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COURTS Service News

NUACHT NA SEIRBHÍSE CÚIRTEANNA



An tSeirbhís Chúirteanna
Courts Service

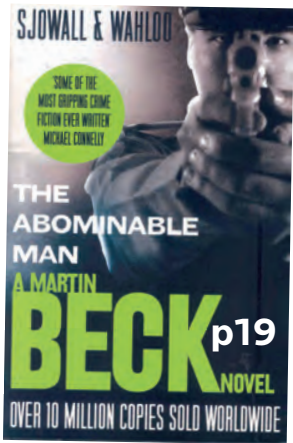
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**A LOOK BACK
AT 2013**

**NEW REGIME FOR
DEBT MANAGEMENT**

**CHILD CARE
LAW REPORTING**



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CONTRIBUTORS TO THIS ISSUE

Ruth Dillon

Anti-Human Trafficking Unit,
Department of Justice and
Equality

Noel A. Doherty

Principal Officer, Reform and
Development Directorate

If you would like to contribute
an article, a book or film review,
please contact the editorial team
at courtsservicenews@courts.ie



An tSeirbhís Chúirteanna
Courts Service

Welcome

Welcome to the December issue of Courts Service News. At the start of 2013 we changed the format of the magazine to electronic and increased the number of issues from three to five, with shorter articles and up to the minute news. We hope you are enjoying our new look.

In keeping with things traditional at Christmas, we bring you our 'annual' issue so you can catch up on news you may have missed over the past 12 months. See our 'Look back at 2013' (pages 7-10) and new court rules introduced in 2013 (page 5), together with recent news from the legal world.

The year's big story was the continued roll out of combined Circuit and District Court offices which will be finalised in early 2014. Read the latest update on combined offices on page 7.

In another busy year in family law we bring news of the interim report of the Child Care Law Reporting Project (pages 11 & 12). We also feature an article on the sad reality of human trafficking by Ruth Dillon of the Department of Justice & Equality's Anti-Human Trafficking Unit (page 13).

The Courts Service continues to support schools and community groups and after a very busy academic year with thousands of students visiting the Criminal Courts of Justice and courthouses all over the country we hosted moot court competitions and supported a research intern programme for ISIS (page 15).

We also have our usual quiz with a Christmas spin and a recipe that helps you make the most of your leftovers (page 19).

From all the Courts Service News Team, thank you for your support during 2013 – our readers, those who contributed articles and reviews, all who entered our quizzes and those who suggested items for us to cover.

We'll be back with our ezine in the New Year. To subscribe please visit the 'Publications' section on our website www.courts.ie or email courtsservicenews@courts.ie.

Wishing you all a very happy Christmas and a peaceful New Year.

Mairéad Fitzsimons

Courts Service News is the magazine of the Courts Service. Contributions are drawn from a wide area and do not necessarily reflect the views or policies of the Courts Service. The editors reserve the right to edit all contributions, including letters.

Courts Service News,
Information Office,
15-24 Phoenix Street North,
Smithfield,
Dublin 7.

Telephone: (01) 888 6459

Fax: (01) 873 5250

Email: courtsservicenews@courts.ie

Web: <http://www.courts.ie>

Editorial Team:

Helen Priestley, Mairead
Fitzsimons, Gerry Curran.

Design:

Ashville Media Group,
Old Stone Building,
Blackhall Green,
Dublin 7.

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I.D.A. Business Park,
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Message from the Chief Justice



As this year ends and another approaches, we enter that part of the calendar reserved for family, friends and celebration. The joy of this time of year affects us all, young and old, as we suspend our normal duties.

I am grateful to the staff of the Courts Service for the work they have undertaken so professionally throughout the year. Although fewer in number than in the past the staff of the Courts Service have reorganised and refocused their efforts to meet the challenges of these times.

I wish to express my gratitude and congratulations to the Board, management and staff of the Courts Service for another sterling year of service to the public – a service which can often be overlooked and simply expected without real appreciation.

I extend 'Seasons Greetings' to my judicial colleagues, members of the legal profession, Minister for Justice & Equality and his staff, and to all in the justice community and agencies. I express my thanks for your support and cooperation with the Courts

Service throughout the year.

I look forward to a continued and strengthened partnership in the operation and management of court business throughout 2014.

I wish you all a very happy and peaceful Christmas and every good wish for the coming year.

Susan Denham

Message from the Chief Executive Officer



The clock has nearly gone full circle once more and as we prepare for what I hope will be a happy and healthy Christmas for you and your families. It is appropriate to reflect on what has been another challenging year for

all of us, both from a personal and professional viewpoint.

