in section 29(2)(e) and (f) to the appropriate court, and”,

and

(b) by deleting subsection (4).

Amendment of section 34 of Act of 2012

52. Section 34 of the Act of 2012 is amended—

- (a) in subsection (4)(b), by substituting “section 37(3) (as amended by *section 55* of the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*)” for “section 37(2)(a)”, and
- (b) in subsection (5), by deleting the words “and the approved intermediary concerned”.

Amendment of section 35 of Act of 2012

53. Section 35(1) of the Act of 2012 is amended by substituting the following for paragraph (e):

“(e) take any step to recover goods in the possession or custody of the debtor, unless title to the goods is vested in the specified creditor or the specified creditor holds security over the goods,”.

Amendment of section 36 of Act of 2012

54. Section 36 of the Act of 2012 is amended—

- (a) in subsection (2), by substituting “A specified debtor” for “Subject to subsection (5), a specified debtor”,
- (b) in subsection (3), by substituting “Subject to subsection (4),” for “Subject to subsections (4) and (5),”, and
- (c) by deleting subsection (5).

Amendment of section 37 of Act of 2012

55. Section 37 of the Act of 2012 is amended by substituting the following for subsections (2) and (3):

“(2) Where—

- (a) a sum is paid by a specified debtor under this section, or surrendered by him or her under subsection (2) or (3) of section 36, that is, or
- (b) the aggregate of the sums so paid or so surrendered is,
 - in an amount that is not less than 50 per cent of the total value of the specified qualifying debts concerned, subsection (3) shall apply.

(3) Where this subsection applies—

- (a) the Debt Relief Notice concerned shall cease to have effect,

- (b) the specified debtor shall stand discharged from all of the specified qualifying debts, and
- (c) the Insolvency Service shall, within 3 months of the date on which paragraph (a) or (b), as the case may be, of subsection (2) applies, remove from the Register of Debt Relief Notices all information recorded in it in respect of the Debt Relief Notice.”.

Amendment of section 39 of Act of 2012

56. Section 39 of the Act of 2012 is amended—

- (a) by designating the section as subsection (1), and
- (b) by inserting the following after subsection (1):

“(2) An application under subsection (1) shall be on notice to the specified debtor and each specified creditor.”.

Amendment of section 43 of Act of 2012

57. Section 43 of the Act of 2012 is amended by inserting the following after subsection (5):

“(6) Where the appropriate court makes a decision under subsection (5) or section 44(4)—

- (a) the Registrar of the appropriate court shall notify the Insolvency Service of the decision, and
- (b) the Insolvency Service, on receipt of the notification under paragraph (a), shall notify the specified creditors concerned of the decision.”.

Amendment of section 45 of Act of 2012

58. Section 45 of the Act of 2012 is amended by inserting the following after subsection (3):

“(4) Where a Debt Relief Notice is terminated under this Chapter, the Insolvency Service shall, within 3 months after the date on which the supervision period concerned would, but for that termination, have ended, remove from the Register of Debt Relief Notices all information recorded in it in respect of the Debt Relief Notice.”.

Amendment of section 46 of Act of 2012

59. Section 46(2) of the Act of 2012 is amended by deleting “without delay and, in any event,”.

Amendment of section 47 of Act of 2012

60. Section 47 of the Act of 2012 is amended—

- (a) by substituting the following for subsection (5):

“(5) The Insolvency Service, with the consent of the Minister, may and, if directed by

the Minister to do so and in accordance with the terms of the direction, shall, following consultation with the Minister for Finance and any other person as the Insolvency Service deems appropriate or as the Minister directs, by regulations provide for any of the following for the purposes of the authorisation, regulation and supervision of approved intermediaries and the protection of debtors and creditors who are or may become specified debtors or specified creditors:

- (a) the requirements applicable to—
 - (i) the authorisation of persons as approved intermediaries under this section, and
 - (ii) the dealings of an approved intermediary with the Insolvency Service;
 - (b) the requirements to be met in the performance of their functions under this Act by approved intermediaries including, without limiting the generality of the foregoing, in relation to:
 - (i) the public interest;
 - (ii) the duties owed to debtors and creditors who are or may become specified debtors or specified creditors;
 - (iii) the professional and ethical conduct of approved intermediaries;
 - (iv) the maintenance of the confidentiality of the information of debtors and creditors who are or may become specified debtors or specified creditors;
 - (v) case management in respect of debtors who are or may become specified debtors;
 - (vi) conflicts of interest;
 - (c) the qualifications (including levels of training, education, expertise and experience) or any other requirements (including required standards of competence) for the authorisation of persons as approved intermediaries under this section;
 - (d) the records, including files and accounts, to be maintained, including in electronic form, by an approved intermediary;
 - (e) the requirements to be met by an approved intermediary when handling complaints against that approved intermediary;
 - (f) any other matter relating to the authorisation, supervision or regulation of approved intermediaries which is incidental to or is considered by the Insolvency Service to be necessary or expedient for the said purposes or all or any of the matters referred to in this subsection.
- (5A) The Insolvency Service may do any thing which is necessary or expedient to monitor an approved intermediary’s compliance with his or her obligations under this Act and regulations made under this Act.”,

and

(b) by inserting the following after subsection (7):

- “(8) Where an approved intermediary resigns from the role of approved intermediary as respects a debtor, he or she shall notify the Insolvency Service of that fact, which notification shall be accompanied by a statement of the reasons for his or her resignation.
- (9) Where, at any time after the debtor has made the confirmation referred to in section 27(3) but before the Debt Relief Notice is issued under section 31, the approved intermediary concerned (‘original approved intermediary’)—
- (a) dies,
 - (b) becomes incapable, through ill-health or otherwise, of performing the functions of an approved intermediary as respects the debtor,
 - (c) resigns from the role of approved intermediary as respects the debtor, or
 - (d) is no longer entitled to perform the functions of an approved intermediary under this Act,
- the debtor shall, as soon as practicable after becoming aware of that fact, appoint another approved intermediary to act as his or her approved intermediary for the purposes of this Chapter.
- (10) (a) Where paragraph (a), (b) or (c) of subsection (9) applies, the debtor concerned shall, as soon as practicable, inform the Insolvency Service of that fact.
- (b) Where an approved intermediary has been appointed under subsection (9), the approved intermediary shall, as soon as practicable, inform the Insolvency Service and, where applicable, a creditor to whom a notification under section 28(2) has been sent, where the period referred to in section 28(3) has not expired, of that fact.
- (11) Where an approved intermediary is appointed under subsection (9)—
- (a) that appointment shall not affect the validity of anything previously done under this Chapter by the original approved intermediary, and
 - (b) references in this Act to an approved intermediary, in relation to the debtor concerned, shall be construed as including references to the approved intermediary so appointed.”.

