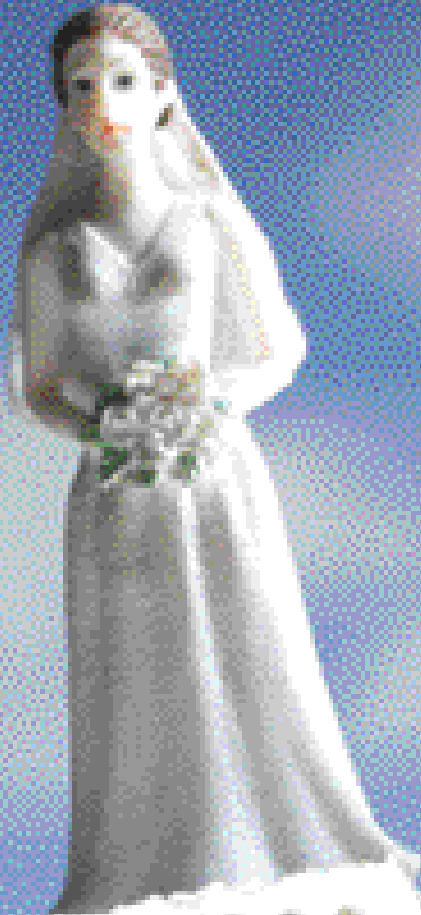


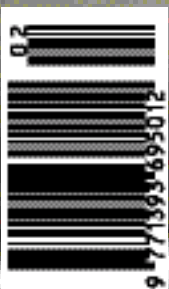
LAW SOCIETY

Gazette

€3.75 Jan/Feb 2007



THE GREAT DIVIDE: Draconian immigration legislation?



INSIDE: WASTED COSTS • INTERVIEWING SKILLS • VAT AND PROPERTY • TEEN BOOT CAMPS • YOUR LETTERS




Law Society of Ireland

Annual Conference 2007

April 11th-15th • Cannes

A limited number of places still remain. Participants are strongly encouraged to register online at www.lawsociety.ie. If online registration is not possible please contact Deborah Hayden or Niamh McCrystal, Law Society Annual Conference 2007, c/o Ovation Group, 1 Clarinda Park North, Dun Laoghaire, Co. Dublin, Ireland.

Tel +353 1 2802641 - Fax +353 1 2602665 - Email lawsociety@ovation.ie

Bank of Ireland 



Solicitors' Mutual Defence Fund Limited

Benson
Associates

Voted
ONLINE PRODUCT
OF THE YEAR
by the Legal Technology
Awards 2006

Q

Why should you subscribe to the Irish property law menu on LexisNexis Butterworths online?



A

To see how it can make your legal research easier and with reduced risk of error.

Access the latest Irish legal property resources, quickly and efficiently with LexisNexis Butterworths. Reduce valuable time and costs spent on research and allow yourself the peace of mind by knowing that the service is backed by the most trustworthy legal information services.

Content includes:

Irish Property Statutes*
Irish Property: Landlord and Tenant*
Irish Land Law*
Casebook on Equity and Trust*
Irish Conveyancing Law*

Irish Law of Specific Performance*
Irish Conveyancing Precedents*
Intangible Property Rights in Ireland*
Co-ownership of Land*
Irish Stamp Duty Legislation*

For more information and a free trial, please contact

Karen Spink on +353 41 98 01692 or Karen.spink@lexisnexis.ie

* Published by Total Publishing Ltd, an independent publisher unconnected with the Reed Elsevier group of companies.

SOLUTIONS FOR KNOWLEDGE-DRIVEN PROFESSIONALS

Talent Development

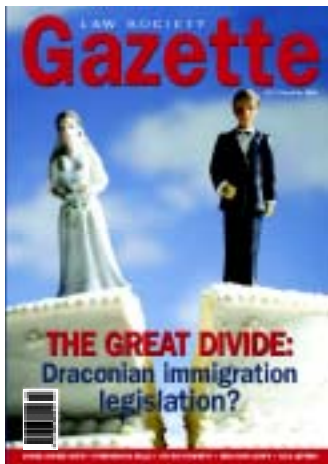
Research & Knowledge Solutions

Practice & Productivity Management

Risk & Compliance



LexisNexis®



On the cover

Proposed new legislation would make it an offence to marry a foreign national in certain circumstances and restrict the right of foreign nationals to validly marry in Ireland. But might it be unconstitutional?

PIC: GETTY IMAGES



Volume 101, number 1
Subscriptions: €57

LAW SOCIETY
Gazette

Jan/Feb 2007



14



40



47

REGULARS

4 **President's message**

7 **News**

Third edition of *Conveyancing Handbook* released on CD-ROM

14 **Viewpoint**

Why 'boot camps' for teenage offenders are a bad idea

16 **Letters**

39 **Practice doctor**

Equity release schemes: things to be aware of

40 **Tech trends**

42 **People and places**

46 **Obituary**

Denis J Bergin, solicitor

47 **Student spotlight**

Sporting glory in the offing for Blackhall GAA team?

48 **Briefing**

48 Council report

49 Practice notes

51 Legislation update: 18 November 2006 – 17 January 2007

55 Solicitors Disciplinary Tribunal reports

57 FirstLaw update

59 Eurlegal: *Competition Authority v BIDS* [2006] IEHC 294

64 **Professional notices**

70 **Recruitment advertising**

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

Editorial secretaries: Catherine Kearney, Valerie Farrell. For professional notice rates (lost land certificates, wills, title deeds, employment, miscellaneous), see page 00.

Commercial advertising: Seán Ó hOisín, 10 Arran Road, Dublin 9; tel: 01 837 5018, fax: 01 884 4626, mobile: 086 811 7116, email: sean@lawsociety.ie.

Printing: Turner's Printing Company Ltd, Longford.

Editorial board: Stuart Gilhooly (chairman), Mark McDermott (secretary), Pamela Cassidy, Paula Fallon, Michael Kealey, Mary Keane, Aisling Kelly, Patrick J McGonagle, Ken Murphy, Philip Nolan, William Prentice.

Get more at lawsociety.ie

Gazette readers can access back issues of the magazine as far back as Jan/Feb 1997, right up to the current issue at lawsociety.ie.

You can also check out:

- **Current news**
- **Forthcoming events**, including *Acting for the Vulnerable Client*, 7 February
- **Employment opportunities**
- **The latest CPD courses**

... as well as lots of other useful information

PROFESSIONAL NOTICES: send your small advert details, with payment, to: *Gazette* Office, Blackhall Place, Dublin 7, tel: 01 672 4828, or email: gazettestaff@lawsociety.ie.
ALL CHEQUES SHOULD BE MADE PAYABLE TO LAW SOCIETY OF IRELAND.

COMMERCIAL ADVERTISING: contact Seán Ó hOisín, 10 Arran Road, Dublin 9, tel: 01 837 5018, fax: 884 4626, mobile: 086 811 7116, email: sean@lawsociety.ie

HAVE YOU MOVED? Members of the profession should send change-of-address details to: IT Section, Blackhall Place, Dublin 7, or to: customerservice@lawsociety.ie
Subscribers to the *Gazette* should send change-of-address details to: *Gazette* Office, Blackhall Place, Dublin 7, or to: gazettestaff@lawsociety.ie

HOW TO REACH US: *Law Society Gazette*, Blackhall Place, Dublin 7.
Tel: 01 672 4828, fax: 01 672 4877, email: gazette@lawsociety.ie

FEATURES

18 COVER STORY: The great divide

Proposed legislation to restrict the right of foreign nationals to validly marry in Ireland is certainly draconian and possibly unconstitutional and incompatible with the ECHR. Emmet Whelan plans the reception

22 VATman returns

The Caped Crusader's more sedate cousin is bringing a new order to the Gotham that is property VAT law, and all businesses with property interests need to consider the implications. Frank Mitchell battles the forces of evil

26 The big interview

You now regret agreeing to serve on that interview panel, and are panicked that you'll ask the wrong questions. But no need to worry: Aoife Coogan provides top tips for getting the most out of your recruitment process

30 Waste not, want not

The recent 'wasted costs order' case shows that extreme caution should be exercised in attempting to apply the wasted costs rules more widely. Roddy Bourke explains

34 Hangin' on the telephone

In-house solicitors represent around 9% of solicitors practising in Ireland. Mark McDermott talks to Aoife Sexton, an in-house solicitor at the top of her game



26



34

The Law Society of Ireland can accept no responsibility for the accuracy of contributed articles or statements appearing in this magazine, and any views or opinions expressed are not necessarily those of the Law Society's Council, save where otherwise indicated. No responsibility for loss or distress occasioned to any person acting or refraining from acting as a result of the material in this publication can be accepted by the authors, contributors, editor or publishers. The editor reserves the right to make publishing decisions on any advertisement or editorial article submitted to this magazine, and to refuse publication or to edit any editorial material as seems appropriate to him. Professional legal advice should always be sought in relation to any specific matter.

Published at Blackhall Place, Dublin 7, tel: 01 672 4800, fax: 01 672 4877.
Email: gazette@lawsociety.ie Law Society website: www.lawsociety.ie

Competition Authority's has been overtaken by

The Council of the Law Society held a special meeting on 19 January to consider in detail the contents of the final report in the Competition Authority's study of the legal profession. That report had been published, at last, on 11 December.

I feel justified in commenting that the report was published 'at last', as it took the Competition Authority no less than five-and-a-half years to produce a report of under 200 pages in length. Indeed, when 50 pages of appendices and many more blank pages are stripped away, the actual report itself, including much internal repetition, is less than 140 pages in length.

As director general Ken Murphy commented on the radio on the day of publication, "If anyone else took that long to produce a report of that size, I think they would probably be criticised for inefficiency – by the Competition Authority."

Of course, a report that is small in size can be heavyweight and compelling in content. Unfortunately, that is not the case with the Competition Authority's final report.

Nothing new

The Society's initial assessment of the report, conveyed by email from me to solicitors two days after the report was published, was that it contained nothing new. The authority's opinions and recommendations are essentially the same as in its preliminary report published in February 2005. The Society delivered a comprehensive 90-page response to that in July 2005, and I would urge that this be read in conjunction with the report. Because the authority's final report is essentially unchanged, the Society's criticisms of the preliminary report still stand. It is disappointing that the balanced and reasoned response from the Society to the authority's preliminary report appears to have fallen on deaf ears.

The authority makes a total of 29 recommendations. The great majority are addressed to the Minister for Justice, Equality and Law Reform. A

total of 13 are addressed to the Bar Council, and just four are addressed to the Law Society.

The authority's view, repeated verbatim from its preliminary report, is that "the legal profession is permeated with serious and disproportionate restrictions on competition. These restrictions emanate primarily from the regulatory rules of the Law Society, the Bar Council and the King's Inns, but also from the relevant legislation." Once again, I wish to place on record that the Law Society strongly disputes these statements. Indeed, there is no evidence in the report to support such findings as far as solicitors are concerned.

The Society is critical of the authority's inconsistent use of evidence in two main respects. First, on the subject of the competitiveness of the market for solicitors' services in Ireland, the authority seems very reluctant to draw the inevitable conclusion, based on the evidence of its own report, that the market is highly competitive. Second, in relation to the system of regulation of the legal profession and on other matters, the authority disregards the need to produce real evidence rather than simply rely on theory and assertions.

As the Society has repeatedly pointed out, the solicitors' profession firmly believes that competition benefits consumers and also the profession itself. Indeed, intense internal and external competition has long been a daily reality for solicitors.

Most importantly, however, some of the Competition Authority's proposals carry a real risk to the independence of the legal profession from unwarranted political intervention. This independence is crucial in a free, democratic society. Access to justice cannot be properly examined only in terms of economics.

By taking no less than five-and-a-half years to produce its final report, it is hardly surprising that the authority has been overtaken by events.

The government's decisions in relation to regulatory reform now exist in the *Civil Law*

report events

(Miscellaneous Provisions) Bill 2006, which has already completed its second stage in the Dáil and is due to be enacted early in 2007. The introduction of a Legal Services Ombudsman and a lay majority on the Law Society Complaints and Client Relations Committee is, in the Society's view, a proportionate response, which we support. On the issue of legal costs, the Haran Working Group on the costs of civil litigation was established, has reported, and is now at implementation stage, all in the space of approximately a year-and-a-half.

Recommendations based on prejudice

Following a thorough analysis, the Council's overall conclusion, endorsed by the Society's legal and economic expert advisors, was that the report is disappointing in the quality of its analysis and conclusions. Its main recommendations are based on *a priori* reasoning, or even prejudice, rather than an informed understanding and accurate assessment of the present situation in the market for legal services in Ireland.

In addition, the report fails to meet the standards of evidence-based policy making that are required for sound regulation, as recently endorsed by the government.

As I have indicated, just four of the authority's recommendations are addressed to the Law Society. These are that the Society should:

- a) Publish criteria for a voluntary system whereby solicitors who wish to represent their clients in Irish could be trained and examined to a high and consistent standard,
- b) Ensure that all unnecessary barriers are removed for lawyers wishing to switch from one branch of the legal profession to the other,
- c) Amend its regulations to enable the designation of solicitors as specialists and to allow such solicitors to advertise as specialists, and
- d) In consultation with the National Consumer Agency, develop a consumer information page on its website.



Perhaps surprisingly, given the Council's generally low opinion of the Competition Authority's report, each of these four recommendations either already represented Council policy or was recognised as a good proposal and adopted as policy at the recent Council meeting.

At the end of the Council meeting, each of the report's sections and each of the 29 recommendations having been considered in turn, there was, perhaps surprisingly also, a general consensus that the process of the study, although tediously over-long, had been on balance a good thing for the Society and for the profession. It had caused us to critically review everything we do. Much improvement and greater understanding of what we do has resulted.

Philip Joyce
President

"If anyone else took that long to produce a report of that size, I think they would probably be criticised for inefficiency – by the Competition Authority"

*'Giving your clients
peace of mind when
investing abroad'*



Tom McGrath & Associates
SOLICITORS AND NOTARIES PUBLIC



Tom McGrath & Associates • 37, Upper Mount Street, Dublin 2, Ireland
Tel: +353 1 6610707 / 6788774 • Fax: +353 1 6114975 • www.tmsolicitors.ie • info@tmsolicitors.ie



Gwen Malone
Stenography Services Ltd.

Ireland's Leading Stenography Agency

- specialising in live feed transcription
- same day transcripts
- arbitrations and depositions
- public inquiries
- litigation support
- exhibit handling and linking
- secure internet transcription
- video conferencing throughout Europe

Law Library, P.O. Box 5939,

145 -151 Church Street, Dublin 7.

tel. 01 878 2000 / 878 2033

fax 01 878 2058

mobile 087 249 1316 D81071 Dublin

enall-guamone@gms.ie



agents for



**RealLegal
Binder**

www.gmss.ie



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

■ WICKLOW

Revamp it up

Lawyers in the county will soon have to contemplate how their business is to be conducted when Wicklow courthouse closes. The courthouse is scheduled for a substantial revamp. Bar association president Cathal Louth has no hard information as to when the closure will take place, other than the fact that it is imminent. However, he believes that the works will involve the closure of the courthouse for up to two years. It is likely, therefore, that court business will be transferred to the already very congested Bray court, which will be good news for those in the northern part of the county but less so, perhaps, for those from the southern boundary.

■ MEATH

Take a seat

Paul Brady, president of the Meath Bar Association, advises that their long-standing county registrar, Maire Teehan, will be retiring this year after three decades of service – a remarkable innings. Paul hopes to arrange a suitable function in her honour shortly, and a function to mark the pending retirement of Judge Brophy.

■ WATERFORD

It would never happen in a golf club

Strange times indeed, it seems, for legal practice in Waterford, which has seen a schism of sorts on gender grounds. Morette Kinsella has replaced Neill Breheny as bar association president – no problems there. However, Morette has since galvanised a large number of practitioners and brought them to London for a bit of R and R



Men in black

The Mayo Solicitors' Bar Association annual dinner dance took place on 8 December (*l to r*): Michael Bohan, Pat O'Brien, Gerry O'Meara, Brian Diamond and Shane Tully

(although no doubt there will be the mandatory CPD element!). No problem there, either – except it was a women-only affair! Would the men ever do such a thing? Surely this event was a one-off and would never be replicated elsewhere – or would it? Morette didn't see any problem with the gender exclusion: "On the contrary, men are more than welcome – as long as they observe the dress code, which on this occasion was just that – dress attire!"

■ DONEGAL

Judge not

Donegal Bar Association President Brendan Twomey is deeply unhappy with the lack of a second judge in both the District and Circuit Courts. With the population of the county standing at 140,000 and a considerable spillover of work from adjoining counties, Brendan is concerned that the Courts Service has not taken these factors into account in managing Donegal and the northern circuit. Commenting to *Nationwide*, he said: "The judges of the District Court in Donegal have publicly highlighted these problems. The bar association

believes that the solution lies in the permanent appointment of a further two judges and calls upon the government to make these appointments without delay and to provide the Courts Service with the necessary resources to give the people of Donegal a properly staffed functioning system of justice."

■ LONGFORD

Make yourself comfortable

Perhaps to the envy of colleagues in other parts of the country, Longford solicitors are settling down into the new surroundings in the refurbished Longford courthouse. According to bar association president Bríd Mimmagh, colleagues, staff, and the general public give the new surroundings the thumbs up. Bríd also advises that the association is hoping to hold a number of seminars before Easter.

■ DUBLIN

Four hundred, four seasons

Four hundred or so colleagues and their partners enjoyed a stunning evening in the Four Seasons on the occasion of the DSBA Ball. Always the social highlight in the legal year,

association president David Bergin was thrilled with the success of the night, which also raised a considerable sum for charity. Guests included several members of the judiciary, our friends in neighbouring bar associations both in Ireland and Britain, as well as Ministers McDowell and Cowen. Congratulations to Orla Coyne, who organised the night for the first time in succession to Helene Coffey.

■ Achilles' last stand

Helene herself, as DSBA programme director, has been busy organising a high-powered seminar on family law that was very well attended. Chaired by Hilary Coveney, now of MOP, speakers included Gerry Durcan SC, solicitor Muriel Walls, legal costs accountant Robert McCann and Dr Carol Coulter. The DSBA's Family Law Committee put together the seminar in recognition of the many developments in the ever-changing area of family law. A conveyancing seminar on the topical subject of management companies and related conveyancing problems is in the pipeline for the end of the month.

■ Mr Justice Diarmuid O'Donovan

The DSBA was further saddened to note the passing of a great friend to it over the years – Mr Justice Diarmuid O'Donovan. Diarmuid was a frequent guest of the association at many of its social activities, in particular the annual ball, where his good humour and friendliness to us all was plain to see. **G**

Nationwide is compiled by Kevin O'Higgins, principal of the Dublin law firm Kevin O'Higgins.

Solicitors appointed to Irish Financial Services Appeals Tribunal

Two solicitors have been nominated by the government, along with five other members, for appointment to the Irish Financial Services Appeals Tribunal. All nominations have been welcomed by the Minister for Finance, Brian Cowen, TD.

The nominations are:

Chairperson – former Supreme Court Judge Francis D Murphy. **Deputy Chairperson** – Inge Clissmann SC. Ms Clissmann is the current chairperson of the University of Dublin, Trinity College's Disciplinary Panel, the Civil Service Disciplinary Appeals Board and a former member of the Garda Complaints Appeals Board. **Lay Members** – Geraldine Clarke (past-president of the Law Society and a solicitor specialising in commercial law), John Fish (a former member of the Council of the Law Society and a solicitor with a wealth of experience in the fields of



Geraldine Clarke

commercial and banking law), John Loughrey, Liam Madden and Paulyn Marrinan-Quinn SC.

The tribunal will be established under the *Central Bank and Financial Services Authority of Ireland Act 2003*. The establishment of the tribunal follows the introduction of the Administrative Sanctions



John Fish

Procedure for the Financial Regulator in 2004.

The 2003 act provides that appeals against certain decisions made by the Financial Regulator will be heard and determined by the Irish Financial Services Appeals Tribunal. Whether the decision is appealable to the tribunal is defined in the relevant piece of legislation from which the

decision derives, depending on whether it is a banking, insurance or investment matter. Administrative sanctions decisions may be affirmed, varied, substituted or remitted. In addition, some decisions by the Financial Regulator relating to the Administrative Sanctions Procedure may be set aside by the tribunal. An appellant dissatisfied with the final outcome may appeal a decision of the tribunal to the High Court.

“The establishment of the Financial Services Appeals Tribunal is an important further step in ensuring the integrity of the regulatory regime for financial service providers in this country,” said Minister Cowen. “I wish the new members the very best in the important role they are about to assume.”

The tribunal will be based at: First Floor, Frederick House, 19 South Frederick Street, Dublin 2.

Small Claims Court goes online nationwide

The procedure for the Small Claims Court has gone online in a total of 16 pilot District Court (Small Claims) offices nationwide.

The pilot offices are Dublin, Swords, Dun Laoghaire/Bray, Carlow, Cavan, Clonakilty, Cork, Killarney, Limerick, Listowel, Mallow, Swords, Tralee, Trim, Wexford and Castlebar. Applications can be lodged online in either Irish or English. Claimants can apply at: www.smallclaims.ie.

From your desktop in areas as far apart as Donegal, Dublin or Dingle, claimants can have instant access to this small fee, hassle-free system – without



having to attend a court office, which may be many miles away and, in the past, involved a return visit with a completed form.

The online system enables complainants to:

- Lodge their small claims application online without the need to attend or contact

their local small claims office,

- Pay the appropriate court fee online,
- By logging on to the system through the use of a PIN number, monitor the progress of an application as it progresses through the small claims process.

The system has been available online since November, since when 21% of all small claims applications received in the Dublin District Court have been lodged online.

The system will remain in pilot phase until the end of January 2007 and the Courts

Service will then start implementing the system in all 45 Small Claims offices nationwide. This will be completed by the end of April 2007. At that stage, the public throughout the country will have online access to the system.

In 2007, additional online applications will see:

- The High Court Case Management System go online and allow access to information on High Court cases by lawyers and the public via www.courts.ie, and
- The introduction of a system allowing for the payment of court fines online.

Conveyancing Handbook goes digital with 3rd edition

The Law Society and its Conveyancing Committee have just published the 3rd edition of the Society's *Conveyancing Handbook* on CD-ROM.

This is an updated compilation of recommendations, practice notes and articles on conveyancing practice and procedure issued by the Conveyancing Committee from the late 1970s up to July 2006.

This is the first edition of the handbook to be published on CD. The move to the newer medium recognises the profession's increasing use of information technology in everyday conveyancing practice.

A free copy of the CD handbook was distributed by the Law Society to all practising solicitors in January and will, no doubt, have received a test run on members' computers by now. The CD was designed in a straightforward format that should be familiar to users of the previous hard-copy editions of the handbook. This will ensure that the conveyancing practice notes continue to be easily accessible to practitioners. There is a 'help' file on the CD and some useful instructions on the CD case that will assist with installation and any technical queries.

In preparing the 3rd edition, some practice notes that are no longer relevant to current conveyancing practice have been omitted. However, in some other cases it has been decided to retain older practice notes in order to reflect the historical position regarding particular practices and procedures, as it was felt that this would be of assistance, even where current practice and procedure may be different. Some other practice



notes have been brought up to date by way of updates printed in bold type at the foot of the practice notes or by way of the footnotes in italics in the page margins.

Website aides

The appendices contain some of the more frequently-requested precedent documentation, along with some Revenue statements of practice on stamp duty and capital taxes. The committee strongly recommends that practitioners use the websites of bodies such as the Revenue and the Property Registration Authority (Land Registry) to keep up to date with their practice directions and

statements of practice. The committee also recommends that practitioners use the very helpful precedent documentation and other practice aids, such as practice notes and submissions, in the members' area of the Law Society's own website.

It is expected that the 3rd edition of the *Conveyancing Handbook* will continue to assist practitioners in following good conveyancing practice in particular areas. The Society would like to thank all current and former members of the Conveyancing Committee for their invaluable contributions over the years and for practice notes produced by them that have been used in the three editions of the handbook to date.

The Society would also like to thank current and former secretaries to the Conveyancing Committee who coordinated the publication projects, together with Law Society staff members who designed and typeset this and previous editions of the handbook.



Law School welcomes New Jersey AG

The Law School welcomed a distinguished guest speaker in Peter C Harvey, attorney, on 12 January. Mr Harvey has just completed a four-year term as Attorney General for New Jersey in the United States. He is the first African-American to serve in this role. Mr Harvey spoke on the 'Role of the US Attorney General' and proved to be an arresting and charismatic speaker. Mr Harvey has recently joined the distinguished New York law firm Patterson Belknap as a litigation partner

PRE-NUPTIAL STUDY GROUP ANNOUNCED

The membership of the Pre-nuptial Study Group has been announced by the Minister for Justice, Equality and Law Reform. The group has been established to study the operation of the law in relation to pre-nuptial agreements.

Ms Inge Clissmann, an expert in family law, will chair the group.

The other members are:

- Ross Aylward LLB
- Marie Baker SC
- Margaret Bannon advisory counsel, Office of the Attorney General
- Stephanie Coggans, managing solicitor, Law Centre, Legal Aid Board, Monaghan
- Louise Crowley, solicitor and lecturer, Faculty of Law, UCC
- John Kenny, Department of Justice, Equality and Law Reform.

The Tánaiste has asked the group to report to him and to make recommendations for change in the law, as it considers necessary, by 31 March 2007. It is the Tánaiste's intention to publish the report and any recommendations made.

PROFITABLE PRACTICE?

Following on from the success of her Mayo seminar 'Six Steps to a Profitable Practice' last October, Helen Burns of Action International is planning to hold seven group-coaching sessions exclusively for Mayo solicitors in 2007.

Her group-coaching sessions will show practitioners how to:

- Get more done in less time,
- Get more clients more easily,
- Learn the six keys to a winning time, and
- Know your figures and what to do with them.

For further details and bookings, email Helen at: helenburns@action-international.com, phone 087 286 3977, or visit her website: www.actioncoaching.com/helenburns.

Tribunal judge delivers HLJ lecture

This year's *Hibernian Law Journal* Annual Lecture took place in the Law School on 19 December. The guest speaker was the President of the International Criminal Tribunal for Rwanda, Judge Erik Møse. The lecture was chaired by President of the Irish Human Rights Commission Dr Maurice Manning.

Judge Møse, a native of Oslo, has sat on the tribunal since May 1999. He presented his audience with some sobering facts, in particular his estimate that more than 100,000 people may have been involved in carrying out the Rwandan genocide.

He stated his belief that the conditions for genocide could arise anywhere, particularly in



At the *Hibernian Law Journal* Annual Lecture in the Law School on 19 December were (back, l to r): Emer O'Connor, TP Kennedy (the Law Society's director of education), Paul Ryan, Judge Erik Møse (guest speaker), Rosemary Wall, John Hugh Colleran, Sinéad Hayes, Maeve Regan, (front, l to r): Éadaoin Rock, Julia Emikh and Jennifer Tuite (editor)

authoritarian states where one group of people was consistently subjected to propaganda asserting that another group was sub-human.

However, Judge Møse's description of the ongoing work of the tribunal and the dedication of its staff was heartening. The tribunal's remit

concerns only the leaders that were responsible for the genocide. Those tried have included military and political leaders, senior media figures and some high-ranking clergy.

Since the tribunal hearings began in January 1997, 32 judgments have been handed down. Among the tribunal's 27 convictions was the first ever conviction of a prime minister for genocide. Jean Kambanda, the Rwandan prime minister who presided over the genocide, pleaded guilty before the tribunal and was given a life sentence. Judge Møse emphasised that life sentences handed out by the tribunal do literally mean imprisonment until death.

ONE TO WATCH: NEW LEGISLATION

Employment Permits Act 2006

This act was signed on 23 June 2006, and was brought into effect on 1 January 2007 by SI 682 of 2006. SI 683 of 2006 prescribes fees and certain procedures.

Introducing the bill, the Minister for Enterprise, Trade and Employment, Micheál Martin, identified two key objectives:

- To provide a statutory framework for the implementation of an active, managed economic migration policy, involving 'green cards', an intra-company transfer scheme and a revised work permit system;
- To establish a number of protections for migrant workers;
- At the time of writing, the minister was due to announce details of the new scheme on 24 January, to come into effect on 1 February 2007.

In managing the supply of labour for the economy, the minister identified three courses: the upskilling of Irish workers through the 'One Step Up' initiative, maximising the use of the 200 million workforce in the

European Economic Area (of which the Irish workforce is two million), and, lastly, sourcing key skills from outside the EEA. This act applies to the last category.

Statutory basis

The act puts existing administrative practice on a statutory basis, and does not introduce major changes. It amends and adds to the *Employment Permits Act 2003*. The system continues to be vacancy driven and involves either an employer or the foreign worker applying for the permit in relation to a specified job. The act enables the minister to make regulations, and he announced the following scheme, to be introduced this year (not included in the provisions of the act):

- Salary range €30,000 – €60,000 (restricted list of occupations) and over €60,000 (more extensive list of occupations) – permit a 'green card'. Sectors likely to be included are IT and communications, health-care, construction, financial services, engineering, pharmaceuticals, and sales and marketing.

The permit will be initially granted for two years, renewable for three years, giving rise to the possibility of indefinite renewal thereafter. 'Green card' holders will be entitled to bring spouses and families with them, and spouses will be entitled to work without a work permit. However, the 'green card' as described is not equivalent to the US green card, which allows free mobility of employment and does not have to be renewed.

- Re-establishment of an intra-company transfer scheme for temporary (up to five years) trans-national management transfers.
- Salary up to €30,000 (very restricted list of occupations) – permit not a 'green card', initially granted for two years, renewable for three years, giving rise to the possibility of indefinite renewal thereafter. Nothing was said about family reunification.

Employment permit

Application for an employment permit may be made by an employer or

a worker, subject to the existence of a job offer. Contractors and related persons bringing in workers may also apply, but not employment agencies. Employment permits are granted to the employee concerned, not the employer, but the employer gets a copy if he or she has made the application. Sections 6 and 7 set out the information to be supplied with the application for a permit, including any previous visit to the state or request for permission to land.

A permit applied for by a worker will generally operate to permit the worker to work in a specified economic sector, for up to two years. Information stated on the permit must include a description of the job, the terms of remuneration and any deductions, the requirement to pay the minimum wage (but not registered employment or statutory agreements, if applicable), and the right to apply for a new permit.

A summary of the main employment rights of an employee are also to be included with the permit (s9). The cost of a permit, set out in SI 683 of 2006, remains at

Apartment law change

The National Consumer Agency – the country's consumer watchdog – says that there is more protection for someone buying a €30 kettle than a €300,000 apartment. National Consumer Agency chairwoman, Ann Fitzgerald, has recommended that estate agents should provide potential apartment buyers with details of existing and projected service charges and sinking funds.

The government says it is to establish an interdepartmental committee to develop legislation to govern the operation of property management firms for apartment complexes and other multi-unit developments.

Addressing a conference organised by the Law Reform



Tánaiste Michael McDowell

Commission at Blackhall Place on 25 January, the Tánaiste and Minister for Justice Michael McDowell said that the current legal framework was “ill-suited in

many ways” for dealing with problems arising with apartment accommodation. The government was determined to address the problem and difficulties that had arisen in recent years, he said. The government is preparing draft legislation to establish a Property Services Regulatory Authority to oversee the operation of property management companies and their agents.

The new legislation is expected to take account of the fact that apartment owners, as members of a property management company, may have little experience of running a company, as well as having little awareness about their rights and responsibilities.

■ NATIONAL MINIMUM WAGE

The national minimum hourly rate has increased from €7.65 per hour to €8.30 per hour from 1 January 2007, as announced by the Minister of State Tony Killeen on 20 December 2006, by the *National Minimum Wage Act 2000 (National Minimum Hourly Rate of Pay) Order 2006 (SI No 667 of 2006)*, made under the *National Minimum Wage Act 2000*. The minister also announced that this figure would be further increased to €8.65 with effect from 1 July 2007.

■ EYBA TO MEET IN NI

The next European committee meeting of the European Young Bar Association (EYBA) will be held in Belfast on 16-17 March 2007. Information from www.eyba.org.

€500 per year, that is, €1,000 for the first two years and €1,500 for the following three years. It appears to be payable by ‘the applicant’, whether employer or worker (s12, refusal to grant permit).

The act also provides that an employer must show that no EEA national was available for the job and that over 50% of the existing employees are EEA nationals. If an application is refused, the refusal may be appealed within 21 days, and the person deciding the appeal must be a different and senior officer (s13). An application may be refused for a number of reasons, including if the foreign worker commenced employment in the state in the previous 12 months and already has an employment permit. This seems to imply that workers will be expected to stay in their original jobs for at least one year, and may be problematic in cases of exploitation.

The act provides for ministerial discretion on the number of permits to be issued and the criteria for the exercise of this discretion

are set out. The minister may also make regulations to govern the granting and renewal of permits, including limiting the number to be granted, the categories of employment, qualifications and skills and the duration of permits. The minister must take note of certain considerations in monitoring the working of the system, including economic and social development and competitiveness in the state.

Protections for migrant workers

The functions of the Minister for Enterprise, Trade and Employment (processing of applications, grant, refusal, revocation and renewal) may be delegated to the officers of another minister, which leaves open the possibility that these functions may, in time, be subsumed into INIS (Irish Naturalisation and Immigration Service) (s36).

Different types of abuse of an employment permit are offences (ss18 and 19). The minister may renew a permit for a period up to three years, or if the permit has

been in force for over five years, it may be renewed for an indefinite period.

To give greater protection to migrant workers, s23 explicitly prohibits certain behaviour by employers:

- Any charge for the application for or renewal of the permit (where the employer has made the application),
- Any charge for recruitment expenses,
- Any charge for an amount already paid to the worker towards his or her travelling expenses incurred in taking up employment in the state,
- Retention of any of the worker's personal documents, including passport.

Breach of these prohibitions is an offence. If the employment ends, the permit must be surrendered to the minister within four weeks, and failure to do so is an offence. Whistleblower protection is introduced by s26 against penalisation for making a complaint to the authorities or giving evidence in

any proceedings under this legislation. The employer must keep specified records for at least five years (s27). The time limit for summary prosecution of an offence is extended to 24 months, but the only penalties are fines or imprisonment – not a prohibition against the employment of other non-nationals by an exploitative employer. If an offence is committed by a body corporate, s33 imposes personal responsibility on officers of the company and management.

CPD seminar

Readers may be interested to know that a CPD seminar will be held on ‘Employment Rights of Immigrants and Other Issues’ on 3 March 2007 from 2-6pm in the Education Centre, Blackhall Place, and will be addressed by Ciaran O'Mara, Barry Walsh, Noeline Blackwell, Elaine Mettler and Geraldine Hynes. **G**

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

SUPPORT SERVICES FOR MEMBERS

NEW LOCUM RECRUITMENT REGISTER LAUNCHED

Support services executive Louise Campbell explains the Society's new facility for solicitors seeking, or seeking employment as, a locum

The Society is delighted to announce the launch, from February 2007, of its new on-line 'locum recruitment register'. This register is co-ordinated by Trina Murphy, recruitment administrator, who can be contacted at the Society's Cork office, Courthouse Chambers, 27-29 Washington Street, email: t.murphy@lawsociety.ie, or direct dial phone number: 021 422 6203.

Until now, Trina accepted curricula vitae (CVs) from solicitors seeking employment as a locum, which she provided on request to members seeking to employ a locum. However, in recognition of the urgency that often surrounds the need to employ a locum, the Society has developed a new user-friendly, computerised, self-service register, based largely on the trainee recruitment register, already available on the Society's website.

From February 2007, the new locum recruitment register will be available on the Society's website. It will allow a solicitor seeking employment as a locum to load their CV on the website, to be viewed by members seeking to employ a locum, who can then make direct contact. Once the solicitor has secured a locum position, they can remove their CV from the website.

Full information and user instructions for the new locum recruitment register are available on the website. Trina is available to deal with any queries, but here are answers to some of the more obvious questions:

How do I join the register?

A solicitor wishing to join the register can apply online. Once the application is completed, the CV will be displayed on the register immediately.

- 1) Open the Law Society website, www.lawsociety.ie.
- 2) Click on 'employment opportunities' and, in the drop-down, click on 'locum recruitment'.
- 3) You will enter the section to join the locum recruitment register. Click on the word 'here' to join the register.
- 4) In the next screen, click on the button 'not registered'.
- 5) You will be asked to agree to the terms and conditions of the locum recruitment register. Agree to same and click on 'continue'.
- 6) You will be prompted to enter your contact details, email address and a password.
- 7) To complete the registration process an email will be sent to your email address. Go to your inbox and click on the link provided in the email. You will 'log in' using your email address and password.
- 8) You will be prompted to enter your preferred geographical location and upload your CV, then click the 'submit' button.

I am currently on the locum recruitment register, how do I stay on it?

Post registration, your CV will remain on the register for 21 days, after which failure to log into your account will cause an automatic email to be sent to you, warning that your CV will be deleted if you fail to log in within the following seven days.



How can I remove my CV from the register?

On receiving the seven-day warning email above, do not log in to your account, which will be closed on the seventh day.

I am on the locum recruitment register. How do I update/replace my CV or change my preference of geographical location?

- 1) Open the Law Society website, www.lawsociety.ie.
- 2) Click on 'employment opportunities' and, in the drop-down, click on 'locum recruitment.'
- 3) You will be prompted to enter your email address and password, and then click 'log in'.
- 4) You will then be in your account, re-select your preference of geographical areas and/or click the 'upload' button to re-attach your new CV.
- 5) Finally, click on the 'submit/update' button.