The efforts of all the staff involved in court work and in support services is readily acknowledged and greatly appreciated. The daily responsibility of providing services to so many court users is one which the Courts Service undertakes with passion and enthusiasm. Your innovative approach to problem solving throughout the year has helped fill the voids which have emerged from both reduced staff numbers and funding.

I wish to express my sincere thanks to the Board, management and staff of the Courts Service for your perseverance in the face of the significant challenges met head on during the past year. The fact that we have managed to provide such a professional service to our users

is down to your commitment and dedication. Thank you.

I extend best wishes to the judiciary and members of the legal profession, the Minister for Justice & Equality and his staff, and to all in the justice community for your constant help and support throughout the year.

I look forward to a continued furtherance of innovation and problem solving in the management of the courts throughout 2014. I do believe there is light at the end of the tunnel and we need to be in a position to avail of the upturn.

I hope you all have a fun filled Christmas and healthy and happy 2014.

Brendan Ryan

RECENT COURT RULES

S.I. No. 316 of 2013

RULES OF THE SUPERIOR COURTS (PERSONAL INSOLVENCY) 2013

These rules incorporate a new Order 76A in the Rules and new Forms 51 to 57 in Appendix O, to regulate the procedure to be employed in proceedings in the High Court under the Personal Insolvency Act 2012, as amended by the Courts and Civil Laws (Miscellaneous Provisions) Act 2013.

S.I. No. 395 of 2013

RULES OF THE SUPERIOR COURTS (WINDING UP OF COMPANIES: FORMS) 2013

These rules substitute forms 3 and 4 in Appendix M of the Rules to incorporate a full listing of the recitals required to facilitate the operation of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings.

S.I. No. 396 of 2013

RULES OF THE SUPERIOR COURTS (PAYMENTS INTO COURT) 2013

These rules amend Order 22 rule 7 and rule 14(3) of the Rules to remove the need for reference in a defence or

replying affidavit to a payment into Court having been made and applying such provisions to a tender offer as they apply to a lodgment.

S.I. No. 302 of 2013

CIRCUIT COURT RULES (TAKING OF EVIDENCE FOR EU COURTS) 2013

These rules insert a new Order 23A to regulate the procedure for the taking of evidence by County Registrars pursuant to the European Communities (Evidence in Civil or Commercial Matters) Regulations 2013.

S.I. No. 317 of 2013

CIRCUIT COURT RULES (PERSONAL INSOLVENCY) 2013

These rules incorporate a new Order 73 into the Rules and new Forms 52A to 52H in Schedule B, to regulate the procedure to be employed in proceedings in the Circuit Court under the Personal Insolvency Act 2012, as amended by the Courts and Civil Law (Miscellaneous Provisions) Act 2013.

S.I. No. 306 of 2013

DISTRICT COURT (ENFORCEMENT OF MAINTENANCE ORDERS) RULES 2013

These rules substitute rule 9 of Order 54 and Order 57 and associated forms prescribing procedure for the enforcement of maintenance orders pursuant to section 8 of the Enforcement of Court Orders Act 1940 and section 9A the Family Law (Maintenance of Spouses and Children) Act 1976.

S.I. No. 311 of 2013

DISTRICT COURT (MAINTENANCE AND LUGANO CONVENTION) RULES 2013

These rules delete Order 55 and associated forms and substitute Order 62 and associated forms, to facilitate the operation of the 2007 Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and the European Communities (Maintenance) Regulations (S.I. No. 274/2011), giving effect to the Council Regulation (EC) 4/2009 ("the Maintenance Regulation").

Court Rules (including amendments and forms) are available on the Courts Service website (www.courts.ie).

CHIEF JUSTICE RECIEVES FELLOWSHIP AWARD

Chief Justice Mrs. Justice Susan Denham was recently conferred with a Distinguished Fellowship Award by Griffith College, Ireland's largest private third level institution.

The Chief Justice is among just 11 people to be awarded a Distinguished Fellowship from Griffith College since 2004. The award was presented at the annual college Graduation Ceremony where hundreds of graduates collected their awards. Past recipients of the Award include Mr. Peter Sutherland, President Mary McAleese and Nobel Laureates Mr.



Mrs. Justice Susan Denham with Diarmuid Hegarty, President of Griffith College

John Hume and Prof. Seamus Heaney.

A Distinguished Fellowship is the highest honour that Griffith College can confer and candidates are selected based on their contribution to making Ireland a better society.

A NEW LOOK FOR THE CIRCUIT COURT LEGAL DIARY

A New Year rings in changes – among them in 2014 will be changes to the Circuit Court section of the Legal Diary on the Courts Service website (www.courts.ie).

Instead of separate sections the new arrangements will allow practitioners access information about Circuit Court sittings in every circuit and venue in one section.

The section will have a fresh modern look designed for easy access via hand held devices including mobile phones and pads. It will be particularly effective when used via the mobile version of the website (m.courts.ie).