Amendment of section 49 of Act of 2012

61. Section 49 of the Act of 2012 is amended—

- (a) in subsection (2), by the substitution of “the personal insolvency practitioner, or an employee of that personal insolvency practitioner acting under his or her direction and control, shall hold a meeting” for “the personal insolvency practitioner shall hold a meeting”,
- (b) by the substitution of the following for subsection (5):

“(5) Where a personal insolvency practitioner is appointed under subsection (3), he or she shall stand appointed, and the debtor concerned shall not appoint another

personal insolvency practitioner under that subsection, until such time as—

- (a) where the debtor concerned terminates the appointment of the personal insolvency practitioner as respects the debtor, such termination takes effect in accordance with section 49A,
- (b) where the personal insolvency practitioner resigns from that role as respects the debtor, such resignation takes effect in accordance with section 49B,
- (c) where the personal insolvency practitioner is replaced by reason of being no longer capable of performing, through ill-health or otherwise, or is no longer authorised to perform, the functions of a personal insolvency practitioner as respects the debtor, such replacement takes effect in accordance with section 49C.”,

and

- (c) by the deletion of subsections (6) to (9).

Insertion of sections 49A, 49B and 49C in Act of 2012

62. The Act of 2012 is amended by the insertion, after section 49, of the following sections:

“Termination by a debtor of his or her appointment of a personal insolvency practitioner

49A. (1) A debtor who has appointed a personal insolvency practitioner under section 49(3) may terminate that appointment by giving notice in writing to the personal insolvency practitioner, which notice shall specify the date of the termination and which date shall not be less than one month after the giving of the notice to the personal insolvency practitioner.

- (2) A debtor who terminates an appointment under subsection (1) shall notify the Insolvency Service of that termination as soon as is practicable thereafter.
- (3) A debtor who has terminated the appointment of a personal insolvency practitioner under subsection (1) shall, no later than two months from the date of termination, appoint a personal insolvency practitioner to replace the original personal insolvency practitioner (in this section referred to as a ‘replacement personal insolvency practitioner’) and shall as soon as practicable thereafter notify the Insolvency Service of that appointment.
- (4) Where a replacement personal insolvency practitioner has been appointed under subsection (3), he or she, as soon as practicable thereafter, shall inform the Insolvency Service and the creditors concerned of that fact.
- (5) Where a replacement personal insolvency practitioner is appointed under subsection (3)—
 - (a) that appointment shall not affect the validity of anything previously done under this Chapter, Chapter 3 or Chapter 4, as the case may be, by the original personal insolvency practitioner,
 - (b) a protective certificate, Debt Settlement Arrangement or a Personal Insolvency

Arrangement that is in effect as regards the debtor shall continue to have effect, and

- (c) references in this Act to a personal insolvency practitioner, in relation to the debtor concerned, shall be construed as including references to the replacement personal insolvency practitioner so appointed.

Termination by a personal insolvency practitioner of his or her appointment by a debtor

- 49B. (1) A personal insolvency practitioner who has been appointed by a debtor in accordance with section 49(3) may terminate that appointment by giving notice in writing to the debtor, which notice shall specify the date of the termination and which date shall not be less than one month after the giving of the notice to the debtor.
- (2) A personal insolvency practitioner who terminates an appointment under subsection (1) shall notify the Insolvency Service of that termination as soon as is practicable thereafter.
- (3) A debtor who receives notice from a personal insolvency practitioner of the termination of his or her appointment under subsection (1) shall, no later than 2 months from the date of termination, appoint a replacement personal insolvency practitioner (in this section referred to as a ‘replacement personal insolvency practitioner’) and, as soon as practicable thereafter, notify the Insolvency Service of that appointment.
- (4) Where a replacement personal insolvency practitioner has been appointed under subsection (3), he or she, as soon as practicable thereafter, shall inform the Insolvency Service and the creditors concerned of that fact.
- (5) Where a replacement personal insolvency practitioner is appointed under subsection (3)—
- (a) that appointment shall not affect the validity of anything previously done under this Chapter, Chapter 3 or Chapter 4, as the case may be, by the original personal insolvency practitioner,
- (b) a protective certificate, Debt Settlement Arrangement or a Personal Insolvency Arrangement that is in effect as regards the debtor shall continue to have effect, and
- (c) references in this Act to a personal insolvency practitioner, in relation to the debtor concerned, shall be construed as including references to the replacement personal insolvency practitioner so appointed.

Termination of appointment of a personal insolvency practitioner due to death, incapacity or withdrawal of authorisation

- 49C. (1) Where a personal insolvency practitioner appointed under section 49(3) (‘the original personal insolvency practitioner’)—
- (a) dies,
- (b) becomes incapable, through ill-health or otherwise, of performing the functions

of a personal insolvency practitioner, or

- (c) is no longer authorised to perform the functions of a personal insolvency practitioner under this Act,

the debtor shall, as soon as practicable after becoming aware of that fact, or of being informed of such by the Insolvency Service, and in any event no later than three months thereafter, appoint a replacement personal insolvency practitioner (in this section referred to as a ‘replacement personal insolvency practitioner’) to act as his or her personal insolvency practitioner for the purposes of Chapter 3 or 4, as the case may be.

- (2) Where the debtor appoints a replacement personal insolvency practitioner under subsection (1), he or she shall, as soon as practicable thereafter, inform the Insolvency Service of that fact.
- (3) Where a replacement personal insolvency practitioner has been appointed under subsection (1), he or she, as soon as practicable thereafter, shall inform the Insolvency Service and the creditors concerned of that fact.
- (4) Where a replacement personal insolvency practitioner is appointed by the debtor—
- (a) that appointment shall not affect the validity of anything previously done under this Chapter, Chapter 3 or Chapter 4, as the case may be, by the original personal insolvency practitioner,
- (b) a protective certificate, Debt Settlement Arrangement or a Personal Insolvency Arrangement that is in effect as regards the debtor shall continue to have effect, and
- (c) references in this Act to a personal insolvency practitioner, in relation to the debtor concerned, shall be construed as including references to the replacement personal insolvency practitioner so appointed.”.

Amendment of section 54 of Act of 2012

63. Section 54 of the Act of 2012 is amended in paragraph (c) by substituting “Prescribed” for “Personal”.

Amendment of section 59 of Act of 2012

64. Section 59(2) of the Act of 2012 is amended by substituting “as may be prescribed” for “as may be specified”.

Amendment of section 61 of Act of 2012

65. Section 61 of the Act of 2012 is amended—

- (a) in subsection (1), by substituting the following for paragraph (a)(ii):

“(ii) furnish that certificate together with a copy of the application and the supporting documentation (other than the documents referred to in section 59(2)(f) and (g)) to the appropriate court, and”.

