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COURTS SERVICE ACT, 1998

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Court Officers Act, 1926	1926, No. 27
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COURTS SERVICE ACT, 1998

AN ACT TO ESTABLISH A SERVICE TO MANAGE THE COURTS AND PROVIDE SERVICES TO AND FOR THE JUDGES, AND TO PROVIDE OTHER SERVICES RELATING TO COURTS ADMINISTRATION, TO TRANSFER CERTAIN PROPERTY TO THE SERVICE, TO MAKE PROVISION FOR THE STAFFING OF THE SERVICE, AND TO PROVIDE FOR RELATED MATTERS.

[16th April, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

1.—(1) This Act may be cited as the Courts Service Act, 1998.

Short title and commencement.

(2) *Part 1* and *section 36* shall come into operation on the date of the passing of this Act.

(3) *Part VIII* shall come into operation one month after the date of the passing of this Act.

(4) The remaining provisions of this Act shall come into operation on such day or days as the Minister may fix by order or orders either generally or with reference to any particular purpose or provision, and different days may be fixed for different purposes and different provisions.

2.—(1) In this Act, unless the context otherwise requires—

Interpretation.

“the Board” means the Board of the Service;

“the Chief Executive” means the Chief Executive Officer of the Service appointed under *section 17(1)*;

“the Chief Executive Designate” means the Chief Executive Designate appointed under *section 40(1)*;

“the establishment day” means the day appointed under *section 3*;

“function” includes a power and duty;

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“the Transitional Board” means the Courts Service Transitional Board established by *section 37(1)*;

“the Minister” means the Minister for Justice, Equality and Law Reform;

“the Service” means the body established by *section 4(1)*;

“the staff of the Service” does not include the Chief Executive.

(2) In this Act—

- (a) a reference to a section is a reference to a section of this Act, unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended,
- (c) a reference to a Schedule by number is a reference to the Schedule so numbered to this Act,
- (d) a reference to an enactment includes a reference to that enactment as amended at any time by any enactment, and
- (e) a reference to the performance of a function includes a reference to the exercise of a power and the performance of a duty.

PART II

An tSeirbhís Chúirteanna

Establishment day.

3.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.

Establishment of Service.

4.—(1) On the establishment day there shall be established a body to be known as An tSeirbhís Chúirteanna or, in the English language, the Courts Service (in this Act referred to as “the Service”) to perform the functions conferred on it by this Act.

(2) The Service shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name.

(3) The Service shall, subject to this Act, be independent in the performance of its functions.

Functions of Service.

5.—The functions of the Service shall be to—

- (a) manage the courts,
- (b) provide support services for the judges,
- (c) provide information on the courts system to the public,
- (d) provide, manage and maintain court buildings, and
- (e) provide facilities for users of the courts.

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6.—(1) Subject to this Act but notwithstanding any other enactment, the Service may do anything necessary or expedient for enabling it to perform its functions. Pt.II
Powers of Service.

(2) Without prejudice to the generality of *subsection (1)*, the Service may—

- (a) acquire, hold and dispose of land or an interest in land or rights over or in respect of land, and acquire, hold and dispose of any other property,
- (b) enter into contracts and arrangements,
- (c) arrange staff training and education,
- (d) establish arrangements for consultation with users of the courts,
- (e) at the request of the Minister, or on its own initiative, recommend to the Minister appropriate scales of court fees and charges,
- (f) make proposals to the Minister in relation to the distribution of jurisdiction and business among the courts and matters of procedure,
- (g) provide services to other bodies subject to such conditions, including the payment of fees, as it thinks fit,
- (h) with the consent of the Minister, engage consultants and advisers in connection with the performance of its functions,
- (i) operate public bank accounts within the meaning of section 18 of the Exchequer and Audit Departments Act, 1866, and
- (j) designate court venues.

7.—(1) As soon as practicable after the establishment day and within six months before each third anniversary of the establishment day the Service shall prepare and submit to the Minister, for approval by the Minister with or without amendment, a strategic plan for the ensuing three year period. Strategic plans.