A NEW REGIME FOR DEBT MANAGEMENT

Three new debt resolution remedies have been developed for people who cannot afford to pay their personal and mortgage debts. They have been introduced under the Personal Insolvency Act 2012 with the new Insolvency Service of Ireland responsible for its administration. We outline the features of each remedy and how they will operate:

(i) A Debt Relief Notice (DRN) to allow for the write-off of debt (generally unsecured and in some cases secured) up to €20,000, subject to a 3-year supervision period. The DRN process will provide debt relief for people who have virtually no disposable income or assets and no prospect of being able to pay off the debt in the next 3 years. If a DRN is issued, it will allow for the write-off of qualifying debt up to €20,000, subject to a 3-year supervision period. During this period creditors will not be able to pursue the debtor for payment, but if the debtor's circumstances improve during the 3 years, he/she may have to pay part of their debts accordingly. At the end of the 3 years, all of the debts covered by the DRN will be written off, even if the debtor has not managed to pay anything off them.

An application for a DRN must be made through an Approved Intermediary (AI) – a person or class of persons authorised by the Insolvency Service of Ireland (ISI) to support a debtor to make an application. A DRN is issued by the Circuit Court.

(ii) A Debt Settlement Arrangement (DSA) for the agreed settlement of unsecured debt, with no limit involved, normally over 5 years. A DSA provides for the agreed settlement of unsecured debt with one or more creditors over a period of 5 years, with a possible agreed extension to 6 years. A person may apply for a DSA if the level of their income, assets and debts would make them ineligible for a Debt Relief Notice. The person must be able to make some repayments to creditors in return for a discount of his/her debts. The DSA is a voluntary arrangement and will require the support of creditors representing at least 65% of the person's total debt. The application must be processed through a Personal Insolvency Practitioner (PIP). This is a professional who is approved and registered by the ISI to operate DSAs and Personal

Insolvency Arrangements. When the agreed period ends, and if the DSA has operated successfully, the debtor will be discharged from the debts that it covered.

(iii) A Personal Insolvency Arrangement (PIA) for the agreed settlement of secured debt up to €3 million (though this cap can be increased) and unsecured debt, with no limit involved, normally over 6 years. A PIA will run over a period of 6 years, with a possible agreed extension to 7 years. It works like a Debt Settlement Arrangement in that a person applies through a Personal Insolvency Practitioner (PIP) and must be able to make some repayments to his/her creditors in return for a discount of debts. It is a voluntary arrangement and will require the support of creditors – both secured and unsecured – representing at least 65% of the total debt and also requiring over 50% of secured creditors and 50% of unsecured creditors to vote in favour. When the agreed period ends, and if the PIA has operated successfully, the person will be discharged from the unsecured debts that it covered but the secured debt will only be discharged to the extent specified in the PIA.

Where a person wishes to enter a DSA or PIA, application must be made to the Court for the issue of a Protective Certificate. Where the total liabilities of the person are not more than €2,500,000, the application is made to the Circuit Court and where the total amount of such liabilities are in excess of that figure, the application is to the High Court. Applications for DRNs, and Protective Certificates in respect of DSAs and PIAs are made through the ISI and the documentation is filed electronically.

DISCHARGE FROM BANKRUPTCY

The Bankruptcy Act 1988 has also been amended to provide that a bankrupt shall be discharged from bankruptcy, subject to certain conditions, after 3 years as opposed to the current 12 years.

GENERAL RULES

Each of the new debt resolution remedies has its own rules and procedures but the following main rules apply to all of them:

(i) Limits on usage

A person can be involved in only one of the new remedies (DRN, DSA or PIA) or in the bankruptcy process at any one time. If you use one of these 4 processes, you will generally have to wait some years before applying to use another. You may use each of these remedies only once in your lifetime. (There is no such limit on bankruptcy but it would be rare for anyone to go bankrupt twice.)

(ii) Running up debts

A person must not deliberately stop paying (or underpay) his/her creditors while these procedures are being set up as this may cause their application to be ineligible.

(iii) Provision of information

A person will have to complete a Prescribed Financial Statement, giving full and honest information about his/her financial circumstances, and sign a Statutory Declaration to this effect. He/she must act in good faith and co-operate fully with the process. He/she will have to give written consent to the accessing of certain personal data held by banks and other financial institutions so that his/her financial situation can be verified. Government Departments and agencies will have the power to release certain information about the person.

(iv) Public registers

If you use any of these new remedies, your name and details will be published on a register that will be accessible to the public. The success or failure of the process will also be recorded.

Further information is available from the helpline of the Insolvency Service of Ireland at 0761 06 4200 and from www.isi.gov.ie.

A LOOK BACK AT 2013...