I was on the locum recruitment register and I accidentally did not renew my account. When I log in, it tells me it is an invalid email address or password. How do

I re-activate my account?

You must start from the beginning and join the register again, as per the instructions given above.

I am a solicitor who wants to employ a locum. How do I view the locum CVs?

- 1) Log in to the members' area of the Law Society website www.lawsociety.ie.
- 2) Click on 'locum solicitors', and click 'here' for details of CVs currently on the register.
- 3) You will be asked to agree to the terms and conditions of the locum recruitment register. Agree to same and click on 'continue'.
- 4) You can either choose to view 'all' CVs on the register or 'select' specific geographical locations. Click 'search' to view the CVs.
- 5) After reviewing the CVs, you can make direct contact with the locum of your choice.

Extended employment register

Trina also co-ordinates the employment register, which has recently been extended to allow members advertise for all roles within a legal office, not just qualified solicitors. This was the subject of an e-zine article in January, entitled 'Situations Vacant'. Trina is available to deal with any queries in relation to the employment register. **G**

Louise Campbell, support services executive, Law Society of Ireland, Blackball Place, Dublin 7, tel: 01 881 5712, email: l.campbell@lawsociety.ie.



Constitutional and ECHR rights of Irish-born children

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

In a case on the grant of residence to parents of Irish-born children born before 1 January 2005 (*Bode and Others v The Minister for Justice, Equality and Law Reform, the Human Rights Commission and the AG as Notice Parties*, 14 November 2006, High Court), Ms Justice Finlay Geoghegan held that the minister, in taking a decision to refuse a parent's application under the IBC/05 scheme, acted in breach of the rights of the citizen child under article 40.3 of the Constitution and acted incompatibly with the state's obligations under article 8 of the ECHR.

The IBC/05 scheme

The IBC/05 scheme was developed by the minister to deal with the status of parents of Irish citizen children (IBCs) born before 1 January 2005 in Ireland, who obtained Irish nationality because of the law in place at the time. Non-national parents of such children were invited to apply under the scheme, and 16,693 were given leave to remain; 1,119 cases were refused, 566 because of insufficient evidence of continuous residence, including the applicants in these eight judicial review cases.

It was accepted that no consideration was given by or on behalf of the minister to the position or rights of the IBCs. The minister argued that he was not obliged to consider the rights of the children because a refusal would not alter the status in the state of the refused parent, refusal did not involve deportation or breaking up of a family unit, the scheme granted a privilege to which the parents

had no entitlement, and, prior to any deportation or change to family circumstances, the rights of the family would be considered under s3 of the *Immigration Act 1999* (deportation).

It was accepted that the minister was an organ of state performing a function within the meaning of s3(1) of the *ECHR Act 2003*, and was obliged to do so in a manner compatible with the European convention. It was also accepted that he was bound to act in accordance with the principles of constitutional justice and fair procedures.

The Constitution

Judge Finlay Geoghegan held that the child was central to the IBC/05 scheme. It was not suggested that any interest of the common good required the minister to take a decision to refuse an application under the scheme without considering the rights of the citizen child, or that any interest in the common good required a decision to refuse an application by reason of a failure to establish continuous residency. She held that, as the child's rights were continuous, when the minister established the scheme and considered applications under it, he was bound to act in a manner consistent with the state guarantee to defend and vindicate, as far as practicable, the personal rights of the citizen child. *Prima facie*, a positive decision on residence for the parent would defend and vindicate the child's personal rights. The ability to consider the child's rights at a later date did not relieve him of his obligation to do so when

deciding an application under the scheme.

She then went on to consider how the minister could make a decision consistent with a child's rights, and referred to Murray J's judgment in *AO and DL v The Minister for Justice* ([2003] 1 IR 1 at p91), where he said that a decision must not be disproportionate to the ends sought to be achieved. She summarised the position:

- The citizen child of non-citizen parents *prima facie* has the right to remain in the state;
- While in the state, the child has rights, including that relevant decisions must consider his or her best interests;
- These are qualified rights, as the minister, having had due regard to these rights and taking account of all relevant factual circumstances, may decide for good and sufficient reason, in the interests of the common good, that the parent be refused permission to remain in the state, even if this is a decision that is not in the best interests of the child;
- In making this decision, he must ensure that it is not disproportionate to the ends to be achieved.

Obligations under the ECHR

Turning to the minister's obligations under the *ECHR Act 2003* to have regard to the child's rights to private and family life, Finlay Geoghegan J rejected the argument that these rights were not engaged because the scheme was not decisive in the deportation of a family member.

Although she found that the

children enjoyed family lives with their parents, she could not find that the decision to refuse residency under the scheme constituted an interference with the right to respect for family life.

However, she found that the children had a private life in the sense of personal and social relationships that result from living in the state, referring to *Sisojeva v Latvia* (ECtHR, 16 June 2005). She recognised that the effective exercise of the children's right to a private life is dependent on their parents' presence and ability to work to provide for them and provide a stable environment.

She held that the minister must, at a minimum, determine whether the child's right under article 8 requires the parent to be given permission to remain and, in making that decision, must seek to strike a fair balance between the rights of the child and the community.

This decision does not finally decide the position of the 566 parents of IBCs refused permission to remain because of questions over continuous residence. The decision is under appeal to the Supreme Court, and if that court upholds this decision, permission to remain may still be refused if the minister decides for good and sufficient reason that this is required in the common good, and that his decision is proportionate when weighed against the interests of the child in question. **G**

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

Teenage boot camps:

Boot camps for young offenders have failed in other jurisdictions, most notably in the US. Calls for their introduction in Ireland should be resisted, argues former New York public defender, John Moher

Children's rights have featured prominently in political debate and public discourse in Ireland of late. The idea of a referendum on children's rights has been seen as an overdue but welcome development. The debate on the age of consent continues. Notably in this debate, and perhaps for the first time, the views of young people were sought by lawmakers on an issue affecting them.

Against this backdrop, the call for boot camps for young offenders seems out of step with progressive thinking on questions of juvenile justice. Moreover, a cursory look at experiences in other jurisdictions reveals the idea to be ill-conceived at best.

Boot camps have been part of the penal system in the US for over 20 years. While two-thirds of US states now operate



Drop and give me 30: the number of known deaths of youths in US boot camps since the '80s

boot camps, failure and scandal have recently seen the number of camps fall. In the US, as elsewhere, boot camps are modelled on military training camps. This form of punishment is also referred to as 'shock incarceration', in which inmates are required to engage in physically demanding military-style exercises, drills

and marching. On-the-spot push-ups and other punishments are meted out for minor infractions of strict rules. Reportedly, in one camp, heavier punishments included dragging around a large log for days. (Apparently, the log was euphemistically christened 'learning experience'.)

In most US states, a place in

boot camp is offered to young offenders as an alternative to a prison term or, in some cases, probation. Usually, offenders who fail or refuse to complete their sentence in boot camp must then serve the prison sentence in full. Provision also exists, however, for directly sentencing offenders to a period in boot camp.

Beneath the surface

The superficial appeal of boot camps in the US (and elsewhere) was obvious. Boot camps represented a tough, no-nonsense response to anti-social and criminal behaviour, while ostensibly reducing prison overcrowding, costs and recidivism. Studies in the US have consistently shown, however, that boot camps do not reduce rates of re-offending among former inmates. In fact, early comparative studies

©2005 KPMG, an Irish subsidiary and a member firm of the KPMG network of independent member firms affiliated with the KPMG network, a Swiss corporation. All rights reserved.



There's more to business than meets the eye.

KPMG Forensic can help you find out what really lies beneath the surface, helping you make sure that your clients' business decisions are fully informed. Our services range from contract disputes, loss assessment, insurance claims, company valuations, professional negligence and corporate governance issues through to assessing anti-money laundering controls, fraud investigations and fraud risk assessments.

To find out more about how we can help you manage these and other related issues, contact Andrew Brown at andrew.brown@kpmg.ie or Kieran Wallace at kieran.wallace@kpmg.ie or call us on +353 1 470 1000.

www.kpmg.ie

AUDIT • TAX • ADVISORY





a proven failure

showed that recidivism was higher among former boot-camp inmates than former prisoners. Given that the US has more prisoners as a proportion of its population than any other country – and counting – boot camps can hardly be said to have reduced prison numbers or costs.

The *New York Times* has reported that there have been 30 known deaths of youths in boot camps in the US since their introduction in the early '80s. South Dakota's juvenile boot camp gained particular notoriety. In July 1999, Gina Score, a 14-year-old girl, collapsed during a forced run. According to the official investigation, she then frothed at the mouth, lost control of her bladder and became unresponsive. According to the report, boot-camp staff would not allow other inmates to help her and she lay where she fell for three-and-a-quarter hours before being taken to hospital.

Her temperature was at least 108 degrees. She was pronounced dead an hour after she was admitted.

Florida governor, Jeb Bush, an erstwhile supporter of boot camps, signed legislation on 1 June last banning boot camps in his adopted state after a 14-year-old boy died at the hands of drill instructors at a boot camp in Panama city, Florida. The instructors reportedly beat the child and then inserted ammonia tablets into his nose in an attempt to revive him, thereby suffocating him.

In contrast, studies show that camps in the US that are staffed by counsellors and teachers and that place little or no emphasis on militaristic routine have achieved results. These camps are more akin to retreats than boot camps and do not seem to be the type of environment that boot-camp proponents here have in mind.

The lessons from the United States should be obvious, even

to the most populist of 'law and order' politicians. Sending children, however troublesome, with emotional, psychological or, in many cases, substance-abuse problems to an army barracks to be 'straightened out' is not the answer. Military training is intended to prepare willing, healthy adults for a career in the military and, if necessary, to go to war. It is patently unsuited to the needs of unwilling, troubled teenagers. A stint in the Curragh is not going to undo years of family problems, addiction, abuse or whatever the causes of the offending behaviour may be.

No quick fix

While of course there is no quick-fix solution, certain provisions of the *Children Act 2001* represent a more constructive approach to tackling juvenile offending. Placing an eligible young offender under the supervision

of a juvenile liaison officer, convening conferences to be attended by the child, family members and others, mediating between the child and the victim and then devising appropriate action plans seems likely to produce better results than square bashing. And, from a practitioner's point of view, probation, counselling or treatment are better options than boot camps, as lawyers can maintain contact with their clients – in military-style boot camps, the clients are shut off from the outside world. Of course, not every young offender qualifies for a diversion programme but, for those who meet the requirements, it at least offers a chance to make amends and turn away from a nascent life of crime. **G**

John Mober is a barrister and practised as a public defence attorney in New York for three years.

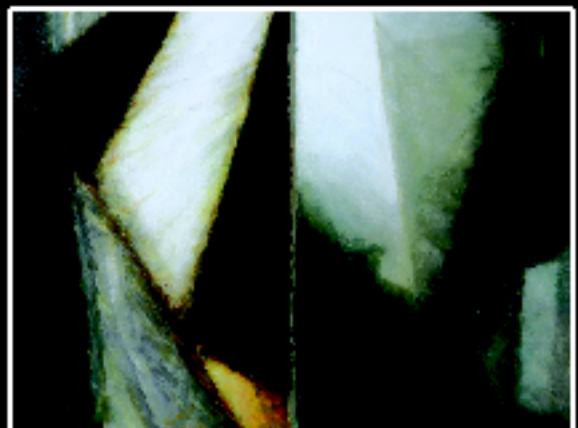
DOLAN'S
ART AUCTION HOUSE

LIMERICK 6th March

GALWAY 30th April

GALWAY'S PREMIER ART AUCTION HOUSE

www.dolanart.com | 001 781769 | info@dolanart.com



Light Kites Over Island, oil by John Shinnors



Letters

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

Family law facilities ‘a complete disgrace’

From: Alan Shatter, Gallagher Shatter, 4 Upper Ely Place, Dublin 2

The fourth floor of O’Dhalaigh House, adjacent to the Four Courts, was, to my best recollection, opened approximately 15 years ago for the hearing of High Court family law cases. When it first opened, there were five private consultation rooms and one large waiting room in which those involved in family hearings and their lawyers could meet. There was also, unsurprisingly, separate toilets for men and women.

Since this building first opened, the number of family cases being dealt with in the courts has multiplied considerably. They include not only divorce and judicial separation cases, but also highly emotive and contentious adoption proceedings. Due to the nature of these proceedings, individual family members require the privacy of consultation rooms in which to engage with their lawyers, and such privacy of discussion can occasionally facilitate the resolution of cases that, until the day scheduled for a court



Áras Uí Dhálaigh: totally inadequate facilities

hearing, proved impossible to settle reasonably between parties. Today, most family litigants and witnesses have to sit along a narrow corridor waiting for cases to be heard or to be called to give evidence.

Over the years, the facilities available to those involved in family conflict in the High Court have considerably deteriorated. There are now only three consultation rooms. For some time, in one of these, the heating has not worked and the window is broken. The larger room that was available to provide additional facilities has

notice on it: ‘Court Services – staff only’. It has a number of tables, chairs and couches and is vacant most of the time, apparently only utilised by court staff in the building for their lunchtime sandwiches. In the last few weeks, the toilets on the floor have been closed to the general public and cannot be used by those involved in family law cases and their witnesses or lawyers representing them. The toilets are now apparently reserved for the judiciary only and the court staff. The lifts that service the building rattle and shake. People have been trapped in them in the past and

there is concern that people will again be trapped in the future.

With regard to court matters, most Fridays are reserved for what is known as the ‘Family High Court Callover’ and ‘Directions List’. Between 40 to 60 lawyers and litigants can be squashed into Court 19 or into the even smaller Court 21. Both are now totally inadequate for such court sittings. To add to the chaos, in the early years of High Court family law matters being dealt with in O’Dhalaigh House, there were regularly two High Court judges available to hear family cases. We now have at least double the number of High Court judges and it is a rarity for there to be available any more than one judge for the hearing of High Court family cases. Similar problems apply in many of the locations used for the hearing of Circuit Court and District Court family law matters.

In short, the facilities are totally inadequate and a complete disgrace. It is time the Law Society did something about it. The Court Services Executive should also explain why family litigants are so disgracefully treated.

Who will be the stakeholder?

From: Gerard McGrath, McGrath McGrane, The Capel Buildings, Mary’s Abbey, Dublin 7

As practitioners, we are often asked to advise house purchasers as to whether they are wise to pay a booking deposit to secure a property. Usually after enquiring after the

identity of the estate agent, we advise that it is safe to go ahead and that the deposit is refundable.

We have a case where Gunne estate agents in Lucan released the booking deposit to their (builder) client before the advice note went out. The

advice note confirmed that Gunne’s client would hold the deposit as stakeholder.

Our client changed his mind about the property and requested return of the deposit. Gunne informed him that he would have to wait for their client to put them in funds.

Eventually they did.

It seems that before we can advise as to whether it is in order to pay a booking deposit, we now must advise the client to obtain confirmation as to who will be the stakeholder in order that they can make an informed decision on the risk.

'Outstanding' result in search for Murdoch successor

From: Henry Murdoch BL,
Glenageary, Co Dublin

Thank you for publishing my letter (*Gazette*, October 2006), in which I sought a lawyer to undertake the task of updating my book *Murdoch's Dictionary of Irish Law*. I was delighted with the response. A total of 23 lawyers, both solicitors and barristers, applied for the information pack on the work involved, and most subsequently expressed their continuing interest.

The calibre and interest of

the applicants was excellent. In the final analysis, it was a very difficult decision to select the successful applicant, but I do believe that the process, which commenced in the *Gazette*, has identified an outstanding person to take my dictionary forward into the future.

He is Dr Brian Hunt BL, who is a consultant to Mason Hayes & Curran, working in the public and administrative law unit and heading up the firm's public affairs practice. He was awarded a PhD by Trinity

College, Dublin for his doctoral thesis on legislation. He has published widely, including articles on legislation and contributions to legal books. He recently completed his own book on the *Irish Statute Book*.

While I have written individually to all the applicants, I would like to take this opportunity to thank them collectively for their interest. Many have written back to me generously wishing the successful 'updater' every success.

'Division of labour'

From: Fergus O'Regan,
O'Regan Little,
Solicitors, 27 Lower
Bridge Street, Dublin 8

I am writing simply to compliment the *Gazette* and the author [Richard Grogan] on the excellent and very informative article referred to above, as run in your *Gazette* of November 2006.

Recoverable party-and-party costs – addendum

In the December 2006 issue, Seamus Sadlier of McCann and Associates submitted a letter about a recent ruling made in the Dublin Circuit Court by Ms Susan Ryan, the county registrar, concerning party-and-party costs of dealing with the Personal Injuries

Assessment Board (PIAB). *Gremlins in the system – that's what we call her – led to the last two paragraphs, dealing with the county registrar's decision, being omitted.*

Seamus offers the following on the outcome of the

case: "The defendant argued that the plaintiff was not obliged to have legal representation and these costs were contrary to the spirit of the *PIAB Act*."

The county registrar held with my submissions and allowed the solicitor's costs in

relation to the PIAB aspect.

I can confirm that the defendant did not appeal this ruling and that this is the first decision where PIAB costs were recovered on taxation.

I have no doubt this ruling will be of interest to your readers."



THE LAW SOCIETY'S *Law Society of Ireland* TRIBUNAL AND ARBITRATION CENTRE

- Five minutes walk from Four Courts
- Tribunal room with PA system and public gallery
- State-of-the-art recording system
- Five consultation rooms

Also suitable for:

- Board meetings
- Training sessions

Tribunal and arbitration facilities are located at Bow Street Friary, Dublin 7:

For booking phone: 01 804 4150



THE great

Proposed legislation to restrict the right of foreign nationals to validly marry in Ireland and to make it an offence to marry a foreign national in certain circumstances is draconian and possibly unconstitutional and incompatible with the ECHR. Emmet Whelan plans the reception

With the increase in immigration and globalisation, relationships between Irish citizens and foreign nationals are on the increase. When you fall in love, legal issues may be the last thing on your mind. However, marriages involving foreign nationals may cause significant immigration difficulties, and couples should be worrying about more than just the wedding reception. They must be aware that, while spouses of EU citizens have a right to reside in Ireland, marriage to an Irish citizen does not guarantee any similar right. In fact, proposed legislation will significantly restrict the right of a foreign national to validly marry in Ireland and make it an offence to marry a foreign national in certain circumstances.

For immigration purposes, foreign nationals fall into two categories: EU citizens and non-EU citizens. In this context, an EU citizen is a national of the European Union, an EEA member state (Iceland, Liechtenstein, Norway) or Switzerland. A non-EU citizen refers to all other persons. Marriage to an EU citizen will normally cause very few immigration difficulties. EU citizens have strong rights to remain in Ireland pursuant to the EU treaties and independent of any marriage.

Tying the knot

Interestingly, family members of EU citizens also have strong rights to remain in Ireland, irrespective of their nationality. This includes the spouse of an EU citizen and even extends to unmarried partners in a “durable relationship”, a member of the household of an EU citizen or a person requiring the personal care of an EU citizen. Direct descendants or “dependent

direct relatives” of either spouse may also gain residence. These rights are detailed in the *European Communities (Free Movement of Persons) Regulations 2006*. There is a limited basis for residency to be refused on the grounds of public policy, public security or public health, and family members will retain rights of residence even after the death of the EU citizen or after a divorce or annulment.

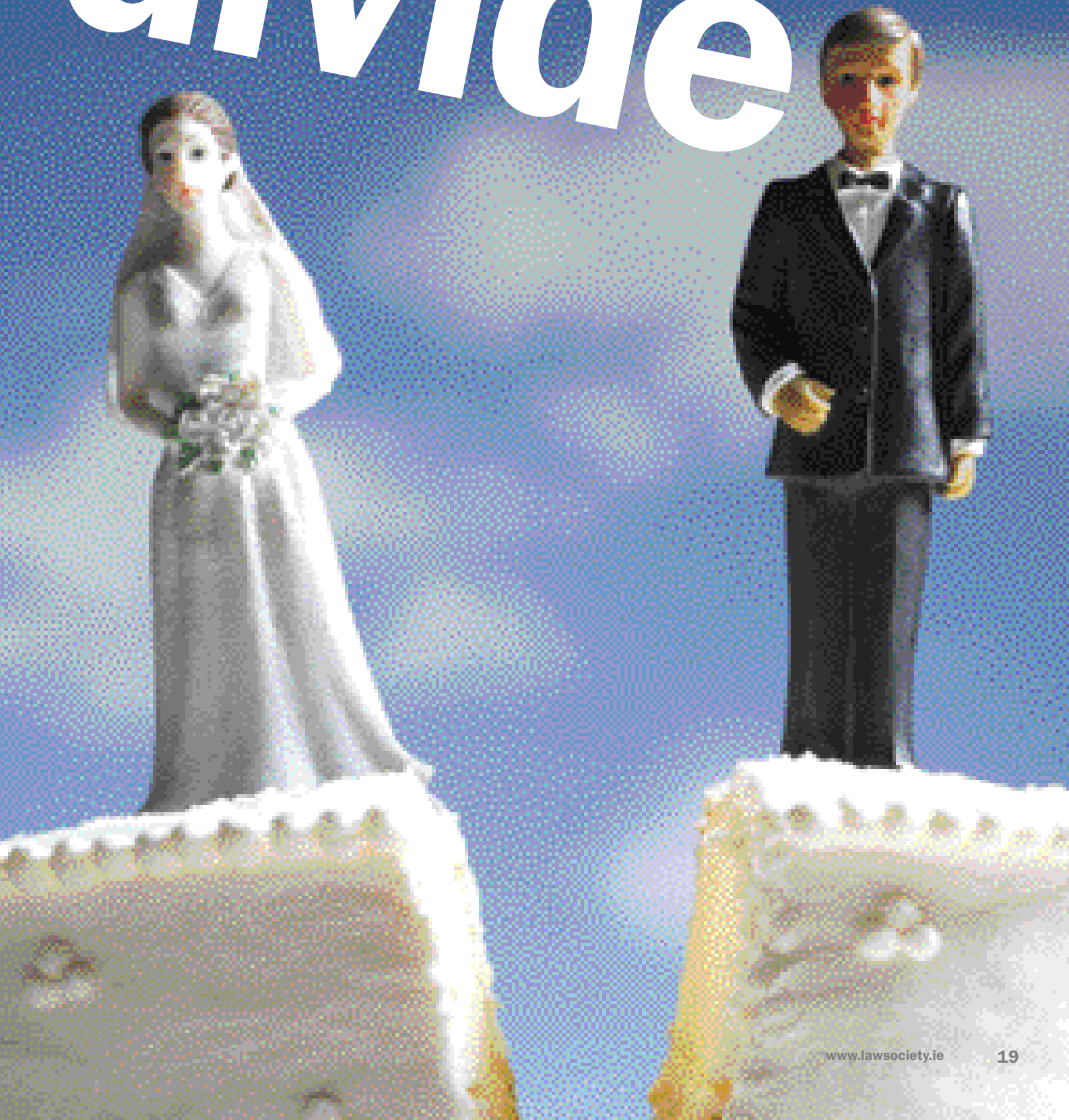
But the strong statutory rights afforded to EU citizens are in stark contrast to the protections afforded to Irish citizens. Article 41 of the Constitution acknowledges that ‘the family’ is deserving of special protection, but there is no statutory protection afforded to non-EU family members of Irish citizens. An Irish citizen may apply to the Minister for Justice for their non-EU spouse to live in Ireland, but this is not an automatic right. Often, the issue of marriage will be canvassed when a non-EU citizen is applying for a visa to enter Ireland. The minister may refuse the right to reside, or the right to entry, simply on the basis of undefined immigration policy. This is a matter entirely at the discretion of the minister and no criteria are set out for making such decisions.

To assess the matters that the minister must take into account, we must look to the interpretation of article 41 in Irish case law. Two recent cases dealt with the family rights of non-EU parents of Irish citizen children: *Fajujono v Minister for Justice* and *AO & DL v Minister for Justice*. The parents argued that the constitutional right to ‘family life’ entitled them to remain in Ireland to care for their Irish children. The Supreme Court found that the deportation of parents of Irish citizens was only acceptable where strong reasons, related to the common good, required such

MAIN POINTS

- **Marriages involving foreign nationals**
- **Immigration, Residence and Protection Bill**
- **European Convention on Human Rights**

divide



LOOK IT UP

Cases:

- *Amrollahi v Denmark* [2002] ECHR 585
- *AO & DL v Minister for Justice* [2003] 1 IR 1
- *Cirpaci & Cirpaci v Minister for Justice* [2005] 2 ILRM 547
- *Fajujono v Minister for Justice* [1990] ILRM 234
- *Sen v Netherlands* [2003] 36 EHRR 7

Legislation:

- *European Communities (Free Movement of Persons) Regulations 2006* (SI 226 of 2006), transposing Directive 2004/38/EC
- *European Convention on Human Rights*
- *European Convention on Human Rights Act 2003*

Literature:

- *Scheme of Immigration, Residence and Protection Bill* (September 2006) – www.justice.ie

removal. The minister had to take into account all the circumstances of the case, including the integration of the family and any time spent in Ireland. However, this would be weighed against the immigration history of the parents and the necessity to uphold “the integrity of the asylum and immigration systems”. It was valid for the minister to deport, if he considered all the circumstances of the case. The Supreme Court subsequently confirmed this reasoning in *Cirpaci & Cirpaci v Minister for Justice*, where the rights of a non-EU spouse were in issue.

Honey, I'm home

Mr Cirpaci was a Romanian asylum seeker and arrived in Ireland with his Romanian wife and three Romanian children. During the course of his asylum application, he began a relationship and co-habited with an Irish citizen, Ms McCormack. Mr Cirpaci's application for asylum was refused and he was deported. After his deportation, Mr Cirpaci divorced his Romanian wife and married Ms McCormack in Romania. Ms McCormack returned to Ireland to care for her children from a previous relationship. Mr Cirpaci made an application for a visa to join her in Ireland, which the Minister for Justice refused.

The court found that the minister refused the visa on the basis of two valid policy reasons. Firstly, the refusal was required to uphold “the integrity of the asylum and immigration systems”. Secondly, the minister required that the couple reside as a family unit for “an appreciable period of time” between the date of the marriage and the application. While the minister had to take all circumstances into account, the Cirpaci marriage was particularly short and Mr Cirpaci had a chequered immigration history. He had been refused asylum in two other EU countries and had a deportation order outstanding against him in Ireland.

While the court confirmed the validity of the minister's decision, the decision gave a clear indication that a constitutional right to reside in Ireland may exist in certain circumstances. The duration and stability of the marriage will be important criteria. It would seem essential that the couple have lived together as husband and wife, but there is no indication as to what would qualify as an “appreciable period of time”. The marriage should be valid under Irish law, an important consideration for marriages in foreign countries. The character of the spouse, his or her immigration status and any criminal record will all be factors weighed in the balance.

Trouble and strife

The *European Convention on Human Rights Act 2003* confirms the relevance of the *European Convention on Human Rights* in Irish domestic law. The 2003 act imposes a duty on all organs of the state to perform

their functions in a manner compatible with the convention and to take “due account” of the convention and its interpretation by the European Court of Human Rights. Article 8 of the European convention provides for the right to respect for family life. The Minister for Justice and the courts should appropriately consider the European Court's approach to article 8, but to date they have not done so.

According to the European Court, it is up to the Minister for Justice to justify any deportation, or refusal of entry, which interferes with family rights. He will need to satisfy the European Court in relation to two specific issues. Firstly, any interference with family rights must be in pursuance of one of the legitimate aims specified in article 8(2), such as preventing crime or protecting the economic well-being of the country. In *Cirpaci*, the minister's aim was to uphold “the integrity of the asylum and immigration systems” and to prevent foreign nationals entering into marriages to side-step the immigration process. However, neither reason is a legitimate aim as specified in article 8(2).

Secondly, the minister must establish that the action was necessary in the interest of pursuing that legitimate aim – that is, the action cannot be disproportionate to the aim being pursued. The refusal of entry to Mr Cirpaci was not necessary to achieve the aim of preventing ‘sham marriages’. Other reasonable options should have been pursued, such as an assessment of the marital status after a period of time following entry into Ireland.

When considering the issue of proportionality in recent jurisprudence, a fundamental question for the European Court is whether it would be possible for the family involved to locate elsewhere: see *Amrollahi v Denmark* and *Sen v Netherlands*. The Supreme Court did not refer to the most recent European case law and had little regard to the fact that Mrs Cirpaci and her children would have significant difficulties in moving to Romania, a country whose language they did not speak and whose culture they were unfamiliar with. Would it even have been legally possible for the family to enter and remain in Romania?

Practitioners should advocate the approach of the European Court in representations to the minister, or in any court proceedings. This may be of particular importance for situations outside the usual definition of ‘family life’. The protections in the Constitution are only available where the family life is based on marriage. The convention provides a wider meaning to ‘family life’, which may include unmarried partners in a stable relationship.

Ball and chain

A further difficulty arises in this area. A refusal of a visa application may be appealed internally to an independent officer of the Department of Justice. However, a refusal of an application for residency may not. Also, unlike Britain, Ireland has no

independent immigration appeals body. The only route available to challenge the minister's decision is by way of an application for judicial review to the High Court. The expense and delay involved in such actions is not in the interests of the applicants or the state.

If an applicant wishes to challenge a decision of the minister, a simple procedure of appeal to an immigration appeals tribunal should be available. This tribunal could deal with arguments in relation to article 8 of the convention and provide an easily accessible, and effective, remedy for applicants. Fewer applicants would choose to go to the High Court if a real alternative was available, thereby reducing the legal costs for the taxpayer in defending such matters.

The proposed *Immigration, Residence and Protection Bill* does not address any of the difficulties referred to above. While the Refugee Appeals Tribunal will be reformed to consider protection issues, there will be no similar tribunal to hear appeals of visa or residency decisions. Appeals will continue to be dealt with internally.

More importantly, the bill does not recognise any new rights for family members of Irish citizens, similar to those existing for EU citizens. There is still no right to remain in Ireland for non-EU spouses, family or unmarried partners. The bill contains no

mention of article 8 of the European Convention and sets no criteria for deciding on applications involving family rights.

Instead of helping couples in this situation, the government is actually moving in the opposite direction. The proposed legislation will confirm that marriage to an Irish citizen gives no right to enter or reside in Ireland and will impose further obstacles to Irish citizens marrying foreign nationals. Under the proposed legislation, asylum-seekers will not be allowed to marry in Ireland, unless issued with an exemption from the Minister for Justice. All non-EU citizens (irrespective of their legal status) will have to inform the Minister for Justice three months in advance of the date of marriage. If they fail to do so, the marriage will be void. The legislation makes it an offence to marry a foreign national or to 'facilitate' such a marriage, in breach of the above provisions.

Such draconian legislation may be unconstitutional and incompatible with the European Convention. It certainly smacks of a particularly distrustful view of immigrants, which is far from welcoming. **G**

Emmet Whelan is co-author of A Practitioner's Guide to Asylum and Immigration Law in Ireland, due to be published by Clarus Press later this year.



Legal Aid Board

Training in Collaborative Law/Practice

The Legal Aid Board is delighted to announce that Pauline Tesler is once again coming to Ireland to carry out further training in collaborative practice for lawyers engaged in family law. A significant number of you have already attended a two day basic training course and others have registered your interest in attending this training. Pauline will give two training courses – one aimed at those who have not previously received training and a one day refresher/practice development course for those who have done the basic training. Both courses will take place in Dublin and details are as follows:

Two day basic training course:

Dates: 26th and 27th March 2007
Time: 9.15am to 5.15pm
Venue: Gresham Hotel
Course fee: €250

One day refresher/practice development course:

Date: 29th March 2007
Time: 9.15am to 5.15pm
Venue: Gresham Hotel
Course fee: €125

The fees for the courses are significantly discounted from the actual cost, and will include lunch and light refreshments. The discount is part of the Legal Aid Board's commitment to the collaborative process as a means of resolving family disputes. An application form is available on the Board's website, www.legalaidboard.ie or by contacting Niamh O'Hanlon on 01 6441923 or nmohanlon@legalaidboard.ie. Applications should be forwarded to Niamh O'Hanlon at Legal Aid Board, 47 Upper Mount Street, Dublin 2 (DX 139) with a cheque payable to "Legal Aid Board".

For those of you wondering what collaborative law/practice is about, it is a dispute resolution model that involves, inter alia, a commitment on the part of the clients and solicitors to negotiate a settlement that is fair, round table meetings involving both the solicitors and the clients, and a commitment on the part of the solicitors that they will not go to Court on behalf of their clients (other than to rubber stamp a settlement). An information leaflet on the process is available on the Board's website.

VATMAN

New rules are to radically alter how VAT is accounted for on property transactions. All businesses with property interests – and their professional advisers – need to consider their implications. Frank Mitchell breaks out the calculator

The Revenue Commissioners recently published the *Report of VAT and Property Review*, a 143-page tome on the operational and legislative structure of VAT on property transactions in Ireland.

The report recommends abolishing the existing method of applying VAT to property and replacing it with a system where the majority of property transactions will be exempt from VAT, but with an option to tax in certain circumstances. It also proposes the introduction of a capital goods scheme in Ireland for the first time.

Although it refers to “recommendations”, the report is, in reality, a blueprint of new rules that will come into effect on 1 January 2008. These new rules will radically alter the manner in which VAT is accounted for on property transactions. Every business with property interests needs to consider the impending changes and evaluate not only whether there is any benefit to be gained through delaying or expediting the completion of property agreements, but also whether the agreements being signed can cope with the imminent shift in tax burden.

The big picture

Due to the complex nature of VAT on property, the length of the report and the short space available here, this article will assume that readers already have a degree of familiarity with the existing VAT rules as they relate to property and will provide no more than an overview of the impending changes. The purpose is to inform the reader, using broad brushstrokes, of the nature and magnitude of the impending change. It is in no way a substitute for reading the report itself, which is available online at www.revenue.ie. (All quotations in this article are taken from the report as at December 2006.)

The current treatment

Currently, all leases of developed property that are for a period of ten years or more (long leases) are

taxable provided certain conditions are met. The same is true of the sale of developed property. An entirely different treatment is afforded to leases of less than ten years' duration (short leases), which are exempt from VAT with the option to waive exemption should the lessor deem it desirable. The VAT liability of the lease is, under current rules, independent of the VAT status of the lessee.

The new system

The new system will make two fundamental changes: a large portion of transactions that are currently taxable will become exempt, and Revenue are to introduce a capital goods scheme for the first time in Ireland. Together, these changes are intended to protect the exchequer from VAT avoidance and simplify the system for taxpayers and their advisors.

To understand the difficulties the new rules will cause for businesses, it is important to remember that VAT charged to a business can only be recovered by that business to the extent that it is making taxable supplies (supplies on which VAT is chargeable). Hence, the benefit of charging VAT on the supply of a property is that the VAT on its acquisition/development will be recoverable. Conversely, when the sale or lease of the property becomes exempt under the new rules, the lessor will be unable to recover VAT that it has incurred on the acquisition/development of the property.

The new capital goods scheme will permit or prohibit recovery of VAT based on the use of that property over a ten or 20-year period by requiring an analysis of each year in which the property is used. It is only if the entire property is used in each one of these years for a fully taxable business purpose that the tenant/purchaser will get full recovery. Any exempt use, whenever it might occur in the VAT life of the property, will be penalised.

The function of the new capital goods scheme, which is used in almost all other EU member states,

MAIN POINTS

- Changes to VAT rules in property transactions
- Capital goods scheme
- Financial impact on both lessors and lessees

returns

is to achieve neutrality: the VAT ideal that those inputs that are used for making taxable supplies are recoverable in full and those that are used for making exempt supplies are not recoverable at all.

Sale of buildings

The new legislation is to introduce several novel concepts into Irish VAT law. First among these is the idea of a 'new building':

"VAT will apply to the supply of all new buildings and the land on which they stand. A new building is a building that is supplied within five years of completion of the building. Where the building has been occupied following completion, VAT will apply to a subsequent supply where that supply is made by a business within two years of first occupation."

In addition to the concept of a 'new building', the new legislation will introduce the



VATman: 'De neh neh neh neh neh neh neh'

LANDLORD AND TENANT

Landlord Ltd bought a property for €2 million and incurred VAT of €270,000 on the sale. It is renting the property to Tenant Ltd on a short-term lease, say eight years. Tenant Ltd is entitled to recover 80% of the VAT charged to it and Landlord Ltd waives the exemption in respect of this letting, thus entitling Landlord Ltd to recover the €270,000 VAT it paid on the acquisition of the property. Tenant Ltd pays an annual rent of €100,000.

At present, Landlord Ltd invoices Tenant Ltd annually for rent of €100,000 plus VAT of €21,000. Tenant Ltd can recover €16,800 (80%) of the VAT charged to it. The real cost of the rent to Tenant Ltd is, therefore, €104,200 (€100,000 plus the irrecoverable VAT of €4,200).

Under the new rules, the letting will be exempt and Landlord Ltd will

not be entitled to opt to tax (since Tenant Ltd is in a less than 90% VAT recovery position). Therefore, Landlord Ltd will not be entitled to recover the €270,000 VAT it incurred when it purchased the property. In order to recoup the cost of this irrecoverable VAT, Landlord Ltd will want to increase the rent it charges to Tenant Ltd. Will the terms of the lease allow it to do so? If the terms of the lease merely allow the landlord to charge any applicable VAT but does not allow him to increase the rent so as to offset the cost of its own irrecoverable VAT, then the landlord will suffer the entire brunt of the irrecoverable VAT.

On the other hand, if Landlord Ltd is allowed to increase the rent to €115,000, as none of this €115,000 is VAT, there is no recoverable portion. The real cost of the rent to Tenant Ltd is now €115,000 – an increase of €10,800 per annum.