(2) A strategic plan shall—

- (a) comprise the key objectives, outputs and related strategies (including use of resources) of the Service,
- (b) be prepared in a form and manner in accordance with any directions issued from time to time by the Minister,
- (c) have regard to the need to ensure the most beneficial, effective and efficient use of the resources of the Service, and
- (d) have regard to the Government policy on bilingualism and, in particular, to the need to ensure that an adequate number of staff are competent in the Irish language so as to be able to provide service through Irish as well as English.

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(3) The Minister shall, as soon as practicable after the strategic plan has been approved, cause a copy of the strategic plan to be laid before each House of the Oireachtas.

Annual report and provision of information to Minister.

8.—(1) As soon as practicable, but in any case not later than six months after the end of each period of 12 months commencing on the establishment day or the anniversary of the establishment day, the Service shall report in writing to the Minister on its activities during that 12 month period, and the Minister shall lay a copy of the report before each House of the Oireachtas.

(2) A report under *subsection (1)* shall include information on the performance of the functions of the Service during the year to which it relates and such other information in such form as the Service thinks fit or the Minister may direct.

(3) The Service shall, if so requested by the Minister, furnish to the Minister such information as the Minister may request relating to—

- (a) any matter concerning the policy and activities of the Service generally,
- (b) any specific matter or account prepared by it, or
- (c) any report specified in *subsection (1)*,

and the information shall be furnished by the Chief Executive acting under the general authority of the Board.

Independence of exercise of judicial functions.

9.—No function conferred on or power vested in the Service, the Board or the Chief Executive, under this Act shall be exercised so as to interfere with the conduct of that part of the business of the courts required by law to be transacted by or before one or more judges or to impugn the independence of—

- (a) a judge in the performance of his or her judicial functions,
or
- (b) a person other than a judge in the performance of limited functions of a judicial nature conferred on that person by law.

Seal of Service.

10.—(1) The Service shall, as soon as practicable after its establishment, provide itself with a seal.

(2) The seal of the Service shall be authenticated on any document by the signatures of—

- (a) the chairperson of the Board or another member of the Board authorised by it to sign documents under the seal of the Service, and
- (b) an officer of the Service designated for that purpose by the Board.

(3) Judicial notice shall be taken of the seal of the Service and every document purporting to be an instrument made by the Service and to be sealed with the seal (purporting to be authenticated in

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accordance with *subsection (2)* of the Service shall be received in Pt.II S.10
evidence and be deemed to be such instrument without proof, unless
the contrary is shown.

PART III

Board of Service

11.—(1) There shall be a Board of the Service which shall consist Board of Service.
of—

- (a) the Chief Justice for the time being or a judge of the Supreme Court nominated by the Chief Justice,
- (b) a judge of the Supreme Court elected by the ordinary judges of that Court,
- (c) the President for the time being of the High Court or a judge of the High Court nominated by the President of that Court,
- (d) a judge of the High Court elected by the ordinary judges of that Court,
- (e) the President for the time being of the Circuit Court or a judge of the Circuit Court nominated by the President of that Court,
- (f) a judge of the Circuit Court elected by the ordinary judges of that Court,
- (g) the President for the time being of the District Court or a judge of the District Court nominated by the President of that Court,
- (h) a judge of the District Court elected by the judges, other than the President, of that Court,
- (i) a judge nominated by the Chief Justice for the time being in respect of his or her experience or expertise in a specific area of court business,
- (j) the Chief Executive,
- (k) a practising barrister nominated by the Chairman for the time being of the Council of the Bar of Ireland,
- (l) a practising solicitor nominated by the President for the time being of the Law Society of Ireland,
- (m) a member of the staff of the Service elected by the members of the staff for that purpose,
- (n) an officer of the Minister nominated by the Minister,
- (o) a person nominated by the Minister to represent consumers of the services provided by the courts,
- (p) a person nominated by the Irish Congress of Trade Unions,
and

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(q) a person who, in the Minister's opinion, has relevant knowledge and experience in commerce, finance or administration and who is nominated by the Minister after consultation with such bodies as the Minister considers are representative of such interests in the State.

(2) The Minister, in making nominations under *subsection (1)*, shall have regard to the need to ensure that membership of the Board includes both men and women.

(3) The Minister may, after consultation with any recognised trade unions or staff associations concerned, make such regulations as are considered necessary or desirable in order to provide for the election of a member of staff for the purposes of *subsection (1)(m)*.