The year began with the word 'austerity' still on everyone's lips. There were reductions all round – in staff numbers, in funds allocated, in court venues – and belt tightening remained the order of the day. The Courts Service continued to make every effort to maintain an efficient service within the confines of the resources made available to manage the courts throughout Ireland. We take a look at some of the areas of interest during 2013:



(Above) Letterkenny Court Office



Wexford Court Office

COMBINED OFFICE PROJECT STILL ROLLING

The latest phase of the Combined Office Project saw the combining of offices in Wexford, Letterkenny, Limerick, Sligo and most recently in Trim. As with previous phases of this project,

there was significant collaborative work required of the managers and staff of both the Circuit Court and District Court offices to assist with the training and knowledge transfer required to achieve the required change. The assistance and cooperation of county

registrars was also critical. It was to the credit of all involved that the project has been accomplished with little or no disruption to services for court users.

As the year ends, combined court offices have been established in 22 counties. The final phase of the project comprising offices in Wicklow, Tralee and Cork will be



Trim Court Office

completed in early 2014. The LEAN project, rationalising court processes in court offices, is being rolled out in conjunction with the Combined Office Project, to improve efficiencies and streamline operations across offices.



Sligo Court Office



Limerick Court Office

STAFF

The establishment of the Insolvency Service of Ireland will mean a change of status for the staff of the Office of the Official Assignee in Bankruptcy. Staff relocated from Phoenix House to Conyngham Road in May in anticipation of the coming into force of parts of the Personal Insolvency Act 2012. Read about the new regime for debt management on page 6.

Many staff retired during the year taking with them memories of their time in the Courts Service and leaving behind a legacy of commitment to customer service and professional standards at work. We welcomed our retired staff back for two events during the year: the 'Summer Evening in Smithfield' in May and a Memorial Mass in November.



Pictured left: J.J Bunyan, Tony Donnelly, Phyllis O'Donohue, Maurice McMorrow, Rosemary and Michael Lambe and David O'Carroll at the Summer Evening in Smithfield



Brendan Daniels (left) with Phyllis and Pat Curtin at the Annual Mass of Remembrance



Pictured left: Rose Lynch, Declan Lynch, Frank Lynch, Bernie Lynch, Norah Robinson, Marie Coffey and Rita Temple, relatives of the late Liam Bates at the Annual Mass of Remembrance

NEW CIRCUIT COURT SPECIALIST JUDGES APPOINTED

The first Circuit Court specialist judges were appointed in June. County registrars, Verona Lambe (Offaly), Mary Enright (Kilkenny), Susan Ryan (Dublin), Mary O'Malley (Meath), Patrick Meghen (Limerick), and William Lyster (Roscommon) took their oaths in the Supreme Court. The role of specialist judge was created under the Personal Insolvency Act 2012 to allow the Circuit Court deal expeditiously with insolvency applications.



Pictured above: Judge Mary Enright and Judge Verona Lambe



Pictured left: Judge Mary O'Malley and Judge Susan Ryan

Pictured below: Judge William Lyster and Judge Patrick Meghan



COUNTY REGISTRARS GIVEN ROLE IN TAKING EVIDENCE FOR EU COURTS

From June 2013, county registrars assumed the function of taking evidence at the request of courts of other EU Member States in aid of civil and commercial proceedings originating in those States. The evidence in such cases was taken before District Court judges. The conferring on county registrars of the new function was one of the recommendations in 'Transforming Administration and Structures in the Courts', the Report published following the Courts Service recent efficiency review. The release of District Court judges from this work

also freed them to take trials and perform other core judicial functions.

CLOSURE OF COURT VENUES

Venues were closed during the year in Ballyconnell, Swanlinbar and An Spidéal. The court business dealt with in these venues was transferred to adjacent District Court venues where improved facilities for all court users are provided. The closures generate savings in day to day running costs and ensure that more long-term expenditure on general upkeep, maintenance and refurbishment is concentrated on venues with justifiable caseloads. More importantly, such moves free up judicial and staff time to deal with more cases, over full days, in busier locations. This can also

facilitate the scheduling of additional days for the hearing of family law cases, children cases and other business.

INCREASING ACCESS TO INFORMATION

Decisions of the District Court in child care cases, following applications by the Health Service Executive (HSE), were published on the Courts Service website. The initiative, promoted by the President of the District Court, shed light on this difficult area of our court system. Contemporaneously, the Minister for Children supported a initiative to report on child care cases led by Dr. Carol Coulter. Read about the interim report of the Child Care Reporting Project on page 11.



ANNUAL REPORT 2012

The Annual Report of the Courts Service was presented to the Minister for Justice & Equality, Mr. Alan Shatter, T.D. in July. It showed that following record levels in 2010 and 2011, the number of new cases coming before the courts decreased in 2012. Yet court sittings and judgments increased – helping to shorten waiting times in some areas.