“There is a real and present need for all those with a property portfolio to consider the extent to which the new rules will impact upon them”

concept of a ‘transformed building’: a building that has, in effect, been ‘made new’. The sale of ‘transformed buildings’ will be liable to VAT on the same basis as ‘new buildings’.

Where a building has not been ‘made new’, it will nonetheless be treated as a transformed building if the expenditure is at least equal to 25% of the sales proceeds: a concept not dissimilar to the concept of development under the current legislation. A building that is neither new, nor transformed, will be considered a ‘used building’: “The supply of used buildings will be exempt from VAT, but the vendor and purchaser will be entitled to opt to apply VAT to that supply, subject to certain conditions.”

So then, the *sale* of a freehold or freehold equivalent interest in a new or transformed building will be liable to VAT and the *sale* of all similar interests in used buildings will be exempt, but with the option to tax in certain circumstances.

Lettings of buildings

A clear distinction is drawn in the new regime between the sale of a freehold or ‘freehold equivalent’ (being a very long lease with a peppercorn rent) and the ‘letting’ of property. Perhaps more fundamentally, however, the current distinction between short leases and long leases is to be abolished: in future these will both be considered lettings:

“The letting of property will be regarded as an exempt supply of services. However, where the tenant’s business is mainly taxable (90% or more), the landlord and tenant will be allowed to elect to have the letting regarded as a taxable supply of services.”

Where the parties are permitted to opt to tax a letting and choose to do so, the annual rent will be taxable at the standard rate (currently 21%) for the duration of the letting, irrespective of the term of the lease.

The biggest issue arises where the parties are not allowed to opt to tax. The consequence of the restriction in the right of the parties to opt to tax is

clear from the economic impact assessment carried out by Goodbody Economic Consultants at the Revenue’s request. Goodbody concludes that there will be an effective increase in rent of up to 11% over and above the rent paid by taxable tenants. This effect will be even more pronounced where a lessee is partially exempt, as will be illustrated by an example (see panel, above).

The example shows just one way how the changes in the VAT legislation will have a real financial impact on both lessors and lessees. Both landlords and tenants need to consider the implications of the new system so that agreements currently being entered into can be drafted so as to accommodate the impending rules.

As mentioned previously, the cornerstone of the new system – and the Revenue’s most formidable weapon in ensuring neutrality – is the capital goods scheme.

Capital goods scheme

The CGS is a mechanism, provided for in the EU *Sixth Council Directive*, that stipulates that when a change from taxable to exempt or exempt to taxable use occurs within a certain time period, an adjustment is carried out on the original amount deducted at the time of acquisition. There will be an adjustment period of 20 years for VAT on the acquisition of a new property or on the transformation of an existing property. A ten-year adjustment period will apply to VAT on the refurbishment of a property. The initial right to recovery will be based on the use of the property during the first 12 months of occupation.

The CGS is perhaps best illustrated by way of a simple example. A Ltd acquires a new property in 2008. VAT of €1million is incurred. If A Ltd uses the building for a fully taxable purpose for the first 12 months of occupation, it will be entitled to recover all of the €1million VAT incurred. In year two, and in every subsequent year, an adjustment calculation is made, and if the use of the building has become exempt, in whole or in part, an

adjustment is made. So if in year four, for example, A Ltd was to use the building for 30% exempt purposes, then there would be a payment due to Revenue of 30% of one-twentieth of the €1million originally recovered (€15,000). If, in the following year, there continued to be an exempt use, then a similar payment would be made for that year. In theory then, the user will get VAT recovery in direct proportion to the use to which the property is put.

Real and present need

Under the new system, the sale of 'new' and 'transformed' buildings will be liable to VAT. The sale of 'used' buildings and all 'lettings' will be exempt from VAT, with the right to opt to tax. It

appears as if the right to tax the sale of used buildings will be available to all parties, but will be available in respect of lettings only where the property is not residential property and the tenant has greater than 90% VAT recovery. The use to which the property is put will determine, on an annual basis, the extent to which input tax is recoverable, in accordance with the capital goods scheme.

The new system will unquestionably bring Ireland more into line with the *Sixth Directive* (albeit that a number of derogations will still be required) and, to the extent that neutrality is achieved, the new system is unobjectionable. However, it is clear that a significant number of transactions will be adversely affected.

There is a real and present need for all those with a property portfolio to consider the extent to which the new rules will impact upon them. Action taken before the new rules take effect should enable most companies to manage the transition successfully and may help others avert a potential disaster. **G**

Frank Mitchell is a Dublin-based barrister specialising in taxation. Prior to commencing practise at the bar, he was a senior manager in PricewaterhouseCoopers' tax litigation team in London.

LOOK IT UP

Legislation:

- EU *Sixth Council Directive* (77/388/EEC)

Literature:

- *Report of VAT and Property Review* (Revenue Commissioners, www.revenue.ie)



Department of Defence
An Roinn Cosanta

Notice re. Invitation to Tender for Legal Drafting Services

The Department of Defence invites tenders from Barristers/Solicitors/Legal Firms for the provision of legal drafting services in respect of Rules of Procedure and Court Martial Rules as provided for in the Defence (Amendment)(No. 2) Bill 2006.

Full details of this tender competition are available on www.etenders.gov.ie
Suppliers who are interested in this competition must register their interest on www.etenders.gov.ie Registration is free of charge and there is no charge for documents.

Please note the deadline for receipt of tenders is 12.00 noon on 12 February, 2007.

THE **big** INTERVIEW

Many law firms are in the thick of their graduate recruitment drives. You've been asked to join the interview panel to help select the most promising applicants. Aoife Coonagh gives her tips for choosing the tops

It's the New Year again, and the graduate recruitment drive is in full swing. You're on the interviewing panel to select the most promising applicants to join your firm. "Yeah, no problem," you told the HR manager. And now you're thinking: "Why on earth did I agree to that? I know nothing about recruitment. What if I ask the wrong questions? How will I know if a final-year student will make partner in the future?"

Before you break out in a cold sweat, keep calm! You can do some preliminary preparation, both mentally and practically. By the time you see the candidates at interview stage, their application forms have been carefully screened. They may also have been at an open evening or presentation, or a group interview where they may have been short-listed. In all likelihood, they already meet the firm's minimum criteria on paper.

Despite the apprehension you might feel right now, the overall recruitment and selection process is very structured. Professional firms and private practices are keenly aware of the legal requirements surrounding the recruitment and selection process. This means that the process is conducted fairly and all candidates are treated equally. The process and the associated documents, such as job descriptions, scoring sheets and application forms, must reflect the criteria you are recruiting against.

Put simply, the whole recruitment process and everyone involved in the various selection methods or activities need to focus on answering three key questions:

- What are you looking for?
- How will you find it?
- How will you put a value on what you find?

Whether you are recruiting for your own private practice or have been drafted into the trainee recruitment process, you need to think about what exactly the ideal candidates should possess. Think back to last year's trainees. Who shone? What was it about them that made them stand out from the others? Were they highly organised, did they show they always got the job done well, or had superb analytical and problem-solving skills?

The really good trainees are usually driven, enthusiastic, client and team oriented. And they 'live' the values of the firm or practice. Agree these criteria in advance, so that you are extremely clear on what you are looking for. Get the job description. Know the main technical, interpersonal skills and qualifications required. Know the criteria for assessment. The application form should assess the skills and competencies your firm requires.

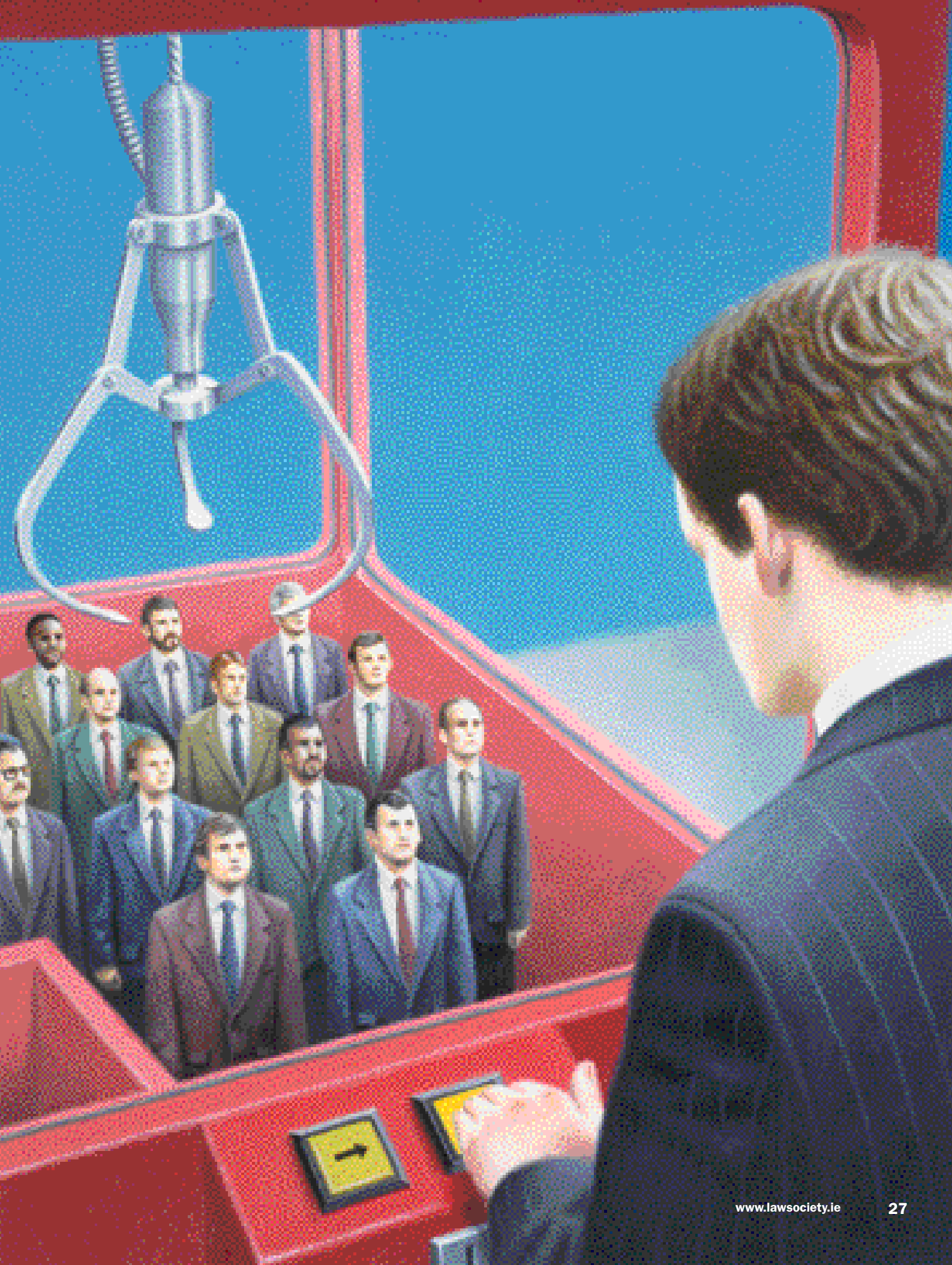
Once you are clear on the requirements of the role and the qualities the ideal candidate should have, the next step is to plan how you will find and measure these at the various stages of the process.

Find out what you're looking for

There are myriad recruitment and selection methods for assessing candidates against the different skills and criteria. Some firms stick to the application form and traditional interview. Other firms use a combination of presentations, group and panel

MAIN POINTS

- **Know what you're looking for**
- **How to find it**
- **Putting a value on the right employee**





Is your Firm getting the best deal from your Bank?

Are you

Happy with the Interest you are Earning?

Happy with the Interest you are Paying?

Getting proper Set-Off Interest?

Paying Uncleared Interest / Surcharge Interest?

Talk to

Kieran Finnan

About a

Banking Health Check

A Nationwide Service to the Legal Profession

Finnan Financial Limited

21 O'Connell Street, Waterford. Phone 051 850672

kieran@finnanfinancial.com www.finnanfinancial.com



Do You Need to ATTRACT BETTER BUSINESS?

4 Sale by Owner

is a property sales service. It can run alongside your existing practise to enhance your business profile and provide clients with a cost effective way of selling property.

- promote your business and client base
- generate goodwill and more profitable legal work

Join the 4 Sale by Owner network.

We supply all documentation, software and website.

Contact James Cahill, Solicitor.

Tel:094 902 5500 or email: info@jamescahill.com



www.4salebyowner.ie

Where there's a will this is the way...

When a client makes a will in favour of the Society, it would be appreciated if the bequest were stated in the following words:

*"I give, devise and bequeath the sum of K euro to the **Irish Cancer Society Limited** to be applied by it for any of its charitable objects, as it, at its absolute discretion, may decide"*

All monies received by the Society are expended within the Republic of Ireland.

"Conquer Cancer Campaign" is a Registered Business Name and is used by the Society for some fund-raising purposes. Cancer Research Ireland is a project of the Irish Cancer Society composed of national and international scientists who adjudicate research applications and award funding to research projects.

4345 Northumberland Rd.,
Dublin 4. Tel. (01) 231 0500

15 Bridge St., Cork.
Tel. (021) 450 9918
Web: www.cancer.ie



INTERVIEW ETIQUETTE AND STYLE

Remember when you did the round of interviews as a graduate? From the moment you arrived, you were making judgments about the firm or the practice. These were based on the people you met, how you were treated and the information you were given. Therefore, at all times, you should treat the candidate as if they are one of your most important clients. Show them all the small important courtesies:

- Offer the candidate a cup of coffee or glass of water,
- Do not keep the candidate waiting – stick to the schedule,
- Be well prepared in advance.

If you are the lead interviewer or chair, cover the following with the candidate at the start of the interview:

- Introduce yourself and say what your position is in the organisation;
- Introduce your colleague(s) on the interview panel;
- Always tell the candidate how you will run the interview, in terms of format and timing.

During the interview you should:

- Use active listening skills. This is particularly important when you are not asking questions.
- Minimise distractions, use comfortable eye contact and attentive posture/body-language.
- Take notes, but make sure these are not distracting.
- Be careful not to be subjective or allow prejudices or personal preferences to cloud your judgment.

At the end of the interview:

- Give the candidate the opportunity for questions;
- Tell them what the next steps are in the process;
- Answer the candidate's questions;
- Tell them about the firm, the job role and how the trainee programme works;
- Use the opportunity to sell your company.

interviews, case studies and psychometric tests to select the brightest talent from the pool of applicants. Ideally, the more evidence you get through different means, the better.

For example, if team working is critical in your firm, then this should be assessed on the application form – look for an example of how and when they contributed to a team. At the open evening, you should watch how they interact with others. Do they take the lead in conversation and do others follow? Are their questions closed or open? Again, you should look for evidence of team working at the interview through examples and behaviours.

At the interview, this means asking the candidate for real concrete examples that show when and how they interacted in a team.

Some candidates talk about their experience in a general way. They don't explain the situation. They are vague about their role and contribution or any issues they had to handle. Listen carefully when they say things like "I was involved" or "We did X". Often they don't claim any credit for the outcome, which is where the evidence lies.

Others do the opposite. They claim credit for it all. As an interviewer, you have to ask the right questions of both types of candidate to get beneath the surface of their stories. You need to be sure that the first person isn't just shy, modest or nervous. Any niggling doubts you may have about the validity of the confident, second interviewee's story have to be dispelled.

Ask direct or probing questions to get to the candidate's specific role and involvement in the example. Use closed questions to elicit 'yes' or 'no' responses to confirm the details and facts. Find out what, if anything, they learned from the experience. Ask them if they would do anything differently if faced with the same situation again. This can often be quite revealing.

How the candidates present themselves and relate

to the interview board can also be quite revealing. Observe their demeanour and body language. Watch for characteristics you are looking for, such as their capacity to handle social situations or problem solving under pressure. Also take into account any shifts or changes in body language during the interview. Maybe they are nervous. Or maybe they are uncomfortable with the line of questioning.

If you keep your questions confined to the areas already identified that relate specifically to the job role, you will not fall foul of the law. Ensure that the same areas are covered with all candidates. Do not ask irrelevant or subjective questions. Avoid asking questions (explicit or implicit) related to domestic circumstances, family background, gender, race, sexual orientation, religious opinion, disability or membership of the travelling community.

What value?

If you are not clear going into the interview about what you are looking for, then you are leaving the result to chance. If, however, you are clear, then you will recognise where particular answers are strong and others less so.

Using such a structured approach reduces potential inconsistency across different interviewers and assessors. Document the criteria and requirements. Use this as a checklist for inexperienced interviewers and to feed into the scoring or assessment sheet.

Remember, you are looking for evidence: examples of situations where they demonstrated their capability in the relevant areas. At the end of each interview, you will assign scores against each area based on the evidence and behaviours presented. Some skills or competencies can be weighted if they are more critical to the job than others. **G**

Aoife Coonagh is head of career development services at Carr Communications.

WASTE NOT,

The recent 'wasted costs order' case shows that extreme caution should be exercised in attempting to apply the wasted costs rules more widely. Roddy Bourke explains

The High Court judgment of Finnegan P, as he then was, in *Kennedy v Killeen Corrugated Products Limited and Another*, where the Law Society was joined as *amicus curiae*, illustrates how an order under order 99, rule 7 of the *Rules of the Superior Courts* (RSC) can cause injustice to a solicitor acting in High Court litigation. It also points to the acute limitations of the jurisdiction, which can generate costly 'satellite litigation' and retard the efficient conduct of proceedings. This and other cases show that the jurisdiction should only be invoked sparingly, with great care and only in the clearest of circumstances.

Jurisdiction

A 'wasted costs order' (a term imported from British litigation) colloquially describes a court's power to order a solicitor to pay costs personally because of misconduct or default on the solicitor's part in the conduct of litigation. Such orders have been a rarity in Ireland. The power is given effect by order 99, rules 6 and 7 of the RSC. The court's power derives from its inherent jurisdiction to control its officers. The jurisdiction does not apply to barristers, because, for reasons of history, barristers are not officers of the court. However, there is no reason in logic or practice to confine the jurisdiction to solicitors, given that both solicitors and barristers have responsibilities to the court in the conduct of the litigation.

The leading authority on the jurisdiction is the English case of *Myers v Elman*, where the House of Lords upheld a decision to make a solicitor liable for a substantial portion of the opposing party's costs because the solicitor had allowed his client to make inadequate discovery to the detriment of the other party. It had taken three court orders to obtain adequate discovery, which had delayed the trial and had diminished or eliminated the prospect of recovering assets on foot of the judgment. Lord Wright noted that:

"The solicitor cannot simply allow the client to make whatever affidavit of [discovery] he thinks fit, nor can he escape the responsibility of careful investigation or supervision. If the client will not give him the information he is entitled to require or if he insists on swearing an affidavit that the solicitor knows or has every reason to think is imperfect, then the solicitor's proper course is to withdraw from the case.

He does not discharge his duty in such a case by requesting the client to make a proper affidavit and then filing whatever affidavit the client thinks fit to swear to. That is improper conduct..."

The (mainly) English case law indicates that the courts may make wasted costs orders in a wide range of circumstances, such as acting for a plaintiff or a defendant without authority, acting for a non-existing plaintiff, instituting a fraudulent or collusive action, instituting a frivolous and vexatious action, or unreasonably pleading fraud and undue influence. In his judgment in *Kennedy* (28 November 2006), Finnegan P observed that the jurisdiction has been exercised where there has been improper conduct of the proceedings.

Fundamental propositions

In *Ridehalgh v Horsefield*, Bingham MR considered the decision in *Myers v Elman* to be authority for five fundamental propositions:

- 1) The court's jurisdiction to make a wasted costs order against a solicitor is quite distinct from the disciplinary jurisdiction exercised over solicitors.
- 2) Whereas a disciplinary order against a solicitor requires a finding that he has been personally guilty of serious professional misconduct, the making of a wasted costs order does not.
- 3) The court's jurisdiction to make a wasted costs order against a solicitor is founded on breach of the duty owed by the solicitor to the court to perform his duty as an officer of the court in promoting within his own sphere the cause of justice.
- 4) To show a breach of that duty, it is not necessary to establish dishonesty, criminal conduct, personal obliquity or behaviour such as would warrant striking a solicitor off the roll. While mere mistake or error of judgment would not justify an order, misconduct, default or even negligence is enough if the negligence is serious or gross.
- 5) The jurisdiction is compensatory and not merely punitive.

In 1986, the English jurisdiction was extended to include failure to conduct proceedings with reasonable competence and expedition. This was extended further through section 4 of the *Courts and Legal Services Act 1990*, which included in the definition of 'wasted costs' costs incurred by a party as a result of any improper,

MAIN POINTS

- Limitations of 'wasted costs' orders
- Rules of the Superior Courts
- English case law

WANT NOT

unreasonable or negligent act or omission on the part of any legal or other representative or employee of such representative.

However, subsequent case law in England has indicated that, although the aim of the regime is laudable – to encourage efficient and proper conduct of proceedings – its application gives rise to very serious difficulties. Bingham MR in *Ridehalgh v Horsefield* identified a clash in public interests as follows:

“One is that lawyers should not be deterred from pursuing their clients’ interests by fear of incurring a personal liability to their clients’ opponents; that they should not be penalised by orders to pay costs without a fair opportunity to defend themselves; that wasted costs orders should not become a back-door means of recovering costs not otherwise recoverable against a legally-aided or impoverished litigant; and that the remedy should not grow unchecked to become more damaging than the disease. The other public interest ... is that litigants should not be financially prejudiced by the unjustifiable conduct of litigation by their or their opponents’ lawyers.”

It has proved very difficult to reconcile these public interests, and appellate courts in England, Australia and

elsewhere have emphasised the need for restraint in exercising a wasted costs jurisdiction. Wasted costs hearings in those countries have turned into complex and expensive hearings that have rendered disputes more acrimonious, and dragged out litigation. As a result, appellate judges have urged that the regime should be applied only to clear cases (such as a failure to appear at a hearing) where the relevant events took place in court or can easily be verified and where the issue is fit for summary disposal. As was borne out in *Kennedy*, caution is also required to avoid injustice to a solicitor who is faced with an allegation of misconduct in litigation and who may not be able to give an account of his actions because of his client’s legal privilege.

Interrogatories

In *Kennedy*, the plaintiff’s senior counsel had advised the plaintiff’s solicitor in writing to serve a notice to admit facts concerning an allegedly defective shutter door that had caused injury to the plaintiff. Senior counsel advised that if admissions were not secured, the solicitor should arrange to have interrogatories delivered to elicit the evidence.

MARCH 2007 PROGRAMME

Venue: The Friary, Bow Street, Dublin 7
Date: Module I: 1st - 3rd March (Three Days Intensive Training Hybrid Model Skills)
 Module II: 8th - 10th March (Three Days Intensive Training Culminating in Formal Accreditation Process)

Friarylaw together with leading UK and Irish lawyer and non-lawyer experts, including the foremost family lawyer in this jurisdiction, in consultation with Mr. Alan Shatter, present our 2007 Family Mediation Training and Professional Accreditation Programme.

Our unique and innovative model of Family Mediation is a formal and structured process in which an impartial third person, trained and experienced, lawyer or non-lawyer, assists those involved in matrimonial dispute, and in particular, separating or divorcing couples, to communicate better with one another and to reach their own agreed and informed decisions concerning some, or all, of the issues relating to separation, divorce, children, finance or property.

Our Family Mediation programme imbues our candidate mediators with effective competencies in family mediation where they can both skilfully present the client's case in mediation and to also act as mediator.

A candidate who successfully completes the programme will be trained with a unique and versatile skill set and can attain full professional accreditation as an Accredited Family Mediator with Friarylaw and Friarylaw MCM.

For the lawyer or non-lawyer training as a family mediator with Friarylaw & ADR Group will:

- Extend your expertise & skill sets
- Raise your professional profile
- Obtain Mediator Accreditation (MA)
- On accreditation to join Friarylaw MCM's Panel of Family Mediators.
- Continuing Professional Development through Friarylaw Family Mediation Division.

- Friarylaw is a recognized leader in providing innovative and interactive mediation and conflict resolution training programmes and has been approved by the Department of Justice as a nominating body under section 15 of the Civil Liability and Courts Act, 2004.
- Friarylaw MCM is the leading independent mediation case management service in Ireland with a dedicated Family Mediation Division.
- ADR Group was the first mediation trainer and service provider in the EU to receive ISO9002 accreditation.
- The training course satisfies 35 hours of the Law Society of Ireland's CPD requirements.
- Leading UK and Irish lawyer and non-lawyer experts will deliver a Family Mediation Training and Professional Accreditation programme regarding, *inter alia*: Mediation in the context of civil and commercial disputes, Mediation in the family dispute context, Mediation and Irish Family Law, Working with separation and divorce, Problem solving in the family context; Managing anger and conflict; Keeping child focus; Managing strategies and techniques; Mediation documentation; Options and agreement.
- The training course results in full Professional Accreditation with Friarylaw and the opportunity of Mediation Pupilages with Ireland's leading mediation case management service, Friarylaw MCM.



If you require any further information please contact
 Friary Law, Friary Chambers, The Friary, Bow St., Dublin 7.
 Tel: 01 872 8405. Fax: 01 872 8409
 Email: admin@thefriary.ie. Web: www.friarylaw.ie

**LAW SOCIETY
COMPANY FORMATION SERVICE**

Your Company Formation Service forms approx 1100 companies every year for over 300 solicitor firms.

150 90012000 accredited

WHY USE US

- Fast Efficient Service
- Competitive Prices
- 5 day Electronic Filing

WE FORM

- Private Companies limited by shares
- Single Member Companies
- Guarantee Companies
- Charitable Status Companies
- Unlimited Companies

**COMPANY FORMATION SERVICE
SCHEDULE OF FEES**

Private Company limited or unlimited

- Electronic Filing (5 days) €310
- Paper Filing (3-4 weeks) €330

Guarantee Companies from €350

To include, hard copies of Memorandum & Articles of Association, Company Seal and Registers

Also Available

Company Seal Register and Share Certificates Book: €25

Company Seal €30

Company 10s form €70



For further information, application form and form A1
 see our website www.lawsociety.ie or contact us directly by;
 e-mail companyformation@lawsociety.ie or tel (01) 6724914/6 or fax (01) 6724915



In a subsequent application, the Master of the High Court refused the application for interrogatories and called on the plaintiff's solicitor to show cause why orders should not be made under order 99, rule 7. At the show-cause hearing, the plaintiff's counsel argued (correctly, as it turned out) that the master did not have jurisdiction to make such orders. However, the master made a costs order against the plaintiff's solicitor, as he had concluded that the interrogatories application had been pointless and misconceived, and thus that costs had been incurred without any reasonable cause. At the same time, the master appointed an independent solicitor to represent the plaintiff should the master's order be appealed. The decision refusing interrogatories was not appealed but, in an appeal against the orders made under order 99, rule 7, the Law Society was granted leave to appear as *amicus curiae*.

The plaintiff's personal injuries case had settled by the time of the hearing of the appeal before Finnegan P, and so the plaintiff's team was able to reveal to the court the plaintiff's counsel's written advice on proofs, which had advised interrogatories in light of reasoned concerns that one or possibly two relevant witnesses might be hostile at trial. The plaintiff's solicitor had considered and had acted on that advice.

Donal O'Donnell, senior counsel on behalf of the Law Society, submitted that the plaintiff's solicitor's actions were "perfectly proper" and "beyond reproach" and that the plaintiff's solicitor had been "unfairly stigmatised" by the order, which had resulted in substantial media publicity.

Finnegan P concluded, on the review of the authorities, that an order under order 99, rule 7 could be made where the solicitor was guilty of misconduct in the sense of breach of his duty to the court, or at least of gross negligence in relation to his duty to the court. The president noted that the solicitor had acted on the advice of senior counsel and held that the facts of the case fell "far short" of the exceptional circumstances that might justify a wasted costs order under order 99, rule 7. He also held that the master had no jurisdiction to make orders under order 99,

ORDER IN THE COURT

Under order 99, rule 6, a solicitor may be ordered to personally pay costs to the opposing party where:

"Upon the trial of any cause or matter or upon any other proceeding it appears to the court that the same cannot conveniently proceed by reason of the neglect of the solicitor for any party to attend personally or by some proper person on his behalf, or of the failure of such solicitor to be properly prepared for such trial or proceeding, or of his omission to deliver any paper necessary for the use of the court which according to the practice ought to be delivered."

Order 99 rule 7, in contrast, provides that the court may order payment by the solicitor personally of his own client's costs or may order disallowance of the solicitor's costs:

"If in any case it shall appear to the court that costs had been improperly or without any reasonable cause incurred, or that by reason of any undue delay in proceeding under any judgment or order, or of any misconduct or default of the solicitor, any costs properly incurred have nevertheless proved fruitless to the person incurring the same."

rule 7, and he set aside the master's orders as to costs and the appointment of a second solicitor to represent the plaintiff.

Extreme cases

The Law Society in *Kennedy* referred the court to case law from Britain and elsewhere, which emphasises that orders of this kind should be confined to extreme cases where clearly a legal representative acting in litigation had been in serious default. Furthermore, the jurisdiction should even more rarely be invoked at an interlocutory stage, and then only in the clearest of cases, as it is difficult for a court in an adversarial system to assess a legal representative's actions or alleged defaults before the conclusion of a case. *Kennedy* is a telling example of this. When the master invited the plaintiff's solicitor to explain why such an order should not be imposed, the plaintiff's legal team was constrained from explaining their actions while the litigation was not concluded, as it would have disadvantaged their client, the plaintiff, to explain in court, in the presence of the defendant's team, the tactical reasons for seeking interrogatories.

The *Report of the Legal Costs Working Group* (the Haran Group) in December 2005 recommended that order 99, rule 6 should be extended to all steps in the litigation process and not just to the trial. (In fact, the present rule refers to "any proceeding" and thus, even in its present form, the rule probably applies to other steps in litigation as well as trial.) The recommendation appears to suggest that costs orders (described in the report as penalties) against solicitors responsible for delay should be made more often. In light of the lessons of the *Kennedy* case and from the experience of other jurisdictions, any recommendation to make more use of such costs orders should be viewed with caution. **G**

Roddy Bourke is a litigation partner in McCann FitzGerald.

LOOK IT UP

Cases:

- *Kennedy v Killeen Corrugated Products Limited and Another* [2006] IEHC 385; unreported
- *Myers v Elman* [1940] AC 282 (England)
- *Ridehalgh v Horsefield* [1994] Ch 205 (England)

Legislation:

- *Courts and Legal Services Act 1990* (Britain)
- *Rules of the Superior Courts*, order 99

Literature:

- *Report of the Legal Costs Working Group* (the Haran Group), December 2005

HANGIN'

on the tele

Aoife Sexton is a solicitor who manages the legal affairs of GSM Association – the global trade association that represents more than 700 GSM mobile phone operators across 217 countries. Mark McDermott goes mobile and talks to her in their Deansgrange office

MAIN POINTS

- Creative background
- International appeal
- Business environment rewards

Aoife Sexton comes from a creative background, but nobody could have told her when she started out on her legal career that, one day, she would end up meeting screen idol Robert Redford – not just once, but on several occasions – while working for the world's biggest mobile phone trade association. It's not everyday that you get to meet one of the world's most famous cowboys ('The Sundance Kid'), investigative journalist ('Bob Woodward'), baseball prodigy ('Roy Hobbs') and US senator ('Bill McKay') – all rolled into one. For a woman who describes herself as the 'black sheep of the family', it's all very hard to believe too.

"My father Denis is a retired school inspector; my mother Bredha, a drama teacher in Portlaoise Prison. Dad retired at 50 to pursue his writing career and has written a lot of plays and other material, as well as having branched out into complementary medicine; so it's quite a creative, diverse background. There was a huge emphasis at home, as with most Irish families, on education and on studying, but I think I decided to do law – like a lot of lawyers – because I enjoyed English and history at school. I thought that law would be an interesting profession. I realised early enough that if you focus on what you enjoy doing, then you're likely to be more successful at it and to enjoy your work.

"I'm probably the black sheep in the family, in that I'm the one who's the real practical person. I'm the one who, when asked something at work, my first question will be: 'Well, how will this apply in practice?' Having said that, I think lawyers do have many areas where they can be creative, particularly in problem solving and in trying to find solutions by coming at things more laterally."

Aoife is a solicitor with over 15 years' experience in the telecommunications industry. As general

counsel, she manages the legal affairs of GSM Association (GSMA). The association is a global trade organisation representing more than 700 GSM mobile phone operators across 217 countries and territories of the world. More than 180 manufacturers and suppliers are associate members. These operators and associates serve more than 2.25 billion customers – over 82% of the world's mobile phone market.

In her role, Aoife provides guidance across the organisation to the board, chief executive officer, the executive management committee and various working groups. She is based in the company's Dublin office in Deansgrange, but her work takes her around the world.

Rapture

"It was the very practical nature of wanting to be a part of something, from its very inception to seeing it through to its conclusion, that attracted me to becoming an in-house lawyer," she says. "From very early on, I realised I wanted an international flavour to my work. As soon as I graduated from UCD [with a BCL] in 1988, I left straight away and did a 'stages' in Brussels. I was one of 12 students from Ireland on a European Commission traineeship, which lasted for six months. I just loved my time there and enjoyed working in the international melting pot that is Brussels.

"In 1989 I came home, and immediately started my apprenticeship in Blackhall Place. I did my training with Eugene F Collins. It was a wonderful place, because it had a very flat structure, it was very collegiate, very supportive, and it operated an 'open door' policy with all the partners. Really, that's where I got my grounding in the basic legal skills, as well as good drafting and technical skills. It was a very supportive environment to work in."

phone

She then spent a year studying in Bruges, Belgium, in the College of Europe – a specially created, government-supported organisation. “I obviously pursued the legal stream there and was exposed to competition law – an area I really enjoyed. After I completed that postgraduate course, I came back to Ireland in ’92 to complete Blackhall’s advanced course. I had already secured a job in Brussels with a French law firm, Siméon et Associés, and worked with them for two-and-a-half years, mainly in competition law. One of our biggest clients was a mobile telecommunications operator, so that’s where I was first exposed to telecoms.”

This was her stepping stone to being recruited by an American telecoms company, MFS Communications, and was her first move in-house. “It was a small European headquarters start-up and I was the legal counsel. I suppose this was really where I came into my own. I realised I had found my niche. Because it was a start-up environment, it was slightly chaotic, very flat in structure and it was ‘all hands on deck’. You were exposed to every part of the business and could be asked to do anything, either in the legal or business environments.

Picture this

“One of the jobs I had was to negotiate telecommunications infrastructure licences in various cities in Europe where they wanted to build ‘dark-fibre rings’. This would allow big companies who required a huge amount of telecommunications resource – like the banks – to have their own dedicated lines, so that they could send vast amounts of information securely. What we were trying to do was to create telecommunications rings in these big financial cities so that we could then provide ‘Rolls Royce’ telecommunications services to big institutions.”

“I used to spend time in La Défense in Paris and also in Stockholm – they were my two cities – negotiating with the authorities to allow us to literally dig up the streets and build the infrastructure. So that was hugely hands on, with a serious amount of responsibility. It was an American corporation, and they were very willing to give responsibility to anybody who wished to take it on. MFS was an incredibly fast-moving entrepreneurial company, so the environment that you worked in was to take risks, to keep pushing the regulatory envelope and keep moving forward. That was my exposure to the in-house sector and I’ve never looked back since.”

Living on the edge might have been exciting, but what about the risks? “I’m sure there were examples where, in hindsight, we probably might have done things differently, but we were literally writing the



CALL ME

In-house solicitors work in diverse roles, in organisations ranging from small private companies in the manufacturing or service sectors, to state, local government and semi-state organisations. The number of solicitors working in-house continues to grow and currently stands at 750 members, representing approximately 9% of the total number of Law Society members.

The Corporate and Public Sector Committee of the Law Society represents and promotes the views and interests of in-house solicitors. The committee strives to build upon and strengthen the relationship between the Law Society and its in-house members.

During the coming year, the committee will organise a seminar for in-house solicitors, in conjunction with the Society's CPD Department. It also provides information and assistance to in-house solicitors through the committee's booklet *Solicitors Commencing Employment in the Corporate and Public sector*.

For further information on the committee, visit the 'Committee' section in the members' area of the Law Society's website. To contact the committee secretary, Louise Campbell, please phone: 01 881 5712 or email: l.campbell@lawsociety.ie.

agreements for the first time. There weren't any precedents. I was working with an extremely talented person, Jo van Gorp, who was the head of the regulatory section at the time. He was an incredibly dynamic person with brilliant communication skills. He mentored me really, really well. I learned the art of keeping good communications internally, having people know what you were doing at all times. At the same time, you had to be willing to take some risks and strive to push things ahead for the company. If that's where they wanted you to go, then that was the direction you would take. I was with them for just under two years and was not looking to move. I was extremely happy there and enjoying the work I was doing.

"But then I was made aware of the fact that there was an opening for a legal counsel in Dublin for a global organisation and I thought, well that sounds

interesting and these don't come along that often, so I decided – this was in the mid-'90s – to come back to Ireland to explore the possibility. That was GSM Association in 1996. I joined as legal counsel with responsibility for all legal matters. Predominantly, the focus was on matters of competition law. They didn't have an in-house competition advisor, and there was a US chairwoman at the time who felt the need for a full-time competition-law advisor. I was the sole member of the legal team then, though we had external legal advisors. There are seven of us now in the legal team. These are diversely located in Dublin, London, Spain and the United States.