(4) The Chief Justice shall be the chairperson of the Board or, if the Chief Justice is not a member, the judge of the Supreme Court nominated under *subsection (1)(a)* shall be the chairperson.

(5) Subject to *section 14(3)*, the Board may act notwithstanding one or more vacancies in its membership.

Term of office of members.

12.—(1) A judge nominated as a member of the Board under *paragraph (a), (c), (e) or (g) of section 11(1)* shall hold office while he or she remains a judge of the court in respect of which he or she was nominated or until the person who nominated the judge as a member ceases to hold the office by virtue of which he or she made the nomination, but in that case the judge shall be eligible for renomination.

(2) A judge elected as a member of the Board under *paragraph (b), (d), (f) or (h) of section 11(1)* shall hold office for three years, but shall be eligible for re-election, while he or she remains a judge of the court in respect of which he or she was elected.

(3) A judge nominated as a member of the Board in accordance with *section 11(1)(i)* shall hold office for three years, but shall be eligible for renomination, while he or she remains a judge of any court.

(4) A person nominated or elected as a member of the Board in accordance with *paragraphs (k) to (q) of section 11(1)* shall hold office for three years, but shall be eligible for renomination or re-election, as the case may be.

(5) A member of the Board who has been nominated or elected to be such a member may resign from membership by letter addressed to the chairperson of the Board and the resignation shall take effect on receipt of the letter by the chairperson.

(6) The chairperson shall as soon as practicable notify the Minister of any resignation under *subsection (5)*.

(7) A casual vacancy in the membership of the Board caused by the death or resignation, or any other event affecting the membership, of a person nominated or elected to hold office as a member for—

(a) a period of three years referred to in *subsection (2), (3) or (4)*, or

(b) the remainder of such a period in respect of which he or she was nominated or elected in pursuance of this subsection,

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shall be filled, in accordance with the relevant provision of *section 11(1)*, for the remainder of the term of office remaining to be served by the person, and the new member shall be eligible for renomination or re-election at the conclusion of that term. Pt.III S.12

(8) The Minister may, after consultation with the nominating person or body concerned, remove for stated reasons a person who is a member of the Board referred to in *paragraph (k), (l) or (p) of section 11(1)*.

(9) The Minister may at any time remove for stated reasons a person who is a member of the Board referred to in *paragraph (o) or (q) of section 11(1)*.

13.—(1) The functions of the Board shall be—

Functions of Board.

(a) to consider and determine policy in relation to the Service, and

(b) to oversee the implementation of that policy by the Chief Executive.

(2) The Board, in the performance of its functions, shall have regard to—

(a) the resources of the Service for the purposes of such performance and the need to secure the most beneficial, effective and efficient use of such resources, and

(b) any policy or objective of the Government or a Minister of the Government insofar as it may affect or relate to the functions of the Service.

(3) The Minister may inform the Board of any policy or objective of the Government or a Minister of the Government referred to in *subsection (2)(b)*.

14.—(1) The Board shall hold such and so many meetings as may be necessary for the performance of its functions but in any case shall meet not less frequently than once in every period of three months.

Meetings and procedures of Board.

(2) The first meeting of the Board shall be held within one month after the establishment day.

(3) The quorum for a meeting of the Board shall be seven or such greater number of members as the Board may from time to time determine.

(4) The chairperson of the Board shall preside at all meetings of the Board at which he or she is present and in the absence of the chairperson the members present shall elect one of their number to preside at the meeting.

(5) Each member of the Board present at a meeting of the Board shall have a vote.

(6) Every question at a meeting of the Board shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equal division of votes, the chairperson or other member presiding at the meeting shall have a second or casting vote.

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(7) Subject to this Act, the Board shall regulate, by standing orders or otherwise, the procedure and business of the Board.

Committees of Board.

15.—(1) The Board may from time to time establish such committees of the Board to advise it in relation to the performance of its functions as it thinks fit.

(2) The Board may appoint to a committee persons who are not members of the Board but have a special knowledge and experience related to the purposes of the committee.

(3) The appointment of a person to a committee shall be subject to such terms and conditions as the Board may determine.

(4) The Board may at any time dissolve a committee.

(5) The acts of a committee shall be subject to confirmation by the Board, unless the Board dispenses with the necessity for confirmation.