(b) by deleting subsection (4), and

(c) by substituting the following for subsection (11):

“(11) Where a protective certificate is issued under this section, the Insolvency Service shall—

(a) record in the Register of Protective Certificates, in addition to such other details as may be prescribed under section 133(3)(b), the following—

(i) the name and address of the debtor and the date of issue of the protective certificate,

(ii) where applicable—

(I) the extension under this section of the protective certificate, and

(II) the making by the appropriate court of an order under section 63, and the creditor in respect of whom the order has been made,

and

(iii) the date on which the protective certificate ceases, under this Chapter, to be in force,

and

(b) within 3 months of the date on which the protective certificate ceases, under this Chapter, to be in force, remove from the Register of Protective Certificates all information recorded in it in respect of the protective certificate.”.

Amendment of section 62 of Act of 2012

66. Section 62(1) of the Act of 2012 is amended in paragraph (e) by substituting “whether or not” for “unless”.

Amendment of section 65 of Act of 2012

67. Section 65(2) of the Act of 2012 is amended, in paragraph (e)(i), by substituting “sections 48 to 54” for “sections 48 to 53”.

Amendment of section 71 of Act of 2012

68. Section 71(1)(c) of the Act of 2012 is amended by substituting the following for subparagraph (iv):

“(iv) he or she is of the opinion that—

(I) the debtor satisfies the eligibility criteria for the proposal of a Debt Settlement Arrangement specified in section 57,

(II) the proposed Debt Settlement Arrangement complies with the mandatory requirements referred to in section 65(2), and

(III) the proposed Debt Settlement Arrangement does not contain any terms that would release the debtor from an excluded debt, an excludable debt

(other than a permitted debt) or a secured debt or otherwise affect such a debt;”.

Amendment of section 72 of Act of 2012

69. Section 72(1) of the Act of 2012 is amended by substituting “called in accordance with section 70” for “called by the personal insolvency practitioner for the purpose of approving a proposal for a Debt Settlement Arrangement given to the creditors under section 70(3)”.

Amendment of section 73 of Act of 2012

70. Section 73 of the Act of 2012 is amended by deleting subsection (3).

Amendment of section 75 of Act of 2012

71. Section 75 of the Act of 2012 is amended by substituting the following for subsection (1):

- “(1) Where a Debt Settlement Arrangement is approved at a creditors’ meeting in accordance with section 73, the personal insolvency practitioner shall as soon as practicable after the meeting has concluded notify the Insolvency Service and each creditor concerned, which notification shall be accompanied by—
- (a) a certificate with the result of the vote taken at the creditors’ meeting, identifying the number of votes, in value of the creditors present and voting, in favour and against the proposed Debt Settlement Arrangement, and stating that the requisite percentage of creditors referred to in section 73(6) has approved the proposal for a Debt Settlement Arrangement,
 - (b) a copy of the approved Debt Settlement Arrangement, and
 - (c) a statement by the personal insolvency practitioner to the effect that he or she is of the opinion that—
 - (i) the debtor satisfies the eligibility criteria for the proposal of a Debt Settlement Arrangement specified in section 57,
 - (ii) the approved Debt Settlement Arrangement complies with the mandatory requirements referred to in section 65(2), and
 - (iii) the approved Debt Settlement Arrangement does not contain any terms that would release the debtor from an excluded debt, an excludable debt (other than a permitted debt) or a secured debt or otherwise affect such a debt.”.

Amendment of section 76 of Act of 2012

72. Section 76 of the Act of 2012 is amended by substituting the following for subsection (1):

- “(1) On receipt of a notification and accompanying documents from the personal insolvency practitioner pursuant to section 75(1) (as amended by *section 71* of the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*), the Insolvency Service shall—

- (a) notify the appropriate court and furnish to that court a copy of the notification and documents, and
- (b) record the approval of the Debt Settlement Arrangement concerned in the Register of Debt Settlement Arrangements.”.

Amendment of section 78 of Act of 2012

73. Section 78 of the Act of 2012 is amended—

(a) in subsection (2), by substituting “the notification and documents” for “the copy of the Debt Settlement Arrangement”,

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

“(3) Where the appropriate court, for the purpose of its arriving at a decision under subsection (2), requires—

(a) further information, it may request the Insolvency Service to provide this information, and the Insolvency Service shall provide the information requested to the court and to the personal insolvency practitioner concerned, or

(b) further information or evidence, it may hold a hearing, which hearing shall be on notice to the Insolvency Service and the personal insolvency practitioner concerned.”,

(c) by deleting subsection (4), and

(d) by substituting the following for subsection (5):

“(5) For the purposes of subsection (2), the appropriate court may accept—

(a) the certificate of the personal insolvency practitioner referred to in section 75(1) (a) (as amended by *section 71 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013*) as evidence that the requisite percentage of creditors referred to in section 73(6) has approved the proposal for a Debt Settlement Arrangement, and

(b) the statement of the personal insolvency practitioner referred to in section 75(1) (c) (as amended by *section 71 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013*) as evidence of any matter referred to in subsection (2) which is the subject of that statement.”.

Amendment of section 79 of Act of 2012

74. Section 79(3) of the Act of 2012 is amended in paragraph (e) by substituting “holds security” for “has security”.

Amendment of section 82 of Act of 2012

75. The Act of 2012 is amended by substituting the following for section 82:

“Variation of Debt Settlement Arrangement

82. (1) Subject to this section, a Debt Settlement Arrangement may be varied in accordance with its terms.
- (2) A personal insolvency practitioner, whether on his or her own initiative or on a request made in accordance with subsection (3), shall propose a variation of a Debt Settlement Arrangement (in this section referred to as a ‘variation’) where—
- (a) it appears to the personal insolvency practitioner that there has been a material change in the debtor’s circumstances, and
 - (b) the personal insolvency practitioner is satisfied that there is a reasonable prospect that a variation that addresses such circumstances would be approved in accordance with this section.
- (3) A debtor or creditor who is bound by a Debt Settlement Arrangement may request the personal insolvency practitioner to propose a variation of the Arrangement, which request shall be—
- (a) in writing,
 - (b) accompanied by information or evidence to support the assertion that there has been a material change in the debtor’s circumstances, and
 - (c) accompanied by the written consent of the person making the request to the—
 - (i) making by the personal insolvency practitioner of an enquiry under subsection (4), and
 - (ii) disclosure by the personal insolvency practitioner of personal data of the person, to the extent necessary for such an enquiry.
- (4) A personal insolvency practitioner shall, within 21 days of receipt of a request under subsection (3), decide whether paragraphs (a) and (b) of subsection (2) apply in relation to the Debt Settlement Arrangement concerned and, for that purpose—
- (a) may request any further information he or she requires from the person who made the request, and
 - (b) may make such enquiries as he or she considers necessary in order to arrive at his or her decision.
- (5) For the purpose of deciding, whether under subsection (4) or otherwise, whether paragraphs (a) and (b) of subsection (2) apply in relation to the Debt Settlement Arrangement concerned, the personal insolvency practitioner may require the debtor concerned, where necessary with the assistance of the personal insolvency practitioner, to complete a new Prescribed Financial Statement.
- (6) Where the personal insolvency practitioner is satisfied that paragraphs (a) and (b) of subsection (2) apply in relation to the Debt Settlement Arrangement concerned, he or she shall without delay:
- (a) require the debtor concerned, where necessary with the assistance of the personal insolvency practitioner, to complete a new Prescribed Financial