A feature of the crime statistics

was the significant decrease in high visibility, high nuisance and highly dangerous activity. Almost 60% of District Court summary matters were road traffic related. There was a 20% decrease in murder cases year on year and a 32% increase in rape cases over two years. There was a 10% decrease in more minor drug offences, a 22% decrease in public order and less serious assaults, a 33% decrease in drink driving orders and 30% less juvenile crime.

Pictured left: The Chief Justice presenting the Annual Report 2012 to the Minister

IMPROVING ONLINE BUSINESS CAPABILITY

Efforts continued to develop a new civil case management system for all court jurisdictions. The first manifestation of the new system will accommodate creditors seeking to recover liquidated debts – to be called 'Debt Claims Online' – and will remove huge amounts of paper from the court system by enabling creditors to make their entire claim in an electronic environment. Legislation is required before the new system can come into operation.

Access to information about court lists improved with the development of a mobile 'app' as part of the Legal Diary section of the Courts Service website (www.courts.ie). Users can now log onto m.courts.ie for quick access to lists from around the country. Read more on page 5.



ADDITIONAL COURT SITTINGS

The Service supported the Chief Justice and Presidents of the Courts in holding a significant number of additional sittings during August and September to address delays in the hearing of cases.

The **Supreme Court** dealt with 10 appeals and 4 motions with the **Court of Criminal Appeal** holding 9 additional sittings and allocating hearing dates in 55 cases.

In the **High Court** there were the usual weekly sittings for bail and sittings of an assigned duty judge each day, including weekends during August and September. In addition, the President of the High Court arranged scheduled sittings of the High Court targeting cases which could be tried in three days or fewer and capturing a

wide range of cases, involving personal injuries, Garda compensation, asylum, commercial, insolvency, non jury, judicial review, family law and child abduction. Registrars sitting as Deputy Masters undertook list and case management initiatives to deal with dormant cases and assign dates.

Sitting capacity in the **Circuit Court** was increased to 888 weeks during 2013, a 30% increase since 2011. The additional weeks were provided across crime, family law and civil matters. In excess of 30 weeks of additional sittings were held during the recess in the Eastern, Midland and South Western Circuits. The ongoing assignment of this additional capacity in the Circuit Court has already resulted in significant reductions in waiting times across all circuits.

Sittings of the **District Court**

continued during the months of August and September. The President continues to target judicial resources at prioritised areas and those experiencing lengthy waiting times.

OUTREACH

The Courts Service Visit Programme continued to be very popular with over 4,000 second level students and teachers visiting the Criminal Courts of Justice in Dublin and many others visiting court buildings around the country. Other visitors included mature students on community education schemes, active retirement groups, and students from various universities. Courts Service staff also facilitated judicial delegations visiting from Serbia, Australia, China, Germany and Korea. Read more about our Outreach Programme on page 14.



*Four Courts
after the Siege*

CALL FOR MEMORABILIA AS DECADE OF CENTENARIES TAKES OFF

As the centenary of the 1916 Easter Rising approaches, the Chief Justice established a committee to commemorate events which occurred in and around the country during a most significant time in the history of our country, and also to commemorate other events during the Decade of Centenaries (1913-1923). The Four Courts Commemoration Committee includes representatives of the Courts Service, Bar Council, Law Society, Office of Public Works, Department of Justice & Equality, and Trinity College.

A call for information about the courts and/or legal system relating to any of the major events which occurred during the period 1913-1923 (including the Easter Rising 1916, The Great War 1914-1918, The War of Independence 1919-1921, and the Civil War 1922-1923) resulted in some interesting contributions.

The Committee will continue to explore ways to highlight the impact these major historical events had on the work of the courts.

For more on these stories and any other articles published in 'Courts Service News' throughout 2013 visit the Courts Service website, www.courts.ie and subscribe to our ezine.

REPORT SHOWS NEGLECT MAIN REASON FOR CHILD CARE APPLICATIONS

The Chief Justice recently launched the interim report of the Child Care Law Reporting Project. The report discusses 83 child care cases in the District Court and analyses data collected from over 300 cases attended by the project team between December 2012 and July 2013. **Gerry Curran** was at the launch:

Welcoming the recent interim report the Chief Justice Mrs. Justice Susan Denham said it “provides information on child care proceedings before our courts and gives a timely opportunity for reasoned and evidence-based discussion. If our past as a country has taught us anything as a people, it is that many children were failed by Irish society at all levels: by families, by communities, by institutions and indeed by the State itself. This should place the reporting of such cases high in our national debate”. She cautioned that the interim report “is a snapshot in time - a first step. It does not and cannot address the overall picture. However, the information gathered in this report will be of interest to all who are concerned about how vulnerable children are

protected by the State”.