Will anything happen?

"The reason GSMA came into being was to focus on roaming, so that users could take their phones anywhere in the world and they would work. Over time, the scope of the work of the association has obviously broadened to look at new services that are coming on-stream. So we're dealing with everything from video telephony, to instant messaging, to cutting edge uses of the SIM card."

"The association has also developed in recent years a commercial arm and we run several revenue generating businesses, including conferences. This month, we are expecting close to 60,000 visitors for our event in Barcelona, the 3GSM World Congress."

As an in-house lawyer, Aoife maintains that there are major differences in the structures, goals and involvement of her colleagues compared with those working in private practice.



“To me, in-house is all about the practical application of law in a business environment, and that’s hugely rewarding. I think also that lawyers, because of their good training, have so much to offer in the business environment. I think employers are realising this now, that it’s not just the legal brain. It’s all of the training you’ve had, the professionalism, the attention to detail, the communications skills, the ability to analyse, the ability to cut to the chase and see what’s important, to do risk analysis and to problem-solve as well. These skill sets are hugely important in any business environment and this is what lawyers have to offer in a business environment.

“What’s exciting about working in this association is that the legal team is involved at the very beginning – from the very first brainstorming session. My role is really to work with the business owners on this, to figure out how we do it from the very beginning. Will we need to find a partner? Will we need to create a joint venture? Will we need to do a pilot programme? Who’s going to own the intellectual property that will develop? What happens if the deal doesn’t come off, with all of the associated legal aspects? But it’s much broader than that. It’s also the business aspects and what it will take for us to make it successful. In other words, we’re not brought in at the end when somebody says, ‘Oh, we need a contract’. We’re brought in at the very beginning as part of the deal team. It’s all very integrated, and that’s the fun of working in-house. It’s not just you as a lawyer – it’s you contributing your experience and skills. It’s about being a good head around the table.”

The tide is high

“Working in-house is a fantastic career choice. If I were advising somebody starting off, I would say to them, first get a good apprenticeship and get a good grounding in all aspects of law. Work with the best professionals you can, learn as much as you can and spend a number of years in private practice so that you really have the confidence to operate at the highest level as a lawyer.

“Anybody I know who works in-house is hugely satisfied with what they do. They’re probably more in control of their work as well. Private practice can be very reactive to the big deal and to the client picking up the phone and calling you. Clearly, in-house, this can be the case too, but you can see what’s coming down the path a bit more clearly because you’re there at the inception and you’re there as part of the team.

“I have been here now for ten years. I never thought I would be in any job for ten years. I have a low boredom threshold and I like constant change and I like things to keep evolving. I enjoy juggling 20 things at one time. That’s what makes me tick. I’ve found these elements in this role over the ten years and it continues to be like that. It’s a



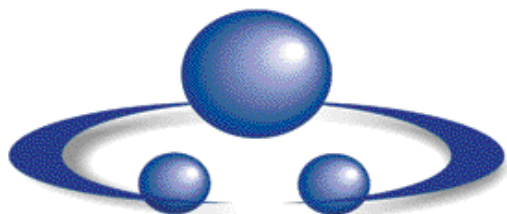
The Sundance Kid: at the forefront of mobile movies

particularly dynamic industry. My role has continued to evolve to match the growth of the organisation – it’s a mixture of hands-on legal advice but a lot of management as well. I have been very fortunate that I’ve had a great boss for the last five years who has fostered my career development, particularly in ensuring I’ve received very broad managerial experience. He is a CEO with a legal background, so he is a natural advocate of the broad business-oriented role of an in-house lawyer.”

And what about Robert Redford – where does he fit into this picture? Aoife says: “GSMA has partnered up with the film star’s Sundance company to produce five short films especially for mobile phones. This is really cutting edge, in order to show that mobile phones can be used to view movies. So Robert Redford has commissioned five directors to produce these movies, including the husband/wife team of Jonathan Dayton and Valerie Faris, who directed *Little Miss Sunshine*. All of that will be showcased in Barcelona next month at our world congress. To see Robert Redford trooping in and out of the London office is quite fun sometimes, and I like to work on those deals!”

Does Aoife feel that she’s reached the pinnacle of her career or is there more to come? “I remain open to all possibilities. I don’t have a game plan in terms of what’s next. I’m enjoying what I’m doing at the moment. I suppose, long-term, it may be that at some point I may take the decision to move more into general management. That’s often what happens when you work in-house. Who knows, I might like to be a CEO one day!” **G**

“To me, in-house is all about the practical application of law in a business environment, and that’s hugely rewarding”



UNMARRIED FATHERS OF IRELAND

National Conference 2007

What are the lads, with no legal rights, doing in the Law
Society on 2nd of March 2007?

Where will the Taoiseach be on that day?

Will the Minister of Justice be there?

Will there be someone from the Church there?

Will the United Nations be there?

Who is Ombudsman for Fathers?

Have you seen parentalagreement.ie ?

Where will you be on 2nd of March?

Do you want to protect children rights?

Then be in the Heart of the Legal Society

on the 2nd of March 2007.

Visit www.usfi.ie

information notice

Request for tenders by the National Council for Special Education for the provision of Legal Services

The National Council for Special Education (NCSE) is a recently established State agency, based in Trim, County Meath, which deals with the provision throughout the State of appropriate educational services for children with special educational needs.

NCSE is requesting tenders for the provision of a range of legal services

This request for tender is published on the Government procurement website www.e-tenders.gov.ie. The closing date for tenders is 28th February 2007.



The K Club

Exclusive promotion to Solicitors and Barristers

Offer: For the months of, March and October the K Club, home to the Ryder Cup 2006 is pleased to offer the Irish Law Society the following rates

PALMER COURSE

€115 PER ROUND OF 18 HOLES OF CHAMPIONSHIP GOLF
Bookings of 20 or more on the Palmer Course will qualify for a maximum €200 voucher for the Palmer ProShop

SMURFIT COURSE

€70 PER ROUND OF 18 HOLES OF CHAMPIONSHIP GOLF
Bookings of 20 or more on the Palmer Course will qualify for a maximum €100 voucher for the Smurfit ProShop

Minimum booking for each course is four golfers per tee time

OPTIONAL EXTRA

€25 for three-course meal in the Snack Bar – Palmer Clubhouse

To reserve your tee time please book through the Sales office and quote your exclusive reference number, which is ILS001.

COURTS AND COURT OFFICERS ACTS 1995 - 2002 JUDICIAL APPOINTMENTS ADVISORY BOARD

APPOINTMENT OF ORDINARY JUDGES OF THE:

HIGH COURT (2) CIRCUIT COURT (1)

Notice is hereby given that applications are invited from practising barristers and solicitors who are eligible for appointment to the Office of Ordinary Judge of the High Court and to the Office of Ordinary Judge of the Circuit Court for two judicial vacancies which have arisen in the High Court and one vacancy which has arisen in the Circuit Court.

Those eligible for appointment and who wish to be considered should apply in writing to the Secretary, Judicial Appointments Advisory Board, Phoenix House, 15/24 Phoenix Street North, Smithfield, Dublin 7, for a copy of the relevant application form.

The closing date for receipt of completed application forms, in relation to this advertisement, is 5pm on Thursday 15th February 2007.

It should be noted that The Standards in Public Office Act, 2001 prohibits the Board from recommending a person for judicial office unless the person has furnished to the Board a relevant tax clearance certificate (TC4) that was issued to the person not more than 18 months before the date of a recommendation.

Applicants may, at the discretion of the Board, be required to attend for interview.

Canvassing is prohibited.

Dated the 18th January 2007

**BRENDAN RYAN BL
SECRETARY
JUDICIAL APPOINTMENTS ADVISORY BOARD**



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



Denise McNulty: ensure that both you and your client understand the different options

CASHING IN

Everybody has seen and heard the TV and radio adverts directed at the over 60s, advising them about how they can go on the world cruise, get that extension, buy that car – simply by using the value of their home to get a cash sum.

How does a financial advisor or solicitor advise clients about the products available? In Ireland, over 15% of the population is now over 60. Financial and legal advisors should be specifically aware of the issues surrounding equity release schemes. While there are undoubtedly benefits to some of them, there can be downsides to others. All options to funds must be considered.

Solicitors should be aware that there are two types of equity release:

- a) The reversion scheme, and
- b) The equity release loan.

The reversion scheme is essentially a property transaction in which your client sells part of their house at a discount. This means that the client gets much less than the market value of the share they sell. They are, however, still allowed to live in their home. The reversion scheme is not a loan and your client does not retain full ownership of their home. The home reversion scheme is not regulated, which means

that the firms who sell these plans are not regulated.

The equity release loan is, as it says, a loan where the client retains full ownership of their home. The loan is secured on the client's home, however, unlike a normal loan. Repayments do not need to be made over the life of the loan. Interest is typically 1.5-2% above the standard variable mortgage rate. The loan balance, plus interest, grows over time.

When advising your clients about each option, ensure that you both understand the difference and ensure all questions have been considered, such as:

- Does your client wish to continue to own their property?
- Has your client sought independent financial advice, and have they discussed their intentions with family members?
- Are they absolutely sure that their circumstances will not change and that they will never want to repay early, or indeed borrow more later?

It must be noted that it's important for your client not to borrow more than they actually need at the time, as they will end up paying interest on the money drawn down. At least one company allows a phased draw-down facility called an 'express top up', which allows periodic draw-downs, up to the client's approved limit.

How much can be borrowed?

The amount borrowed typically depends on the client's age and the value of the house. There is, generally, a 'loan shortfall promise', which means that, whatever happens, the estate can never owe more than the value of the property. The loan, including interest, is not due for repayment until your client permanently leaves their home or dies, though there is no obligation to sell the house if another source of repayment is available. Your client is also free to reverse their decision without penalty if they have a variable rate loan, which can add to their peace of mind, in the event their personal circumstances change. **G**

Denise McNulty is principal of Denise McNulty Solicitors, Dublin.

WHAT IS EQUITY RELEASE?

A booklet published recently by the Financial Regulator: *Equity release – using your home to get a cash sum*, explains:

"If you are a homeowner and are over 60, you may find yourself living on a tight budget, even if your home is worth a lot of money.

"Up to now, the only way you could benefit from the value of your home was to sell it and move to a cheaper property. Now, a number of companies are offering 'equity release' schemes. These allow you to release some of the value of your home without having to move out or sell it in the open market.

"Equity release schemes are not suitable for everyone, but they may help to relieve financial stress if you:

- Don't want to sell your home and live elsewhere; and
- Are not concerned about passing on the full value of your home to your family or other beneficiaries after your death" (source: www.itsyourmoney.ie).

tech trends



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

Going straight to hell in a hand basket

Even after they eventually bulldoze the pesky seat of Ireland's High Kings that is holding this great little country back, you'll probably still be sitting in traffic. What's the alternative, after all – public transport? You some kinda *communist*, boy? Well, if your daily commute is getting you down, you might want to consider one of these tasty options to enliven your journey.

First up, and particularly handy if you live along the canal, is the Sea-Doo Sea Scooter (see www.sea-scooter.net), which will convey



pathologically lazy among you, there is the E-Glide Dewey Weber Twin Dual 400W Electric Longboard, a motorised skateboard (see www.e-glide.com). Pull a half-pipe with a backside and tailgrab on the steps of the Four Courts: that'd be pure random, er, dude.

But the clear winner in our eyes has to be the PoweriZers Jumping Stilts, enabling you to hop, skip, jump, leap and bound with all the dexterous virtuosity of fabled and infamous super-villain Batroc the Leaper. Check out the gallery and video links at www.powerizer.org.uk if you don't believe that these things beat the M50 by a mile.



you – albeit soaking wet and unable to breathe – at the stately pace of 2½ mph to a depth of 100ft, enabling you to take down some beavers from below. Assuming you already have a harpoon.

Then, for the young, hip, rebellious, but



A nightmare in elm tree

Picture the nightmare: you're all alone in Farthing Wood at night, and the wind is putting the willows up you. You're being stalked by badger, ratty and mole and are pursued by a business of weasels and stoats. (What's the difference, I hear you ask? Well a weasel is weasily recognised, while a stoat is stotally different.) But which way to run? Lucky for you, you have read your *Gazette* and are prepared with the Casio PAW1200T Pathfinder

Titanium Atomic Solar Triple Sensor Watch. This amazing, but pretty damn ugly, watch is apparently solar-powered and comes with a built-in digital compass, barometer, thermometer and altimeter and its own busy PA. Well, we made that last bit up, but it does come with 'multi-band atomic time-keeping' capabilities, which we gather means it can tune into multiple atomic clocks around the world, and it has 30 world time settings and a one-touch

daylight savings time setting. But the compass, altimeter and barometer alone mean that you'll never get stuck up the Khyber Pass again.

The PAW1200 costs around \$300. See the details at www.casio.com/products/Timepiece/Pathfinder/PAW1200.



Walk the walk ... straight to the competition

Far be it from us to suggest ways for you and an accomplice to eavesdrop on a private meeting, but this product is a hell of a lot less complicated than any manner of James Bond-a-like super technology. Quite simply, it's a voice-activated walkie-talkie system built into a pair of watches. They have the full functionality of a sophisticated digital watch, with the bonus of being pro-quality (as used by

the Norwegian Winter Olympic team, no less) private mobile radio communicators.

They have a three-kilometre range and have eight channels and 38 sub-codes per channel, giving you over 300 channel combinations for private conversation. To top that all off, there are no mobile bills to pay. It requires a rechargeable lithium battery (included) and a mains adaptor, but after the initial 24-hour charge, a full six-

hour charge will provide 40 hours of standby power and two hours of continuous talk time. Certainly enough time to broadcast most Council meetings to your 'friend' in Montrose.

Walkie-talkie watches are about €90 per pair from www.iwantoneofthose.com.



Websites for cheapskates

Too cheap to spring a few thousand squids on a pro-designed website for your firm? Well this should be right up your street, you tightwad. This company offers what they claim is a *bona fide* DIY website construction package that can be up and running in short order for a mere £30. With a booklet of apparently "blisteringly simple" instructions and your

own unique access code provided, all you need is a computer with internet access. There are hundreds of site designs to choose from, and you can set up on-line photo albums, music libraries and diary pages, alongside a shopping cart.

You choose your own domain name (for example, www.rateyourbestsolicitor.com) and up to 20 email addresses,

and it comes with 150MB of web space.

The price includes web hosting (meaning they keep everything up on the net for you) for a year, after which you pay only £2.50 a month, and you can update it as much as you like. Quick! www.monkey-magic.com might still be free!

See www.mrsite.co.uk.

SITES FOR SORE EYES



Rockin' all over the world (www.harmony-central.com). If you've ever fancied taking up an instrument, or re-forming that Beach Boys cover band you used to be in, then this is a most useful site. It contains thousands of user reviews of guitars, keyboards, amplifiers and effects, drums and sound-processing equipment. It is also an invaluable research resource for when little U2 or Saoirse get sick of the violin and decide that they want a guitar for Christmas.



Equo ne credite, Teucri! (www.bbc.co.uk/dna/h2g2/A218882). After dinner speech? Daughter getting engaged? Or just want to confuse your clients and appear erudite to your colleagues? If so, there's nothing like a bit of the oul' Latin. Essential to the busy solicitor are the phrases: *Canis meus id comedit*, and *Recidite, plebes!* *Gero rem imperialem!* And just try muttering *Unitam logica falsa tuam philosophiam totam suffodiant* to the judge the next time you're in court. *Quidquid latine dictum sit, altum sonatur*, as we always say.



Mayo's magic!

The Mayo Solicitors' Bar Association celebrated its 100th anniversary in 2006. The first meeting of Mayo solicitors took place on 18 April 1906. The association held its annual dinner dance at the Downhill Hotel, Ballina, on 8 December. In all, 170 guests attended. Guest of honour on the night was the Honourable Ms Justice Mary Laffoy. *(Front, l to r):* Samantha Geraghty (solicitor), Gillian O'Connor, Nollaig Browne, Judge Mary Laffoy (guest of honour), Mrs Joan Groarke, Mrs Margaret Cooper, Catherine Bourke (solicitor). *(Back, l to r):* John Bourke (solicitor), Judge Raymond Groarke, Kevin O'Higgins (secretary, DSBA), President of the Law Society Philip Joyce, Marc Loftus (solicitor), President of the Mayo Solicitors' Bar Association Patrick O'Connor, Judge Geoffrey Browne, President of the Law Society of Northern Ireland James Cooper, Dermot Hewson (solicitor), Director General of the Law Society Ken Murphy and Judge John Garavan

CALCUTTA RUN 2007

IT'S A DATE
Saturday 26th May
Fun run/walk at Blackhall Place

Be one of the 1,500 solicitors, staff and their friends to help raise €250k for **Goal,s Orphanage in Calcutta and Fr Peter McVerry,s** projects for homeless boys in Dublin.



IT'S NEVER TOO EARLY

Here is the first four weeks' brisk walk/jog programme to enjoying the Calcutta Run (target 80 min)

WEEK 1, 12 FEBRUARY

1. Walk 30 min
2. Walk 30 min, jog 3-5 min
3. Walk 30 min, jog 3-5 min

WEEK 2, 19 FEBRUARY

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

WEEK 3, 26 FEBRUARY

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

WEEK 4, 5 MARCH

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

Always make sure you are warmed up before you jog!

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



Joint chiefs of staff

At the meeting of the Joint Consultative Committee of the Law Society and Bar Council were (*front, l to r*): Bar Council director Jerry Carroll, vice-chairman Paul O'Higgins, Bar Council chairman Turlough O'Donnell, President of the Law Society Philip Joyce, senior vice-president James MacGuill and director general Ken Murphy. (*Back, l to r*): Bar Council members David Nolan, Paul McGarry, Sasha Gayer, Lisa Dempsey, Deputy Director General of the Law Society Mary Keane, and Council members Gerard Doherty and Gerard Griffin



Honour your honour

At a dinner held in honour of Ms Justice Harding-Clark and Judge Thomas Teehan were (*front, l to r*): Noeleen Redmond, Geraldine Clarke, Ms Justice Harding-Clark, President of the Law Society Philip Joyce, Judge Thomas Teehan and Rosario Boyle SC. (*Back, l to r*): director general Ken Murphy, deputy director general Mary Keane, Barry Donoghue, junior vice-president John Costello, Richard J McDonnell SC, past-president Michael Irvine, Paddy McCarthy SC, Nicholas Butler SC, Deirdre Murphy SC and Cathy Maguire BL



Back to school!

PPC I students are participating in a rewarding venture and volunteering their time each week to assist children from Stanhope Street primary school with their reading. Pictured are some of the Law School students and pupils from Stanhope primary school who are participating in this year's 'Shared Reading Programme'. PPC I students are also volunteering in a number of homework/after-school clubs in conjunction with other primary and secondary schools in the local community

HIGHWAY STAR

The general assembly of the Federation Internationale de l'Automobile (FIA) has elected EU competition law expert Ken Daly as the new secretary general of the FIA International Court of Appeal (ICA), the final appeal tribunal for international motor sport. Established under the FIA statutes and the FIA's international sporting code, it resolves disputes brought before it by any of motor sport's national sporting authorities worldwide or by the president of the FIA. It can also settle non-sporting disputes brought by national motoring organisations affiliated to the FIA.

Ken's appointment is a significant development for the ICA, as he is one of Europe's

foremost experts in competition and sports law. It also further demonstrates the independence and the unique expertise of the ICA as a world-leading arbitration authority.

Daly commented: "I'm delighted to have been elected and I'm looking forward to the challenges that this role will bring. The ICA has become a professional, modern, flexible and highly specialised dispute resolution forum. Continuing along this path is essential if the changing demands of international motor sport are to be met."

He takes over from previous incumbent David Ward, who said: "I'm delighted that Ken Daly has been elected to be the new secre-



Ken Daly, new secretary general of the FIA International Court of Appeal

tary general, as he is particularly well qualified to fulfil this role. It is good to know that I am leaving the ICA in his capable hands."

Daly – son of past-president of the Law Society Frank Daly, who is

current chairman of the Solicitors Disciplinary Tribunal – is a counsel in the Brussels office of Sidley Austin LLP, where he focuses on EU competition, regulatory and sports law and specialises in merger-control proceedings, cartel investigations and abuse of dominance cases, as well as the law relating to the regulation of international sports.

Daly adds to a wealth of knowledge and experience at the ICA, which includes among its titular judges senior lawyers such as Anthony Scrivener QC, one of the top barristers in Britain, and John J Cassidy, a senior partner at Baker Botts LLP, the law firm of James Baker II, the former US secretary of state.



At a dinner in honour of Finance Minister Brian Cowen were (back, l to r): deputy director general Mary Keane, past-president Gerard Griffin, junior vice-president John Costello and director general Ken Murphy; (front, l to r): past-president Michel Irvine, Minister Cowen, Law Society president Philip Joyce, and Peter Power TD



SYS Autumn 2006 Conference
The winner of the annual ezhome golf prize, Mark O'Sullivan of Matheson Ormsby Prentice, receives his prize from Shane Robinson of ezhome



Commercial break

At the CPD seminar on recent developments in the commercial court were (l to r): Barbara Joyce (Law Society), Mr Justice Peter Kelly (head of the Commercial Division of the High Court) and Rosaleen Byrne (McCann FitzGerald Solicitors, Dublin)

SOLICITORS' HELPLINE

The Solicitors' Helpline is available to assist every member of the profession with any problem, whether personal or professional

01 284 8484

THE SERVICE IS COMPLETELY CONFIDENTIAL AND TOTALLY INDEPENDENT OF THE LAW SOCIETY

Newly-qualified solicitors at the presentation of their parchments on 6 October 2006



President of the High Court Mr Justice Joseph Finnegan, then-president of the Law Society Michael G Irvine, and Director General of the Law Society Ken Murphy were guests of honour at the 6 October Parchment Ceremony for newly-qualified solicitors: Jon Bayle, Niamh Baxter, Eamonn Burke, Elizabeth Cox, Nicola Curry, Katherine Cussen, Patrick Daly, Melanie Dodds, Shane Donnelly, Sinead Dunne, Sandra Egan, Lynne English, Denise Fanning, Brian Foley, John Fuller, Nessa Gardiner, Caroline Garland, Karen Grenham, Darina Hannan, Enda Hurley, Barbara Jordan, Sinead Keavey, Caroline Lynch, Nicola Lynch, Tomas Lynch, Gerard Mooney, Ruth Nic Aoidh, Gillian O'Callaghan, Mary Lucy O'Connell, Carmel O'Donnell, Ciara O'Gorman, Ruth O'Malley, Noeleen Ruddy, Anita Sothorn, Donal Twomey and Joanna Walsh

OBITUARY

Denis J Bergin

16 March 1928 – 17 November 2006



Denis Bergin died on 17 November. At his funeral, an enormous gathering of family, friends and colleagues, along with business and social contacts, paid their respects to a devoted husband, a loving father, a loyal friend, a distinguished lawyer, a wonderful colleague and a true gentleman.

Denis was proud of his Dublin roots – he was the fourth generation Denis Bergin to be born and raised in the capital. Educated at the Sacred Heart School in Leeson St and at Belvedere College, he studied law at UCD and qualified as a solicitor, following in the footsteps of his father (Denis) and his older brother (Paddy). While at UCD, he met Gretta Sheedy from Ballylanders, Co Limerick, whom he married in 1955. He was devoted to her, always happiest in her company, and that is how he spent the day before he died, celebrating their 51st wedding anniversary.

Having worked with his friend Michael Hayes for a number of years, Denis joined the firm of Arthur Cox as a partner in 1965. In the early years, he practised mainly in the areas of probate and conveyancing, but later he became one of the leading commercial lawyers in the city. He was widely regarded as one of the foremost authorities on the law relating to co-operative societies and advised many of the country's largest co-operatives. He was particularly proud of his role as lead advisor to both Kerry Group and IAWS when they went down the public-company route. His clients included many of Ireland's most prominent businesses as well as smaller businesses and individuals, all of whom he looked after with equal concern and courtesy. His broad knowledge of commercial law, and the common sense approach he brought to even the most obtuse legal problem, guaranteed that he was in great demand throughout his career. He advised on a number of major insolvencies, including the administration of PMPA Insurance and the liquidation of Ranks. He served on the boards of high-profile companies, including Fyffes, Adare Printing and the Bank of Nova Scotia.

Denis was a wonderful colleague. He was unfailingly

courteous to everyone who worked with him and showed a genuine interest in what was going on in their lives. The ultimate team player, he sought no glory for himself and was always willing to roll up his sleeves and get involved. He was an enthusiastic and popular participant in virtually every social activity organised by the office, events he attended not out of a sense of duty, but because he enjoyed people's company.

Denis was a moderate man – a lifelong pioneer and non-smoker, whose one indulgence

was a sweet tooth. He liked sailing, was a prominent member of Milltown Golf Club, and enjoyed opera and travel. A private man, he played a public role as deputy returning officer in no less than 14 general elections: something of a record.

He was a true Christian with a strong social conscience, as evidenced by his involvement with the Vincent de Paul Society and St Vincent's Hospital and his many generous acts of private charity.

Denis had an extraordinary capacity to get on with people across generations. Friends of his children would frequently seek him out for advice and help. There was nothing you could not discuss with Denis. You were always assured of a hearing, without judgement or disapproval, and were guaranteed no-nonsense advice and absolute confidentiality. He had a wicked sense of humour and a curiosity about what was going on that ensured that being in his company was always fun.

Denis was intensely proud of his five children. He was a loving and generous father, always there for them but always at the proper distance. Anne, Denis, Maurice, Caroline and Marian, and their partners, share, with Gretta, a deep sense of loss.

George Bernard Shaw defined a gentleman as "one who puts more into the world than he takes out". Denis Bergin was such a gentleman – and much more. He will be fondly remembered and greatly missed. **G**

EMcC

student spotlight



Blackhall team makes history

The Blackhall men's gaelic team have qualified for the final of the Higher Education League for the first time in the Society's history, where they will seek to overcome the strong challenge of Mater Dei Institute of Education.

After coming through the group stages unbeaten, Blackhall faced St Pat's, Drumcondra, in the semi-final. In a bruising encounter played in terrible conditions, the greater physical strength of the Blackhall men told in the end.

The platform for victory was established early on as the midfield pairing of Micheál 'Cavan Man' Mulvey and Paddy 'Guns' Walsh provided a continuous supply of possession to the forwards. The team raced into a 0-6 to 0-0 lead, with scores from Fergal O'Sullivan, Gerald Byrne and Tadgh Boyle. A peach of a goal from the 'Longford Flyer' Kevin Smyth, who chipped the 'keeper on the stroke of half time, meant Blackhall were deservedly ahead at the break on a scoreline of 1-06 to 0-03.



Members of Blackhall's GAA team proudly sport polo shirts sponsored by Hugh Hourican, proprietor of the Boar's Head Bar on Capel Street (back, l to r): Paddy Walsh, Declan Murphy, Steve Walsh, Mike Commons and James O'Mahony. (Third row, l to r): Steve Mahon, Tadgh Boyle, Michael Mulvey (captain), Andrew O'Connell and Peter Feeney. (Second row, l to r): Padraic Roche, Airy Cleere, Liam Dunne, Cian Duffy, Karol Murphy, Fergal O'Sullivan, Colm Mullen and Niall Rooney. (Front, l to r): Ronan O'Brien, Gavin Hinchy, Kevin Smith and Martin Travers (manager)

St Pat's came back strongly at the resumption, but a goal from prolific full-forward 'Pistol' Pete Feeney mid-way through the second half put the game beyond doubt, as Blackhall eventually ran out winners 2-09 to 1-06.

The team appreciated the dedication of their fellow Blackhall students who braved

the miserable weather conditions to cheer them on. Hopefully, even greater numbers of supporters will attend the final on what will be a momentous occasion as the team endeavours to create a little bit of history by winning the league and returning to Blackhall with the cup.

Blackhall can also look

forward to the challenge of competing in the Trench Cup, where we will meet Limerick IT in the first round. With home advantage, the Blackhall boys are confident of upsetting the odds by beating one of the pre-tournament favourites in what will, no doubt, be a very challenging match.

Colm Mullen

We've got the fastest title.

We hold the fastest time for solving defective titles. Just call our Legal Contingency Services Department and we'll sort out lost title deeds within 2 working days, and other title defects within 5 working days.

Phone: 01 2026187
Fax: 01 6078264

HIBERNIAN
an AIB Group company

Good Thinking

Hibernian General Insurance Limited is regulated by the Financial Regulator.



council report

Report of Law Society Council meeting held on 1 December 2006

Death threats to a solicitor

The Council discussed the media coverage in relation to the recent death threats against a solicitor and the assistance provided to him by the Society. The Council recorded its admiration for the extraordinary courage displayed by the solicitor, given the outrageous circumstances in which he had been placed. While the media reports had described the matter as a threat to his life, it was understood that garda intelligence had revealed that preparations were being made to commit his murder.

The director general noted that the Garda Commissioner had been very responsive to the approaches made by the Society and had been in contact by telephone, as well as meeting with the Society. It appeared that, at the time the solicitor's client was murdered, the threat level against the solicitor had been assessed as having actually reduced. Obviously, following that tragic event, the position had changed and, on garda advice, the solicitor was still outside the jurisdiction. It was clear that such garda protection as was necessary would have to be provided to the solicitor on a 24-hour basis.

The Council noted that the profession had also been very supportive and sympathetic to the solicitors' firm involved and recognised that this was an issue of principle that went beyond the individual solicitor. If threats to solicitors were to become commonplace or, in fact, were carried out, the rule of law would be fundamentally undermined within the state.

The Council discussed the practical steps that might be taken by the Society to assist the

solicitor in his practice, and it was agreed that the issue would be explored further with the solicitor. It was also noted that there was a real risk that other colleagues would decide not to take on similar cases and there could also be a situation of copy-cat threats.

Appointments to other bodies

The Council approved the re-appointment of Gerard Doherty to the Circuit Court Rules Committee and the re-appointment of Fiona Twomey to the District Court Rules Committee. The Council approved a request for the inclusion of the Society as a nominating body to the Courts-Martial Rules Committee in the forthcoming *Defence (Amendment) (No 2) Bill*. In addition, the Council approved the nomination of Simon Murphy as the independent chairman of the Fitness to Practice Committee of the Veterinary Council.

Practising certificate form and fee for 2007

The Council approved the practising certificate form and fee for 2007. The fee for 2007 was set at €1,996 for the full rate and at €1,656 for those practising less than three years, which represented an increase of 5.1% on the 2006 fee.

Judicial review proceedings against decision of the Master of the High Court

The Council noted the favourable decision handed down by the President of the High Court in the proceedings against the decision of the Master of the High Court in relation to costs, in which the Society had been joined as *ami-*

cus curiae. The president had held that the power to make a 'wasted costs' order was vested only in a court and, as the master was not a court, he did not have the authority to make such orders.

Bain Report on legal services in Northern Ireland

The president noted that the *Bain Report*, arising as a consequence of a review in Northern Ireland of legal services, had been published recently. It had concluded that the differences in size, nature, structure and regulatory history between England and Northern Ireland was such that a Legal Services Commission, such as that proposed by the Competition Authority, was not only unnecessary, but would not add value to the consumer and would be anti-competitive.

The director general confirmed that the *Bain Report* endorsed the existing regulatory system in Northern Ireland, which was broadly similar to that contained in the *Civil Law (Miscellaneous Provisions) Bill 2006*.

It was noted that the Competition Authority's final report would be published on 11 December 2006.

IT survey of the profession

Andrew Cody briefed the Council on a series of recommendations from the Technology Committee following the IT survey of the profession. The recommendations addressed a number of weaknesses that had been identified as a result of the survey. The Technology Committee had produced leaflets in respect of four of these areas and intended

to produce leaflets in relation to the remainder.

In addition, the committee had provided some advice to the Society in relation to its e-communication strategy and the manner in which information was provided to the members.

Client Care Task Force

Tom Murran reported that 150 practitioners had attended a client care seminar on 21 November 2006 and a further 95 practitioners were booked to attend the client care seminar to be held in Thurles during the following week. Further seminars would be provided throughout the country during the coming year. Consideration would also be given to the publication of a standard precedent letter of engagement.

E-Conveyancing Task Force

Dan O'Connor noted that the report on e-conveyancing, sponsored by the Department of Justice, Equality and Law Reform, had been approved by the government and a Law Reform Commission group was being formed to recommend the appropriate model for e-conveyancing in Ireland. The expected design period was 12-15 months, and it was intended to hold a series of seminars with various stakeholders. Gabriel Brennan, a member of the Society's task force, had been invited to become a member of the Law Reform Commission group. The Council noted that what was being proposed was not e-registration, which had failed in other jurisdictions, but e-conveyancing in the real sense, in that every step of the process would be completed electronically. **G**



INSURANCE COMPANY SETTLEMENT CHEQUES/PIAB

The Litigation Committee is aware that, in a growing number of instances, insurance companies are forwarding settlement cheques directly to clients rather than to the solicitors who are on record for them.

Practitioners are reminded of the importance of obtaining an authority from the client to receive the settlement monies.

The committee would point out that insurance companies have in the past disregarded

mere letters requesting that the settlement cheque be sent to the solicitor. It is suggested that, in all cases, a signed authority to receive the cheque, together with a clear direction from the client to the payer to forward the

cheque to the solicitor, should be furnished in good time to the insurance company/respondent (**not** to PIAB, who are not involved in the payment of settlement monies).

Litigation Committee

REPRESENTATION AT MENTAL HEALTH TRIBUNALS: GUIDELINES FOR SOLICITORS

The following guidelines are intended to assist solicitors who are involved in the representation of patients before the Mental Health Commission tribunals. The tribunals will be reviewing all involuntary admissions of patients to hospital or psychiatric units. If the detention is not lawful, the patient will be discharged.

Most of those involved in this area of work will be members of the Mental Health Commission panel and would therefore have fulfilled the selection criteria for membership of the panel (see below). Since representation of patients before the tribunals is not exclusive to panel members, these guidelines will also be of assistance to other solicitors.

The guidelines have been prepared by a subcommittee comprising members of both the Guidance and Ethics and the Family Law and Civil Legal Aid committees. The Law Society is keen to ensure that patients' representatives maintain the highest possible standards in the preparation, presentation and conduct of clients' cases before the tribunals. Since the patients may not raise concerns

about the performance of their legal representatives, solicitors have an obligation to ensure that proper standards are maintained.

The right to liberty is a constitutional imperative. Under the *Mental Health Act 2001*, an involuntary admission will now automatically trigger a referral to a tribunal.

Retainer and representation

Since the enactment of the *Mental Health Act 2001*, solicitors are in a new and evolving situation. In the past, solicitors were advised that, before they could accept instructions from a client, they had to be satisfied that that client had the necessary mental capacity to enter into a contract for legal services and also to understand the nature and implications of the transaction in which they were involved. If, during the course of such a retainer, it became clear that the client no longer had the mental capacity to continue to instruct the solicitor or to understand what was being done on his/her behalf, the solicitor had an obligation to terminate his/her services.

New role

The *Mental Health Act 2001* has now created a **new role** for solicitors, which role is **not** based on a **contract for legal services** between a solicitor and a client with full mental capacity. The main issue that solicitors must be aware of is that solicitors' contracts for legal services will be with the Mental Health Commission and that payment for the services provided will be made by the commission in accordance with the scale approved by the commission and the Department of Finance. The solicitor's duty is, however, to give **individual representation** to the patient.

'Client's instructions' or 'best interests'?

Questions will be raised as to whether solicitors representing patients should act in accordance with the **patient's instructions** or whether their role is to act in the patient's **'best interests'**. This is a matter for the professional judgment of the solicitor, taking into consideration the following points:

1) It is the patient's views or wishes that should be represented to the tribunal. A solicitor

should act in accordance with the patient's instructions. However, in taking those instructions, the solicitor must determine whether or not the patient is capable or not capable of giving clear instructions.

- 2) It is recognised that some patients detained under the *Mental Health Act 2001* will not have the mental capacity to give clear instructions to their solicitor.
- 3) All solicitors have a general duty to act "in the best interests of the client" at all times. This includes a requirement to give the clients their best advice. In Mental Health Commission cases, this might include a realistic assessment of the likelihood of the patient being discharged or advice about possible steps towards discharge, but the client patient has the right not to accept that advice.
- 4) In deciding what is in the patient's best interests, regard should be had to the following:
 - The person's known past and present wishes and feelings and the facts that he or she would consider

important;

- The views of other people/professionals whom the solicitor decides it is appropriate or practicable to consult in the preparation of the case;
- Whether the purpose for which any action or decision with regard to the detention and treatment of the patient was made can be achieved in a manner less restrictive of that person's liberty.

The solicitor should prepare the evidence on behalf of the patient as in any other case, defending primarily the patient's liberty and right to treatment in the least restrictive setting.

The solicitor should avoid an overly collaborative approach with the tribunal, leading to too easy an agreement to detention in the 'best interests' of the patient.

It is acknowledged that there are no hard and fast rules or correct answers to some of the ethical and other questions raised in representing patients who are detained under the *Mental Health Act 2001*. However, **in general, the solicitor's role is to act on the patient's instructions, advocating the patient's views and wishes, even if these may be considered by the solicitor to be bizarre or contrary to the**

patient's best interests. It is for the tribunal to decide, on the basis of the evidence before it, from the patient and from all the professionals purporting to act in the patient's best interests, whether the statutory criteria set out in the 2001 act are met.