(6) The Board may regulate the procedure of a committee but, subject to any such regulation, a committee may regulate its own procedure.

(7) The Chief Executive shall notify the Minister of the establishment of a committee, the purpose of the committee and the names of the members of the committee.

Remuneration and expenses of members of Board or committees.

16.—(1) A member of the Board referred to—

(a) in any of the *paragraphs (a) to (i) of section 11(1)* shall be paid such allowances for expenses, and

(b) in any of the *paragraphs (j) to (q) of section 11(1)* shall be paid such remuneration and allowances for expenses,

if any, as the Minister, with the consent of the Minister for Finance, may from time to time determine.

(2) A member of a committee of the Board shall be paid such allowances for expenses and, save in respect of a member of the Board to whom any of the *paragraphs (a) to (i) of section 11(1)* relate, such remuneration, if any, as the Minister, with the consent of the Minister for Finance, may from time to time determine.

PART IV

Chief Executive Officer

Chief Executive.

17.—(1) Subject to *subsection (2)*, the Board shall appoint a person to be the Chief Executive Officer of the Service.

(2) The person holding office as Chief Executive Designate immediately before the establishment day shall be the first Chief Executive of the Service.

(3) The Chief Executive shall hold office under a written contract of service (which contract may be renewed) for such period as is specified in the contract, and subject to such terms and conditions

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(including terms and conditions relating to remuneration and suspension and termination of employment) as may be determined by the Board and approved by the Minister with the consent of the Minister for Finance.

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(4) In *subsection (3)*, “remuneration” includes allowances for expenses, benefits-in-kind and superannuation.

18.—The Civil Service Commissioners Act, 1956, shall not apply to the appointment of a person as the Chief Executive.

Civil Service Commissioners Act, 1956, not to apply to appointment of Chief Executive.

19.—The Chief Executive shall be the accounting officer for the appropriation accounts of the Service for the purposes of the Exchequer and Audit Departments Acts, 1866 and 1921, and the Comptroller and Auditor General (Amendment) Act, 1993.

Chief Executive to be accounting officer.

20.—(1) Notwithstanding any other enactment, the Chief Executive shall manage and control generally the staff, administration and business of the Service, including the functions of County Registrars insofar as such functions relate to a function of the Service, and shall perform such other functions as may be conferred on him or her by or under this Act or by the Board.

Functions of Chief Executive.

(2) The Chief Executive shall be responsible to the Board for the performance of his or her functions and the implementation of the Board’s policies.

(3) The Chief Executive shall provide to the Board such information (including financial information) in relation to the performance of his or her functions as the Board may from time to time require.

(4) Such of the functions of the Chief Executive as may from time to time be specified by him or her may, with the consent of the Board, be performed by such member of the staff of the Service as may be authorised by the Chief Executive.

(5) The functions of the Chief Executive may be performed during his or her absence or when the position of Chief Executive is vacant by such member of the staff of the Service as may from time to time be designated for that purpose by the Board.

21.—(1) Subject to *subsections (2) and (3)*, the Chief Executive shall at the request in writing of an Oireachtas Committee (in this section referred to as “the Committee”) attend before it to give account for the general administration of the Service, including the 3 year strategic plans laid before the Houses of the Oireachtas under *section 7*, as may be required by the Committee.

Attendance of Chief Executive before Oireachtas Committee.

(2) The Chief Executive shall not be required to give account before the Committee for any matter relating to—

(a) the exercise by a judge of his or her judicial functions, or

(b) the exercise by a person other than a judge of limited jurisdiction of a judicial nature,

including a matter which is, has been or may at a future time be the subject of proceedings before a court in the State.

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(3) Where the Chief Executive is of the opinion that a matter in respect of which the Chief Executive is requested to give account before the Committee is a matter to which *subsection (2)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the Chief Executive is before it, the information shall be so conveyed in writing.

(4) Where the Chief Executive has informed the Committee of his or her opinion in accordance with *subsection (3)* and the Committee does not withdraw the request referred to in *subsection (1)*—

(a) the Chief Executive may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one contemplated under *subsection (2)*, or

(b) the chairperson of the Committee may, on behalf of the Committee, make such an application,

and the High Court may determine the matter.

(5) Pending the determination of an application under *subsection (4)*, the Chief Executive shall not attend before the Committee to give account for the matter the subject of the application.