The Chief Justice pointed out that “international human rights law emphasises the active participation of children in legal proceedings which concern them. In 2012, the Irish people voted in favour of amending the Constitution which specifically provides for a duty on the court to hear the voice of the child. Prior to this, our judiciary has been developing this principle. “The objective might be said to be that, within our court system operated and designed by adults for adults, we need to listen and hear the voice of a child in a manner which academics Butler & Williamson describe as being ‘untrammelled by professional discretion and interpretation’”.



“The information gathered in this report will be of interest to all who are concerned about how vulnerable children are protected by the State”.



Pictured from left: Emily Logan, Ombudsman for Children, Mrs. Justice Catherine McGuinness, Judge Rosemary Horgan, President of the District Court and Frances Fitzgerald, T.D., Minister for Children and Youth Affairs at the launch.

FINDINGS OF REPORT

The report contains a discussion of 83 of the cases published on the project's website, www.childlawproject.ie, and an analysis of the data collected from 333 cases attended by the project's team between December 2012 and July 2013 - about 10% of court-ordered child care cases. “The report shows that mental illness or intellectual disability on the part

of a parent features in 12% of cases”, according to Dr. Carol Coulter, Director of the Project. “Usually mental illness alone does not account for the parents’ problems. Sometimes it is combined with alcohol or drug abuse and often with social isolation and lack of extended family support.”

The largest single reason for care orders being sought is neglect, which often arises from other factors, like alcohol or drug addiction or mental illness, and may be combined with

other problems, for example, domestic violence. In more than one in five cases neglect is noted as the main reason for the order being sought. Abuse also features strongly. This can include non-accidental injury, where a child suffers unexplained injuries while in the care of his or her parents, physical abuse or sexual abuse. Again it can be combined with other problems. However multiple reasons are noted in 17% of cases, which can include neglect, abuse and addiction problems. Only 10% of the cases concern married parents. Almost half of the respondent parents are single, almost invariably single mothers. The remainder are either co-habiting or separated, including formerly cohabiting couples. One in five of the children taken into care have special needs, usually psychological or educational.

“One in five of the children taken into care have special needs, usually psychological or educational.”

Guardians ad litem are provided for in legislation to represent the welfare and interests of the child. However, their use varies greatly in different parts of the country. They were used in 75% of cases in Dublin, but only in half of all cases outside of Dublin. A striking finding of the cases examined was the disproportionate number of African children who were the subject of proceedings.

They represented 11% of the cases, rising to 14% in Dublin, while Africans only represent 0.5% of the population. Some of the children were unaccompanied minors, or had been abandoned in Ireland by their parents. Others were the children of the residents of direct provision centres who suffered mental breakdowns and were hospitalised, leaving the children without a carer. In other cases the children came to the attention of social services arising from allegations of physical abuse in the context of parental discipline. Commenting on the findings, Dr. Coulter said that “the prevalence of African families raises questions about the impact of direct provision on children’s welfare, about our integration strategy for immigrants, and the need to ensure that our child protection system is understood.”



Image ©Stock/Thinkstock

HUMAN TRAFFICKING IS A CRIME IN IRELAND – DON'T CLOSE YOUR EYES

Trafficking of human beings is the acquisition of people through the use of force, coercion or other means with the aim of exploiting them. **Ruth Dillon** of the Anti-Human Trafficking Unit of the Department of Justice & Equality explains further and highlights recent developments in this difficult area:

Human trafficking has three distinct elements: the act (recruitment, transfer, transport); the means (threat or use of force, coercion, abduction, fraud) and a purpose (exploitation including prostitution of others, sexual exploitation, forced labour, slavery or similar practices, forced begging, criminal activities, or removal of organs).

People can be trafficked into different types of situations: labour - including restaurant and hotel work, domestic work, construction, agriculture and entertainment, as well as prostitution and other forms of commercial sexual exploitation. A child/minor (i.e. a person under 18 years) cannot consent to being trafficked.

TRAFFICKING VS. SMUGGLING

Trafficking is a crime which infringes the fundamental rights of persons, while smuggling is a violation of legislation protecting the borders. In the case of illegal migration facilitated by a smuggler there is an agreement between the migrant and the smuggler which ends when the migrant arrives at their destination. In the case of trafficking illicit means such as coercion, deception or abuse of a position of vulnerability are used at a certain stage of the trafficking process. In addition the transfer of the person is carried out for the purpose of further exploitation, which normally starts in the country of destination. Smuggling must take place across international borders but there is no requirement that a person must have crossed a border for trafficking to take place – it can and does take place within national borders.

WHAT IS BEING DONE IN IRELAND?

