



Number 22 of 2016

Courts Act 2016



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ACTS REFERRED TO

Beer Licences Regulation (Ireland) Act 1877 (40 & 41 Vict., c. 4)
Civil Law (Miscellaneous Provisions) Act 2011 (No. 23)
Civil Liability and Courts Act 2004 (No. 31)
Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24)
Courts (Supplemental Provisions) Act 1961 (No. 39)
Intoxicating Liquor Act 1943 (No. 7)
Intoxicating Liquor Act 1962 (No. 21)
Legal Services Regulation Act 2015 (No. 65)
Licensing (Ireland) Act 1902 (2 Edw 7 c. 18)
Planning and Development (Amendment) Act 2015 (No. 63)
Planning and Development Act 2000 (No. 30)
Tourist Traffic Act 1952 (No. 15)
Valuation Act 2001 (No. 13)



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COURTS ACT 2016

An Act to amend certain enactments concerning the jurisdiction of the Circuit Court and the District Court, to amend sections 60 and 67 of the Valuation Act 2001, to amend section 170A(3) of the Planning and Development Act 2000, to amend the Eighth Schedule to the Courts (Supplemental Provisions) Act 1961 and section 139(2) of the Legal Services Regulation Act 2015, to repeal certain enactments in relation to the jurisdiction of the District Court and Circuit Court in certain licensing matters and to provide for related matters. [28th December, 2016]

Be it enacted by the Oireachtas as follows:

Amendment of Civil Liability and Courts Act 2004

1. The Civil Liability and Courts Act 2004 is amended by the insertion, after section 53, of the following:

“Presumption as to market value

53A. (1) Where—

- (a) in any enactment a monetary amount is specified for the market value of land for the purpose of—
 - (i) conferring or limiting the jurisdiction of the Circuit Court in civil proceedings, or
 - (ii) requiring or authorising the Circuit Court to transfer civil proceedings to the High Court,
- and
- (b) the plaintiff or applicant in any such proceedings alleges that the market value of the land concerned does not exceed such monetary amount,

it shall, in the proceedings concerned, be presumed, until the contrary is proved, that the market value of such land does not exceed the foregoing amount.

- (2) This section shall not apply to civil proceedings initiated before the passing of the *Courts Act 2016*.”.

Amendment of sections 140 and 196 of Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

2. (1) In this section “Act of 2010” means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

(2) Section 140 of the Act of 2010 is amended, as respects proceedings brought under the Act of 2010 after the commencement of this section—

(a) by the substitution, for subsection (5), of the following:

“(5) The Circuit Court shall transfer proceedings to the High Court on application to it by a party to the proceedings, if land to which the proceedings relate has a market value that exceeds €3,000,000.

(5A) In subsection (5) and the following subsection, ‘market value’ means, in relation to land, the price that would have been obtained in respect of the unencumbered fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.

(5B) Where civil partnership law proceedings are brought in the Circuit Court in relation to land and the plaintiff or applicant in the proceedings alleges that the market value of the land concerned does not exceed the monetary amount specified in subsection (5), it shall be presumed, until the contrary is proved, that the market value of the land does not exceed the foregoing amount.”,

and

(b) by the substitution, for subsection (10), of the following:

“(10) Subject to subsection (9), the District Court has all the jurisdiction of the High Court to hear and determine a question arising out of section 34 where the value of the household chattels intended to be disposed of or removed or actually disposed of or removed does not exceed €15,000.”.

(3) Section 196 of the Act of 2010 is amended, as respects an application brought, after the commencement of this section, for an order for redress referred to in section 173 of the Act of 2010, by the substitution, for subsection (6), of the following:

“(6) The Circuit Court shall transfer, to the High Court, proceedings on applications for orders for redress referred to in section 173 on application to it by a party to the proceedings, if land to which the proceedings relate has a market value that exceeds €3,000,000.

(6A) In subsection (6) and the following subsection, ‘market value’ means, in relation to land, the price that would have been obtained in respect of the unencumbered fee simple were the land to have been sold on the open market, in the year immediately preceding the making of the

application concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.