Confidentiality

One particular matter that raises ethical and conduct issues concerns the solicitor's **duty of confidentiality** when acting for people whose capacity is impaired. The starting point must be that all solicitors are under a duty to keep the client's affairs confidential. However, there are certain exceptions to this duty, which are mainly statutory exceptions or cases where the client has consented that information may be disclosed. There are also extremely rare cases where it may be necessary to disclose information without the client's consent when a client discloses to the solicitor that they intend to do serious harm to themselves or to somebody else.

Where the solicitor feels it is essential, and it is in the client's best interest to disclose information confided in him/her by the client, the solicitor should first try to obtain the client's agreement to disclosure. If the client does not agree but the solicitor still feels it is necessary to disclose

the information, then the solicitor should inform the client that he intends to do so and discuss with the client whether he/she, the solicitor, should cease to act.

Solicitors who are concerned at any time about their own position on any matter of conduct should contact the Guidance and Ethics Committee helpline. The solicitor will be assisted so that he/she can make an informed professional judgment on the particular matter.

Training for solicitors

The Mental Health Commission provides training for solicitors on the panel and there is also a requirement for solicitors to keep their skills updated by undergoing relevant and appropriate training, as required, in order to keep abreast of developments in the area. Solicitors who are not on the panel should themselves voluntarily undertake similar training.

Professional indemnity insurance

It would be essential for all solicitors who act as representatives for patients before the tribunals to ensure that they are appropriately covered.

Selection criteria

The selection criteria for membership of the Legal Representatives Panel were:

- To hold a current practising certificate from the Law Society of Ireland in the case of a solicitor or be currently subscribing to the Law Library, Ireland, in the case of a barrister;
- To have professional indemnity insurance to cover an individual claim of up to €1.3m; and
- To be a practising solicitor or barrister who has had no less than three years' experience as a practising solicitor or barrister ending immediately before application.

At the time of application and at all times throughout their tenure, the legal representative must be practising. Any law firm who wished to participate in the scheme was requested to provide the above details for each legal representative who proposed to provide legal services on behalf of the firm under the scheme. All solicitors had to undergo a qualifying interview.

Further information about the Mental Health Legal Representative Panel is available from the Mental Health Commission website at www.mhcirl.ie.

*Mental Health Subcommittee
(Guidance and Ethics Committee; Family Law and Civil Legal Aid Committee)*

Law Society of Ireland presents
Summer PPC1
Ball

>> **law ball '07**

law ball '07

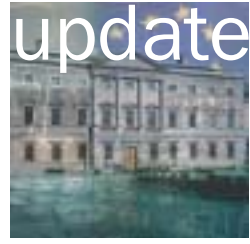
FRI 9TH FEB
Drinks/reception @ 7pm
Dress Code: Black tie

In association with the Legal panel

Radisson SAS St. Helens Hotel,
Skilleggan, Dublin 4

>> ADM: €70

legislation update



18 November 2006 – 17 January 2007

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

ACTS PASSED

Appropriation Act 2006

Number: 35/2006

Contents note: Appropriates to the proper supply services and purposes sums granted by the *Central Fund (Permanent Provisions) Act 1965*; makes provision in relation to deferred surrender to the Central Fund of certain undischarged appropriations by reference to the capital supply services and purposes as provided for by section 91 of the *Finance Act 2004* and makes provision in relation to the financial resolutions passed by Dáil Éireann on 6/12/2006.

Date enacted: 19/12/2006

Commencement date: 19/12/2006

British-Irish Agreement (Amendment) Act 2006

Number: 32/2006

Contents note: Gives effect in Irish law to the supplementary agreement between the Irish and British governments constituted by an exchange of letters dated 25/7/2006 and provides that the *British-Irish Agreement Act 1999* (the implementation bodies agreement), as amended, shall be construed in accordance with that supplementary agreement.

Date enacted: 11/12/2006

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

Electoral (Amendment) Act 2006

Number: 33/2006

Contents note: Provides for postal voting by prisoners at elections and referenda. Amends the *Presidential Elections Act 1993*, the *European Parliament Elections Act 1997* and certain other enactments and provides for related matters. Amends the table to rule 1(4) of the second schedule to the *Electoral Act 1992* by extending, solely in relation to the preparation of the register of electors that comes into force immediately following the register in force at the date of coming into operation of this act, certain time periods in connection with the preparation of the register of electors.

Date enacted: 11/12/2006

Commencement date: 11/12/2006

Energy (Miscellaneous Provisions) Act 2006

Number: 40/2006

Contents note: Amends the *Electricity Regulation Act 1999*, the *Gas Act 1976* and the *Electricity (Supply) (Amendment) Act 2001*. Provides for the functions of the Commission for Energy Regulation in relation to an all-island energy market and in relation to electrical safety and the regulation of electrical contractors. Makes provision in relation to combined heat and power and electricity interconnectors. Provides for the functions of the Commission for Energy Regulation regarding natural gas safety. Provides for the full opening of the natural gas market. Provides for the issue of capital stock in Bord Gáis Éireann. Provides for an increase in

the statutory borrowing limit of Bord na Móna plc. Provides for the treatment of lands affected by mines and former mines by rehabilitation of such lands and for the compulsory acquisition of lands for the purposes of such rehabilitation. Provides for the continued validity of planning or other consents for electricity, gas and other infrastructure developments upon commencement of the *Planning and Development (Strategic Infrastructure) Act 2006*, and provides for related matters.

Date enacted: 24/12/2006

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

Europol (Amendment) Act 2006

Number: 37/2006

Contents note: Gives the force of law to the protocols of 30/11/2000, 28/11/2002 and 27/11/2003 to the convention of 26/7/1995 on the establishment of a European Police Office and, for that purpose, amends the *Europol Act 1997* and provides for related matters.

Date enacted: 23/12/2006

Commencement date: 23/12/2006

Houses of the Oireachtas Commission (Amendment) Act 2006

Number: 39/2006

Contents note: Amends and extends the *Houses of the Oireachtas Commission Act 2003* to provide, among other things, for the commission's funding for the period 2007-2009. Amends section 4 (functions of

the commission) of the 2003 act to specify the provision of translation services for the acts of the Oireachtas from one official language into the other as a function of the commission, and provides for related matters.

Date enacted: 23/12/2006

Commencement date: 1/1/2007 (per s13(3) of the act)

Industrial Development Act 2006

Number: 34/2006

Contents note: Amends and extends the *Industrial Development Act 1993* to provide legislative authority for the transfer of staff from Shannon Free Airport Development Company Ltd to Forfás and to provide a statutory guarantee to the staff that their pay, conditions of service and pension arrangements shall not be diminished by virtue of the transfer.

Date enacted: 18/12/2006

Commencement date: 18/12/2006

Investment Funds, Companies and Miscellaneous Provisions Act 2006

Number: 41/2006

Contents note: Amends and extends the *Companies Acts*, the *Irish Takeover Panel Act 1997*, the *Central Bank Act 1942*, the *Consumer Information Act 1978* and the *Netting of Financial Contracts Act 1995*; provides for the implementation by regulations of directive 2004/109 on the harmonisation of requirements to disclose information about issuers whose securities are admitted to trading on a regulated market (EC transparency directive); gives the Irish Takeover Panel, designated as

the competent authority for the purposes of the takeover bids directive (dir 2004/25) under SI 255/2006, the power to make rules to give effect to acts of the European Communities, and provides for related matters.

Date enacted: 24/12/2006

Commencement date: 24/12/2006 for ss1 to 6, 9, 10, 13, 14, 15 and 35; ss7 and 8 shall be deemed to have come into operation on 1/7/2005; commencement order(s) to be made for all other sections (per s2 of the act)

Irish Film Board

(Amendment) Act 2006

Number: 38/2006

Contents note: Increases the aggregate amount of any investments, loans, grants or monies provided by the Irish Film Board under ss6 and 8 of the *Irish Film Board Act 1980*, or repayments on foot of any guarantee under s7 of that act.

Date enacted: 23/12/2006

Commencement date: 23/12/2006

Local Government (Business Improvement Districts) Act 2006

Number: 42/2006

Contents note: Provides for the establishment of business improvement districts within the functional areas of rating authorities; enables business improvement district schemes, under which projects, services and works are carried out for the benefit of those districts, to finance the schemes by providing for the imposition and collection of a levy on rateable properties situated in those districts; makes provision in relation to local authority funding; amends the *Local Government Acts 1925-2003* and the *Valuation Act 2001*, and provides for related matters.

Date enacted: 24/12/2006

Commencement date: 24/12/2006 for ss1, 7, 8 and 9; commencement order(s) to be made for remaining ss2 to 6 (per s9(4) of the act)

Patents (Amendment)

Act 2006

Number: 31/2006

Contents note: Gives effect to certain provisions of the agreement on trade-related aspects of intellectual property rights (TRIPs agreement) annexed to the agreement establishing the World Trade Organisation; gives further effect to the *European Patent Convention*. Amends the *Patents Act 1992*, as amended by section 75 of the *Trade Marks Act 1996* and sections 4 and 5 of the *Intellectual Property (Miscellaneous Provisions) Act 1998*.

Date enacted: 11/12/2006

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

Social Welfare Act 2006

Number: 36/2006

Contents note: Provides for increases in the rates of social insurance and social assistance payments and improvements in

the family income supplement, maternity and adoptive benefit, death benefit, funeral expenses grant, bereavement grant, widowed parent grant, state pension (non-contributory) and disability allowance schemes. Provides for an increase in the weekly earnings limit below which PRSI is not payable, an increase in the income ceiling above which PRSI contributions are not payable by employed or optional contributors, as announced in the budget, and amends the *Health Contributions Act 1979* to provide for an increase in the amount of contributions payable for earnings over a certain threshold. Also provides for an increase in the weekly and annual exemption thresholds for the health contribution levy.

Date enacted: 19/12/2006

Commencement date: Various – see act

SELECTED STATUTORY INSTRUMENTS

Child Care (Pre-School Services) (No 2) Regulations 2006

as amended by the Child Care (Pre-School Services) (No 2) (Amendment) Regulations 2006 (SI 643/2006)

Number: SI 604/2006

Contents note: Set out the various requirements to be complied with by persons carrying on pre-school services for the purposes of securing the safety, health and welfare and promoting the development of pre-school children. Revoke all previous *Child Care (Pre-School Services) Regulations*.

Commencement date: 3/9/2007 for all regulations other than regulation 3(2); 19/12/2006 for regulation 3(2), which revokes an earlier SI made in 2006

Children Act 2001

(Amendments to Part 11) (Commencement) Order 2006

Number: SI 590/2006

Contents note: Appoints 1/12/2006 as the commencement date for the amendments made to sections 227(1), 230 and 225(2) in part 11 of the *Children Act 2001* by sections 156, 157 and paragraph 30 of schedule 4, respectively, of the *Criminal Justice Act 2006*. These amendments relate to the functions and composition of the board membership of the Special Residential Services Board established under part 11 of the *Children Act 2001*.

Criminal Justice Act 2006 (Commencement) (No 3) Order 2006

Number: SI 586/2006

Contents note: Appoints 29/11/2006 as the commencement date for section 121(d) of the *Criminal Justice Act 2006*. Section 121(d) makes a technical amendment to section 2 (commencement section) of the *Children Act 2001* to provide a statutory authority for the making of the *Children Act 2001 (Amendments to Part 11) (Commencement) Order 2006* (SI 590/2006) listed above.

Circuit Court Rules (Industrial Relations Acts) 2007

Number: SI 12/2007

Contents note: Insert a new rule 11, 'Industrial Relations (Amendment) Act 2001; Industrial Relations (Miscellaneous Provisions) Act 2004', in order 57 of the *Circuit Court Rules 2001* (SI 510/2001) to prescribe procedures in respect of enforcement of a decision of a rights commissioner and enforcement of a determination of the Labour Court under the *Industrial Relations Acts*.

Commencement date: 13/2/007

Circuit Court Rules (Mental Health) 2007

Number: SI 11/2007

Contents note: Insert a new order 47A, 'Mental Health Act 2001', into the *Circuit Court Rules 2001* (SI 510/2001) to prescribe procedures for Circuit Court applications and appeals under the *Mental Health Act 2001*.

Commencement date: 13/2/2007

Circuit Court Rules (Social Welfare Appeals) 2007

Number: SI 10/2007

Contents note: Insert a new order 72, 'Appeals under the *Social Welfare Consolidation Act 2005*', into the *Circuit Court Rules 2001* (SI 510/2001) to prescribe Circuit Court procedures for appeals under the *Social Welfare Consolidation Act 2005*.

Commencement date: 13/2/2007

**Criminal Justice Act 2006
(Commencement) (No 4)
Order 2006**

Number: SI 622/2006

Contents note: Appoints 14/12/2006 as the commencement date for section 9(c) and (d) of the act (amendments to section 4 (detention after arrest) of the *Criminal Justice Act 1984*).

**Criminal Justice Act 2006
(Commencement) (No 5)
Order 2006**

Number: SI 689/2006

Contents note: Appoints 1/1/2007 as the commencement date for part 11 (ss113-119, civil proceedings in relation to anti-social behaviour) of the act.

**Employment Permits Act
2006 (Commencement)
Order 2006**

Number: SI 682/2006

Contents note: Appoints 1/1/2007 as the commencement date for all sections of the act.

**Employment Permits Act
2006 (Prescribed Fees and
Miscellaneous Procedures)
Regulations 2006**

Number: SI 683/2006

Contents note: Permit certain foreign nationals, as defined in the *Employment Permits Acts 2003 and 2006*, to be employed in the state and set out the procedures for making an application for such a permit.

Commencement date: 1/1/2007

**European Communities
(Capital Adequacy of Credit
Institutions) Regulations
2006**

Number: SI 661/2006

Contents note: Give effect to directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions (recast).

Commencement date: 1/1/2007, subject to transitional provisions, for all regulations other than regulations 32 and 51; 1/1/2008 for regulations 32 and 51

**European Communities
(Capital Adequacy of
Investment Firms)
Regulations 2006**

Number: SI 660/2006

Contents note: Give effect to directive 2006/49/EC on the capital adequacy of investment firms and credit institutions (recast).

Commencement date: 1/1/2007

**European Communities
(Energy Performance of
Buildings) Regulations 2006**

Number: SI 666/2006

Contents note: Give effect to articles 5 and 7 of the EC energy performance of buildings directive (2002/91/EC). Require the designers of large buildings (total useful floor area of more than 1,000 m²) to consider, during the design stage, the installation of alternative/renewable energy systems. This requirement will apply to large buildings for which planning permission is applied for on or after 1/1/2007. Also require the building energy rating of new dwellings, new non-domestic buildings and existing buildings by certain dates.

Commencement date: 1/1/2007, save where otherwise specified in the regulations

**European Communities
(Enforcement of Community
Judgments on Trade Marks
and Designs) Regulations
2006**

Number: SI 646/2006

Contents note: Provides for the enforcement by the High Court of community judgments on trademarks and designs made by the community trademark and industrial design registration office (OHIM).

Commencement date: 14/12/2006

**European Communities
(Environmental Impact
Assessment) (Amendment)
Regulations 2006**

Number: SI 659/2006

Contents note: Give effect to provisions of directive 2003/35/EC amending the environmental impact assessment (EIA) directive 85/337/EEC regarding public participation in the assessment of the effects of projects having transboundary environmental impact.

Commencement date: 19/12/2006

**European Communities
(European Public Limited-
Liability Company) (Employee
Involvement) Regulations
2006**

Number: SI 623/2006

Contents note: Give effect to directive 2001/86/EC supplementing the statute for a European company with regard to the involvement of employees. Provide that a new European company (known as a *Societas Europaea*) cannot be registered without first negotiating with employees on their involvement in the company, whether through information and consultation and/or, in certain circumstances, participation at board level.

Commencement date: 14/12/2006

**European Communities (Free
Movement of Persons) (No 2)
Regulations 2006**

Number: SI 656/2006

Contents note: Give effect to directive 2004/38/EC on the rights of citizens of the European Union and their family members to move and reside freely within the territory of the member states. Replace the *European Communities (Free Movement of Persons) Regulations 2006* (SI 226/2006) consequent to the accession of Bulgaria and Romania to the EU on 1/1/2007.

Commencement: 1/1/2007

**European Communities
(Value-Added Tax)
Regulations 2006**

Number: SI 663/2006

Contents note: Give effect to

directive 2006/112/EC and directive 2006/98/EC. Directive 2006/112/EC replaces the sixth VAT directive. These regulations provide for the updating of the references to the *Sixth Directive* in the *Value-Added Tax Act 1972*. Directive 2006/98/EC adapts certain directives in the field of taxation by reason of the accession of Bulgaria and Romania. These regulations amend the application of transnational VAT measures to goods in transit between the two new accession countries and Ireland.

Commencement date: 1/1/2007

**Finance Act 1999
(Commencement of
Substituted Section 98A)
Order 2006**

Number: SI 581/2006

Contents note: Appoints 23/11/2006 as the commencement date for section 98A (conditions that the Revenue Commissioners may impose for relief from mineral-oil tax on biofuel used in approved projects) of the *Finance Act 1999*, as substituted by section 81 of the *Finance Act 2006*.

**Health Act 2004
(Commencement) Order
2006**

Number: SI 651/2006

Contents note: Appoints 1/1/2007 as the commencement date for part 9 (ss45 to 55 complaints) of the *Health Act 2004*.

**Health Act 2004
(Complaints) Regulations
2006**

Number: SI 652/2006

Contents note: Made under part 9 of the *Health Act 2004*, provide for complaints by persons to the Health Service Executive and service providers and require the establishment and operation of procedures and arrangements intended to achieve a fair and reasonable resolution of such complaints.

Commencement date: 1/1/2007

National Minimum Wage Act 2000 (National Minimum Hourly Rate of Pay) Order 2006

Number: SI 667/2006

Contents note: Sets the national minimum hourly rate of pay from 1/1/2007 at €8.30, and from 1/7/2007 at €8.65.

Planning and Development Regulations 2006

Number: SI 685/2006

Contents note: Amend the *Planning and Development Regulations 2001* (SI 600/2001) and provide for the implementation of the *Planning and Development (Strategic Infrastructure) Act 2006*.

Commencement date: 21/12/2006, 31/1/2007 and 31/3/2007 for various regulations – see SI

Planning and Development (Strategic Infrastructure) Act 2006 (Commencement) (No 3) Order 2006

Number: SI 684/2006

Contents note: Appoints 31/1/2007 as the commencement date for ss3, 4, 5, 6(b), (c) and

Rules of the Superior Courts (Evidence) 2007

Number: SI 13/2007

Contents note: Substitute, for rule 5, new rules 5 and 5A in order 39 of the *Rules of the Superior Courts* (SI 15/1986) to provide for the operation of council regulation (EC) 1206/2001 on co-operation between the courts of the member states in the taking of evidence in civil or commercial matters.

Commencement date: 13/2/2007

Rules of the Superior Courts (Mental Health Act 2001) 2006

Number: SI 597/2006

Contents note: Insert a new order 137, 'Mental Health Act 2001', in the *Rules of the Superior Courts* (SI 15/1986) to prescribe procedures for applications and appeals under section 73 of the *Mental Health Act 2001*.

Commencement date: 3/1/2007

Rules of the Superior Courts (Statutory Applications and Appeals) 2007

Number: SI 14/2007

Contents note: Amend the *Rules of the Superior Courts 1986* (SI 15/1986) as follows: by the insertion of a new rule 2A in order 12; by the insertion of a new rule 2A in order 13; and by the insertion of a new order 84B, 'Procedure in statutory applications', and a new order 84C, 'Procedure in statutory appeals', in order to prescribe procedures for statutory applications and appeals.

Commencement date: 13/2/2007

(d), 12, 17 to 20, 22, 23, 25, 27, 29, 30, 32, 33 to 42, 47, 49, 50 and 51. These sections relate to

the establishment of a strategic infrastructure division within An Bord Pleanála and the provision

for a strategic consent process for certain types of strategic infrastructure development.

Sea Pollution (Miscellaneous Provisions) Act 2006 (Commencement) Order 2006

Number: SI 605/2006

Contents note: Appoints 8/12/2006 as the commencement date for part 1, part 3 (other than sections 20 to 33, the second, third and fourth definitions in section 34(c), and section 35) and part 4; appoints 14/6/2007 as the commencement date for sections 20 to 33, the second, third and fourth definitions in section 34(c) and section 35.

Transfer of Execution of Sentences Act 2005 (Commencement Order) 2006

Number: SI 647/2006

Contents note: Appoints 1/2/2007 as the commencement date for all sections of the act. **G**

Prepared by the Law Society Library

CONSULTATION ROOM HIRE RATES

(With effect from 1 January 2007)

- €45 for one hour if payment on the spot and used before 4pm
- If invoiced €60 for one hour (if greater than 1 hour, €45 per hour)
- €60 for 2 hours
- €200 per day

From 1 January 2007, the Four Courts consultation room will be a broadband 'hotspot' for wireless enabled laptops. No laptop? Simply use the internet kiosks in the Four Courts consultation room office.

The Law Society's partners in this initiative are GlobalAirNet International Ltd.

TEL: 01 668 1806

The High Court 2006

No 15 SA
Friday 31 March 2006
Before the President

In the matter of John Martin Carr, solicitor.
In the matter of the *Solicitors Acts 1954-2002*.
Law Society of Ireland
(applicant)
John Martin Carr
(respondent solicitor)

On Friday 31 March 2006, by consent, it was ordered pursuant to section 10A(1) of the *Solicitors (Amendment) Act 1994*, as amended by section 13 of the *Solicitors (Amendment) Act 2002*:

1) That the respondent solicitor do respond appropriately in a timely manner to the correspondence from the Society in relation to the complaint of an individual, the subject matter of a complaint to the Society dated 18 March 2005, and to furnish to the

Society any files, papers or documents in his possession in conjunction with this matter;
 2) That the respondent solicitor do attend a meeting to be convened by the Society at which the complaint of the named individual will be considered.

And the court awarded the applicant, the Law Society of Ireland, their costs of the motion and order herein as against the respondent solicitor when taxed and ascertained.

Solicitors Disciplinary Tribunal

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

In the matter of Sean Grennan, a solicitor of Sean Grennan & Company, Solicitors, 32 North Main Street, Naas, Co Kildare, and in the matter of the *Solicitors Acts 1954-2002* [3381/DT18/06]
Law Society of Ireland
(applicant)
Sean Grennan
(respondent solicitor)

On 28 September 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he had:

a) Failed to ensure there was furnished to the Society an accountant's report for the year ended 31 January 2005 within six months of that date, in breach of regulation 21(1) of the *Solicitors' Accounts Regulations*, SI no 421 of 2001;

b) Through his conduct, showed disregard for his statutory obligations to comply with the *Solicitors' Accounts Regulations* and showed disregard for the Society's statutory obligation to monitor compliance with the *Solicitors' Accounts Regulations* for the protection of clients and the public.

The tribunal ordered that the respondent solicitor:

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

In the matter of James P O'Neill, a solicitor of Lindos, Mount Venus Road, Rathfarnham, Dublin 14, and in the matter of the *Solicitors Acts 1954-2002* [2586/DT79/05]
Law Society of Ireland
(applicant)
James P O'Neill
(respondent solicitor)

On 3 October 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct as a solicitor in that he is in breach of the provisions of the *Professional Indemnity Insurance Regulations* and, in particular, the provision of statutory instrument number 312 of 1995, as amended by statutory instrument number 362 of 1999, having failed to obtain run-off cover for the year

2005 in accordance with the requirements of those regulations.

The tribunal ordered that the respondent solicitor do stand censured.

In the matter of John W Synnott, a solicitor carrying on practice under the style and title of John Synnott & Company, Solicitors, at Dame House, 24 Dame Street, Dublin 2, and in the matter of the *Solicitors Acts 1954-2002* [3035/DT40/06]
Law Society of Ireland
(applicant)
John W Synnott
(respondent solicitor)

On 3 October 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he was in breach of the provisions of section 68(2) of the 1994 *Solicitors (Amendment) Act*, which states that a solicitor shall not act for a client in connection with any contentious business on the basis of calculating charges on a percentage basis. In the circumstances of this case, the solicitor acknowledged

and agreed that he had deducted charges from a client's settlement (for personal injuries arising out of a road traffic accident) on the basis of a 10% solicitor/client fee.

The tribunal ordered that the respondent solicitor:

a) Do stand censured,
 b) Pay a sum of €2,000 to the compensation fund,
 c) Pay the whole of the costs of the Law Society of Ireland, as taxed by a taxing master of the High Court in default of agreement.

In the matter of Anthony M Murphy, a solicitor practising as Anthony M Murphy, solicitor, 2 The Green, Straffan Wood, Straffan Road, Maynooth, Co Kildare, previously at 10 Old Quarry, Dalkey, Co Dublin, and in the matter of the *Solicitors Acts 1954-2002* [4012/DT63/05]
Law Society of Ireland
(applicant)
Anthony M Murphy
(respondent solicitor)

On 17 October 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his prac-

tice as a solicitor in that he:

- a) Failed to file his accountant's report for the year ended 30 June 2004 in a timely manner or at all, in breach of regulation 21(1) of the *Solicitors' Accounts Regulations 2001* (SI number 421 of 2001);
- b) The solicitor, through his conduct, showed disregard for his statutory obligations to comply with the regulations and showed disregard for the Society's statutory obligation to monitor compliance with the *Solicitors' Accounts Regulations* for the protection of the clients and the public.

The tribunal ordered that the respondent solicitor:

- a) Do stand censured,
- b) Pay a sum of €2,000 to the compensation fund,
- c) Pay the whole of the costs of the Law Society of Ireland or any person appearing before

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

In the matter of Michael Crawford, a solicitor practising as Michael Crawford & Company at Manorhamilton, Co Leitrim, and in the matter of the *Solicitors Acts 1954-2002* [5022/DT10/06] *Law Society of Ireland* (applicant) *Michael Crawford* (respondent solicitor)

On 24 October 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he failed to respond to the correspondence of the Society, and in particular the letters dated 4 May 2005, 19 May 2005, 1 June 2005, 22 June 2005, 6 July 2005, 19 July 2005, 29 July 2005, 15 August 2005, in

a timely manner or at all.

The tribunal ordered that the respondent solicitor do stand admonished and advised.

The tribunal made no order as to costs.

In the matter of Francis McArdle, a solicitor practising as McArdle & Associates at 10 Roden Place, Dundalk, Co Louth, and in the matter of the *Solicitors Acts 1954-2002* [2472/DT41/06] *Law Society of Ireland* (applicant) *Francis McArdle* (respondent solicitor)

On 24 October 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

- a) Failed to ensure that there was furnished to the Society an accountant's report for the year ended 31 December

2004 within six months of that date, in breach of regulation 21(1) of the *Solicitors' Accounts Regulations 2001*, statutory instrument no 421 of 2001;

- b) Through his conduct, showed disregard for his statutory obligations to comply with the *Solicitors' Accounts Regulations* and showed disregard for the Society's statutory obligation to monitor compliance with the *Solicitors' Accounts Regulations* for the protection of clients and the public.

The tribunal ordered that the respondent solicitor:

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



SOCIETY OF YOUNG SOLICITORS IRELAND

SPRING CONFERENCE 2007

23, 24, 25 MARCH 2007 AT THE SLIEVE DONARD HOTEL, NEWCASTLE, COUNTY DOWN

Friday 23 March

18.00-21.30: Registration
21.00-late: Welcome drinks in the bar

FULL DETAILS OF THE SPEAKERS AND TOPICS TO BE COVERED WILL BE AVAILABLE ON THE SYS WEBSITE

*www.sys.ie

Saturday 24 March

10.00-12.00: Lectures*
14:00: Golf, health centre, spa treatments**
19.00-20.00: Pre-dinner drinks reception
20.00-late: Black-tie gala dinner, band

Sunday 25 March

12.00: Check out

NOTES

- Persons wishing to attend must apply through the SYS.
- Accommodation is limited and will be allocated on first-come, first-served basis, in accordance with the procedure set out below.
- Conference fee is €300 pps for two nights accommodation (with breakfast), reception, gala dinner and conference materials.
- One application must be submitted per room per envelope together with cheque(s) for the conference fee. All applications must be sent by ordinary prepaid post and only applications exhibiting a postmark dated FRIDAY 16 FEBRUARY 2007 or after will be considered. Rejected applications will be returned. Successful applications will

be confirmed by email.

- Names of delegates to whom the cheque(s) apply must be written on the back of the cheque(s).
- Cancellations must be notified to eb Bradley@algoodbody.ie on or before Friday 9 March 2007. Cancellations after that date will not qualify for a refund.
- There are a limited number of twin rooms and/or double rooms. Please tick one of the following options for your preferred accommodation (the SYS cannot guarantee that delegates will be allocated their preferred choice). If nothing below is indicated, rooms will be allocated at the committee's discretion.
Twin room: _____ Double room: _____

APPLICATION FORM

PLEASE USE BLOCK CAPITALS. ONE FORM PER ROOM PER ENVELOPE.

Name 1: _____

Name 2: _____

Firm 1: _____

Firm 2: _____

Email: _____

Email: _____

One contact address: _____

Phone (office): _____

Phone (mobile): _____

I enclose cheque(s) payable to the Society of Young Solicitors in the sum of €600.
Application to be sent to: Elizabeth Bradley, Society of Young Solicitors, A & L Goodbody, North Wall Quay, IFSC, Dublin 1.

*Time spent attending the above lectures may be counted when assessing the completion of your CPD requirements

**Remember to book your spa treatments well in advance

firstlaw update



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

CRIMINAL LAW

Appeal

Criminal procedure – habeas corpus – return – Supreme Court appeal – warrant – whether necessary for governor of prison to be in court – article 40.4.2 of the Constitution.

The applicant successfully applied for relief pursuant to article 40.4.2 of the Constitution and the decision was appealed to the Supreme Court and was dismissed. However, the Supreme Court remitted to the High Court matters relating to the return on behalf of the governor and the time since the applicant was last placed in custody. The applicant contended that he had been deprived of sight of the return and the opportunity to make meaningful observations. A newly authenticated copy of the warrant for the detention of the applicant was also challenged. The applicant had been placed in custody in 2003.

MacMenamin J held that the warrant had merely been subject to technical rectification. The governor of a prison was not required to attend in court. There had been no major departure from the rules of natural justice here.

Ward (plaintiff) v Governor of Portlaoise Prison (defendant), High Court, Mr Justice MacMenamin, 31/7/2006 2006 [FL13088]

Delay

Practice and procedure – sexual abuse – civil proceedings – test to be applied – burden of proof on applicant – prejudice – whether delay excusable – Statute of Limitations (Amendment) Act 2000.

The second, third, fourth and fifth-named defendants sought to dismiss the plaintiff's claim for personal injuries for, among other things, sexual abuse against the state on the grounds of inordinate and inexcusable delay. The defendants contended that the plaintiff did not benefit from the provisions of the *Statute of Limitations (Amendment) Act 2000* and had not appropriately explained the delay in prosecution.

Quirke J dismissed the plaintiff's case, holding that the death of many relevant witnesses and the absence of documentation entailed that the capacity of the state to defend itself had been seriously prejudiced. A real and substantial risk of an unfair trial would result otherwise.

O'Dwyer v McDonnell, High Court, Mr Justice Quirke, 2/10/2006 [FL12980]

Drink driving

Evidence – validity of opinion of arresting garda – whether direction by gardaí to commit illegal act affects validity of evidence or prosecution – garda forming opinion that accused intoxicated to such extent that incapable of driving – garda subsequently directing defendant to drive car to side of road – whether amounting to direction to commit illegal act – whether vitiating arrest.

The accused was stopped by a member of the gardaí and informed that he had formed the opinion that the accused had committed an offence contrary to s49 of the *Road Traffic Act 1961*, as amended. The arresting garda then directed the accused to drive his car to the side of the road and stop,

whence he was arrested. At the conclusion of the evidence in the District Court, the accused applied for a direction that he be acquitted on the grounds that his arrest had been unlawful by reason of the fact that the arresting garda, having purportedly formed the opinion that the accused had committed an offence contrary to s49 of the 1961 act, as amended, then required him to drive his car in circumstances that deprived him of his liberty and that the requirement was one to commit a criminal offence. It was also contended that the illegality associated with the arrest tainted the evidence obtained thereafter. The district judge refused the application, but agreed to state a case to the High Court as to (a) whether the arrest of the accused was lawful in circumstances where the arresting garda, having stated that he had formed the opinion that the accused had committed an offence contrary to s49 of the 1961 act, then required the accused to continue driving; and (b), in the alternative, whether the requirement that the accused continue driving sufficed to vitiate the garda's opinion that the defendant had committed an offence contrary to s49.

Ms Justice Dunne answered the first question in the affirmative and the second in the negative, holding that:

- 1) The fact that a garda has requested one to do an illegal act did not, of itself, amount to authority to an individual to do that illegal act;
- 2) As there was no causative link between the act com-

plained of and the obtaining of evidence, the defendant had not been prejudiced thereby;

- 3) In the circumstances where there was a finding of fact that the garda had formed the necessary opinion, it could not be vitiated by subsequent events.

DPP v Penny, High Court, Judge Dunne, 27/7/2006 [FL13013]

Time limited

Case stated – whether summonses issued outside time limited – Petty Sessions (Ireland) Act 1851, s10(4) – Courts (No 3) Act 1986, s1(7)(a).

This was a case stated on the application of the DPP, seeking the opinion of the High Court as to whether the district judge was correct in law in striking out certain summonses on the ground that they had been issued outside the time limited by the provisions of s10(4) of the *Petty Sessions (Ireland) Act 1851* and s1(7)(a) of the *Courts (No 3) Act 1986*.

Quirke J answered the question asked by the district judge in the negative, holding that the summonses were lawfully issued pursuant to the provisions of the 1986 act and the district judge had jurisdiction to deal with them.

DPP (prosecutor/appellant) v Thomas (accused/respondent), High Court, Mr Justice Quirke, 2/10/2006 [FL13024]

FAMILY LAW

Custody

Children – application for recognition and enforcement of residence and contact order – Child Abduction and Enforcement of

Custody Orders Act 1991 – Luxembourg Convention, *articles 7, 10 and 11*.

The applicant sought an order pursuant to article 7 of the *European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children* (the *Luxembourg Convention*), as implemented in this jurisdiction by the *Child Abduction and Enforcement of Custody Orders Act 1991*, for the recognition and enforcement of the residence and contact order made in the Oxford County Court on 22 July 2004.

Finlay Geoghegan J made an order under article 7 of the *Luxembourg Convention*, holding that the respondent had failed to establish a ground for refusal under article 10 of the *Luxembourg Convention*.

R(RGH) (applicant) v G(LM) (respondent), High Court, Miss Justice Finlay Geoghegan, 19/7/2006 [FL13050]

Judicial separation

Challenge to constitutionality of s5(1)(a) of Family Law (Maintenance of Spouses and Children) Act 1976 and s5 and ss12 to 21 inclusive of Family Law (Divorce) Act 1996 – order of certiorari quashing all the orders made in matrimonial proceedings insofar as they impinge on constitutional property rights – challenge to constitutionality of s2(1)(f) and

s3(1) of the Judicial Separation and Family Law Reform Act 1989 – Constitution of Ireland, article 43.

The plaintiff sought to impugn the constitutionality of s5(1)(a) of the *Family Law (Maintenance of Spouses and Children) Act 1976* and sought a declaration that s5 and ss12 to 21 (inclusive) of the *Family Law (Divorce) Act 1996* were repugnant to the Constitution. The plaintiff also sought an order of *certiorari* quashing all the orders made in the matrimonial proceedings between himself and his wife, insofar as they impinged on his constitutional property rights. In a second set of proceedings, the plaintiff sought similar declarations with regard to s2(1)(f) and s3(1) of the *Judicial Separation and Family Law Reform Act 1989*. The proceedings were consolidated.

McMenamin J declined the relief sought, holding that, not only were the provisions of the 1996 act of not unconstitutional, but they were in fact mandated by the Constitution itself. The provisions of the 1996 act with regard to financial relief were in harmony with the terms of the relief that might be granted by the court under the 1989 act.

B(L) (plaintiff) v Ireland (defendant), High Court, Mr Justice MacMenamin, 7/7/2006 [FL13038]

PRACTICE AND PROCEDURE

Solicitor's undertaking

Compensation – mortgages – whether the plaintiff was entitled to be compensated for the defendant solicitor's failure to fulfil an undertaking made by him in relation to a residential mortgage.

The defendant acted as the solicitor for a borrower in the purchase of a certain property and in the mortgage thereof to the bank as security for a loan from the bank to the borrower. In pursuance of his role as solicitor for the borrower, the defendant gave an undertaking to the bank, essentially promising to furnish the bank with good security on the mortgaged property in accordance with the terms of the offer letter, which was accepted by the borrower. The defendant accepted that he was in breach of the undertaking, in that he failed to perfect the borrower's title or the bank's security. By virtue of the borrower's default in meeting the installment repayments to the bank, the bank instituted proceedings by way of special summons seeking, amongst other reliefs, compensation for loss suffered as a result of the defendant's actions in releasing the sum of €250,500 in contravention of the undertaking and without the authority of the bank. The plaintiff did not seek to recover the debt from the borrower.

Laffoy J dismissed the plaintiff's claim, holding that the plaintiff's claim for compensation by way of repayment of the sum of €250,500 together with interest as a means of enforcing the undertaking was misconceived. It was reasonable to infer from the evidence that the defendant did not comply with the undertaking. However, it was still possible for the defendant to fulfil the overall purpose of the undertaking and his ultimate obligation, and if that obligation was carried out, there would be no relief that the court could give to the plaintiff in the exercise of its inherent jurisdiction. Furthermore, the relief sought by the plaintiff was not commensurate with compensating the plaintiff for the loss it suffered as a result of the defendant's failure to implement his obligation pursuant to the undertaking.