The Government has undertaken a number of legislative, administrative and operational initiatives to deal with human trafficking and assist victims. The Criminal Law (Human Trafficking) Act, 2008 criminalises trafficking in adults or children (persons under the age of 18 years) for the purposes of labour exploitation or the removal of organs. It also criminalises trafficking of adults for sexual exploitation and builds on the Child Trafficking & Pornography Act 1998 (which criminalises trafficking in children for the purposes of sexual exploitation) by raising the age of a child from 17 to 18 years and the penalty for trafficking children from 14 years to life imprisonment. Penalties of up to life imprisonment and, at the discretion of the court, a fine, apply for these trafficking offences. The definition of trafficking was expanded in 2013 to include trafficking for forced begging and criminal activities (e.g. pick-pocketing, shop lifting, drug trafficking and other similar activities which are subject to penalties and imply financial gain.)

An administrative framework provides for periods of recovery and reflection, currently 60 days, and 6 months temporary residency in the State, renewable, where the person is illegally in the State and s/he wishes to assist An Garda Síochána or other relevant authorities in any investigation or prosecution of the alleged trafficker.

All other measures (such as training and awareness raising, services for victims, etc.) are set out on the website: www.blueblindfold.gov.ie.



“People can be trafficked into different types of situations: labour, construction, agriculture and entertainment.”

REPORT SUSPICIONS ANONYMOUSLY

You can help prevent human trafficking from becoming a problem in Ireland. We ask you to be vigilant and to report any suspicions or information to An Garda Síochána: email: Blueblindfold@garda.ie or call: Crimestoppers 1800 25 00 25.

For more information contact:
Anti-Human Trafficking Unit,
Department of Justice and Equality,
51 St. Stephen's Green, Dublin 2
Email: ahtudivision@justice.ie

OUTREACH – HOW THE COMMUNITY CAN LEARN HOW THE COURTS WORK

Mairéad Fitzsimons, Co-Ordinator of the Courts Service Visit Programme highlights some of the ways the Service continues to engage with the community:

The Courts Service continues to engage with the community through our Outreach Programme. One of its most popular initiatives, the School Visit Programme is booked for months in advance and sees thousands of second level students visiting the Criminal Courts of Justice every year. The programme for third level students provides Irish and overseas students with an opportunity to meet a judge for a Q&A session. Overseas visitors during 2013 included students from Michigan State University, University of San Francisco and Duquesne University School of Law, Pennsylvania and staff of the European Parliament in Brussels.

Community groups continue to avail of the Outreach Programme which

includes an opportunity to visit the courts and meet with barristers. This year's visitors included members of the National Learning Network, the Cope Foundation and numerous active retirement groups.

We continue to support a variety of moot court and other competitions with a legal theme in Dublin and around the country. Court buildings were made available for the National Mock Trial Competition and the All Ireland Mock Trials Competition where second level students compete in mock criminal trials. Third level equivalents include the National Moot Court Competition and Bréagchúirt Uí Dhálaigh, the Irish language moot court (which you can read about below). The Courts Service opens its

doors for these competitions to allow students get a real sense of being in a courtroom with real judges.

European Day of Civil Justice was on 25th October this year. An initiative of the European Commission and Council of Europe, the day is held as a means of better informing citizens of member states of the functioning of their respective judicial systems. Mr. Justice Peter Kelly, judge of the High Court spoke with law students from Limerick I.T., about the Commercial List on the day.

For information on the Courts Service Visit Programme visit the schools section of www.courts.ie or email: schooltours@courts.ie.

BRÉAGCHÚIRT UÍ DHÁLAIGH GOING FROM STRENGTH TO STRENGTH

University College Dublin won the annual Irish language moot court, Bréagchúirt Uí Dhálaigh, which took place recently in the Four Courts. Now in its sixteenth year, the event is held in memory of the late Cearbhall Ó Dálaigh, former President and Chief Justice of Ireland and gives third level law students an opportunity to display their advocacy skills in an authentic courtroom setting before practicing judges.

Preliminary rounds were held in the Kings Inns with teams participating from University College, Cork, University College, Dublin, National University of Ireland, Galway and for the first time, Dublin City University. In an appeal against a court judgment, each team had to prepare and plead both sides of the case.

The final was presided over by Supreme Court judge, Ms. Justice Mary Laffoy, and High Court judge, Mr. Justice Colm MacEochaidh. The third adjudicator, Séamus Ó Tuathail,

S.C., has had long association with the competition. The aspiring young barristers were praised by the judges for their skills of persuasion, with the main award going to the UCD team. Team members, Aoibhinn Nic Cionnaith, Simon MacGiolla Easpaig and Peadar Ó Lamhna, received a cheque for €600, along with the Gael Linn Perpetual Trophy. Simon and Peadar were particularly delighted to be awarded the top prize this year as they had been in second place in 2012. The UCC team, Sadhbh Ní Chéilleachair and Órla Ní Fhiannachta, received a cheque for €300.