- Statement, unless the debtor has completed a Prescribed Financial Statement under subsection (5) and the information contained in it remains complete and accurate,
- (b) formulate a proposal for a variation,
 - (c) seek the written consent of the debtor to the proposal and to the calling of a meeting of the creditors of the debtor for the purpose of considering the proposal, and
 - (d) where the consent of the debtor referred to in paragraph (c) has been given, arrange for the holding of the meeting referred to in that paragraph.
- (7) When calling a creditors' meeting to be held under this section, the personal insolvency practitioner shall—
- (a) give each creditor at least 14 days written notice of the meeting and the date on which, and the time and place at which, the meeting will be held;
 - (b) ensure that the notice referred to in paragraph (a) is accompanied by—
 - (i) a written proposal for the variation of the Debt Settlement Arrangement,
 - (ii) a report of the personal insolvency practitioner—
 - (I) describing the outcome for the creditors and for the debtor under the terms of the proposal, and
 - (II) indicating whether or not he or she is of the opinion that the debtor is reasonably likely to be able to comply with the terms of the Debt Settlement Arrangement as varied in accordance with the proposal,
 - (iii) the Prescribed Financial Statement completed by the debtor under subsection (5) or (6), as the case may be, and
 - (iv) such other information obtained by the personal insolvency practitioner under this section as he or she considers relevant;
 - (c) lodge a copy of the notice referred to in paragraph (a) and the documents referred to in paragraph (b) with the Insolvency Service.
- (8) The provisions of sections 65 to 69 and sections 72 to 78 (other than subsections (2) and (3) of section 67, sections 72(4), 72(7), 73(2), 75(1)(c)(i) (as amended by *section 71* of the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*), 76(2), 77(3), 78(2)(a)(i) and 78(5)(a) (as amended by *section 73* of the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*)) and section 87 shall apply in relation to a variation of a Debt Settlement Arrangement under this section, subject to the following modifications and any other necessary modifications—
- (a) a reference to a Debt Settlement Arrangement shall be construed as a reference to a Debt Settlement Arrangement as varied in accordance with this Chapter,
 - (b) a reference to a proposal for a Debt Settlement Arrangement shall be construed as a reference to a proposal for the variation of a Debt Settlement Arrangement, and a reference to a proposed Debt Settlement Arrangement shall be construed

- as a reference to a proposed variation of a Debt Settlement Arrangement,
- (c) a reference to a Prescribed Financial Statement shall be construed as a reference to the Prescribed Financial Statement completed by the debtor under subsection (5) or (6), as the case may be,
 - (d) the variation of a Debt Settlement Arrangement shall not have the effect of extending the duration of that Debt Settlement Arrangement beyond the maximum duration permitted under section 65(2)(a),
 - (e) a Debt Settlement Arrangement as varied under this section shall, in addition to containing the information referred to in section 65(2)(e), make provision for the costs and outlays of the personal insolvency practitioner which relate to this section,
 - (f) a reference to a creditors' meeting shall be construed as a reference to a creditors' meeting called under this section, and
 - (g) an adjournment pursuant to section 72(2) may occur once only in the course of a creditors' meeting.
- (9) The voting rights exercisable by a creditor at a creditors' meeting under this section shall be proportionate to the amount of the debt due by the debtor to the creditor on the day on which the vote is held.
- (10) Where—
- (a) on the taking of a vote at a creditors' meeting under this section, the proposal is not approved in accordance with section 73, or
 - (b) the appropriate court upholds the objection of a creditor to the variation of a Debt Settlement Arrangement coming into effect,
- the Debt Settlement Arrangement concerned shall, without prejudice to the other provisions of this Act, continue in effect without being subject to such variation.
- (11) Subsection (10) shall be without prejudice to the entitlement of the personal insolvency practitioner to propose another variation of the Debt Settlement Arrangement in accordance with this section.
- (12) Subject to subsection (13), an unreasonable refusal by the debtor to give his or her consent—
- (a) under subsection (6) to a proposal for a variation or the calling of a creditors' meeting, or
 - (b) under subsection (2) or (6) of section 72,
- shall be grounds for an application under section 83(1)(g).
- (13) A debtor who refuses to give his or her consent under a provision referred to in subsection (12) shall be considered to be acting reasonably where the proposal in relation to which the consent is sought would require the debtor—
- (a) where there has been an increase in the debtor's income, to make additional

payments in excess of 50 per cent of the increase in his or her income available to him or her after the following deductions (where applicable) are made:

- (i) income tax;
 - (ii) social insurance contributions;
 - (iii) payments made by him or her in respect of excluded debts;
 - (iv) payments made by him or her in respect of excludable debts that are not permitted debts;
 - (v) such other levies and charges on income as may be prescribed,
- or
- (b) to make a payment amounting to more than 50 per cent of the value of any property acquired by the debtor after the coming into effect of the Debt Settlement Arrangement that is proposed to be varied, unless receipt of that property had been anticipated by the terms of that Arrangement.
- (14) A reference in this Chapter to a Debt Settlement Arrangement shall be construed as including such an arrangement as proposed to be varied or, as varied in accordance with this section, unless the context otherwise requires.
- (15) In this section, ‘material change in the debtor’s circumstances’ means a change in the debtor’s circumstances that would materially affect his or her ability to make payments, or otherwise perform his or her obligations, under the Debt Settlement Arrangement, and includes an increase or decrease in the extent of the debtor’s assets, liabilities or income.”.

Amendment of section 83 of Act of 2012

76. Section 83 of the Act of 2012 is amended by inserting the following after subsection (3):

- “(4) Where the appropriate court makes a decision under subsection (3)—
- (a) the Registrar of the appropriate court shall notify the Insolvency Service of the decision, and
 - (b) the Insolvency Service, on receipt of the notification under paragraph (a), shall notify the personal insolvency practitioner and the specified creditors concerned of the decision.
- (5) Where the appropriate court decides, under subsection (3), to terminate a Debt Settlement Arrangement, the Insolvency Service shall, on receipt of the notification under subsection (4) of that termination, record the fact of the termination of the Debt Settlement Arrangement in the Register of Debt Settlement Arrangements.”.

Amendment of section 85 of Act of 2012

77. Section 85 of the Act of 2012 is amended by inserting the following after subsection (2):

- “(3) Where subsection (1) applies, the Insolvency Service shall, within 3 months after

the date on which the Debt Settlement Arrangement would, but for that fact, have expired, remove from the Register of Debt Settlement Arrangements all information recorded in it in respect of the Debt Settlement Arrangement.”.