(6) If the High Court determines that the matter is one to which *subsection (2)* applies, the Committee shall withdraw the request referred to in *subsection (1)*, but if the High Court determines that *subsection (2)* does not apply, the Chief Executive shall attend before the Committee to give account for the matter.

(7) In this section “Oireachtas Committee” means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of such a Committee.

PART V

Staff of Service

Service to have unified administrative structure.

Staff of Service.

22.—The Service shall have a unified organisation and structure.

23.—(1) The Board may appoint such number of persons to be members of the staff of the Service as may be approved by the Minister with the consent of the Minister for Finance.

(2) The Board shall determine the grades of staff of the Service and the numbers of staff in each grade as may be approved by the Minister with the consent of the Minister for Finance.

(3) A member of the staff of the Service shall be a civil servant in the Civil Service of the State.

(4) The appropriate authority (within the meaning of the Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 to 1996) in relation to the staff of the Service shall be the Board.

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(5) In this section “civil servant in the Civil Service of the State” Pt.V S.23 means a person holding a position in the Civil Service of the State.

24.—(1) Every person to whom *Schedule 1* relates shall, on the establishment day, be transferred to and become a member of the staff of the Service. Transfer of staff to Service.

(2) Every member of the staff of the Department of Justice, Equality and Law Reform designated by order of the Minister for the purposes of this section shall, on being so designated, be transferred to and become a member of the staff of the Service.

(3) The Minister may make an order for the purposes of *subsection (2)* but shall not do so without first having—

- (a) notified in writing any recognised trade union or staff association concerned of the Minister’s intention to do so, and
- (b) considered, within such time as may be specified in the notification, any representations made by such trade unions or staff associations in relation to the matter.

25.—(1) Except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person who is transferred by *subsection (1)* or *(2)* of *section 24* to the staff of the Service shall not, while in the service of the Service, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service than the scale of pay to which he or she was entitled and the terms and conditions of service to which he or she was subject immediately before the transfer of that person. Terms and conditions of transferred staff.

(2) Until such time as the scale of pay and the terms and conditions of service of a person transferred by *subsection (1)* or *(2)* of *section 24* to the staff of the Service are varied by the Service, with the agreement of the Minister and the Minister for Finance, following consultation with any recognised trade union or staff association concerned, the scale of pay to which he or she was entitled and the terms and conditions of service, restrictions, requirements and obligations to which he or she was subject immediately before the transfer of that person shall continue to apply to him or her and may be applied or imposed by the Service while he or she is a member of the staff of the Service, and no such variation shall operate to worsen that scale of pay or those terms or conditions of service applicable to such person immediately before the transfer of that person, except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned.

PART VI

Transfer of Land, etc., to Service

26.—(1)(a) The Minister may by order appoint a vesting day in respect of any land (or a part of any land) used solely for purposes to which the functions of the Service relate or partly for the purposes of the Commissioners and partly for the purposes to which the functions of the Service relate and which immediately before the vesting day was vested in or leased by the Commissioners. Transfer of land, etc., to Service.

(b) On the vesting day, the land, the subject of the order, and all rights, powers and privileges relating to or connected with such land shall—

(i) where used solely for purposes to which the functions of the Service relate — after consultation with the Commissioners, and

(ii) where used partly for the purposes of the Commissioners and partly for purposes to which the functions of the Service relate — with the consent in writing of the Commissioners,

but without any further conveyance, transfer or assignment, be vested in the Service for all estate, term or interest for which immediately before the vesting day it was vested in the Commissioners, but subject to all trusts and equities affecting the land subsisting and capable of being performed.

(2)(a) The Minister may by order appoint a vesting day in respect of any land (or part of any land) used solely for purposes to which the functions of the Service relate or partly for the purposes of the local authority and partly for purposes to which the functions of the Service relate and which immediately before the vesting day was vested in or leased by a local authority.

(b) On the vesting day the land, the subject of the order, and all rights, powers and privileges relating to or connected with such land shall—

(i) where used solely for purposes to which the functions of the Service relate — after consultation with the local authority, and

(ii) where used partly for the purposes of the local authority and partly for purposes to which the functions of the Service relate — with the consent in writing of the local authority,

but without any further conveyance, transfer or assignment, be vested in the Service for all estate, term or interest for which immediately before the vesting day it was vested in the local authority, but subject to all trusts and equities affecting the land subsisting and capable of being performed.