Bank of Ireland Mortgage Bank (plaintiff) v Coleman (defendant), High Court, Ms Justice Laffoy, 6/11/2006 [FL13130] G

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

THE NEXT TIME YOU ARE IN TOWN WHY NOT AVAIL OF THE LAW SOCIETY'S B&B FACILITY

SINGLE ROOMS, OF WHICH THERE ARE THREE, ARE CHARGED AT A RATE OF €45 PER NIGHT, WHILE TWIN AND DOUBLE ROOMS, OF WHICH THERE ARE ALSO THREE IN TOTAL, ARE CHARGED AT A RATE OF €65 PER NIGHT





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

Competition Authority v BIDS [2006] IEHC 294

On 27 July 2006, the High Court rejected a Competition Authority challenge against proposals to rationalise the beef-processing industry. The action was taken against the Beef Industry Development Society (BIDS), an industry grouping established for the specific purpose of rationalising the industry, and Barry Brothers Meats Limited, which had entered into an agreement with BIDS. The second-named defendant, a member of BIDS, took no active part in the proceedings. The authority's case was based on its belief that the rationalisation scheme would result in anti-competitive effects, including increased beef prices to consumers.

As this judgment was handed down by McKechnie J, the judge in charge of the High Court Competition List, it is instructive as to the level of economic analysis required by the High Court to prove a breach of competition rules. In this case, McKechnie J was scathing in his opinion of much of the economic evidence advanced by the expert economists on both sides, referring to outdated evidence, mistaken beliefs and insufficient analysis.

Background

In 1997, Enterprise Ireland commissioned a report into the Irish beef sector. The final report, entitled *Preparing the Irish Beef Sector for the 21st Century*, was published in

1998 and became known as the *McKinsey Report*. It recommended a radical rationalisation of the beef-processing industry, noting that processors faced catastrophic outcomes over the medium term as a result of huge overcapacity in the industry.

The subsequent *Report of the Food Industry Development Group*, published in 1999, referred to the *McKinsey Report* findings of overcapacity in the beef-processing industry. In addition, the 1999 *Report of the Beef Task Force* expressly accepted the findings of the *McKinsey Report* and found that "there is at present under-used slaughtering capacity in the beef industry and that there are considerable benefits to be gained from a rationalisation process".

The BIDS proposals

BIDS was established in May 2002 for the specific purpose of implementing the recommendations of these reports. Following a series of meetings, the members arrived at a set of proposals for a rationalisation scheme.

Under the scheme, 'goers' and 'stayers' would be identified. 'Goers' were defined as BIDS members who would voluntarily agree to exit the beef industry under the programme and 'stayers' were defined as BIDS members who would not exit the beef industry under the programme. It was agreed that the scheme would be on a

once-off basis and would be implemented over a 12-month period with the aim of reducing processing capacity by 420,000 cattle per year (approximately 25% of total capacity). Processors that left the industry would sign an exit agreement requiring them to decommission their plants for the purposes of beef processing for a period of five years and would agree not to re-enter the industry for a period of two years.

It was further agreed that those remaining in the industry would compensate the goers by way of levies. The proposed levy scheme would require a payment by stayers of £2 per head of cattle up to the level of the individual processor's traditional kill and £11 per head for cattle killed in excess of the traditional kill.

From the outset, the members of BIDS were aware that the rationalisation scheme could raise competition concerns. They met with the authority shortly after BIDS' establishment to ascertain its views on the rationalisation scheme and to seek the authority's approval for the proposals. However, in view of impending legislative changes, the authority took the view that economic operators, such as BIDS, would have to self-assess such agreements. (Under the *Competition Act 1991*, the authority could engage with parties in relation to proposed agreements and decisions and give clearance

by way of certification (no breach of competition rules) or licence (efficiency conditions satisfied). However this was abolished under the 2002 act, which came into force on 1 July 2002.)

The authority subsequently investigated the proposals and issued proceedings against BIDS in June 2003. The authority sought a declaration that the proposals were prohibited and void by virtue of section 4 of the *Competition Act 2002* and article 81(1) of the *EC Treaty*. No injunction was sought because the parties gave undertakings to the authority to suspend implementation of the proposals pending the outcome of the action.

The court's approach

Although the authority alleged that BIDS had acted in breach of both section 4 of the 2002 act and article 81 of the *EC Treaty*, McKechnie J stated early in his judgment that, in his view, "this case is truly an article 81 case and not one requiring independent consideration under s4 of the 2002 act".

Article 81(1) of the *EC Treaty* prohibits agreements between undertakings, decisions by associations of undertakings and concerted practices that may affect trade between member states and that are anti-competitive by object or effect. Any agreement or decision prohibited by article 81(1) is automatically void.

Certain provisions, known as 'hardcore restrictions', which include price fixing, output limitation or sharing of market or customers, clearly have as their object the restriction of competition. Agreements containing such provisions are presumed to have negative effects on the market and therefore it is not necessary analyse their actual effects on competition in the relevant market in order to establish a breach.

However, many cooperation agreements between undertakings do not have as their object the restriction of competition. Therefore, it is necessary to conduct a detailed economic analysis to establish whether the agreement has a restrictive effect on competition. To discharge the burden of proof under article 81(1), the effects analysis must show that the agreement is likely to produce negative market effects as to prices, output, innovation or the variety or quality of goods and services.

Article 81(3) provides an escape clause for agreements that would otherwise be prohibited by article 81(1). If an agreement meets the four criteria set out in article 81(3), then article 81(1) will be deemed inapplicable to it. Specifically, the economic benefits of the agreement must outweigh its restrictive effects on competition; the economic benefits or cost savings must favour the consumer; the agreement must not contain any dispensable restrictions; and it must not substantially eliminate competition. The final criterion requires an analysis of the sources of competition in the market and the impact of the agreement on any competitive constraint.

The onus of proof in respect of a breach of article 81(1) is on the party alleging such a breach, in this case the

authority, while the onus of proof in respect of article 81(3) is on the party seeking to avail of it, in this instance BIDS. This principle was of particular importance here, as the outcome of the case turned on the failure of the authority to discharge its burden of proof.

In his judgment, McKechnie J made it clear that he considered the activities of BIDS to be "the antithesis of how cartels usually operate". In particular, he said that, from the beginning, BIDS had behaved with openness and transparency in the disclosure of the rationalisation scheme and noted that the rules of BIDS specifically stated that it would be necessary to comply with competition legislation.

Although not criticising the authority for taking the view that BIDS should self-assess the rationalisation agreement, McKechnie J did question whether the action would have come before the court if "a more fulfilling engagement was possible" between the parties, particularly in light of the conduct of BIDS.

Relevant market

The court found that the relevant product market was divided into the upstream market for the procurement of cattle for slaughter and deboning and the downstream market for the sale of processed beef. The relevant geographic market was found to be national in both cases.

The court was critical of the BIDS economist, who, on day six of the hearing, introduced a new argument that the downstream market ought to be considered pan-European. The court rejected this contention on the basis that it was "advanced without any sustainable support from any reliable source". In support of his finding of a nation-

al market for processed beef, the judge cited the wide variation in price throughout Europe and the domestic preference for home-produced beef. He also noted that the fact that beef can be traded quite easily in the EU was not counter-indicative of national markets. It is interesting to note that the court relied in part on the "credible evidence" adduced by non-economic witnesses who had been involved in the beef industry for many years.

Competition Authority allegations

The authority's case rested on three features of the rationalisation scheme that it found to be objectionable:

- The reduction in processing capacity,
- The imposition of levies, and
- The restrictive covenants in exit agreements.

The court had to consider whether these features were restrictive of competition by either object or effect. It is worth noting that the court appointed its own expert economist in this case – as permitted by order 63A, rule 23(1), *Rules of the Superior Courts* – and, accordingly, was in a strong position to assess the economic evidence presented by the parties.

Restriction by object

As regards restriction by object, the court's assessment was brief. McKechnie J noted that there was no question in the BIDS minutes, or indeed the proposals, of price fixing or market sharing. He further noted that he could not find that a reduction *per se* in capacity constituted a limitation of output. Taking into account relevant findings of the commission, including *Synthetic Fibres* (OJ 1984 L207/17) and *Dutch Bricks* (OJ

1994 L131/15), the court concluded that the proposals did not restrict competition by object.

Restriction by effect

The court turned then to a detailed analysis of the submissions in support of the proposition that the objectionable features were restrictive of competition by effect.

It was in this regard that McKechnie J was most critical of the economic evidence put before him. Perhaps this is best summed up at paragraph 103 of the judgment, where he states, as a general comment in relation to the evidence on capacity, that "it would not be unfair to point out that in this particular regard the evidence of both economists lacked solid foundation". He went on to note that "both sides relied a good deal on theoretical and qualitative arguments without being in a position to advance quantitative evidence in support of their respective positions". McKechnie J suggested that this could be explained by the fact that "a great deal of the evidence given on this point, and indeed on the entirety of the case, was based on data which largely ended in 1997".

The authority claimed that the planned reduction in capacity would cause capacity shortage in the peak demand months. However, as noted by the court, the evidence presented by the authority was partially based on the mistaken belief that a particular payment to farmers (the deseasonalisation premium) was still in existence, when in fact it had been discontinued. In contrast, the BIDS economist submitted that 75% of the existing capacity should be sufficient to serve peak demand. However, the court noted that this allegation was not supported by updated quantitative evidence. The

judge's frustration with the economic analysis presented to him on this point was reflected in his terse comment that "despite the obvious limitations" caused by outdated evidence, it was nevertheless necessary that he determine the issue.

In analysing the issue, the court noted that, for capacity to matter in the context of restriction of competition by effect, it would need to have a moderating effect on prices. In particular, a shortage of capacity would need to have a negative impact on prices. The court relied in particular on the evidence of a witness who appeared on behalf of BIDS, who was not an economist but had been involved in the industry for 30 years. This individual supported the view that the remaining capacity would be sufficient to meet existing and future demand. He pointed to the fact that, unlike normal practice in many other member states, not one factory operates a five-day week 52 weeks per year, the typical working week being three to four days per week, with no shift work being used.

Ultimately, the court found that the evidence presented by the authority's economist was not sufficiently conclusive to demonstrate with a reasonable degree of probability that the rationalisation scheme would result in a capacity shortage and did not satisfy the court that market prices would be appreciably affected.

The court then turned to an analysis of the levies. The

authority claimed that the imposition of levies would exert a significant negative pressure on prices, leading to price rises in Ireland and Britain. However, the court noted that the authority's economist was unable to offer any evidence, even by way of estimate, of the likely price impact of the levy and did not give his opinion as to the likely output reduction that would be caused as a result. The court pointed to a number of reasons why it considered an increase in the marginal costs of processors remaining in the industry might not lead to significant price increases in the relevant markets. The judge concluded that the authority had failed to establish that the levy would have a restrictive effect on competition in the relevant markets.

The final feature to fall for consideration by the court was the restrictive covenants in the exit agreements. The authority claimed that these would result in the removal of a 'safety valve' that would have prevented the rationalisation scheme from resulting in price rises. In particular, the authority's economist claimed that the increased concentration in the market would facilitate tacit collusion and that those remaining in the industry would not be constrained by the fear of re-entry by 'goers'.

Again, the court rejected the economic evidence advanced by the authority, finding it insufficient to discharge to the burden of proof. The court noted that, while there was no doubt that the

rationalisation scheme would reduce the number of competitors, the question was whether it would reduce competition. In considering this question, the court noted several reasons why it believed competition would not be reduced, including that the market is fragmented, that there are other avenues for entry beyond developing a green field, and that the 'goers' were not the only credible market entrants. As a result, the court held that the authority had failed to demonstrate by credible evidence that the objectionable features of the arrangements were likely, as a matter of probability, to have appreciable anti-competitive effects. Therefore its action failed.

Article 81(3)

Although a moot point, as the authority had failed to establish a breach of article 81(1), McKechnie J briefly reviewed the arguments advanced by BIDS in respect of article 81(3). Here too he found the economic evidence deficient.

The following is a summary of the findings in respect of each element of the test:

- Economic benefit: the economist made no serious attempt to identify the *quantum* of cost savings that would be generated by the rationalisation scheme;
- Consumer welfare: without knowing the size of efficiency gains it is impossible to evaluate whether the consumer will receive a 'fair' share of the benefit;
- Indispensability: it was

accepted that there was market failure and that natural competition would not be sufficient to eliminate excess capacity – therefore this element of the test was satisfied;

- Elimination of competition: it was also accepted that the proposals would not result in capacity shortage and therefore a sufficient level of competition would remain in the market.

Current position

The authority announced in October 2006 that it intends to appeal the findings of McKechnie J to the Supreme Court. However, any appeal is unlikely to be heard until at least late 2007. In the meantime, the rationalisation scheme has not been implemented.

This judgment is essential reading for any practitioner preparing for competition proceedings in the High Court. Without a doubt, up-to-date qualitative and quantitative economic evidence is required in order to discharge the burden of proof in respect of both article 81(1) and article 81(3). This must be supported by a credible economic analysis of the likely anti-competitive effects on the relevant market. Finally, it seems clear that the court requires each party to focus not just on discharging its own burden of proof, but also on presenting strong rebuttal evidence. **G**

Sinéad Hayes is a solicitor with Eugene F Collins.

Get more at lawsociety.ie

Gazette readers can access back issues of the magazine as far back as Jan/Feb 1997 right up to the current issue at lawsociety.ie. You can also check out: current news; forthcoming events; employment opportunities; the latest CPD courses, as well as lots of other useful information.

Recent Developments in European law

CRIMINAL LAW

The commission has adopted a framework decision proposing a European supervision order in pre-trial procedures. This is a follow up to a Green Paper from 2004. In the Green Paper, the commission identified the problems relating to pre-trial supervision measures in Europe. Owing to the risk of suspects fleeing the jurisdiction, non-resident suspects are often remanded in custody while residents benefit from alternative measures, such as reporting to the police or a prohibition on travel. This proposal aims to remedy this and sets up a procedure to allow an individual to be subject to bail conditions in a member state other than the member state of the criminal proceedings. A transfer mechanism is to be put in place where the individual fails to adhere to the conditions.

EUROPEAN COURT OF JUSTICE

Case C-459/03, *Commission of the European Communities v Ireland*, 30 May 2006. A nuclear plant (the MOX plant) is located at Sellafield in England, on the coast of the Irish Sea. It recycles material from nuclear reactors and converts it into a new fuel – mixed oxide fuel (MOX), which can be used as an energy source in a nuclear power station. Ireland raised the issue of the plant with Britain, questioning the soundness of the reports and decisions that formed the basis for justification of the plant's construction. Ireland brought proceedings against Britain before the arbitral tribunal provided for under the *Law of the Sea Convention*. Ireland claimed that radioactive substances had entered its territory and argued that harm had been done to the marine envi-

ronment in the Irish Sea. The European Council had approved the convention on behalf of the EC by decision in 1998. The council declared that the EC enjoys exclusive competence with regard to the convention provisions on the prevention of marine pollution only to the extent to which those provisions affect existing EC rules. The commission asked Ireland to suspend its proceedings on the basis that the dispute came within the exclusive competence of the ECJ. Ireland did not accede to that request and the commission brought this action. The court held that the provisions of the convention that Britain was accused of having breached relate to the "protection and preservation of the marine environment", an area in which the EC's external competence is not exclusive, but in principle, shared between it and the member states. The matters covered by the convention provisions that Ireland invoked are to a very large extent regulated by EC measures. There are directives relating to the obligation to carry out a proper assessment of the environmental impact on the marine environment, transfer of radioactive substances and the freedom of access to information on the environment. Thus, the court found that it had jurisdiction to deal with disputes relating to the provision of the convention relied on by Ireland. Ireland had also submitted instruments of EC law to the arbitral tribunal for purposes of their interpretation and application seeking a declaration that Britain had breached provisions of these instruments. This is at variance with *EC Treaty* obligations imposed on member states to respect the exclusive nature of the court's jurisdiction to resolve disputes concerning the interpretation and applica-

tion of provision of EC law. There is a manifest risk that the jurisdictional order laid down in the treaties, and consequently the autonomy of the EC legal system, may be adversely affected. Thus, Ireland failed to comply with its duty of cooperation under the EC and EA treaties.

FREE MOVEMENT OF PERSONS

Case C-540/03, *European Parliament v Council of the European Union*, 27 June 2006. Directive 2003/86/EC on the right of family reunification was adopted by the council in September 2003. The directive provides that a non-member state national lawfully living in the EC is in principle entitled to the grant of authorisation by the host member state allowing his/her children to join him/her by way of family reunification. Member states are allowed in certain circumstances to apply national legislation derogating from the rules that apply in principle. Where a child is aged over 12 years and arrives independently from the rest of his/her family, the member state may, before authorising entry and residence, verify whether he/she meets an integration condition provided for by its existing legislation on the date of implementation of the directive. Member states may require applications for family reunification in respect of minor children to be submitted before the age of 15, as provided for by their existing legislation on the date of implementation of the directive. A member state may require the sponsor to have stayed lawfully in its territory for a period not exceeding two years before having his/her family members join him/her. A member state may provide for a waiting period of no more than

three years between submission of the application for family reunification and the issue of a residence permit to the family members, where its legislation on the date of adoption of the directive takes into account its reception capacity. The European Parliament argued that these provisions were contrary to fundamental rights – in particular, the right to respect for family life and the right to non-discrimination. It brought an action for annulment before the ECJ. The court held that the possibility for member states to verify whether a child aged 12, who arrives independently from the rest of his/her family, meets an integration condition cannot be regarded as running counter to the fundamental right to respect for family life, to the obligation to have regard to the best interests of children or the principle of non-discrimination on grounds of age. The right to respect for family life within the meaning of the *European Convention on Human Rights* is among the fundamental rights protected in EC law. The *Convention on the Rights of the Child* and the EU's *Charter of Fundamental Rights* also recognise the principle of respect for family life. These instruments stress the importance to a child of family life and recommend that states have regard to child's interests. However, they do not create for the members of a family an individual right to be allowed to enter the territory of a state and cannot be interpreted as denying member states a certain margin of appreciation when they examine applications for family reunification. The effect of the possibility for member states to verify whether a child aged 12, who arrives independently from the rest of his/her family, meets an integration condition is to pre-

serve a limited margin of discretion for those states. This is no different to the margin accorded to them by the European Court of Human Rights (in its case law relating to the right to respect for family life) for weighing, in each factual situation, the competing interests. Under the directive, the member state must, when weighing those interests, have due regard to the best interests of minor children and to the nature and solidity of the family relationships of the person in question, the duration of his/her residence in the member state and the existence of family, cultural and social ties with his/her country of origin. A child's age and the fact that a child arrives independently from his/her family are also factors taken into consideration by the European Court of Human Rights. The choice of the age of 12 did not amount to a criterion that would infringe the principle of non-discrimination on grounds of age. This criterion corresponds to a stage in the life of a minor child when the latter has already lived for a relatively long period in a non-member state without the members of his/her family, so that integration in another environment is liable to give rise to more difficulties. The fact that a spouse and a child over 12 are not treated in the same way cannot be regarded as unjustified discrimination against the minor child. The objective of marriage is long lasting married life together, whereas a child over the age of 12 will not necessarily remain for a long time with their parents. Similarly, the possibility for member states to apply the conditions for family reunification that are prescribed by the directive to applications in respect of children only if they are submitted before the child have reached the age of 15 cannot be regarded as running

counter to the right to respect for family life, to the obligation to have regard to the best interests of children or to the principle of non-discrimination on grounds of age. This provision cannot be interpreted as prohibiting the member states from taking account of an application relating to a child over 15 or as authorising them not to do so. The provision has the effect of authorising a member state not to apply the general conditions of the directive to applications submitted by minor children over the age of 15. However, the member state is still obliged to examine the application in the interests of the child and with a view to promoting family life. The court held that the power of the member states to defer family reunification for two or three years permits them to ensure that family reunification will take place in favourable conditions, after the sponsor has been residing in the host state for a sufficiently long period for it to be assumed that the family members will settle down well and display a certain level of integration. The power does not run counter to the right of respect for family life. In this context, the reception capacity of the member state may be one of the factors taken into account when considering an application. This cannot be treated as authorising any quota system of a three-year waiting period imposed without regard to the particular circumstances of specific cases. When considering applications, the member states must also have due regard to the best interests of minor children.

TORT

Case C-127/04, *Declan O'Byrne v Sanofi Pasteur MSD Ltd, formerly Aventis Pasteur MSD Ltd & Sanofi Pasteur SA, formerly Aventis Pasteur SA*, 9

February 2006. In 1992, the child plaintiff was vaccinated with a vaccine dose in Britain, following which he suffered severe injury. In 2000, he brought an action against Aventis, claiming that the damage inflicted on him was caused by a defective vaccine produced by that company. Aventis Pasteur MSD is an English company and a wholly owned subsidiary of Aventis Pasteur SA, a French company. Aventis Ltd acts as a distributor of Aventis SA's products in Britain. In 2002, the plaintiff brought a second action against Aventis SA. He argued that it was not until 2002 that he became aware that the producer of the product was the French parent rather than the English subsidiary. Aventis SA argued that the action against it was statute barred, as it was commenced more than ten years after the injury was suffered. Article 11 of directive 85/374 on liability for defective products provides that, after ten years from the dates on which the producer put into circulation the actual product that caused the damage, the rights conferred on the injured person are extinguished. The English High Court referred the case to the ECJ. It asked whether, where a product is transferred by a producer to a distribution subsidiary and sold by that subsidiary to a third person, the putting into circulation of the product occurs at the time of the transfer of the product from the producer to the subsidiary, or later, when that product is transferred by the subsidiary to the third person. It also asked whether it is possible to view such an action as being brought against the producer and to substitute the latter, as defendant to the action, for the company against which proceedings were initially taken. The ECJ noted that the directive does not define the concept of

'put into circulation'. The provision is of a neutral character, its aim being to satisfy the requirements of legal certainty and must therefore be interpreted on the basis of objective criteria. A product must be considered as having been put into circulation when it leaves the production process operated by the producer and enters a marketing process in the firm in which it is offered to the public in order to be used or consumed. However, where one of the entities in the distribution chain is closely connected to the producer, such as where it is a wholly owned subsidiary, it is necessary to establish whether it is a consequence of that link that the entity is in reality involved in the manufacturing process of the product concerned. The examination of such a close relationship must not be influenced by the question of whether or not distinct legal persons are involved. The facts that the products were invoiced to a subsidiary company and that it pays a purchase price for it is not conclusive. The same applies to the question of knowing which entity is to be considered as owner of the products. It is for the national court to establish, having regard to the circumstances of each case, whether the links between the producer and another entity are so close that the concept of producer also includes that latter entity and that the transfer of the product from one to the other of those entities does not amount to putting it into circulation. It is also for national law to determine the conditions in accordance with which the producer can be substituted as defendant to the act, for the subsidiary initially proceeded against. The national court must ensure that due regard is had to the scope of the term 'producer' within the meaning of the directive. **G**

LOST LAND CERTIFICATES

Registration of Deeds and Title Acts 1964 and 2006

An application has been received from the registered owners mentioned in the schedule hereto for an order dispensing with the land certificate issued in respect of the lands specified in the schedule, which original land certificate is stated to have been lost or inadvertently destroyed. The land certificate will be dispensed with unless notification is received in the registry within 28 days from the date of publication of this notice that the original certificate is in existence and in the custody of some person other than the registered owner. Any such notification should state the grounds on which the certificate is being held.

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

- Regd owner: Sean Fennelly, Andrew Redmond, Luke Hickey (deceased), William O'Connor (deceased); folio: 4782F; lands: Kildavin and barony of St Mullins Upper; **Co Carlow**
- Regd owner: Kieran McGovern, Bridge Street, Belturbet, Co Cavan; folio: 11149; lands: Putiaghán Upper; area: 7.9824 hectares; **Co Cavan**
- Regd owner: Peter (otherwise Peter Paul) Smith and Marie Smith, Muff, Kingscourt, Co Cavan; folio: 597F; lands: Mull (Clankee By); area: 1.0092 hectares; **Co Cavan**
- Regd owner: Alphonsus Smith, Drumnagran, Tullyvine, Cootehill, Co Cavan; folio: 12659; lands: Nutfield; area: 10.1520 hectares; **Co Cavan**
- Regd owner: Henry Tully, Kilibandrick, Redhills, Co Cavan; folio: 13741; lands: Killyfana; area: 3.7686 hectares; **Co Cavan**
- Regd owner: John D Fitzsimons, Cartronfree, Kilcogy, Longford, Co Longford; folio: 97F; lands: Cartronfree; **Co Cavan**
- Regd owner: Anthony Curtis and Mary Curtis; folio: 13402F; lands: townland of Parkroe and barony of Bunratty Lower; **Co Clare**
- Regd owner: Kevin Dillon; folio: 8898; lands: townland of Knockmael West and barony of Bunratty Upper; area: 50.9474 hectares; **Co Clare**
- Regd owner: John Duggan; folio: 18737; lands: townland of Clenagh and barony of Bunratty Lower; **Co Clare**
- Regd owner: Daniel Malone; folio: 14182; lands: townland of (1) Cloonteen, (2) Ballyhee, and barony of (1) and (2) Bunratty Upper; area: (1) 4.6538 hectares, (2) 10.4967 hectares; **Co Clare**
- Regd owner: Thomas Rynne; folio: 23975; lands: townland of Ardanacraa and barony of Corcomroe; area: 39 acres, 3 roods, 39 perches; **Co Clare**
- Regd owner: John Horan; folio: 2296F; lands: townland of Ballaghboy and barony of Bunratty Upper; area: 0.2250 hectares; **Co Clare**
- Regd owner: Jeremiah Cummins; folio: 70686F; lands: plot of ground being part of the townland of Crosshaven in the barony of Kerrycurrihy and county of Cork; **Co Cork**
- Regd owner: Jeremiah Gerard Desmond (deceased); folio: 21623, 21624, 21658; lands: plots of ground situate in the townland of Garranereagh in the barony of Carbery East (east division) and in the county of Cork; **Co Cork**
- Regd owner: Mary Luddy; folio: 35784; lands: plot of ground situate in the townland of Carrigacunna in the barony of Fermoy and in the county of Cork; **Co Cork**
- Regd owner: David O'Driscoll; folio: 81483F; lands: plot of ground situate in the townland of Broomfield West in the barony of Imokilly and in the county of Cork; **Co Cork**
- Regd owner: Eunice O'Regan; folio: 50059F; lands: plot of ground situate in the townland of Carrigrohane in the barony of Cork and in the county of Cork; **Co Cork**
- Regd owner: Carmel Treacy and Mary Treacy; folio: 38749F; lands: plot of ground situate in the townland of Corbally in the barony of Imokilly and in the county of Cork; **Co Cork**
- Regd owner: Margaret Ann Walsh and Daniel Walsh; folio: 6264F; lands: plots of ground situate in the townland of Parkmountain (ED Youghal Rural) in the barony of Imokilly and in the county of Cork; **Co Cork**
- Regd owner: Michael O'Hanlon; folio: 3757; lands: plot of ground situate in the townland of Glannoge, in the barony of Duhallow, and in the county of Cork; **Co Cork**
- Regd owner: Maurice Harte; folio: 4323F; lands: plot of ground situate in the townland of Leighmoney Beg in the barony of Kinalea and in the county of Cork; **Co Cork**
- Regd owner: Kevin Nolan; folio: 5515F; lands: plots of ground situate in the townland of Gearhameen in the barony of Carbery West (west division) and in the county of Cork; **Co Cork**
- Regd owner: Michael John Daly and Andrew Daly; folio: 6755; lands: plots of ground situate in the townland of Ballyyogaha West in the barony of Barrymore and in the county of Cork; **Co Cork**
- Regd owner: Jeremiah O'Herlihy; folio: 28937; lands: plots of ground situate in the townland of Killinardrish, in the barony of Muskerry East and county of Cork; **Co Cork**
- Regd owner: Carol Lynch; folio: 34185; lands: plot of ground situate in the townland of Licknavar, in the barony of Carbery West (east division) and in the county of Cork; **Co Cork**
- Regd owner: Edward Gosnell (deceased) and Breda Gosnell; folio: 52419; lands: plots of ground situate to the east of Church Road, in the parish of St Finbar's and in the city of Cork; **Co Cork**
- Regd owner: Michael John Walsh and Susan Ann Walsh; folio: 26017F; lands: plot of ground situate in the townland of Carrigrohane in the barony of Cork and in the county of Cork; **Co Cork**
- Regd owner: Michael Foley; folio: 44042; lands: plot of ground situate in the townland of Poulacarry North in the barony of Cork and in the county of Cork; **Co Cork**
- Regd owner: Jeremiah Forde; folio: 9186; lands: plot of ground situate in the townland of Corbally in the barony of Muskerry East and in the county of Cork; **Co Cork**
- Regd owner: Patrick Bonner, The Row, Greencastle, Co Donegal; folio: 34876; lands: Drumaweer; **Co Donegal**
- Regd owner: Patrick Callaghan and Mary Callaghan, Bredagh Glen, Moville, Co Donegal; folio: 43125F; lands: Clare; **Co Donegal**
- Regd owner: John Davidson, Dunmore, Kinscasslagh, Co Donegal; folio: 6394F; lands: Dunmore; **Co Donegal**
- Regd owner: Thomas Doherty, Hillcrest, Burnfoot, Co Donegal; folio: 6487; lands: Tievebane; area: 2.9483 hectares; **Co Donegal**
- Regd owner: James Duggan, Mount Marian, Milford, Co Donegal; folio: 9281F; lands: Camblestown; **Co Donegal**
- Regd owner: Daniel Ward, Drumnacarry, Creeslough, Co Donegal; folio: 9784F; lands: Cashes; **Co Donegal**
- Regd owner: Ada Arnold, St Patrick's, Dunfanaghy, Co Donegal; folio: 24856; lands: Dunfanaghy; **Co Donegal**
- Regd owner: Joan Clarke; folio: DN6596; lands: property situate in the townland of Kinsaley and barony of Coolock; **Co Dublin**
- Regd owner: Ultan Courtney and Frances Courtney; folio: DN117474F; lands: property situate in the townland of Lusk and barony of Balrothery East, known as 4 The Avenue, Orlynn Park; **Co Dublin**
- Regd owner: Brigid Glennan; folio: DN105987F; lands: property known as 37 Drumcliffe Drive, Cabra, in the parish of Grangegorm and district of north central; **Co Dublin**
- Regd owner: Joseph Keogh; folio: DN 41493L; lands: property situate in the townland of Priorswood and barony of Coolock; **Co Dublin**
- Regd owner: Thomas J O'Brien; folio: DN3674L; lands: property known as no 59 Belton Park Road, situate on the east side of the road in the parish of Artane, district of Clonturk; **Co Dublin**
- Regd owner: Elizabeth Ward; folio: DN 4624L; lands: property known as 35 Shenick Drive, situate in the townland of Townparks and barony of Balrothery East; **Co Dublin**
- Regd owner: Chevron (Ireland) Limited; folio: DN18728; lands: property situate in the townland of Fox and Geese and barony of Uppercross; **Co Dublin**
- Regd owner: Aidan Weldon; folio: DN15813; lands: property situate in the townlands of Rathartan, Rogerstown, Whitestown and Ballealy East, all in the barony of Balrothery East; **Co Dublin**
- Regd owner: Thomas Weldon; folio: DN15813; lands: property situate in the townlands of Rathartan, Rogerstown, Whitestown and Ballealy East, all in the barony of Balrothery East; **Co Dublin**
- Regd owner: Susan McGrath (one undivided half share); folio: DN16130F; lands: a plot of ground situate to the south of Kilbarrack Crescent in the parish of Kilbarrack and district of Howth; **Co Dublin**
- Regd owner: George and Frances Coogan; folio: DN6178; lands: a plot of ground being part of the townland of Ballynakelly and barony of Newcastle; **Co Dublin**
- Regd owner: Frank Cassidy and Caroline Cassidy; folio: 64073F; lands: townland of Cornamucka (Clonmacknowen By) and barony of Clonmacknowen; area: 0.2810 hectares; **Co Galway**
- Regd owner: Thomas Collins; folio: 8942F; lands: townland of Knockbrack (Tiaquin By) and barony of Tiaquin; area: 1.7190 hectares; **Co Galway**
- Regd owner: Billy Donnellan and Breda Donnellan; folio: 23079F; lands: townland of Crinnage and barony of Dunkellin; **Co Galway**
- Regd owner: Donall Dooley; folio: 4586F; lands: townland of Kilcaimin and barony of Dunkellin; area: 0.1520 hectares; **Co Galway**
- Regd owner: Hugo McGowan and Bridget McGowan; folio: 21106F; lands: townland of Murrrough and barony of St Nicholas; **Co Galway**
- Regd owner: Joseph Toher; folio: 6968F; lands: townland of Cullenagh Beg and barony of Dunkellin; **Co Galway**
- Regd owner: Mary Winifred Tuohy; folio: 20103; lands: townland of Cosmona and barony of Loughrea; area: 2.3825 hectares; **Co Galway**
- Regd owner: Denis Kelly; folio: 36383F Co Limerick; lands: townland of Ballyshane (ED Monagay) and barony of Glenquin; **Co Kerry**
- Regd owner: Thomas O'Carroll; folio: 4583; lands: Gortnaskeha Commons and barony of Iraghticonnor and county of Kerry; **Co Kerry**
- Regd owner: Michael Raymond O'Neill; folio: 10359 and 10361; lands: townland of Bealdarrig and barony of Dunkerron North; **Co Kerry**
- Regd owner: Patrick O'Sullivan (deceased); folio: 7367F; lands: townland of Bawnluskaha and barony of

Trughanacmy; area: 0.081 acres; **Co Kerry**

Regd owner: Laurence O'Brien (otherwise Larry); folio: 9374; lands: situate in the townland of Ballymount and barony of Narragh and Reban East in the county of Kildare; **Co Kildare**

Regd owner: Catherine O'Rourke; folio: 4230L; lands: townland of Ballymany and barony of Offaly East; **Co Kildare**

Regd owner: John Stone; folio: 578F; lands: Ballysaxhills, Offaly East; area: 2 roods and 14 perches; **Co Kildare**

Regd owner: Patrick Sheehy; folio: 4366; lands: townlands of Carrick and Rathernan and baronies of Connell; **Co Kildare**

Regd owner: James Coyle; folio: 14201; lands: Rathduff and barony of Fassadinin; **Co Kilkenny**

Regd owner: Kilkenny Envelopes; folio: 678L; lands: Cloghabrody and barony of Gauran; **Co Kilkenny**

Regd owner: Johanna Morris (deceased); folio: 3190; lands: Screhan and barony of Kells; **Co Kilkenny**

Regd owner: Seamus Kinsella; folio: 5151F; lands: Ballytarsna and barony of Knocktopher; **Co Kilkenny**

Regd owner: Stafford Shipping Limited; folio: 18020; lands: townland of Raheen; area: (1) 2.04 acres, (2) 3.310 acres, (3) 100 acres, (4) 4.3.34 acres, (5) 4.1.31 acres; **Co Kilkenny**

Regd owner: Stafford Shipping Limited; folio: 2903F; lands: townland of Raheen; area: 2.163 acres; **Co Kilkenny**

Regd owner: JJ Stafford and Sons (Wexford) Limited; folio: 17037; lands: townland (1), (2), (4), (5) Raheen, (3) Annaghs and barony of Ida; area: (1) 0.1230 hectares, (2) 0.1920 hectares, (3) 0.8950 hectares, (4) 0.2080 hectares, (5) 0.5080 hectares; **Co Kilkenny**

Regd owner: Noel Behan; folio: 6119F; lands: Lea and barony of Portmahinch; **Co Laois**

Regd owner: Mary Ita Murphy, Killaneen, Ballinamore, Co Leitrim; folio: 1207F; lands: Killaneen; **Co Leitrim**

Regd owner: Seamus Heeran, Corrabarrick, Keshcarrigan, Co Leitrim; folio: 6802; lands: Corrabarrick; area: 7.5069 hectares; **Co Leitrim**

Regd owner: William Lynch/Geraldine O'Sullivan; folio: 13955F; lands: townland of Effin and barony of Coshma; **Co Limerick**

Regd owner: Thomas Fox; folio: 22923; lands: townland of Kilgarriff and barony of Coshlea; **Co Limerick**

Regd owner: Liam McNamara; folio: 24164; lands: townland of Garraunboy and barony of Connello Lower; **Co Limerick**

Regd owner: McMullan Bros Limited, 1 and 2 Upper O'Connell Street, Dublin; folio: 11805; lands: Glack; area: 0.3288 hectares; **Co Longford**

Regd owner: John Kirwan and Teresa Kirwan, 12 McCooley Terrace,

LAW SOCIETY Gazette

PROFESSIONAL NOTICE RATES

RATES IN THE PROFESSIONAL NOTICE SECTION ARE AS FOLLOWS:

- **Lost land certificates** – €132 (incl VAT at 21%)
- **Wills** – €132 (incl VAT at 21%)
- **Title deeds** – €132 per deed (incl VAT at 21%)
- **Employment/miscellaneous** – €132 (incl VAT at 21%)

HIGHLIGHT YOUR NOTICE BY PUTTING A BOX AROUND IT – €31.50 EXTRA

All notices must be paid for prior to publication. **CHEQUES SHOULD BE MADE PAYABLE TO LAW SOCIETY OF IRELAND.** Deadline for March Gazette: 15 February 2007. For further information, contact Catherine Kearney or Valerie Farrell on tel: 01 672 4828 (fax: 01 672 4877)