Amendment of section 86 of Act of 2012

78. Section 86 of the Act of 2012 is amended by substituting the following for subsection (3):

“(3) Where the Insolvency Service receives the notice referred to in subsection (1), it shall—

- (a) record the successful completion of the Debt Settlement Arrangement in the Register of Debt Settlement Arrangements, and
- (b) within 3 months of such receipt, remove from the Register of Debt Settlement Arrangements all information recorded in it in respect of the Debt Settlement Arrangement.”.

Amendment of section 91 of Act of 2012

79. Section 91(3) of the Act of 2012 is amended by the substitution of “specified in subsection (1)(i)” for “specified in subsection (1)(h)”.

Amendment of section 93 of Act of 2012

80. Section 93(2) of the Act of 2012 is amended—

- (a) by substituting “accompanied by such fee (if any) as may be prescribed and the following documents:” for “accompanied by the following documents:”,
- (b) in paragraph (c), by substituting “section 91(1)(e);” for “section 91(1)(g);”,
- (c) by inserting the following paragraph after paragraph (c):

“(cc) the declaration in writing of the debtor referred to in section 91(1)(g);”.

Amendment of section 95 of Act of 2012

81. Section 95 of the Act of 2012 is amended—

- (a) in subsection (1), by substituting the following for paragraph (a)(ii):
 - “(ii) furnish that certificate together with a copy of the application and the supporting documentation (other than the documents referred to in section 93(2)(f) and (g)) to the appropriate court, and”,
- (b) by deleting subsection (4), and
- (c) by substituting the following for subsection (11):

“(11) Where a protective certificate is issued under this section, the Insolvency Service shall—

- (a) record in the Register of Protective Certificates, in addition to such other details

as may be prescribed under section 133(3)(b), the following—

- (i) the name and address of the debtor and the date of issue of the protective certificate,
- (ii) where applicable—
 - (I) the extension under this section of the protective certificate, and
 - (II) the making by the appropriate court of an order under section 97, and the creditor in respect of whom the order has been made,
- and
- (iii) the date on which the protective certificate ceases, under this Chapter, to be in force,
- and
- (b) within 3 months of the date on which the protective certificate ceases, under this Chapter, to be in force, remove from the Register of Protective Certificates all information recorded in it in respect of the protective certificate.”.

Amendment of section 96 of Act of 2012

82. Section 96(1) of the Act of 2012 is amended by substituting the following for paragraph (f):

- “(f) take any step to recover goods in the possession or custody of the debtor, whether or not title to the goods is vested in the creditor;”.

Amendment of section 102 of Act of 2012

83. Section 102(7) of the Act of 2012 is amended by substituting “the issue by the appropriate court” for “the Insolvency Service’s issue”.

Amendment of section 107 of Act of 2012

84. Section 107(1)(c) of the Act of 2012 is amended by substituting the following for subparagraph (iv):

- “(iv) he or she is of the opinion that—
- (I) the debtor satisfies the eligibility criteria for the proposal of a Personal Insolvency Arrangement specified in section 91,
 - (II) the proposed Personal Insolvency Arrangement complies with the mandatory requirements referred to in section 99(2), and
 - (III) the proposed Personal Insolvency Arrangement does not contain any terms that would release the debtor from an excluded debt or an excludable debt (other than a permitted debt) or otherwise affect such a debt;”.

Amendment of section 112 of Act of 2012

85. Section 112 of the Act of 2012 is amended by substituting the following for subsection (1):

- “(1) Where a Personal Insolvency Arrangement is approved at a creditors’ meeting in accordance with section 110, the personal insolvency practitioner shall as soon as practicable after the meeting has concluded notify the Insolvency Service and each creditor concerned, which notification shall be accompanied by—
- (a) a certificate with the result of the vote taken at the creditors’ meeting, identifying the proportions of the respective categories of votes cast by those voting at the creditors’ meeting and stating that the requisite percentage of creditors referred to in section 110(1) has approved the proposal for a Personal Insolvency Arrangement,
 - (b) a copy of the approved Personal Insolvency Arrangement, and
 - (c) a statement by the personal insolvency practitioner to the effect that he or she is of the opinion that—
 - (i) the debtor satisfies the eligibility criteria for the proposal of a Personal Insolvency Arrangement specified in section 91,
 - (ii) the approved Personal Insolvency Arrangement complies with the mandatory requirements referred to in section 99(2), and
 - (iii) the approved Personal Insolvency Arrangement does not contain any terms that would release the debtor from an excluded debt or an excludable debt (other than a permitted debt) or otherwise affect such a debt.”.

Amendment of section 113 of Act of 2012

86. Section 113 of the Act of 2012 is amended by substituting the following for subsection (1):

- “(1) On receipt of a notification and accompanying documents from the personal insolvency practitioner pursuant to section 112(1) (as amended by *section 85* of the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*), the Insolvency Service shall—
- (a) notify the appropriate court and furnish to that court a copy of the notification and documents, and
 - (b) record the approval of the Personal Insolvency Arrangement concerned in the Register of Personal Insolvency Arrangements.”.

Amendment of section 115 of Act of 2012

87. Section 115 of the Act of 2012 is amended—

- (a) in subsection (2), by substituting “the notification and documents” for “the copy of the Personal Insolvency Arrangement”,
- (b) by substituting the following for subsection (3):

“(3) Where the appropriate court, for the purpose of its arriving at a decision under

subsection (2), requires—

- (a) further information, it may request the Insolvency Service to provide this information, and the Insolvency Service shall provide the information requested to the court and to the personal insolvency practitioner concerned, or
- (b) further information or evidence, it may hold a hearing, which hearing shall be on notice to the Insolvency Service and the personal insolvency practitioner concerned.”,
- (c) by deleting subsection (4), and
- (d) by substituting the following for subsection (5):

“(5) For the purposes of subsection (2), the appropriate court may accept—

- (a) the certificate of the personal insolvency practitioner referred to in section 112(1)(a) (as amended by *section 85 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013*) as evidence that the requisite percentage of creditors referred to in section 110(1) has approved the proposal for a Personal Insolvency Arrangement, and
- (b) the statement of the personal insolvency practitioner referred to in section 112(1)(c) (as amended by *section 85 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013*) as evidence of any matter referred to in subsection (2) which is the subject of that statement.”.

Amendment of section 116 of Act of 2012

88. Section 116(3) of the Act of 2012 is amended by substituting the following for paragraph (f):

“(f) take any step to recover goods in the possession or custody of the debtor, unless title to the goods is vested in the creditor;”.