(3) The Minister may, by order, appoint a day on which land which is vested in the State or an organ of the State and which is used for purposes to which the functions of the Service relate shall become subject to the occupation, management and control of the Service for the purposes of its functions and on that day it shall accordingly become so subject.

(4) The Minister may on his or her own initiative, and shall on the application of the Service, issue a certificate in respect of specified land stating, as the Minister thinks proper, that such land vested in the Service under this section, or did not so vest, and the certificate shall be evidence of the facts so stated.

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(5) Every right and liability transferred to the Service by this section may, on or after the day it has been transferred, be sued on, recovered or enforced by or against the Service in its own name and it shall not be necessary for the Service to give notice to a person whose right or liability is transferred by this section of the transfer.

(6) Section 12 of the Finance Act, 1895, shall not apply in respect of the transfer under this section of land to the Service.

(7)(a) Subject to *paragraph (b)*, on the establishment day the Courthouses (Provision and Maintenance) Act, 1935, shall stand repealed.

(b) Notwithstanding *paragraph (a)*, where immediately before a vesting day appointed under *subsection 2(a)*, a person stood appointed as a caretaker or an assistant to a caretaker in respect of courthouse accommodation under section 5 of the Courthouses (Provision and Maintenance) Act, 1935, which accommodation is the subject of the vesting, then that section shall continue to apply to the person as if he or she had been so appointed by the Service.

(8) In this section—

“the Commissioners” means the Commissioners of Public Works in Ireland;

“local authority” means the council of a county, a corporation of a county or other borough, a council of an urban district or commissioners of a town.

27.—(1) On the establishment day all property other than land but including choses-in-action, which immediately before that day was the property of the Minister, the Commissioners or a local authority within the meaning of *section 26* (as the case may be) and was used in connection with the functions of the Minister corresponding to the functions of the Service, shall be vested in the Service without any assignment.

Transfer of property other than land to Service.

(2) The Minister may on his or her own initiative, and shall on the application of the Service, issue a certificate in respect of specified property stating, as the Minister thinks proper, that the property vested in the Service under this section or did not so vest, and the certificate shall be evidence of the facts so stated.

(3) Every chose-in-action transferred by *subsection (1)* to the Service may, after the establishment day, be sued on, recovered or enforced by the Service in its own name and it shall not be necessary for the Service or the Minister to give notice to a person bound by the chose-in-action of the transfer effected by that subsection.

28.—(1) All rights and liabilities of the Minister arising by virtue of any contract or commitment (expressed or implied) entered into by him or her before the establishment day in relation to a function of the Minister corresponding to a function of the Service shall, on that day, be transferred to the Service.

Transfer of rights and liabilities to Service.

(2) The Minister may on his or her own initiative, and shall on the application of the Service, issue a certificate in respect of a specified contract or commitment stating, as the Minister thinks proper, that

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the rights or liabilities of the Minister thereunder were transferred on the establishment day to the Service under this section or were not so transferred, and the certificate shall be evidence of the facts so stated.

(3) Every right and liability transferred by *subsection (1)* to the Service may, on and after the establishment day, be sued on, recovered or enforced by or against the Service in its own name and it shall not be necessary for the Service or the Minister to give notice to a person whose right or liability is transferred by this section of such transfer.

Certain functions to become those of Service.

29.—(1) On and after the establishment day a function of the Minister under each of the provisions mentioned in *column 3* of *Schedule 2* of the Acts mentioned in *column 2* opposite the mention of that provision shall be a function of the Service to the exclusion of the Minister, and the provision shall be construed accordingly.

(2) The Minister may by order amend *Schedule 2* by the insertion (with or without a condition or restriction) of any function of the Minister under a provision of any enactment which also relates to a function of the Service and the Minister may by order amend or delete any such condition or restriction.

(3)(a) Without prejudice to *subsection (2)*, the Government may, by order, provide that a function of a Minister or any other function under a provision of an enactment relating to a function of the Service shall, subject to such conditions as may be specified in the order, be a function of the Service.

(b) An order under *paragraph (a)* may be amended or revoked by the Government.