Clogherhead, Co Louth; folio: 11644; lands: Callystown; **Co Louth**

Regd owner: Mohammad Iqbal and Javid Iqbal, Punjab House, 61 Park Street, Dundalk, Co Louth; folio: 19037F; lands: Marshes Upper; **Co Louth**

Regd owner: Desmond McGee and Bridget McGee, Ballybailie, Ardee, Co Louth; folio: 1458F; lands: Ballybailie; **Co Louth**

Regd owner: George Saxton, 20 Legion Avenue, Dundalk, Co Louth; folio: 12420; lands: Demesne; **Co Louth**

Regd owner: Panelek Limited, Mountain Park, Carlingford, Co Louth; folio: 3752F; lands: Liberties of Carlingford; area: 1.200 hectares; **Co Louth**

Regd owner: Richard Kelly, Morgans-town House, Grangebellew, Drogheda, Co Louth; folio: 12460F; lands: Morgansstown; **Co Louth**

Regd owner: James V Cannon and Bridget M Cannon; folio: 27175F; lands: townland of Pollaniska and barony of Clanmorris; **Co Mayo**

Regd owner: Thomas McWalter; folio: 23259; lands: townland of Balla and barony of Clanmorris; area: 0.1201 hectares; **Co Mayo**

Regd owner: James Golding; folio: 12060, 28478, 28479; lands: townlands of Lagaturrin, Pollavaddy and Ardboley North and barony of Clanmorris; **Co Mayo**

Regd owner: Jerome Tarpey; folio: 1461; lands: townland of Kincon and barony of Costello; area: 6.1689 hectares; **Co Mayo**

Regd owner: Daniel Roche; folio: 11855; lands: townland of Balla and barony of Clanmorris; **Co Mayo**

Regd owner: Joseph Duignan and Doreen Duignan, Pagestown, Kilcloone, Co Meath; folio: 20017F; lands: Pagestown; area: 1.945 hectares; **Co Meath**

Regd owner: James McCaul and Pauline McCaul, Rinn Na Mara, Clontarf, Dublin 3; folio: 19158; lands: Callaghstown; **Co Meath**

Regd owner: Gerard Christopher

Lynch, Rathdrinagh, Beauparc, Navan, Co Meath; folio: 5789; lands: Rathdrinagh, Knockcommon; **Co Meath**

Regd owner: Meath County Council, County Hall, Navan, Co Meath; folio: 1818F; lands: Donacorney; **Co Meath**

Regd owner: Michael Whelan, Loughsallagh Lodge, Dunboyne, Co Meath; folio: 10568; lands: Loughsallagh; **Co Meath**

Regd owner: Francis Shortt, c/o Seamus Mallon & Co, Solicitors, The Red House, Castleblayney, Co Monaghan; folio: 6747 and 11667; lands: Drumquill and Mullaghduff; area: 4.459 hectares and 2.9946 hectares; **Co Monaghan**

Regd owner: Dr AG Monsoor; folio: 6011; lands: Wood of O and barony of Philipstown Lower; **Co Offaly**

Regd owner: John and Shirley Kelly; folio: 9163F; lands: Ballycollin and barony of Geashill; **Co Offaly**

Regd owner: John Toohey; folio: 6966F; lands: Cullenwaine, Ballingorraun, Clynoe and barony of Scarawalsh; **Co Offaly**

Regd owner: Patrick J Walls (deceased); folio: 6795; lands: Cushaling and barony of Coolestown; **Co Offaly**

Regd owner: Redstone Properties Limited; folio: 19511F; lands: townland of Srah and barony of Athlone North; area: 1.7360 hectares; **Co Roscommon**

Regd owner: Thomas Flanagan; folio: 12792; lands: Knockadyran; area: 2.4300 hectares; **Co Roscommon**

Regd owner: Patrick Callery; folio: 5608; lands: townland of Kilkilloge and barony of Carbury; area: 3 roods, 25 perches; **Co Sligo**

Regd owner: Joyce Greer; folio: SL6022 and SL14143; lands: townland of Skreen Beg and barony of Tireragh; **Co Sligo**

Regd owner: Brian Murphy and Martina Murphy; folio: 3347; lands: townland of Finned (Carbury By) and barony of Carbury; area: 4.9958 hectares; **Co Sligo**

Regd owner: Sean Donohue and Mary B Donohue; folio: 28947; lands: townland of Roggarraun and barony of Ormond Lower and county of Tipperary; **Co Tipperary**

Regd owner: Patrick Ryan; folio: 15320F; lands: townland of Moandoherdagh and barony of Clanwilliam; **Co Tipperary**

Regd owner: Donal Heffernan; folio: 7130; lands: townland of Monks-grange and barony of Iffa and Offa East; **Co Tipperary**

Regd owner: Wayne Rees; folio: 28269F; lands: plot of ground situate in the townland of Gortnalaght in the barony of Decies without Drum and in the county of Waterford; **Co Waterford**

Regd owner: Matthew Dunlea; folio: 6433; lands: plot of ground situate in the townland of Ballynatray Demesne in the barony of Coshmore and Coshbride and in the county of Waterford; **Co Waterford**

Regd owner: John and Breda Redmond; folio: 11094; lands: Ballylucas and Killisk and barony of Ballaghkeen South; **Co Wexford**

Regd owner: Wexford Borough Council; folio: 294F; lands: Carrickdawn and barony of Shelmaliere West; **Co Wexford**

Regd owner: Patrick Kiely; folio: 3849; lands: Ballyshannon and barony of Shelmaliere West; **Co Wexford**

Regd owner: JJ Stafford and Sons (Wexford) Limited; folio: 21293; lands: townland of Marshmeadows and barony of Bantry; area: 5.0710 hectares; **Co Wexford**

Regd owner: Richard Fitzpatrick; folio: 3368; lands: situate in the townland of Ballinalea, barony of Newcastle in the county of Wicklow

Regd owner: John Henderson and Catherine Henderson; folio: 894; lands: townland of Cronyhorn Lower and barony of Shillelagh; **Co Wicklow**

Regd owner: Patrick Forde; folio: 6966; lands: townlands of Glencap Commons North and Glencormick South and barony of Rathdown; **Co Wicklow**

Regd owner: Gerard Nolan and Cassandra Sheridan; folio: 22971F; lands: townland of Kilmacanoge South and barony of Rathdown; **Co Wicklow**

Regd owner: Patrick Clune; folio: 4822; lands: situate in the townlands of Ballard in the barony of Ballinacor South, in the electoral division of Ballinacash and county of Wicklow; **Co Wicklow**

Regd owner: Thomas and Bridget Josephine Egan; folio: 3389; lands: townland of Mountusher and barony of Newcastle; **Co Wicklow**

WILLS

Barlow, John (deceased) (retired farmer), late of Lattin East, Co Tipperary. Would any person having knowledge of a will made by the above-named deceased, who died on 4 November 2005, please contact L O'Connor & Co, Solicitors, 196 Upper Salthill, Galway; tel: 091 525 346

Delahunty, Thomas (deceased), late of Main Street, Mullinavat, Co Kilkenny. Would any solicitor holding or having knowledge of a will made by the above-named deceased, who died on 14 March 2006, please contact Gerard M Halley, MM Halley & Son, Solicitors, 5 Georges Street, Waterford; tel: 051 874 073, email: ghalley@mmhalley.com

Downey, Mary Ellen (deceased), late of Cahil, Goleen, Co Cork. Would any person having knowledge of a will made by the above-named deceased, who died on 19 January 2006, please contact Hennessy & Co, Solicitors, Bantry, Co Cork; tel: 027 50317, email: info@hennessy-co.ie

TD Fitzpatrick

CERTIFIED PUBLIC ACCOUNTANTS & REGISTERED AUDITORS

Specialists in Solicitor Bookkeeping and Accountants Reports

For Enquiries regarding our Solicitor services, please contact us at:

7 Argus House,
Greenmount Office Park,
Harold's Cross,
Dublin 6W.

Phone: 01 4737455
Email: trevorf@o2.ie

Duff, Thomas (deceased), late of 23 Ross Street, Dublin 7. Would any person having knowledge of the whereabouts of a will made by the above-named deceased, who died on 2 October 2006, please contact Charles Foley, Solicitor, Market Square, Gort, Co Galway; tel: 091 631 472, fax: 091 631 223, email: charles.foley@eircom.net

Hanley, Margaret (deceased), late of Lisava, Cahir, Co Tipperary. Would any solicitor holding or having knowledge of a will made by the above-named deceased, who died on 7 November 2006, please contact Gerard M Halley, MM Halley & Son, Solicitors, 5 Georges Street, Waterford; tel: 051 874 073, or email: ghalley@mmhalley.com

Henderson, Reverend William Desmond (deceased), late of Kingston College, Mitchelstown, Co Cork, born 26 October 1928 in Newtowngore, Co Leitrim and formerly of Co Cavan and Co Sligo, who died on 21 September 2006. Any solicitor holding or having knowledge of a will made by the above-named deceased please contact William Fitzgibbon, solicitor, Messrs Shinnick Fitzgibbon & Co, Baldwin Street, Mitchelstown, Co Cork; tel: 025 84081, email: billyfitzgibbon@eircom.net

Lehane, Mary (deceased), late of Ballynoe, Cobh, Co Cork. Would any person having knowledge of a will made by the above-named deceased, who died on 14 January 1966, please contact Francis Kelleher, solicitor, of Francis C Kelleher & Co, Solicitors, 1 Pearse Square, Cobh, Co Cork; tel: 021 481 2300, fax: 021 481 6601

McEvoy, Imelda (deceased), late of 1 Park View Lawn, Greenpark, Clondalkin, Dublin 22. Any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 27 November 2006, please contact John Sherlock & Company, Solicitors, 9-10 Main Street, Clondalkin, Dublin 22; tel: 01 457 0846, fax: 01 457 1156, email: aoife.sheehan@sherlock-solicitors.com

Merrigan, Mary Ellen (otherwise Edna) (deceased), late of 5 Walworth Road, South Circular Road, Dublin 8. Would any person having knowledge of a will executed by the above-named deceased, who died on 27 November 2006, please contact Malone and Potter, Solicitors, 7 Cope Street, Dublin 2; tel: 01 671 2644, fax: 01 671 2735

Nolan, Mary (deceased), late of Nurses' Quarters, Loughlinstown General Hospital, Loughlinstown, Co Dublin and Ballyboy, Ferns, Co Wexford. Would any person having knowledge of a will made by the above-named deceased, who died 8 June 2006, please contact John A Sinnott & Co, Market Square, Enniscorthy, Co Wexford; tel: 053 923 3111, fax: 053 923 3042

O'Brien, Bridget (deceased), late of 15 Harrington Square, Dillons Cross, Cork City. Would any person holding or having knowledge of the whereabouts of a will made by the above-named deceased, who died December 2006, please contact Paula Ruttle, 'Sun Hill', Askeaton, Co Limerick; email: pruttle@cisco.com

O'Halloran, Maureen (deceased), late of Kilkishen House, Kilkishen, Co Clare. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 27 September 1987, please contact Legal Support Services, Solicitors, Main Street, Sixmilebridge, Co Clare; tel: 061 713 767, fax: 061 713 642, email: gwen@legalsupportservices.ie

Reilly, Matthew (deceased), late of Coolronan, Ballivor, Co Meath. Would any solicitor holding or having knowledge of a will or grant of administration by the above-named deceased, who died in 1945, please contact Conlon Solicitors, Main Street, Virginia, Co Cavan, tel: 049 854 7006

Richmond Kevin (deceased), late of 30 Crescent Villas, Glasnevin, Dublin 9. Would any solicitor holding or having knowledge of a will made by the above-named deceased, who died on 26 December 2006, please contact Joe Clancy, Solicitors, Main Street, Rathfarnham, Dublin 14; tel: 01 492 0464

MISCELLANEOUS

London solicitors will be pleased to advise on UK matters and undertake agency work. We handle probate, litigation, property and company/commercial. Parfitt Cresswell, 567/569 Fulham Road, London SW6 1EU; DX 83800 Fulham Broadway; tel: 0044 2073 818311, fax: 0044 2073 814044, email: arobbins@parfitts.co.uk

Solicitor's practice for sale - Limerick suburbs. A well-managed young solicitor's practice for sale in a well-populated Limerick suburb. General practice specialising in residential conveyancing and family law. Good turnover. Great opportunity for expansion for sole practitioner, partnership, or as a branch office. Existing support staff happy to remain. Principal moving for personal reasons. Please reply to **box no 12/07**

Articles for sale: Fireproof safes - four fireproof Chubb-type safes for sale - three and four drawer - in good condition. No longer needed due to refurbishment. Usual price circa €2,500/3,000 each - will sell for circa €1,100 each. Contact either Mary or John during office hours at 052 21123/21966

AT SMITHFIELD

Two office units to let on new short term four year nine month leases.
Unit 1: 37.25 Sq.m.
Unit 2: 44.95 Sq.m.

Bannon Commercial
Tel: 6477900

TITLE DEEDS

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

Richard Connolly

Take notice that any person having an interest in the freehold estate of or any superior interest in the following property: all that and those the property known as 12a Ballinlough Road in the city of Cork, being the premises comprised and demised by an indenture of lease dated 17 May 1906 and made between Edith Hackett of the one part and John Harrington of the other part, for a term of 150 years.

Take notice that the applicant, Richard Connolly, intends to submit an application to the county registrar for the county of Cork for the acquisition of the freehold interest in the aforesaid premises, and any party asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of such notice being received, the applicant, Richard Connolly, intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Cork for directions an may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in the property aforesaid are unknown ascertained.

Date: 2 February 2007

Signed: McGuire Desmond (solicitors for the applicant), 5 Lapps Quay, Cork

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

Inver Inns Limited
Take notice that the applicant intends to submit an application to the county registrar for the city of Dublin for the acquisition of the freehold interest and all, if any, intermediate interest in the premises described in the schedule hereto, and any person having an interest in

ENGLISH LAW AGENCY SERVICES

Fearon & Co SOLICITORS

Established 1825

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

- Obtaining Grants of Representation for Estates in England, Channel Islands, Isle of Man and elsewhere
- Administering English Estates
- Buying and selling homes and business premises
- Recovering compensation for accident victims
- Litigation including Debt Recovery and matrimonial

Our offices are within easy reach of the London Airports and Central London Stations

VISIT OUR WEBSITE
www.fearonlaw.com

Westminster House, 6 Finsbury Road,
Grickford, Surrey GU1 1BA, United Kingdom
Tel: 00 44 (0)1483 540840 Fax 00 44 (0)1483 540844
General Email: enquiries@fearonlaw.com

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

PROPERTY
John Phillips
00 44 (0)1483 540843
jphillips@fearonlaw.com

PROBATE
Francesca Firth
00 44 (0)1483 540842
francesca@fearonlaw.com

Registered by the Law Society of England and Wales



SPANISH LAWYERS

RAFAEL BERDAGUER ABOGADOS

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

PROFILE:

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

FIELD OF PRACTICES:

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

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

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

the freehold estate or any intermediate interest or estate between the freehold and the leasehold interest held by the applicant in the property are hereby called upon to furnish evidence of their title to the solicitors for the applicant within 21 days from this notice.

In default of any such notice being received, the applicant intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for directions that might be appropriate on the basis that the person or persons beneficially entitled to the superior interest, including the freehold reversion of the property, are unknown or unascertained.

Schedule: all that and those the licensed house and premises no 159 Phibsborough Road, in the parish of St George, in the city of Dublin, containing in front to Phibsborough Road aforesaid 26 feet, six inches and in depth from front to rear on the north side 67 feet, with the appurtenances as the same are more particularly delineated on the map endorsed on these presents and thereon coloured green, commonly known as 'Mohans' (formerly 'The Hut').

Particulars of lease: lease dated 14 February 1896 and made between Thomas Dunphy of the one part and Anne Farnworth of the other part, held thereunder for a term of 150 years from 29 September 1895 and subject to an

annual rent of £60 thereby reserved and to the covenants on the part of the lessee to be observed and the conditions therein contained.

Take notice that Inver Inns Limited, being a person entitled under sections 8, 9 and 10 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, proposes to purchase the fee simple and any and all intermediate interests in the lands above described.

Date: 2 February 2006

Signed: McAlinden & Gallagher (solicitors for the applicant), Unit 2, Ashbourne Town Centre, Main Street, Ashbourne, Co Meath

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

Take notice that any person having any interest in the freehold estate in the following property: all that and those the premises known as 198 Harold's Cross Road, Harold's Cross, situate in the parish of St Peter, formerly in the county but now in the city of Dublin, held under an indenture of lease dated 1 October 1867 and made between John Stewart of the one part and Michael Condon of the other part, from 1 October 1867, subject to the yearly rent of £3 thereby reserved and to the covenants on the part of the lessee and

the conditions therein contained.

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

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

Date: 2 February 2007

Signed: Peter Morrissey & Co, Solicitors (solicitors for the applicant), Merrion Building, Lower Merrion St, Dublin 2

In the matter of the *Landlord and Tenants Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*: an application by Philip Brady

Any person having a freehold estate or any intermediate interest in all that and those that plot or piece of ground, the subject of an indenture of lease dated 16

May 1938 between James Brady of the one part and Peter Cassidy of the other part for a term of 99 years from 1 January 1938 at a yearly rent of £6 sterling, and therein described as all and singular all that and those that plot of ground in the townland of Drumalt, town of Arva, parish of Killeshandra, barony of Tullyuncho and county of Cavan, containing by estimation 29 perches statute measure or thereabouts, being the same more or less bounded on the east by the public road or street - Arva to Cavan - containing by estimation 29 perches statute measure or thereabouts, as more particularly delineated on the map endorsed to said lease of 16 May 1938.

Take notice that Philip Brady, being the person currently entitled to the lessee's interest under the said lease, intends to apply to the county registrar for the county of Cavan for the acquisition of the freehold and intermediate interest in the aforesaid properties, and any party asserting that they hold a superior interest in the aforesaid properties (or any of them) are called upon to furnish evidence of title to same to the below named within 21 days from the date of this notice.

In default of any such notice being received, Philip Brady intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the

P. LARKINENVIRONMENTAL
& AGRICULTURAL
CONSULTANTS

- LEGAL SUPPORT SERVICES
 - LICENSED AUCTIONEERS & VALUERS
- PERSONAL ATTENTION ASSURED

ATHLEAGUE, ROSCOMMON
Phone: 09066 63538

county of Cavan for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion are unknown or unascertained.

Date: 2 February 2007

Signed: Michael J Ryan (solicitors for the applicant), Athbara House, Cavan

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Brian M Durkan & Co Limited

Take notice that any person having an interest in the freehold estate or any intermediary interest in the property known as the Bridge House, The Forge, Loughlinstown, in the county of Dublin, being the property demised by an indenture of lease dated 11 November 1876 and made between Henry West of the one part and James Lawless of the other part for the term of 900 years from 29 September 1876, subject to a yearly rent of £5.

Take notice that Brian M Durkan & Co Limited intends to submit an application to the county registrar for the county of Dublin for the acquisition of the freehold interest and any intermediary interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property is called upon to furnish evidence of title to the aforesaid property to the below named within 21 days of the date of this notice.

In default of any such notice being received, Brian M Durkan & Company Limited intends to proceed with the application before the county registrar for the county of Dublin at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Dublin for such orders or directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown and unascertained.

Date: 2 February 2007

Signed: Cunningham McCormack (solicitors for the applicant), 89 Upper Leeson Street, Dublin 4

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Donal Grennan and Roseanne Grennan

Any person having a freehold estate or any intermediate interest in all that and those the yard to the rear of the house and premises known as number 10 Laurence Street, Drogheda, Co Louth (hereinafter referred to as the first property), being portion of the lands comprised in a certain indenture of lease dated 23 April 1918 between the Reverend William Osbert Clinton of the one part and Mary Dolan of the other part, for a term of 300 years from 1 November 1917 at a yearly rent of £12; or all that and those the yard to the rear of the house and premises known as number 11 Laurence Street, Drogheda, Co Louth (hereinafter referred to as the first property, being portion of the lands comprised in a certain indenture of lease (hereinafter referred to the first lease) dated 23 April 1918 between the Reverend William Osbert Clinton of the one part and Mary Nolan of the other part for a term of 300 years from 1 November 1917 at a yearly rent of £12.

Take notice that Donal Grennan and Roseanne Grennan, being the persons currently entitled to the lessees' interest in the said premises, intend to apply to the county registrar for the county of Louth for the acquisition of the freehold interest and all intermediate interests in the aforesaid properties, and any party asserting that they hold a superior interest in the aforesaid properties (or any of them) are called upon to furnish evidence of title to same to the below named within 21 days from the date of this notice.

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

Date: 2 February 2007

Signed: O'Reilly Thomas (solicitors for the applicant), 8 North Quay, Drogheda, Co Louth

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by McHugh Supermarkets (Three Tops) Limited

Take notice that any person having an interest in the freehold estate or superior interest in the property known as number 17 Maypark, Malahide Road, in the parish of Coolock, Dublin 5, held under indenture of lease dated 12 March 1951 made between Patrick Murray of the one part and Francis Joseph Brien and Bridget Brien of the other part for the term of 499 years from 1 March 1951, subject to the annual rent of £35.

Take notice that McHugh Supermarkets (Three Tops) Limited intends to submit an application to the county registrar for the city of Dublin for the acquisition of the freehold interest in the aforesaid property, and any party or parties asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the aforesaid premises, to the party below-named, within 21 days of the date of this notice.

In default of any such notice being received, the applicant, McHugh Supermarkets (Three Tops) Limited, intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid premises are unknown or unascertained.

Date: 2 February 2007

Signed: Rutherford (solicitors for the applicant), 41 Fitzwilliam Square, Dublin 2

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

Take notice that any person having an interest in the ultimate fee simple estate or in any superior interest in the property known as 41/41A Henry Street in the city of Dublin, being the property comprised in fee farm grant dated 12 December 1889 from Evan Lake and others to Emily Mary Margaret Clarke, subject to the perpetual yearly fee farm rent of €35.16 (£27.13.10 late currency) comprised in folio DN 171478E.

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

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

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

Date: 2 February 2007

Signed: William Fry (solicitors for the applicant), Fitzwilliam House, Wilton Place, Dublin 2

In the matter of the Landlord and Tenant Acts 1967-1987 and in the matter of an application by Ellen Rogan

Take notice that any person having an interest in the freehold estate or any intermediate interest in the property known as 211 North Circular Road, Dublin 7, in the county of Dublin, being the property demised by an indenture of lease dated 10 July 1935 and made between Mary Mooney, Jessie Mary Doyle, Julia Gray, the Reverend John Cassidy, Joseph John Mooney, James O'Connor, Joseph John Mooney, Edward Joseph Doyle, the Reverend John Cassidy, William Francis Gray and Timothy Alexander Kavanagh of the one part and Constantine Peter Curran of the other part, whereby the premises were demised unto the said Constantine Peter Curran for a term of 99 years from 1 July 1935, subject to a yearly rent of £10.

Take notice that Ellen Rogan intends to submit an application to the county registrar for the county of Dublin for the acquisition of the freehold interest and any intermediate interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property is called upon to furnish evidence of title to the aforesaid property to the below named within 21 days of this notice.

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

Date: 2 February 2007

Signed: John Glynn & Company (solicitors for the applicant), Law Chambers, The Village Square, Tallaght, Dublin 24

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant

(Ground Rents) (No 2) Act 1978: an application taken by Daniel Francis Maguire and Maria Maguire

Take notice that any person having interest in the freehold estate or any superior interest in the property known as the two dwellinghouses and premises known as Fort Garry, The Terrace, Leap, situate in the townland of Kilmacabea, barony of Carbery West (east division) and county of Cork, held under an indenture of lease dated 15 November 1890 and made between Annie Buttimore of the one part and Hannah Donovan of the other part for a term of 99 years from 15 November 1890, subject to the payment of £1, being an apportioned part of the early rent of £4, and subject to the covenants and conditions therein contained.

Take notice that the applicants, Daniel Francis Maguire and Maria Maguire, intend to submit an application to the county registrar for the county of Cork for the acquisition of the freehold and all interests superior to theirs in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property is called upon to furnish evidence of title to the aforesaid property to the below named within 21 days from the date of this notice.

In default of any such notice being received, the applicants, Daniel Francis Maguire and Maria Maguire, intend to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Cork for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown and unascertained.

Date: 2 February 2007

Signed: O'Donnell Breen-Walsh O'Donoghue (solicitors for the applicant), Trinity House, 8 Georges Quay, Cork

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application taken by Elizabeth O'Flynn

Take notice that any person having interest in the freehold estate or any superior interest in the property known as the two dwellinghouses and premises known as number 2 Dublin Street, situate in the parish of Saint Anne Shandon and city of Cork, held under an indenture of lease dated 20 January 1944 and made between Cornelius Tobin of the one part and James J Murphy and Company Limited of the other part for a term of 99 years from 29 September 1942, subject to the yearly rent of £10.15.06d and subject to the covenants and conditions therein contained.

Take notice that the applicant, Elizabeth O'Flynn, intends to submit an application to the county registrar for the county of Cork for the acquisition of the freehold and all interests superior to

hers in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property is called upon to furnish evidence of title to the aforesaid property to the below named within 21 days from the date of this notice.

In default of any such notice being received, the applicant, Elizabeth O'Flynn, intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Cork for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown and unascertained.

Date: 2 February 2007

Signed: O'Donnell Breen-Walsh O'Donoghue (solicitors for the applicant), Trinity House, 8 Georges Quay, Cork

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

Take notice any person having an interest in the freehold estate or any superior or intermediate interest in the hereditaments and premises situate at 7 Emerald Place in the city of Dublin.

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

In default of any such notice being received, the applicant, Elizabeth Bennett, intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of the city of Dublin for directions as maybe appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid premises are unknown or unascertained.

Date: 2 February 2007

Signed: HC Browne (solicitors for the applicant), Malabide Road/Kilmore Road (corner), Artane, Dublin 5

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the property known as 3 Mill Street, Dublin 8: an application by Ascon Property Developments Limited

Take notice that any person having the intermediate leasehold interest or interests in the property situate and known as 3 Mill Street, Dublin 8, being the property held by the applicant in fee simple

**Established medium sized firm
Dublin city centre firm looking to acquire/amalgamate with firms with an annual turnover between €250K and €1M**

CONTACT:
David Rowe at Outsource
01 6788 490

dr@outsource-finance.com

and under a yearly tenancy subject to the yearly rent of £9.28.

Take notice that Ascon Property Developments Limited intends to submit an application to the county registrar for the city of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7 for the acquisition of the intermediate leasehold interest or interests in the aforesaid properties, and that any party asserting that they hold any intermediate leasehold interest or interests in the aforesaid premises are called upon to furnish evidence of the title to the below named within 21 days from the date of this notice.

In default of any such notice being received, Ascon Property Developments Limited intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the intermediate leasehold interest or interests in the aforesaid premises are unknown or unascertained.

Date: 2 February 2007

Signed: Whitney Moore (solicitors for the applicant), Wilton Park House, Wilton Place, Dublin 2

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the property known as**34B Blackpitts, Dublin 8: an application by Ascon Property Developments Limited**

Take notice that any person having an interest in the freehold interest and any intermediate leasehold interests in the property situate and known as 34B Blackpitts, Dublin 8, being part of the lands and premises demised by an indenture of lease dated 31 December 1924 and made between George James Edkins and others of the one part and Mary Corcoran and others for a term of 99 years from 1 January 1925, subject to the yearly rent of £12 and the covenants and conditions therein contained.

Take notice that Ascon Property Developments Limited intends to submit an application to the county registrar for the city of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7 for the acquisition of the freehold interest and any intermediate leasehold interests in the aforesaid properties, and that any party asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of the title to the below named within 21 days from the date of this notice.

In default of any such notice being received, Ascon Property Developments Limited intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the freehold reversion and any intermediate leasehold interests in the aforesaid premises are unknown or unascertained.

Date: 2 February 2007

Signed: Whitney Moore (solicitors for the applicant), Wilton Park House, Wilton Place, Dublin 2

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) Act 1967 and the Landlord and Tenant (Ground Rents) (No 2) Act 1978, and in the matter of the premises situate at no 25 Main Street, Cashel, in the county of Tipperary: an application by Michael Cantwell**SOLICITOR'S PRACTICE**

LONG ESTABLISHED SOLE PRACTICE IN SOUTH EAST TOWN FOR SALE. THE PRACTITIONER IS RETIRING.

ALL REQUESTS FOR FURTHER DETAILS IN WRITING **ONLY** TO:

Pembroke & Pembroke
Chartered Accountants
15, Ormonde Road
Kilkenny
e-mail: pembroke@iol.ie

Take notice that any person having any interest in the freehold estate of or any superior intermediate interest in the dwellinghouse, licensed premises and out-offices situate at 25 Main Street, Cashel, in the county of Tipperary, held under a yearly tenancy arising on the expiration of the lease dated 26 July 1889 and made between Emily Matilda Briscoe of the one part and Andrew Hanley of the other part, for a term of 99 years from 26 July 1889, at a yearly rent of £12, and therein described as the dwelling house and premises lately in the possession of Matthew Doyle, situate in the Main Street in the city of Cashel, barony of Middlethird and county of Tipperary, and bounded on the north by the said Main Street of the city of Cashel, on the east by John Street, on the south by Margaret Ryan's holding and on the west by Thomas Wood's holding, should give notice to the undersigned solicitors.

Take notice that the applicant, Michael Cantwell, being the person entitled under section 15 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, intends to submit an application to the county registrar for the county of Tipperary for the acquisition of the freehold interest and the intermediate interest in the aforesaid property, and any party advertising that they hold a superior interest in the aforesaid premises or any of them are called upon to furnish evidence of title to the aforementioned premises to the below named within 21 days of the date of this notice.

In default of such notice being received, the applicant intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Tipperary for such directions as may be appropriate on the basis that the person or persons beneficially entitled to such superior interest including the freehold reversion in the aforementioned property are unknown or unascertained.

WORKPLACE MEDIATION & INVESTIGATION

Round Table Mediation and Training, Mainport, Monahan Road, Cork, tel: 021 496 6322, e-mail: mail@roundtable.ie

We offer a specialist workplace mediation services, comprehensive training programmes in conflict management and independent investigative services into bullying and harassment.

The Directors of the company are all accredited practitioner members of the Mediators Institute of Ireland with 25 years experience in this area.

Date: 2 February 2007

Signed: Donal T Ryan (solicitors for the applicant), 89/90 Main St, Cashel, Co Tipperary

In the matter of the *Landlord and Tenant Acts 1967-1994* and in the matter of the *Landlord and Tenant (Ground Rents) Act 1967* and the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, and in the matter of the premises situate at no 25 Main Street, Cashel, in the county of Tipperary: an application by Thomas Joseph O'Malley

Take notice that any person having any interest in the freehold estate of or any superior intermediate interest in all that and those the dwellinghouse and premises known as number 41 Upper Gladstone Street, situate in the town of Clonmel, parish of Saint Mary's, barony of Iffa and Offa East and county of Tipperary, together with all that and those the dwellinghouse and premises known as number 42 Upper Gladstone Street, situate in the town of Clonmel, parish of Saint Mary's, barony of Iffa and Offa East and county of Tipperary, should give notice to the undersigned solicitors.

Take notice that the applicant, Thomas Joseph O'Malley, being the person entitled under section 15 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, intends to submit an application to the county registrar for the county of Tipperary for the acquisition of the freehold interest and the intermediate interest in the aforesaid property, and any party advertising that they hold a superior interest in the aforesaid premises or any of them are called upon to furnish evidence of title to the aforementioned premises to the below named within 21 days of the date of this notice.

In default of such notice being received, the applicant intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Tipperary for such directions as may be appropriate on the basis that the person or persons beneficially entitled to such superior interest including the freehold reversion in the aforementioned property are unknown or unascertained.

Date: 2 February 2007

Signed: Donal T Ryan (solicitors for the applicant), 89/90 Main St, Cashel, Co Tipperary

In the matter of the *Landlord and Tenant Acts 1967-1994* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of the purchase of the freehold estate of property situate at 6 Albert Park, Sandycove, Co Dublin, and now known as Villa Maria, 6 Albert Park, Glenageary, Co Dublin: an application by Grace Binchy and Robin Potter Coogan

Take notice that any person having any interest in the freehold estate of the property known as Villa Maria, 6 Albert Park, Glenageary, Co Dublin, more particularly described in:

1) An indenture of lease dated 27 June

NOTICE TO THOSE PLACING RECRUITMENT ADVERTISEMENTS IN THE LAW SOCIETY GAZETTE

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

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

1940 and made between Granville Proby Esq of the one part and Andrew Joseph Jennings Esq of the other part for a term of 150 years, subject to the yearly rent of £52.10s shillings and the covenants and conditions therein contained;

2) An indenture of sub-lease dated 9 July 1942 and made between AJ Jennings & Company Limited of the first part, Comhluct na hÉireann um Aracas Teoranta (New Ireland Assurance Company Limited) of the second part and Richard B Heffernan of the third part for a term of 145 years, subject to the yearly rent of £9 thereby reserved and the covenants and conditions therein contained.

Take notice that Grace Binchy and Robin Potter Coogan intend to submit an application to the county registrar for the city of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7 for the acquisition of the freehold interest in the aforesaid property and that any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the below named within 21 days from the date of this notice.

In default of any such notice being received, Grace Binchy and Robin Potter Coogan intend to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown or unascertained.

Date: 2 February 2007

Signed: Binchy (solicitors for the applicant), Quay House, Clonmel, Co Tipperary

RECRUITMENT

Solicitor required for specialist construction practice. Dublin office of reputable London firm. Initial three-month training period will be based in London. Litigation experience required. Email covering letter and CV to: i.crotty@beale-law.com or post to Beale & Company, Dolmen House, 4 Earlsfort Terrace, Dublin 2

Daniel Spring & Co, 50 Fitzwilliam Sq, D2, seek a solicitor for the conveyancing department – salary negotiable. Apply in writing to the firm

Due to continued expansion, Lavery Kirby Gilmartin are seeking suitable candidates for the following positions: junior solicitor with commercial and banking experience; legal executive. These roles offer high-calibre work with great quality of life in a family-friendly firm; attractive remuneration packages commensurate with experience. Reply in confidence to James Flynn at jamesf@laverykirby.ie or tel: 01 231 1430

Solicitor required for law firm based in Dublin 1. The position involves mainly immigration law and civil litigation but with requirements to deal with other areas of general practice. Salary negotiable. Immediate start. Please forward CV to acpendred@oceanfree.net

Attention: overworked practitioners/concerned principals. Put your mind at rest. When you need assistance temporarily that doesn't justify a locum: experienced independent solicitor (in DX) available to clear backlog, complete registrations/undertake specific projects. Discreet, efficient service. Own insurance and practising certificate. All areas. References available. Reply to **box no 10/07** or email: info@practiceassistance.ie

Solicitor with solid residential conveyancing experience seeks a position in the Northwest region. Willing to consider a locum or part-time position. Reply to **box no 11/07**

Wanted: general position, assistant solicitor, with an emphasis on personal injury, general litigation and family law in Wexford town. Full-time position required. CV available on request. Please reply to **box no 12/07**

The Irish Legal Recruitment SPECIALISTS



www.benasso.com

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

A selection of opportunities for February 2007.

Banking Solicitor – Junior to Mid Level

PP0014

This front ranking practice seeks junior to mid level banking solicitors for its rapidly expanding department. You will be dealing with an interesting and diverse workload and have a solid background in commercial lending matters.

Corporate/Commercial Solicitor – Associate Level

A progressive mid tier firm is seeking an ambitious solicitor to deal with a range of high quality work including mergers and acquisitions, private equity, IPOs and venture capital investments. Working closely with the managing partner, this is an excellent opportunity for rapid career advancement.

Commercial Conveyancing Solicitor – Associate Level

PP0156

A leading Dublin-based law firm is seeking an experienced solicitor to join its commercial conveyancing department. The successful candidate will be an ambitious and enthusiastic practitioner.

Company Secretarial Assistant

PP0181

Our client is seeking a top-class Company Secretarial Assistant to join the busy Company Secretarial Department. You will work within a team of highly experienced company secretarial professionals. The department provides the full spectrum of company secretarial services, including annual secretarial services, management of changes in officers and constitutions, corporate restructuring, corporate governance advice and transaction support.

Corporate Commercial Solicitors – Associate to Senior Associate Level

PP0154

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

Experienced Professional Support Lawyer

PP0172

One of Ireland's leading corporate law firms is seeking a Professional Support Lawyer to join its existing team. You will assist with the ongoing development of a Knowledge Management System for professional staff and provide professional support services to Fee Earners specifically in Corporate/Commercial, Financial Services, Banking, Asset Management and Investment Funds.

IT/IP Solicitor – Associate Level

Leading Dublin firm requires a solicitor with strong exposure to IT/IP work to join its existing team. You will be dealing with an interesting and varied workload of high quality work. The group is an expanding and profitable part of the firm's practice.

Projects/Energy Lawyer – Associate Level

PP0176

You will be dealing with all aspects of energy law from exploration, development and production, through to refining and sales. Specific areas of experience should include some of the following: CCRT power station development, wind farm development, waste-energy power station development and project financing of energy projects including gas pipelines. You should have excellent academic and strong technical skills. Previous exposure to project work will be an advantage.