Amendment of section 119 of Act of 2012

89. The Act of 2012 is amended by substituting the following for section 119:

“Variation of Personal Insolvency Arrangement

119. (1) Subject to this section, a Personal Insolvency Arrangement may be varied in accordance with its terms.

(2) A personal insolvency practitioner, whether on his or her own initiative or on a request made in accordance with subsection (3), shall propose a variation of a Personal Insolvency Arrangement (in this section referred to as a ‘variation’) where—

- (a) it appears to the personal insolvency practitioner that there has been a material change in the debtor’s circumstances, and
- (b) the personal insolvency practitioner is satisfied that there is a reasonable prospect that a variation that addresses such circumstances would be approved in accordance with this section.

- (3) A debtor or creditor who is bound by a Personal Insolvency Arrangement may request the personal insolvency practitioner to propose a variation of the Arrangement, which request shall be—
- (a) in writing,
 - (b) accompanied by information or evidence to support the assertion that there has been a material change in the debtor's circumstances, and
 - (c) accompanied by the written consent of the person making the request to the—
 - (i) making by the personal insolvency practitioner of an enquiry under subsection (4), and
 - (ii) disclosure by the personal insolvency practitioner of personal data of the person, to the extent necessary for such an enquiry.
- (4) A personal insolvency practitioner shall, within 21 days of receipt of a request under subsection (3), decide whether paragraphs (a) and (b) of subsection (2) apply in relation to the Personal Insolvency Arrangement concerned, and, for that purpose—
- (a) may request any further information he or she requires from the person who made the request, and
 - (b) may make such enquiries as he or she considers necessary in order to arrive at his or her decision.
- (5) For the purpose of deciding, whether under subsection (4) or otherwise, whether paragraphs (a) and (b) of subsection (2) apply in relation to the Personal Insolvency Arrangement concerned, the personal insolvency practitioner may require the debtor concerned, where necessary with the assistance of the personal insolvency practitioner, to complete a new Prescribed Financial Statement.
- (6) Where the personal insolvency practitioner is satisfied that paragraphs (a) and (b) of subsection (2) apply in relation to the Personal Insolvency Arrangement concerned, he or she shall without delay:
- (a) require the debtor concerned, where necessary with the assistance of the personal insolvency practitioner, to complete a new Prescribed Financial Statement, unless the debtor has completed a Prescribed Financial Statement under subsection (5) and the information contained in it remains complete and accurate,
 - (b) formulate a proposal for a variation,
 - (c) seek the written consent of the debtor to the proposal and to the calling of a meeting of the creditors of the debtor for the purpose of considering the proposal, and
 - (d) where the consent of the debtor referred to in paragraph (c) has been given, arrange for the holding of the meeting referred to in that paragraph.
- (7) When calling a creditors' meeting to be held under this section, the personal

insolvency practitioner shall—

- (a) give each creditor at least 14 days written notice of the meeting and the date on which, and the time and place at which, the meeting will be held;
 - (b) ensure that the notice referred to in paragraph (a) is accompanied by—
 - (i) a written proposal for the variation of the Personal Insolvency Arrangement,
 - (ii) a report of the personal insolvency practitioner—
 - (I) describing the outcome for the creditors and for the debtor under the terms of the proposal, and
 - (II) indicating whether or not he or she is of the opinion that the debtor is reasonably likely to be able to comply with the terms of the Personal Insolvency Arrangement as varied in accordance with the proposal,
 - (iii) the Prescribed Financial Statement completed by the debtor under subsection (5) or (6), as the case may be, and
 - (iv) such other information obtained by the personal insolvency practitioner under this section as he or she considers relevant;
 - and
 - (c) lodge a copy of the notice referred to in paragraph (a) and the documents referred to in paragraph (b) with the Insolvency Service.
- (8) The provisions of sections 99 to 105 and sections 108 to 115 (other than subsections (2) and (3) of section 101, sections 108(9), 109(6), 112(1)(c)(i) (as amended by *section 85* of the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*), 113(2), 114(3), 115(2)(a)(i) and 115(5)(a) (as amended by *section 87* of the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*)) and section 120 shall apply in relation to a variation of a Personal Insolvency Arrangement under this section, subject to the following modifications and any other necessary modifications—
- (a) a reference to a Personal Insolvency Arrangement shall be construed as a reference to a Personal Insolvency Arrangement as varied in accordance with this Chapter,
 - (b) a reference to a proposal for a Personal Insolvency Arrangement shall be construed as a reference to a proposal for the variation of a Personal Insolvency Arrangement, and a reference to a proposed Personal Insolvency Arrangement shall be construed as a reference to a proposed variation of a Personal Insolvency Arrangement,
 - (c) a reference to a Prescribed Financial Statement shall be construed as a reference to the Prescribed Financial Statement completed by the debtor under subsection (5) or (6), as the case may be,
 - (d) the variation of a Personal Insolvency Arrangement shall not have the effect of extending the duration of that Personal Insolvency Arrangement beyond the

maximum duration permitted under section 99(2)(b),

- (e) a Personal Insolvency Arrangement as varied under this section shall, in addition to containing the information referred to in section 99(2)(f), make provision for the costs and outlays of the personal insolvency practitioner which relate to this section,
 - (f) a reference to a notification that a protective certificate has been issued shall be construed as a notice under subsection (7) of the calling of a creditors' meeting,
 - (g) a reference to the day or date on which a protective certificate is issued, other than in section 102(7), shall be construed as a reference to the date on which a vote at the creditors' meeting under this section is held,
 - (h) where section 103(3) applied to a Personal Insolvency Arrangement, the variation of that Arrangement shall not operate to alter the period referred to in section 103(11)(a),
 - (i) a reference to the market value attributed to security, or the market value of security determined, in accordance with section 105 shall be construed as the value attributed or determined in accordance with section 105 for the purpose of a variation under this section,
 - (j) a reference to a creditors' meeting shall be construed as a reference to a creditors' meeting under this section,
 - (k) where section 108(4) applied to a creditor, that subsection shall continue to apply to that creditor for the purpose of his or her voting rights at a creditors' meeting under this section,
 - (l) a debt that is an unsecured debt on the date on which the vote at a creditors' meeting under this section is held shall be treated as an unsecured debt, notwithstanding that the debt concerned was a secured debt when the vote on the proposal for the Personal Insolvency Arrangement concerned was held, and
 - (m) an adjournment pursuant to section 109(4) may occur once only in the course of a creditors' meeting.
- (9) Where—
- (a) on the taking of a vote at a creditors' meeting under this section, the proposal is not approved in accordance with section 110, or
 - (b) the appropriate court upholds the objection of a creditor to the variation of a Personal Insolvency Arrangement coming into effect,
- the Personal Insolvency Arrangement concerned shall, without prejudice to the other provisions of this Act, continue in effect without being subject to such variation.
- (10) Subsection (9) shall be without prejudice to the entitlement of the personal insolvency practitioner to propose another variation of the Personal Insolvency Arrangement in accordance with this section.