(4) Subject to any condition or restriction provided for in this Act, any subsisting instrument made under an enactment that relates to a matter to which a function of the Service relates shall, on and after the day the Service has the function, continue in force, and may be amended or revoked by the Service, as if it had been made pursuant to the powers conferred on the Service by this Act.

PART VII

Miscellaneous

Chief Executive to be member of committees on rules of court, etc.

30.—(1) Subject to *subsection (2)*, the Chief Executive for the time being shall be a member of the Superior Courts Rules Committee (established under section 67 of the Courts of Justice Act, 1936), the Circuit Court Rules Committee (established under section 69 of the Courts of Justice Act, 1936), and the District Court Rules Committee (established under section 71 of the Courts of Justice Act, 1936).

(2) The Chief Executive for the time being may, from time to time, delegate in writing his or her membership of any of the Committees referred to in *subsection (1)* to a member of the staff of the Service and any such delegation may be revoked at any time by the Chief Executive.

County Registrars and Service.

31.—Subject to *section 9*, every County Registrar shall, on the establishment day, be transferred to the Service in respect of those

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functions of County Registrars which relate to a function of the Service. Pt.VII S.31

32.—(1) Notwithstanding *section 12*, where a member of the Board or of the staff of the Service is—

Membership of either House of Oireachtas or of European Parliament.

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or to the European Parliament, or
- (c) regarded, pursuant to section 19 of the European Parliament Elections Act, 1997, as having been elected to the European Parliament to fill a vacancy,

he or she shall thereupon—

- (i) in the case of a member of the Board — cease to be a member of the Board, and
- (ii) in the case of a member of the staff of the Service — stand seconded from his or her employment with the Service and shall not be paid by, or be entitled to receive from, the Service remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected (as the case may be) and ending when he or she ceases to be a member of either such House or such Parliament.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from becoming a member of the Board.

(3) Without prejudice to the generality of *subsection (1)*, that subsection shall be construed as prohibiting, among other things, the reckoning of a period mentioned in *subparagraph (ii)* of that subsection, as service with the Service for the purposes of any superannuation benefits.

33.—(1) The Service shall be deemed to be a State authority for the purposes of the Local Government (Planning and Development) Act, 1993, and a reference in any regulation made under section 2(1)(a) of that Act to the Department of Justice, Equality and Law Reform shall be construed as including a reference to the Service.

Service deemed State authority for planning and development purposes.

(2)(a) Notwithstanding section 2 of the Local Government (Planning and Development) Act, 1993, or any regulations made under that section which provide for notification in respect of development consisting of the provision of temporary courthouses, it shall be necessary to notify such development once only.

(b) In *paragraph (a)* “courthouses” means buildings, or other premises or installations, or other structures or facilities, whether provided on a temporary or permanent basis, used for the purposes of or in connection with the transaction of any business relating to a court, tribunal, inquiry or inquest established by statute.

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Regulations.

34.—The Minister may make such regulations as are necessary for the purposes of giving effect to this Act.

Laying of
regulations and
orders before
Houses of
Oireachtas.

35.—Every order made under *subsection (2) or (3) of section 29* or regulation made under *section 34* shall be laid before each House of the Oireachtas as soon as practicable after it is made and if a resolution annulling the order or regulation is passed by either such House within the next subsequent 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.

Expenses.

36.—The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART VIII

Transitional

Establishment of
Transitional Board.

37.—(1) There is hereby established on the passing of this Act a body corporate to be known as the Courts Service Transitional Board.

(2) The Transitional Board shall be a body corporate with perpetual succession and an official seal and power to sue and be sued in its corporate name.

Membership, etc.,
of Transitional
Board.

38.—(1) Subject to *subsections (2) and (3)*, the Transitional Board shall be constituted in the same way as provided for the Board in *Part III* and that Part (other than *section 13*), with any necessary modifications, shall apply to and in relation to the Transitional Board and its members as if it were the Board under that Part and references therein to the establishment day were references to the date of the coming into operation of this Part.

(2) The Minister shall as soon as practicable after the passing of this Act, after consultation with the relevant staff associations and recognised trade unions concerned, appoint as a member of the Transitional Board a person referred to in *Schedule 1*.

(3) On his or her appointment under *section 40(1)*, the Chief Executive Designate shall be a member of the Transitional Board.