For more vacancies, please visit our website or contact

Michael Benson mbsol in strict confidence, at
Benson & Associates, Carmichael House,
60 Lower Baggot Street, Dublin 2, Ireland.
T +353 (0) 1 670 3997 E mbsol@benasso.com

**Benson
& Associates**
www.benasso.com

DUBLIN

HEAD OF LEGAL €170,000+ **Executive**

Senior in-house role with the international bank company. Successful applicants will have excellent fund/financial services skills and experience of managing multiple legal teams. **Ref: 14400**

IN-HOUSE TAX €70,000+

Major global financial company is looking to appoint a tax specialist. Diverse position working with virtual teams across Europe. Corporate or general tax experience is essential. **Ref: 13953**

LEGAL ADVISER €40,000+

Our client is an international financial organisation and it is seeking a general corporate lawyer to advise on a broad range of commercial matters. Excellent work/life balance on offer. **Ref: 13393**

IN-HOUSE FUNDS €40,000+

Market leader in the hedge funds market in Europe. This role would suit a funds lawyer working in practice seeking to make the move in-house. Excellent long-term career prospects. **Ref: 13380**

IN-HOUSE COUNSEL €70,000+

Global brand is seeking its first in-house counsel. You will advise across a broad spectrum of commercial matters, however general corporate experience is essential. Unique position. **Ref: 131370**

LEGAL COUNSEL €40,000+

Leading Irish organisation is looking to add to its established in-house team. Candidates will have some banking experience however candidates with general commercial should apply. **Ref: 140793**

CAPITAL MARKETS €30,000+

Top-tier firm with a superb reputation for its securitisation/capital markets work. Candidates can expect to work with Ireland's best lawyers in this niche specialism. Excellent client base. **Ref: 132918**

CORPORATE PBL €40,000+

Increasing role for candidates seeking a professional support lawyer position. You will provide support to a number of commercial units including technology, banking and corporates. **Ref: 13323**

CONSTRUCTION €40,000+

Market leader in construction. Working closely with the projects/PP team this is a genuine opportunity to work on high profile construction projects across Ireland. Make your mark in this field. **Ref: 13340**

PROPERTY €30,000+

With one of the largest commercial real estate teams in Ireland, this is an outstanding opportunity for those seeking to working on large development projects. Excellent package. **Ref: 13343**

COMPETITION €40,000+

Our client is looking to expand its EU/competition team. Candidates will have prior experience in this field and language skills would also be an advantage. Challenging and rewarding role. **Ref: 13370**

ENERGY €30,000+

Energy group of the top-tier Irish firm is seeking ambitious lawyers looking to develop their skills in the energy sector. Candidates with energy/general commercial experience should apply. **Ref: 13510**

LONDON

CAPITAL MARKETS €14,000-100,000

Join a Top 10 corporate practice. Work in a team of recognised experts for household name clients. DCM, securitisation or derivatives experience highly sought after. Excellent package. **Ref: 137090**

CORPORATE (HEDGE) £80,000

Always dreamt of working in hedge funds? Rare opportunity for a corporate lawyer to retrain in this award-winning US team. Exciting mix of work. Mid-Atlantic salary on offer. **Ref: 99038**

PROPERTY FINANCE £40,000-£80,000

Leading City firm seeks a mid-level property lawyer with experience on the property fund/finance side. Top quality deal flow and competitive top-tier salary package and prospects. **Ref: 131870**

PENSIONS £18,000-£43,000

This central London law firm boasts an impressive self-sufficient pensions practice. A commercially aware candidate is now sought to take on an advisory and transactional role. **Ref: 844480**

BANKING €30,000+

This top international law firm is one of the most highly-respected in the market. Here you can be assured of a quality workload advising on the most challenging deals. **Ref: 107710**

CORPORATE €30,000+

The corporate practice of this leading firm boasts being leading legal advisers in the APAC markets, with particularly strong growth in M&A, equity markets, corporate recovery and private equity. **Ref: 295110**

FUNDS €40,000+

Fantastic move to leading international firm recognised as one of the top investment funds team in the City. Will consider corporate lawyers with excellent drafting skills. **Ref: 130440**

CORPORATE €40,000+

International firm recognised for its cutting-edge, corporate work offers a supportive culture within which to develop a first-rate career. Interested in lawyers from outside the City. **Ref: 840450**

CORPORATE €15,000-£90,000

The corporate team is still continuing. This is a great opportunity to join one of the leading law firms in London and internationally and be involved in the highest profile work around. **Ref: 137580**

TECHNOLOGY £70,000+

This major London player has a broad IT role on offer. With the role offering a real international flavour to it, there is scope for overseas travel to work on various technology matters. **Ref: 177810**

PROPERTY €10,000-£70,000

Great chance to join a market-leading property team. Work to include multi-million transactions, commercial landlord and tenant matters and portfolio acquisitions and disposals. **Ref: 149840**

CORPORATE €10,000-£70,000

This top-tier UK firm is offering Irish lawyers the excellent opportunity to work on some of the largest and most complex high-brow deals in a challenging and collegial environment. **Ref: 161490**

TAYLOR ROOT IN DUBLIN

David Thomson and Erica MacKinnon will be available to meet with you in Dublin on 15th and 16th February. If you are considering a move to London, or overseas, please contact them to arrange a confidential meeting to discuss your requirements.



Erica
MacKinnon

David
Thomson

Contact Erica MacKinnon or David Thomson
on +44 (0)121 320 0640,
E: ericamackinnon@taylorroot.com
E: davidthomson@taylorroot.com

For more roles visit
www.taylorroot.com

HERE ARE SOME REASONS FOR MOVING
TO SYDNEY YOU ALREADY KNOW ABOUT



AND HERE ARE SOME YOU SHOULD KNOW

Sydney Opportunities

All levels

- Corporate / M&A / Private Equity
- Communications and Technology
- Competition and Regulation
- Banking and Finance
- Real Estate and Projects
- Intellectual Property

In less than 20 years, Gilbert + Tobin has achieved an enviable reputation as one of the most successful Australian corporate law firms.

Based in Sydney, the majority of the firm's work is in the Asia Pacific region with significant work across Europe and the Middle East.

Our culture encourages free-thinking and creativity. Working in teams, we give our lawyers real opportunity to get closely involved with market-leading deals and matters.

The Managing Partner and co-founder of Gilbert + Tobin, Danny Gilbert, will be in London and Ireland for interviews from Monday 19 February through to Friday 23 February.

To find out more, visit www.taylorroot.com/gilbertandtobin or please contact our consultant David Thomson at Taylor Root on +44 (0) 21 226 0640 or email davidthomson@taylorroot.com

www.gtlaw.com.au

GILBERT
TOBIN

LAWYERS

Where will the future take you?

Dublin

Corporate Partner

€150,000+

Our client is a highly successful and growing boutique firm that is currently seeking to recruit a Corporate Partner to grow and develop the corporate/commercial department within their well-respected firm. Applications for this position are encouraged from both lawyers who are presently partners and associates seeking a direct route to partnership level. Excellent opportunity for the right candidate. Ref: 29012

Commercial Property Solicitor

€100,000 - €120,000

This highly reputable firm is currently looking to make an addition to an already very experienced commercial property department. As Commercial Property Solicitor, your work will include hotels, retail developments and office developments as well as tax based property acquisition and development. This is a superb position which will offer the successful candidate excellent career progression and excellent quality of work. Ref: 1421

Banking Solicitor

€100,000

An exciting opportunity has arisen for a strong Banking Lawyer to join one of the leading banking teams in Dublin. Experience in any of the following is desirable: general asset and tax based finance, financial services (advice on hedging, arbitrage, lending and documentary credit transactions) and banking strategy (advising domestic and international banks on internal corporate affairs). This role offers an excellent package. Ref: 16638

Head of Private Client

€80,000+

Our client is a dynamic and progressive firm of solicitors, based in Dublin. The firm prides itself on delivering a prompt, efficient and high quality legal service which has led to rapid growth over the last number of years. The partners now seek to hire a Head of Private Client as they continue their strategic expansion. Exceptional opportunity for a strong practitioner who is looking for more autonomy, responsibility and recognition in their job. Ref: 28483

Employment Lawyer

€65,000 - €85,000

This outstanding opportunity has arisen for an experienced Employment Lawyer to join one of Ireland's most prestigious employment law teams which is based in Dublin. The successful candidate will have experience with some/all of the following: employment contracts/staff handbooks, restrictive covenants, personnel policies and procedures, trade disputes and employment equality/discrimination. Ref: 28474

In-House Regulatory Lawyer

€65,000 - €75,000

Our client is a large energy infrastructure company. They seek a solicitor or barrister with experience in regulatory/compliance law. Must have an appreciation of regulatory drivers, priorities and an ability to establish effective relationships with regulatory authorities. You will also analyse and advise management on the legal implications of actions with the regulatory adviser and market participants. Ref: 28765

Commercial Solicitor

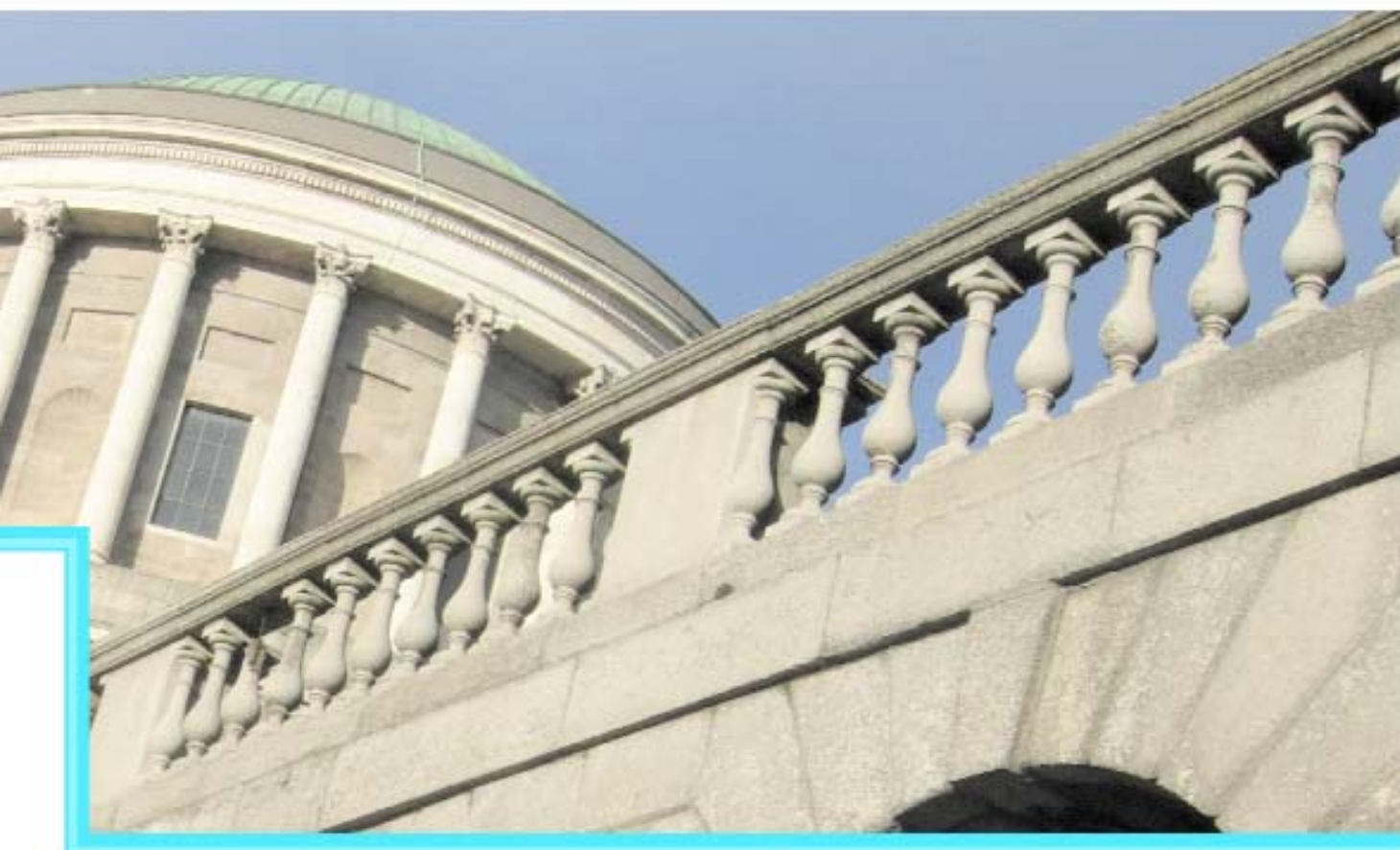
€45,000 - €55,000

Our client is a leading Dublin law firm with a reputation for excellence. They currently have a requirement for a qualified Solicitor to work within their continuously expanding commercial team. The successful candidate will have exposure to some aspects of commercial law from their traineeship. This is an outstanding opportunity to build a highly rewarding career with endless prospects. Ref: 28999

NQ In-House Lawyer

€45,000 - €55,000

Our client, a large financial services organisation based in Dublin city centre, is seeking to recruit an in-house lawyer to join their legal team. Working as part of the capital markets group, you will gain experience in all aspects of banking and derivatives. The successful candidate will have exposure to some aspects of financial services from their traineeship. This position has an excellent salary and package on offer. Ref: 29008



Cork

Conveyancing Solicitor

€65,000 - €75,000

An experienced Solicitor is required for the busy commercial conveyancing department of an expanding Limerick practice. The ideal candidate will have a broad range of commercial conveyancing experience in a previous role. This is a unique opportunity to secure a varied role in a thriving practice. An excellent package is available for the most suitable candidate and there are opportunities to grow within this highly respected team. Ref: 28972

General Practice Solicitor

€55,000 - €70,000

This reputable West Cork practice seeks to recruit an experienced Solicitor. Superb interpersonal skills are a must as there will be a great deal of interaction with the company's well established clients. This would be an ideal practice in which to further your career, as there is a dynamic working atmosphere with the emphasis on an excellent service. A wide range of candidates will be considered. Ref: 27865

Conveyancing Solicitor

€55,000 - €65,000

An experienced solicitor is required for a busy practice located outside of Cork city centre. This role will be varied but the main focus will be on both residential and commercial conveyancing. This is an exciting opportunity, as the practice is growing and attracting new business. There is an excellent working environment and this role would prove an ideal opportunity for a candidate currently wishing to relocate. Ref: 27632

Litigation Solicitor

€55,000 - €65,000

Our client, based in Cork city centre, currently has the requirement for an experienced Litigation Solicitor to join their reputable practice which is rapidly expanding. This highly interesting role offers varied work in family law, employment law and personal injury claims. An excellent opportunity for the successful candidate to take their career to the next level with this prestigious firm. Excellent package available. Ref: 26387

General Practice Solicitor

€50,000 - €60,000

General Practice solicitor required for a busy practice in North Cork. You will be encouraged to get involved in all aspects of the firm's work, including conveyancing, litigation, probate and family law. Excellent opportunity for a solicitor to maintain an excellent quality of life whilst enjoying a varied and challenging case load. This practice has convenient parking facilities available for all staff and superb benefits are on offer for the right candidate. Ref: 28468

Commercial Solicitor

€45,000 - €60,000

Our Cork city client represents a broad commercial and institutional client base in the acquisition, disposal and financing of investment properties and business premises for a large base of corporate and private clients. This firm seeks a junior Commercial Solicitor to slot into a friendly and progressive team and play a front line role in managing client relationships. Competitive salary on offer with a superb work life balance. Ref: 24137



Head of Legal Services

Location: Belfast

Ref: SFHLS0107

Salary: circa £75k plus attractive benefits

The Police Service of Northern Ireland wish to recruit a Head of Legal Services to lead and manage the Legal Services Department and the full range of services within it.

The Head of Legal Services will work as a key member of the Chief Constable's Senior Management Team acting as the point of expertise in advice and litigation to ensure the PSNI meets its obligations, both as a police service and employer. The role holder will also provide strategic direction to the legal team and lead project teams to deliver key organisational objectives.

If you are a qualified solicitor or barrister, with experience of providing comprehensive legal advice at senior management/director level, relating to civil litigation, employment law, human rights law, anti-discrimination law and administrative law and are interested in this role please visit www.thesupportteam.org to apply online or contact 028 90 566371 or text HLS to 80030.

Deadline for applications: 5pm Friday 16th February 2007.

Our client is an Equal Opportunities employer.



Making the community safer

SPENGLERFOX

www.thesupportteam.org

028 9055 6371

docklands



Solicitor

The Dublin Docklands Development Authority has experienced significant growth in the volume and complexity of the projects it has undertaken and as a result we require the expertise of a fully qualified solicitor.

The suitable candidate will have an appropriate level of post-qualification experience in all aspects of commercial property and will possess working knowledge of local government law and practice.

The ability to work within the existing team demonstrating flexibility and confidence is as important as your skills in advising and preparing documentation for contractual arrangements, title investigations and the provision of conveyancing and property related legal advice for both acquisitions and sale.

On offer is a chance to work in an exciting and challenging organisation on a variety of projects within multi-discipline teams of individuals who represent the best in their chosen field. Success in this role presents a rare opportunity to make a significant contribution to the renewal of the Docklands and its environs.

If you would like more information on this role please visit www.dublindocklands.ie

If you are interested in this role please apply in writing to HR@dublindocklands.ie or HR, Dublin Docklands Development Authority, 52-55 Sir John Rogerson's Quay, Docklands, Dublin 2, Ireland.



MAPLES AND CALDER

AN (CORPORATE) LAWYER | FINANCE | INSURANCE | TAX | TRUSTS | LITIGATION



Do you deserve more?

Maples and Calder is seeking corporate, funds, capital markets, asset finance and commercial litigation lawyers at various levels of experience for its global network of offices (EVL, Cayman, Dubai, Dublin, Hong Kong, Jersey and London).

Successful applicants will have a first class academic record and likely be currently employed within one of the major Dublin law firms.

Maples and Calder offers:

- Salary levels significantly above Dublin market rates (tax free flow tax in certain offices)
- The prospect of movement between offices
- An established career path with partnership prospects for the right candidates

Maples and Calder is a leading international law firm with over 550 staff including 150 lawyers across seven jurisdictions.

Applications may be sent in confidence to julian.raddyhough@maplesandcalder.com

CORPORATE | FINANCE | INSURANCE | TAX | TRUSTS | LITIGATION | REGULATORY | REAL ESTATE

www.maplesandcalder.com

In-House Legal Counsel – Property & Commercial

Salary: €100,000 – €125,000 + Bonus + Benefits

Our Client a global technology and communications company is seeking to recruit a Legal Counsel to manage all legal affairs for Ireland. This is an exceptional opportunity for a senior Lawyer to establish and lead a legal team in a truly exciting organisation.

The Legal Counsel will provide essential support to the business in order to allow for timely completion of contractual terms in relation to the property portfolio and network sites as well as manage the IT and Infrastructure suppliers and service providers.

The Role:

- Draft and review contracts for multi and single site acquisitions
- Advise estates on legal queries and achieve a resolution by negotiating with landlords and landlord's solicitors where relevant
- Negotiate and agree retail leases and other related commercial property matters
- Advise the business on all property related matters and relevant legislation
- Proactively review operational processes to identify legal issues and advise on acceptable and effective solutions
- Work with finance and internal audit teams to minimise risk
- Draft and support a wide range of procurement related agreements e.g. professional services agreements, supply agreements, services agreements and company contracts
- Analyse risks with the ability and confidence to provide quick and satisfactory solutions
- Brief external lawyers and closely manage the external advice and costs

The Person:

The successful candidate will be an Irish qualified lawyer with in-depth commercial property and/or commercial experience from a respected law firm or an international technology organisation. Contract negotiation experience is essential as is sound commercial acumen in relation to the running of a legal department within a global organisation.

This person will have the ability to communicate with non-lawyers and be a good influencer with strong advisory, drafting and negotiation skills. The role will suit a constructive and ambitious team player who has the ability to have fun whilst working hard. Strong planning, multi tasking and organisational skills are a prerequisite.

Interested applicants should contact Yvonne Keane of Keane McDonald on 01 6415614 or email your CV in strict confidence to ykeane@keanemcdonald.com.



Keane McDonald
executive legal recruitment

Keane McDonald
Ground Floor
68 Petros Street, Dublin 2
Tel: +353 18415614
Fax: +353 18836229
Email:
ykeane@keanemcdonald.com
Web: www.keanemcdonald.com

Corporate & Commercial Dublin**t 01 619 0400****Asset Finance Dublin**

Leading top 5 practice requires an experienced solicitor to join their expanding finance team. Previous experience advantageous, but strong candidates from other corporate and commercial areas will be considered. Excellent salary and career prospects offered. (ref 151516)

Banking Dublin

You will work for an industry leader in the traditional banking areas as well as structured finance, property finance, restructuring, capital markets and corporate finance transactions. You will act for both borrowers and lenders in a high profile environment. (ref 151517)

Capital Markets Dublin

Leading law firm requires experienced Capital Markets lawyer to join their leading, established practice. Working directly with partners and clients you will have previous experience in a similar environment. Excellent career progression and financial package offered to the successful candidate. (ref 151518)

Commercial Litigation Dublin

Leading law firm requires an experienced commercial property solicitor to join their expanding practice. You will advise on a varied workload for a wide range of clients. This is a truly outstanding opportunity to join this superb team in a fantastic office environment with impressive facilities including gym, subsidised restaurant and active social committee. Outstanding professional development and career prospects offered to right candidate. (ref 151519)

Commercial Property Dublin

Leading law firm requires an experienced commercial property solicitor to join their expanding practice. Working directly with partners this client facing role will cover all aspects of commercial property including leasing, lending and developments. (ref 151520)

Construction Dublin

Respected leading law firm requires an experienced lawyer to join their construction practice. Advising a wide range of private and public bodies on all aspects of construction, you will have experience in a similar environment gained in a large or medium size practice. (ref 151521)

Corporate Dublin

As a result of continued expansion, a rare opportunity has arisen to join this leading team. High value work including the full range of sales & acquisitions, private equity transactions, M&A/C&As and floatations. Background in large regional/ city firm preferred. Outstanding career prospects and continued professional development offered. (ref 151522)

Intellectual Property Dublin

Leading IP practice requires experienced IP solicitors to join their expanding team. Covering a broad range of contentious and/or non-contentious issues you will have experience in a similar environment. Outstanding career progression offered. (ref 151523)

Mergers & Acquisitions Dublin

On a daily basis, a leading domestic client, requires a leading M&A specialist to join their expanding team. Candidates should have extensive experience in a leading corporate practice with an emphasis on due diligence and other related corporate issues. Outstanding remuneration, career progression and continued professional development offered. (ref 151524)

Private Client Dublin

Top 5 seeks an ambitious individual to join their team. All aspects of private client law, predominantly centring on capital taxation planning, wills, trusts and ancillary documentation and advising generally in relation to wealth structuring. (ref 151525)

Dublin Conveyancing & General Practice**Commercial Conveyancing****Dublin City Centre**

At the commercial law firm located in central Dublin requires an experienced solicitor to join their commercial property team. This role will mainly involve advising large financial institutions and large scale developers in all aspects of commercial property. (ref 151526)

Commercial Conveyancing**Dublin City Centre**

Medium sized practice in Dublin 2 requires experienced solicitors to join their commercial conveyancing practice. Experience of commercial leasing would also be beneficial. This is an excellent opportunity for candidates to join a well respected firm. (ref 151527)

Conveyancing Dublin City Centre

Progressive mid tier firm located in Dublin 7 requires a very able solicitor to join their expanding team. This role will suit candidates with commercial and conveyancing experience. This well respected client offers an excellent package as well as a commitment to long term career prospects. (ref 151528)

Conveyancing North Dublin

An excellent opportunity has arisen to join a growing practice working as part of a small team located in North Dublin. The position will suit a motivated candidate with a strong background in residential conveyancing. The salary and benefits are commensurate with experience. (ref 151529)

Conveyancing South County Dublin

South County Dublin general practice requires an experienced solicitor for their expanding team. Role will suit candidates with extensive residential and commercial conveyancing experience. Candidates should be able to demonstrate strong litigation experience. (ref 151530)

General Practice Dublin City Centre

General practice located in Dublin 2 requires an experienced solicitor to join their team. Candidates will ideally be coming from a general practice background with an emphasis on residential conveyancing. Salary and benefits are commensurate with experience. (ref 151531)

Dublin Office**t +353 (0)1 619 0400 f +353 (0)1 611 4448 e dublin@g2legal.ie 18 Fitzwilliam Square Dublin 2 Ireland****Out of Office Hours Paul Bheey 087 9109745 Alan Whelan 087 9374022 Nuala O'Connell 087 9100067****Offices also in Birmingham • Brighton • Bristol • Edinburgh • Glasgow • Leeds • London • Manchester**



t 01 619 0400

Regional

t 01 619 0400

General Practice: Dublin City Centre

General practice firm in Dublin 2 require a top in solicitor for a six month contract starting in February. This role will primarily involve residential conveyancing as well as probate and some general litigation. Flexible terms available and all qualified applicants will be considered. (ref 12522)

General Practice: Dublin West

General practice located on the outskirts of south west Dublin require a solicitor to join their busy office. Candidates will ideally have experience of residential conveyancing, general litigation and probate and be looking for a role where they will have freedom to work independently. (ref 12523)

General Practice: South Dublin

General practice firm located on the outskirts of South Dublin require an experienced solicitor to join their team. This water role will also require knowledge of residential conveyancing, probate and litigation. This is an excellent opportunity to join a well respected team. (ref 12524)

Residential Conveyancing

Dublin City Centre

Residential conveyancing specialist required for busy law firm in Dublin 4. Candidates will need to demonstrate strong experience in residential conveyancing with the ability to work independently. Commercial conveyancing and probate experience would be beneficial. (ref 12525)

Legal Executive: Dublin

We currently have a number of vacancies for experienced legal executives. Candidates with experience in banking, litigation and conveyancing are particularly sought after. Various locations are available, please contact us for further details.

Legal Secretary: Dublin

There are a number of roles throughout Dublin for experienced legal secretaries. Particularly sought after are candidates with experience of general litigation and residential conveyancing. Firms currently looking for staff include small firms on the outskirts of Dublin to some of Ireland's largest and most prestigious law firms.

General Practice: Clare

One client requires an experienced solicitor for its busy practice in Clare. This role will mainly involve residential conveyancing as well as probate. This role would also require independent candidates with experience of running files from start to finish. Salary and benefits are commensurate with experience. (ref 12526)

Private: Clare

One client requires a qualified solicitor to join their team. Ideal candidates must be experienced in probate and administrations. A great opportunity to work in a focused environment where hard work will be rewarded. (ref 12527)

General Practice: Cork

One client, one of Cork's most well respected firms requires an experienced solicitor to join their expanding team. Candidates should have vast experience in all aspects of conveyancing and running files from start to finish. Salary and benefits are commensurate with experience. (ref 12528)

Residential Property: Cork

General practice requires a qualified solicitor to join their expanding team. The ideal candidate will have vast experience in residential conveyancing. Salary and benefits are commensurate with experience. (ref 12529)

Residential Property: Cork

Opportunity for a qualified solicitor to join a growing general practice managing a residential conveyancing portfolio. This role will also require independent candidates with experience of running files from start to finish. Salary and benefits are commensurate with experience. (ref 12530)

Commercial Conveyancing: Galway

One client, a progressive firm requires a commercial conveyancing solicitor for its office based in Galway. Candidates must possess a proven track record in all aspects of commercial property. Salary and benefits commensurate with the local market and previous experience. (ref 12531)

General Practice: Galway

General practice in Galway requires a qualified solicitor to join their expanding team. The ideal candidate will be experienced in Family Law. Experience in residential conveyancing would be advantageous. Salary and benefits are commensurate with experience. (ref 12532)

General Practice: Galway

General practice in Galway are looking for a qualified solicitor to join their practice. This water role will involve residential conveyancing and litigation. Experience in probate and divorce would be an advantage. Salary and benefits are commensurate with the local market. (ref 12533)

General Practice: Limerick

Expanding Limerick city centre practice requires an experienced solicitor to join their team. Ideal candidates will have exceptional conveyancing experience and the ability to work independently. This is an excellent opportunity for conveyancing specialists. (ref 12534)

General Practice: Monaghan

Progressive firm in Co. Monaghan requires a qualified solicitor to join their expanding team. Candidates should be able to show experience in all aspects of residential and commercial conveyancing. Cross border experience would also be an advantage. (ref 12535)

General Practice: Waterford

County Wexford general practice requires a qualified solicitor to join their expanding practice. The ideal candidate will have experience of conveyancing and probate, with the ability to manage own files. This is a great opportunity to join a leading firm in the south east. (ref 12536)

International Legal Recruitment

Local knowledge





CIE GROUP SOLICITOR'S OFFICE

EXPRESSIONS OF INTEREST SOUGHT FROM SOLICITORS/FIRMS OF SOLICITORS INTERESTED IN PROVIDING COMMERCIAL LEGAL SERVICES TO CIE

CIE is the statutory authority charged with the provision of road and rail public transport in Ireland and has responsibility for the three major operating companies – Iarnród Éireann-Irish Rail, Bus Átha Cliath-Dublin Bus and Bus Éireann-Irish Bus.

CIE Group Solicitor's Office provides legal support to CIE and its subsidiaries. Expressions of interest are sought from solicitors/firms of solicitors who wish to be considered for a tendering process which will result in panel of legal advisers to provide commercial legal services when required by CIE and its subsidiary companies in partnership with CIE Group Solicitor's Office.

The panel will be established in September 2007 and will operate for a period of three years.

The solicitors/firms of solicitors appointed will be required to demonstrate a high level of competence and experience in public procurement law (this is a pre-requisite) as well as expertise in one or more of the following areas of commercial law:

- Construction law
- General commercial law
- Information technology law
- Pensions law

Solicitors/firms of solicitors wishing to express an interest are invited to submit confirmation of their interest together with the following details:

- evidence of competence and experience in public procurement law;
- evidence of competence and experience in construction law;
- identification of areas of general commercial law in which the solicitor/firm of solicitors is competent to provide legal services together with evidence of competence and experience;
- evidence of competence and experience in information technology law;
- evidence of competence and experience in pensions law; and
- the identity of solicitors who would provide services in each of the above areas together with details of the length of time each such solicitor has qualified and has worked in the respective area of law.

Following consideration of the expressions of interest received a number of respondents will be invited to submit tenders providing further details on experience in the commercial areas in which they have expressed an interest together with the proposed cost of providing a legal service to CIE in those areas.

Expressions of interest should be submitted in a sealed envelope clearly marked 'Commercial Legal Panel' to the CIE Solicitor's Office, Bridgewater House, Dublin 8, not later than 5pm on Thursday the 8th of March, 2007.

Join the
right team...

MCG
MEGHEN GROUP

Confidentiality
Prestigious
Firms
Competitive
Remuneration

Meghen Group works closely with many of Ireland's most highly regarded legal practices and companies. Meghen Group offers a tailored service, which meets the specifics, and often subtle demands of the legal industry. Meghen Group's commitment to your job search ensures you have access to decision makers, confidentiality, effective introductions and control of negotiations.

Family/General Litigation Lawyer (Senior Associate)
MN 0701-158

This Dublin based medium size law firm requires a Solicitor with experience in family law and general litigation law to join their busy litigation team of five Solicitors. The ideal candidate will have the ability to work unsupervised managing a number of complex law matters in a thriving and developing department. €80k +

IT/IP Lawyer (Associate) MN 07010-85

One of Dublin's most popular firms is looking for an ambitious, high achieving contentious IP lawyer to join their growing practice. Working with a team of dynamic partners and associates, the work will be high profile, varied, complex and often international in nature. You must have an excellent academic record as well as confidence and self-motivation. €65k +

Commercial Conveyancing (Senior Associate)
MN 0701-26

This law firm has an excellent reputation in the Real Estate and Construction industry. Their award winning team is looking to recruit another Property lawyer. Applicants must have experience of working in commercial property preferably from a firm with a good reputation in this area. Applicants must be commercially aware and have strong client facing skills. €90k +

Competition Lawyer (Junior) MN 0701-132

Top tier firm requires an experienced Competition Lawyer at junior associate level. Experience of EU competition and regulatory matters with both private clients and public bodies is essential. €60k +

Commercial/Corporate MN 0701-83

Respected boutique corporate practice requires a Senior Associate for its commercial/corporate practice. Banking and finance experience is essential within a large leading law firm. €75k +

Tax Lawyer - Cork (Junior) MN 0701-83

Cork's top corporate law firm requires a tax lawyer to join their team. The role will involve working across property, corporate and financial related tax matters. Therefore applicants must be extremely commercial minded with a broad breadth of experience. Applicants must have applicable experience from a well known firm. €60k +

Commercial (Junior) MN 0701-96

This reputable Dublin practice with a strong international reputation seeks a commercial lawyer with experience in M&A's, MBO's, IPO's and PLC's, with excellent drafting skills for domestic and international clients. €70k +

Legal Counsel - Funds MN 0701-18

This international fund management company is seeking an experienced funds lawyer to review fund documentation, drafting, due diligence, advice on legal issues and regulatory matters. Excellent terms on offer.

Golden Circle Firm - London MN0701- 135

Applications from solicitors of all levels with a background in finance are encouraged. Excellent benefits and relocation options are on offer.

In addition to these vacancies, we currently have a wide variety of opportunities for all levels of Solicitors in many areas of law. Visit our website to view further opportunities.

Your details will not be forwarded to any third party without your prior consent.

Contact Michelle Nolan on T: (01) 4339016 + F: (01) 4339090 + E: michelle@meghengroup.com
97 Lower Bagin Street, Dublin 2.

www.meghengroup.com



HERE TO GUIDE YOU

LONDON HONG KONG PARIS DUBLIN SYDNEY AMSTERDAM DUBAI BRUSSELS FRANKFURT

When you make a career move through Laurence Simons you'll find we take a very personal approach to making sure your move is in the right direction.

We take the time to get to know you as an individual and understand your career ambitions, both short and long term.

We only put you forward as a candidate where we believe your personality and work ethic will fit seamlessly with the culture of the firm in question and where your career and promotion prospects will be well served in the future.

We treat all our dealings with you with honesty, integrity and discretion and keep you fully briefed throughout.

It's an individual and proactive approach to recruitment that's much appreciated by the many well known firms who use us to find lawyers at all levels from the newly qualified to partners and teams.

They know that anyone we put forward as a candidate merits serious consideration, which is why so many of our placements are done by personal referral or recommendation.

Come and talk to us about your next career move. We will always find time to listen.

Harcourt Centre Harcourt Road Dublin 2
Tel: +353 (0) 1 402 9400 Fax: +353 (0) 1 402 9590
Search for positions online at: www.laurence-simons.com

N.Q. Corporate / Banking, Dublin

€Excellent

Our client, a leading firm with a strong domestic & international focus are looking to recruit commercial and banking lawyers. You will have strong academic and legal experience in a mid-sized banking firm. Most importantly you will have a desire to develop your career within a leading corporate. Ref: 14840.

Contact: sharon@laurence-simons.com

Corporate Lawyer, Dublin

€Excellent

Our client is a boutique firm with an excellent reputation among its clients and are looking to recruit a commercial lawyer at associate level for a team based role. You will have experience in one or more of the following sectors and acquisitions, venture capital, joint ventures, privatisations and financials. Ref: 12007.

Contact: sharon@laurence-simons.com

Construction Lawyer

€90k

Small expanding practice based in city centre is seeking to appoint a construction lawyer at associate level. You will have experience in preferably non-commercial construction work. Candidates with construction experience will also be considered. This is an excellent opportunity to develop your career within a highly successful firm. Ref: 14428.

Contact: sharon@laurence-simons.com

Jnr. Financial Services Lawyer, Dublin (with international travel)

€Neg.

Our client is leading provider of financial services. The European headquarters are looking to recruit a junior lawyer. You will have gained excellent training and now wish to develop your career in-house. Excellent academic record is offered as well as international travel to other global financial centres including New York and Hong Kong. Ref: 10432.

Contact: sharon@laurence-simons.com

Corporate / Trust Lawyers, Off-shore Cayman Is, Guernsey, Jersey

€Neg.

Leading off-shore law firm are seeking lawyers for their various locations. You will have gained experience in leading firm and now want to consider making a move off-shore. Lawyers at all levels will be considered. Law firm city salaries are offered and excellent tax rates will apply. Relocation assistance will also be offered. Ref: 14508. Contact: sharon@laurence-simons.com

Junior Corporate Lawyer, London

€100k+

We are representing a number of magic circle and second tier firms based in London. Our clients are looking for corporate lawyers at all levels. You will have an opportunity to work in leading corporate headquarters. Ref: 12354.

Contact: sharon@laurence-simons.com

In-House Lawyer, Dublin

From €75k

This growing wealth management organisation engaged mainly in property development requires lawyers to join its team. Experience in real estate would be an advantage. Candidates should have the ability to project manage and oversee their legal/commercial experience. Ref: 13910.

Contact: portia@laurence-simons.com

Legal Counsel, Dublin

From €85k

A leading financial institution with Dublin based European headquarters requires a legal counsel. You will have a background in corporate law and will direct, coordinate or administer a variety of legal matters including corporate commercial agreements and associated matters. Excellent career opportunity. Ref: 15503.

Contact: portia@laurence-simons.com

Corporate / Commercial Lawyer, Cork

From €55k

The Cork law firm requires a junior lawyer to join its busy department. You will have the ability to identify commercial/lawful issues. Excellent commercial experience with exposure to onshore/offshore products agreements and other commercial agreements required. Ref: 13702.

Contact: portia@laurence-simons.com

Commercial Property Lawyer, Limerick

From €80k

Expanding firm requires senior associate lawyer to join its growing team. Experience of dealing with banks, residential developers with a view to expanding this activity is essential. You will have the ability to take responsibility in a fast-paced environment. Ref: 15905.

Contact: portia@laurence-simons.com