- (11) Subject to subsection (12), an unreasonable refusal by the debtor to give his or her consent—
- (a) under subsection (6) to a proposal for a variation or the calling of a creditors' meeting, or
 - (b) under subsection (3) or (4) of section 109,
- shall be grounds for an application under section 122(1)(g).
- (12) A debtor who refuses to give his or her consent under a provision referred to in subsection (11) shall be considered to be acting reasonably where the proposal in relation to which the consent is sought would require the debtor—
- (a) where there has been an increase in the debtor's income, to make additional payments in excess of 50 per cent of the increase in his or her income available to him or her after the following deductions (where applicable) are made:
 - (i) income tax;
 - (ii) social insurance contributions;
 - (iii) payments made by him or her in respect of excluded debts;
 - (iv) payments made by him or her in respect of excludable debts that are not permitted debts;
 - (v) such other levies and charges on income as may be prescribed,or
 - (b) to make a payment amounting to more than 50 per cent of the value of any property acquired by the debtor after the coming into effect of the Personal Insolvency Arrangement that is proposed to be varied, unless receipt of that property had been anticipated by the terms of that Arrangement.
- (13) A reference in this Chapter to a Personal Insolvency Arrangement shall be construed as including such an arrangement as proposed to be varied or, as varied in accordance with this section, unless the context otherwise requires.
- (14) In this section, 'material change in the debtor's circumstances' means a change in the debtor's circumstances that would materially affect his or her ability to make payments, or otherwise perform his or her obligations, under the Personal Insolvency Arrangement, and includes an increase or decrease in the extent of the debtor's assets, liabilities or income."

Amendment of section 122 of Act of 2012

90. Section 122 of the Act of 2012 is amended by inserting the following after subsection (3):

- “(4) Where the appropriate court makes a decision under subsection (3)—
- (a) the Registrar of the appropriate court shall notify the Insolvency Service of the decision, and
 - (b) the Insolvency Service, on receipt of the notification under paragraph (a), shall

notify the personal insolvency practitioner and the specified creditors concerned of the decision.

- (5) Where the appropriate court decides, under subsection (3), to terminate a Personal Insolvency Arrangement, the Insolvency Service shall, on receipt of the notification under subsection (4) of that termination, record the fact of the termination of the Personal Insolvency Arrangement in the Register of Personal Insolvency Arrangements.”.

Amendment of section 124 of Act of 2012

91. Section 124 of the Act of 2012 is amended by inserting the following after subsection (2):

- “(3) Where subsection (1) applies, the Insolvency Service shall, within 3 months after the date on which the Personal Insolvency Arrangement would, but for that fact, have expired, remove from the Register of Personal Insolvency Arrangements all information recorded in it in respect of the Personal Insolvency Arrangement.”.

Amendment of section 125 of Act of 2012

92. Section 125 of the Act of 2012 is amended by substituting the following for subsection (4):

- “(4) Where the Insolvency Service receives the notice referred to in subsection (1), it shall—
- (a) record the successful completion of the Personal Insolvency Arrangement in the Register of Personal Insolvency Arrangements, and
- (b) within 3 months of such receipt, remove from the Register of Insolvency Arrangements all information recorded in it in respect of the Personal Insolvency Arrangement.”.

Amendment of section 136 of Act of 2012

93. Section 136 of the Act of 2012 is amended by substituting the following for subsection (1):

- “(1) The Insolvency Service, with the consent of the Minister, may by regulations prescribe a form (in this Act referred to as a ‘Prescribed Financial Statement’) to be used by persons where required under this Part to complete a Prescribed Financial Statement, which form shall provide for the provision of detailed information relating to the income, assets, liabilities and necessary household expenditure incurred by such persons.”.

Amendment of section 161 of Act of 2012

94. The Act of 2012 is amended by the substitution of the following for section 161:

“Regulations that may be made by Insolvency Service regarding personal insolvency practitioners

161. (1) The Insolvency Service, with the consent of the Minister, may and, if directed by the Minister to do so and in accordance with the terms of the direction, shall,

following consultation with the Minister for Finance and with any other person as the Insolvency Service deems appropriate or as the Minister directs, by regulations provide for any of the following, for the purposes of the authorisation, regulation and supervision of personal insolvency practitioners and the protection of debtors and creditors who are or may become parties to Debt Settlement Arrangements or Personal Insolvency Arrangements and the maintenance of public confidence in the operation of Debt Settlement Arrangements and Personal Insolvency Arrangements under this Act:

- (a) the requirements applicable to—
 - (i) the authorisation of persons to carry on practice as personal insolvency practitioners;
 - (ii) the supervision and regulation of persons authorised to carry on practice as personal insolvency practitioners in the performance of their functions under this Act;
 - (iii) the dealings of a person authorised to carry on practice as a personal insolvency practitioner with the Insolvency Service; and
 - (iv) the cessation or transfer of practice by persons authorised to carry on practice as personal insolvency practitioners;
- (b) the requirements to be met in the performance of their functions under this Act by personal insolvency practitioners including, without limiting the generality of the foregoing, in relation to:
 - (i) the public interest;
 - (ii) the duties owed to debtors and creditors who are or may become parties to Debt Settlement Arrangements or Personal Insolvency Arrangements;
 - (iii) the professional and ethical conduct of personal insolvency practitioners;
 - (iv) the maintenance of the confidentiality of the information of debtors and creditors who are or may become parties to Debt Settlement Arrangements or Personal Insolvency Arrangements;
 - (v) case management in respect of debtors by whom a personal insolvency practitioner is appointed; and
 - (vi) conflicts of interest;
- (c) the qualifications (including levels of training, education, expertise and experience) or any other requirements (including required standards of competence, fitness and probity, and required minimum levels of professional indemnity insurance) for the authorisation of persons to carry on practice as personal insolvency practitioners;
- (d) the terms on which indemnity against losses is to be available to personal insolvency practitioners under any policy of indemnity insurance and the circumstances in which the right to such indemnity is to be excluded or modified;

- (e) the records to be maintained and the information and returns, including in electronic form, to be provided to the Insolvency Service by personal insolvency practitioners;
- (f) the requirements to be met by a personal insolvency practitioner when handling complaints against that personal insolvency practitioner;
- (g) the standards to be adhered to by personal insolvency practitioners in regard to advertising under this Act;
- (h) the circumstances and purposes for which a personal insolvency practitioner may charge fees or costs or seek to recover outlay in respect of work done following engagement by a debtor at any time in performing his or her functions—
 - (i) under this Act,
 - (ii) under regulations made under this Act,
 - (iii) under rules of court,
 and the requirements to be met by a personal insolvency practitioner when charging fees or costs or seeking to recover outlays, and
 - (i) any other matter relating to the authorisation, supervision or regulation of personal insolvency practitioners which is incidental to or is considered by the Insolvency Service to be necessary or expedient for the said purposes or all or any of the matters referred to in this subsection.
- (2) The Insolvency Service may do anything which it considers necessary or expedient to monitor a personal insolvency practitioner's compliance with his or her obligations under this Act and regulations made under this Act.”.