(6B) Where an application, in relation to land, is brought in the Circuit Court for an order for redress referred to in section 173, and the applicant alleges that the market value of the land concerned does not exceed the monetary amount specified in subsection (6), it shall be presumed, until the contrary is proved, that the market value of the land does not exceed the foregoing amount.”.

(4) This section shall come into operation on such day as the Minister for Justice and Equality may by order appoint.

Amendment of section 60 of Valuation Act 2001

3. Section 60 of the Valuation Act 2001 is amended by the insertion, after subsection (2), of the following:

“(3) The production to the Tribunal or a court of a certificate issued pursuant to section 67(4) purporting to state the value of a property determined under section 67(2) by an officer of the Commissioner or other person duly authorised to do so, shall, without proof of the signature of that officer or other person that he or she was duly authorised by the Commissioner to so certify, be sufficient evidence, until the contrary is proved, of the matters stated in the certificate.”.

Amendment of section 67 of Valuation Act 2001

4. Section 67 of the Valuation Act 2001 is amended by the substitution, for subsection (2), of the following:

“(2) Notwithstanding the preceding sections of this Act, the Commissioner may, in relation to property concerned that falls within Schedule 4 and for the purpose of the provision referred to in subsection (9), on application being made to him or her in that behalf by a person who appears to the Commissioner to have a sufficient interest in the matter, cause the value of the property to be determined in the manner specified in subsection (2A).

(2A) If the value of a property falls to be determined for the purposes of subsection (2), that determination shall be made by reference to the values of other comparable properties, as appeared on an existing valuation list (as distinct from those that appear on a valuation list published under this Act) relating to the same rating authority area as that property is situate in.”.

Amendment of section 170A of Planning and Development Act 2000

5. Section 170A (inserted by the Planning and Development (Amendment) Act 2015) of the

Planning and Development Act 2000 is amended—

- (a) in subsection (3)(a), by the substitution, for “satisfies”, of “fails to satisfy”, and the deletion of “and may satisfy the criteria referred to in subparagraph (v) of that paragraph”, and
- (b) in subsection (3)(b), by the substitution, for subparagraphs (iii), (iv) and (v), of:
 - “(iii) would not significantly increase or decrease the overall floor area or density of proposed development, and
 - (iv) would not adversely affect or diminish the amenity of the area that is the subject of the proposed amendment.”.

Amendment of paragraph 18 of Eighth Schedule to Courts (Supplemental Provisions) Act 1961

6. Paragraph 18 (inserted by the Civil Law (Miscellaneous Provisions) Act 2011) of the Eighth Schedule to the Courts (Supplemental Provisions) Act 1961 is amended—

- (a) in subparagraph (6)(a), by the substitution, for “clauses (b) and (c)”, of “clauses (b) and (c) and subparagraphs (7) to (9)”,
- (b) in subparagraph (6)(c), by the insertion, after “shall”, of “, subject to subparagraphs (7) to (9),”, and
- (c) by the insertion, after subparagraph (6), of the following:

“(7) If, in the opinion of the Minister, the making of the determination next mentioned in this subparagraph is appropriate, the term of office of a person who has been appointed to be a Taxing-Master may be extended by such period, not exceeding 3 years from the date of expiry of that term, as the Minister decides and specifies in a determination made by him or her for the purpose of this subparagraph.

(8) In addition to its being exercisable before the term of office of the person concerned has expired, the power under subparagraph (7) to make a determination under that subparagraph may be exercised in relation to the term of office of a person referred to therein which has expired if the following conditions are fulfilled—

- (a) before that expiry, the Minister has communicated, in writing, to the person concerned the Minister’s desire in general terms that the person continue to serve as a Taxing-Master, and
- (b) the Minister is satisfied that had subparagraph (7) been enacted before that expiry the Minister would have exercised, before that expiry, the power under that subparagraph to make a determination thereunder in relation to the term of office of that person,

and such a determination that is made after the expiry of the person’s term of office is referred to in subparagraph (9) as a ‘post-expiry determination’.

- (9) A post-expiry determination shall have retrospective effect, that is to say it shall operate to continue the person concerned in office as a Taxing-Master (for the period specified in the determination) from the date of expiry of his or her original term of office, and anything done by the person on or from that expiry and before the making of the post-expiry determination shall be as good and effectual as it would have been had the determination been made before the expiry of the person's original term of office."