Functions and
powers of
Transitional Board.

39.—(1) The functions of the Transitional Board shall be—

(a) to prepare for the assumption by the Service of the functions to be vested in the Service under this Act on the establishment day, and

(b) to appoint a Chief Executive Designate.

(2) The Transitional Board shall have such powers only as are necessary to enable it to carry out its functions.

(3) The Transitional Board shall determine its own procedures.

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40.—(1) The Transitional Board shall appoint a person to be the Chief Executive Designate.

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Appointment of Chief Executive Designate.

(2) The Chief Executive Designate shall hold office under a written contract of service, which contract may be renewed, for such period as is specified in the contract, and subject to such terms and conditions (including terms and conditions relating to remuneration and suspension and termination of employment) as may be determined by the Transitional Board and approved by the Minister with the consent of the Minister for Finance.

(3) In *subsection (2)*, “remuneration” includes allowances for expenses, benefits-in-kind and superannuation.

(4) The Civil Service Commissioners Act, 1956, shall not apply to the appointment of a person as the Chief Executive Designate.

(5) The Chief Executive Designate shall assist the Transitional Board in carrying out its functions under *section 39*.

41.—No function conferred on or power vested in the Transitional Board or the Chief Executive Designate under this Act shall be exercised so as to interfere with the conduct of that part of the business of the courts required by law to be transacted by or before one or more judges or to impugn the independence of—

Interim functions not to affect judicial independence.

(a) a judge in the performance of his or her judicial functions, or

(b) a person other than a judge in the performance of limited functions of a judicial nature conferred on that person by law.

42.—Expenses incurred by the Transitional Board shall form part of the expenses of the Minister in the administration of this Act.

Expenses incurred by Transitional Board.

43.—On the establishment day the Transitional Board shall stand dissolved and on and after that day all assets, liabilities, obligations and things held, done or executed by the Transitional Board shall be deemed to be assets, liabilities, obligations and things of the Board as if it were in existence at the relevant time, and all documents shall be construed accordingly.

Dissolution of Transitional Board.

SCHEDULE 1

Section 24(1).

Transferred Officers

Every principal officer within the meaning of Part I of the Court Officers Act, 1926, other than the Master of the High Court and the Taxing Masters.

Every District Court Clerk.

Every member of the general staff employed in the several offices mentioned in paragraph 2 of the Eighth Schedule to the Courts (Supplemental Provisions) Act, 1961.

[No. 8.] *Courts Service Act, 1998.* [1998.]

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Every member of the general staff employed in Circuit Court Offices under section 42 of the Court Officers Act, 1926.

Every member of the staff attached to the Circuit Court and to judges thereof under section 43 of the Court Officers Act, 1926.

Every servant attached to a judge of the High Court under section 43 of the Courts of Justice Act, 1936.

Every other officer or servant who, immediately before the establishment day, is either attached to a court established pursuant to the Constitution or to the person of a judge then holding office or employed in a court office and is performing duties in relation to any court or judge or employed in any court office.

Section 29.

SCHEDULE 2

Functions of Minister to become those of Service

Number and Year (1)	Short Title (2)	Section (3)
No. 18 of 1926.	Enforcement of Court Orders Act, 1926.	Section 4 (1), (2) and (3).
No. 27 of 1926.	Court Officers Act, 1926.	Section 3(3), section 18(1), section 27(1), section 28(1), section 34(2) and (3), section 40(1), section 41(1), section 42, section 43(1), (2) and (3), section 46(1) and (2), section 48, section 59(1), (2) and (3), section 61(2).
No. 48 of 1936.	Courts of Justice Act, 1936.	Section 33(2), section 42(2), (3) and (5), section 43, section 44(2), section 64(3).
No. 25 of 1945.	Court Officers Act, 1945.	Section 6(1), section 9(1) and (2).
No. 8 of 1951.	Court Officers Act, 1951.	Section 4(1).
No. 32 of 1953.	Courts of Justice Act, 1953.	Section 26(1) and (2).
No. 39 of 1961.	Courts (Supplemental Provisions) Act, 1961.	Section 40, section 41, section 44. Eighth Schedule— paragraph 5, paragraph 6, paragraph 7, paragraph 16, paragraph 22.