Amendment of section 164 of Act of 2012

95. Section 164 of the Act of 2012 is amended by the substitution of the following for subsection (4):

- “(4) An authorisation to carry on practice as a personal insolvency practitioner, unless sooner surrendered or revoked or otherwise ceasing to be in force, shall remain in force for a period to be determined by the Insolvency Service, but such period shall not exceed 5 years from the date on which the authorisation is issued.”.

Amendment of section 37 of Courts of Justice Act 1936

96. Section 37 of the Courts of Justice Act 1936 is amended by the insertion of the following after subsection (1):

- “(1A) Notwithstanding subsection (1), an appeal shall lie to the High Court sitting in Dublin from every judgment given or order or decision made (other than a decision to which section 169(4) of the Personal Insolvency Act 2012 applies) by the Circuit Court in the performance of any function or exercise of any power or jurisdiction conferred on that court by that Act, whether or not oral evidence was given at the hearing or for the determination of the proceedings or matter concerned.”.

Amendment of section 10 of Courts of Justice Act 1947

97. Section 10(12) (inserted by section 194(c) of the Act of 2012) of the Courts of Justice Act 1947 is amended by substituting “specialist judge” for “specialty judge” in both places where it occurs.

PART 9

MISCELLANEOUS

Amendment of section 38 of Courts of Justice Act 1936

98. The Courts of Justice Act 1936 is amended in section 38—

(a) in subsection (1), by substituting the following for paragraph (b):

“(b) in every other case—

- (i) subject to subparagraph (ii), to the High Court on Circuit sitting in the appeal town designated for the appeal in accordance with section 34(2), or
- (ii) where a direction has been given pursuant to section 34(7) in respect of the appeal town in which the appeal, but for such direction, would have been heard, to the High Court on Circuit sitting in such other appeal town, or to the High Court sitting in Dublin, as the case may be, as directed in accordance with section 34(8).”

(b) in subsection (4), by deleting “on the same circuit”, and

(c) in subsection (5)(a), by deleting “in the same circuit”.

SCHEDULE

Sections 14 and 15.

Part 1

EXTENSION OF MONETARY LIMIT OF JURISDICTION OF CIRCUIT COURT

Reference (1)	Number and Year (2)	Short Title (3)	Provision (4)
1.	No. 39 of 1976	Wildlife Act 1976	Subparagraph (ii) of the definition of “appropriate court” in paragraph (b), and paragraph (c)(ii)(I), of subsection (1) (inserted by section 69 of the Wildlife (Amendment) Act 2000) of section 76
2.	No. 1 of 1977	Local Government (Water Pollution) Act 1977	Paragraphs (b)(ii) and (c) (ii) of section 10(1)
3.	No. 22 of 1981	Family Law Act 1981	Section 8(1)
4.	No. 6 of 1987	Air Pollution Act 1987	Paragraphs (b)(ii) and (c) (ii) of section 28A(1)
5.	No. 17 of 1992	Foreshore (Amendment) Act 1992	Paragraphs (b)(ii) and (c) (ii) of section 6(1)
6.	No. 23 of 1993	Animal Remedies Act 1993	Subparagraph (ii) of the definition of “appropriate court” in paragraph (a), and paragraph (b)(ii)(I), of section 25(3)
7.	No. 10 of 1996	Waste Management Act 1996	Paragraphs (b)(ii) and (c) (ii) of section 58(1)
8.	No. 11 of 1996	Harbours Act 1996	Paragraphs (a) and (b) of subsection (6), and paragraph (b) of subsection (12), of section 14
9.	No. 7 of 2001	Finance Act 2001	Section 128(3)(a) (inserted by section 46 of the Finance Act 2011)
10.	S.I. No. 116 of 2003	European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) Regulations 2003	Paragraphs (7)(b) and (8) (b) of Regulation 28
11.	S.I. No. 62 of 2004	European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations 2004	Paragraphs (7)(b) and (8) (b) of Regulation 22

Reference (1)	Number and Year (2)	Short Title (3)	Provision (4)
12.	S.I. No. 1 of 2010	European Communities (Placing on the Market of Pyrotechnic Articles) Regulations 2010	Regulation 21(6)(b)

Part 2

EXTENSION OF MONETARY LIMIT OF JURISDICTION OF DISTRICT COURT

Reference (1)	Number and Year (2)	Short Title (3)	Provisions (4)
1.	No. 10 of 1924	Courts of Justice Act 1924	Clauses (i) to (iii) and (v) of paragraph A of section 77
2.	No. 18 of 1926	Enforcement of Court Orders Act 1926	Section 22(1)
3.	No. 27 of 1976	Family Home Protection Act 1976	Section 10(5)(b)
4.	No. 39 of 1976	Wildlife Act 1976	Subparagraph (i) of the definition of “appropriate court” in paragraph (b), and paragraph (c)(i)(I), of subsection (1) (inserted by section 69 of the Wildlife (Amendment) Act 2000) of section 76
5.	No. 1 of 1977	Local Government (Water Pollution) Act 1977	Paragraphs (b)(i) and (c) (i) of section 10(1)
6.	No. 22 of 1981	Family Law Act 1981	Section 8(2)
7.	No. 6 of 1987	Air Pollution Act 1987	Paragraphs (b)(i) and (c) (i) of section 28A(1)
8.	No. 17 of 1992	Foreshore (Amendment) Act 1992	Paragraphs (b)(i) and (c) (i) of section 6(1)
9.	No. 23 of 1993	Animal Remedies Act 1993	Subparagraph (i) of the definition of “appropriate court” in paragraph (a), and paragraph (b)(i)(I), of section 25(3)
10.	No. 26 of 1995	Family Law Act 1995	Section 42(4)
11.	No. 10 of 1996	Waste Management Act 1996	Paragraphs (b)(i) and (c) (i) of section 58(1)
12.	No. 11 of 1996	Harbours Act 1996	Section 14(6)
13.	No. 7 of 2001	Finance Act 2001	Section 128(3)(b) (inserted by section 46 of the Finance Act 2011)

Reference (1)	Number and Year (2)	Short Title (3)	Provisions (4)
14.	S.I. No. 116 of 2003	European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) Regulations 2003	Paragraphs (7)(a) and (8) (a) of Regulation 28
15.	S.I. No. 62 of 2004	European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations 2004	Paragraphs (7)(a) and (8) (a) of Regulation 22
16.	S.I. No. 1 of 2010	European Communities (Placing on the Market of Pyrotechnic Articles) Regulations 2010	Regulation 21(6)(a)