Further amendment of Eighth Schedule to Courts (Supplemental Provisions) Act 1961

7. The Eighth Schedule to the Courts (Supplemental Provisions) Act 1961 is amended by the insertion, after paragraph 18, of the following—

“18A. (1) In this paragraph—

- (a) ‘particular Taxing-Master’ means the particular Taxing-Master to whom the matter referred to in subparagraph (2) has been assigned for the purpose of the functions there referred to being performed in relation to it;
- (b) ‘principal Taxing-Master’ means the Taxing-Master who has been designated by the Government under paragraph 8; and
- (c) a reference to the particular Taxing-Master not being available, due to whatever cause, to perform one or more, or any, functions includes a reference to his or her not being so available in consequence of his or her having vacated office.
- (2) Where the functions of a Taxing-Master fall to be performed in relation to a particular matter and the case is either a case—
- (a) in which none of those functions has been performed in relation to the matter by the particular Taxing-Master, or
- (b) in which the particular Taxing-Master has performed one or more, but not all, of those functions in relation to the matter,
- then those functions, or such of those functions as remain to be performed, in relation to the matter may be performed by another Taxing-Master if, due to whatever cause, the particular Taxing-Master is not available to perform those functions (or such of them as remain to be performed), but this is subject to subparagraph (3).
- (3) Where the particular Taxing-Master had commenced, but had not completed, a hearing in relation to the matter concerned, the other Taxing-Master referred to in subparagraph (2) shall conduct a complete re-hearing in relation to the matter unless the parties to the matter consent in writing to the first-mentioned hearing being resumed by him or her at the appropriate juncture (that is to say the stage at which that hearing was at before the occurrence of the circumstances which gave rise to subparagraph (2)'s application).

- (4) In any case falling within subparagraph (2), the jurisdiction and powers conferred on a Taxing-Master by or under this Act, or any other enactment, to give or make a ruling, direction or decision in circumstances generally (namely circumstances where the non-availability of the Taxing-Master, as mentioned in that subparagraph, does not arise) shall be exercisable in relation to the matter concerned by the other Taxing-Master mentioned in that subparagraph.
- (5) Where—
- (a) any question arises as to whether particular circumstances that have occurred are circumstances that fall within subparagraph (2), or
 - (b) it appears to the principal Taxing-Master that such a question may have arisen,
- each of the following is exercisable by the principal Taxing-Master, namely the power—
- (i) to determine the question,
 - (ii) in the case of clause (b), to determine, as a preliminary matter, whether the question actually arises and, if the determination is that it does so arise, to determine it, and
 - (iii) in consequence of any determination made under either of the preceding subclauses, to give such directions as he or she thinks appropriate.
- (6) This paragraph is without prejudice to the general law concerning the procedure to be adopted in a case in which a function falling to be performed by a person has not, on the occasion of his or her vacating office, been fully performed but, to the extent that a preceding subparagraph requires or enables a particular procedure to be adopted that is different from that which would be required to be adopted (in the circumstances concerned) by the general law, the preceding subparagraph concerned shall prevail (or, as the case may be, the particular procedure that it enables to be adopted may be adopted).”

Amendment of section 139(2) of Legal Services Regulation Act 2015

8. Section 139(2) of the Legal Services Regulation Act 2015 is amended—

- (a) by the substitution, for “The Minister may”, of “The Government may”, and
- (b) in paragraph (b), by the substitution, for “that the Minister, with the consent of the Minister for Public Expenditure and Reform, determines”, of “as the Government determine”.

Repeal of provisions in certain licensing legislation connected with rateable valuation

9. The following are repealed:

- (a) section 2 of the Beer Licences Regulation (Ireland) Act 1877;
- (b) section 5 of the Licensing (Ireland) Act 1902;
- (c) section 21(1)(d) and (2)(d) of the Intoxicating Liquor Act 1943;
- (d) section 44(1)(b)(ii) of the Tourist Traffic Act 1952; and
- (e) section 31 of the Intoxicating Liquor Act 1962.

Short title

10. This Act may be cited as the Courts Act 2016.