Presenting the prizes, Gael Linn CEO Antoine Ó Coileáin said: 'Gael Linn is pleased that Bréagchúirt Uí Dhálaigh is proving so popular with law students. As a result of the official status of Irish both at home and in the EU, career opportunities for lawyers with high competence in Irish have never been better. Testament to the status of Irish in

the courts is the fact that senior judges are adjudicating at Bréagchúirt Uí Dhálaigh again this year'.



Winners of Bréagchúirt Uí Dhálaigh 2013, the annual Irish language moot court organized by Gael Linn for law students, from UCD (centre, l-r) Simon Mac Giolla Easpaig, Aoibhinn Nic Cionnaith and Peadar Ó Lamhna along with (from left) Séamus Ó Tuathail, S.C., Supreme Court Judge, Ms. Justice Mary Laffoy, and High Court Judge, Mr. Justice Colm Mac Eochaidh.

IRISH SENTENCING INFORMATION SYSTEM RESUMES COLLECTING SENTENCING DATA

The Irish Sentencing Information System (ISIS) was set up to provide information on sentencing in Ireland to judges, practitioners, academics and the public. The project is overseen by a steering committee, chaired by the Chief Justice, Mrs Justice Susan Denham. The other members of the committee are Mr. Justice Michael Peart, Judge Mary Ellen Ring, Judge Rosemary Horgan, President of the District Court and Mr. Tom O'Malley, B.L., School of Law NUI, Galway. Ms. Miriam O'Flanagan is Secretary to the Committee.

In March of this year three research interns, Mark Collier, Eoin Guilfoyle and Priscilla Fay, were appointed under the National Internship Scheme to work on a number of new projects. They began by highlighting, categorising and summarising Court of Criminal Appeal decisions relevant to sentencing. The summaries will allow for easy access to authoritative decisions on important sentencing issues.

The researchers then recommenced populating the online data base with sentencing data from the Circuit Criminal Court. As well as attending sentencing hearings in the Dublin Circuit Criminal



Pictured with the Chief Justice are ISIS research interns Eóin Guilfoyle (left) and Mark Collier (right)

Court, they availed of the Court Service's Digital Audio Recording system (DAR) to listen to sentencing hearings from around the country to ensure that the cases collected were representative of the entire country and not just of Dublin Circuit. Over 400 new cases were collected.

Sentencing snapshot reports were also prepared by the researchers on a number of offences. These reports will highlight and interrogate sentencing trends relating to the particular

offences. The sentences, reports and summaries will be available in the near future on the ISIS website – www.irishsentencing.ie.

The appointments under the internship scheme have been a huge success from all perspectives. The ISIS project has benefited greatly from the work of the researchers and the researchers have gained valuable experience within the Irish Courts. Thanks to all the judges and Courts Service staff who assisted with the project.

MARK COLLIER:

I was delighted to have the opportunity to take part and contribute to such an exciting project. Overall, I found it to be a thoroughly rewarding and enjoyable experience, and I certainly left with a very positive impression of the Courts Service as a working environment.

EOIN GUILFOYLE:

Working on the ISIS project has been a hugely enjoyable experience. The opportunity to gain insight into the Criminal Justice System from such a unique perspective has been extremely beneficial.

PRISCILLA FAY:

I am proud to have been part of a team that provided statistical information on sentencing, including information on current sentencing practices to members of the judiciary. I would like to thank the ISIS committee for giving me this unique research experience.

Judicial appointments

Supreme Court

Following the passing of the Courts and Civil Law (Miscellaneous Provisions) Act 2013, Ms. Justice Mary Laffoy and Ms. Justice Elizabeth Dunne were recently appointed to the Supreme Court.

Ms. Justice Laffoy was educated in University College Dublin and King's Inns. She was called to the Bar in 1971 and to the Inner Bar in 1987. She was appointed as a High Court judge in 1995 and presided over the Commission to Inquire into Child Abuse between 1999 and 2003.

Ms. Justice Elizabeth Dunne was educated in University College Dublin and King's Inns. She was called to the Bar in 1977 and appointed as a Circuit Court judge in 1996. She was appointed to the High Court in 2004.



Ms. Justice Elizabeth Dunne (Left) and Ms. Justice Mary Laffoy (Right) with the Chief Justice Mrs Susan Denham



Special Criminal Court

Mr. Justice Paul McDermott has been appointed to the Special Criminal Court. He will replace Ms. Justice Elizabeth Dunne. Mr Justice McDermott was appointed to the High Court in June 2012. He was educated in University College Dublin and King's Inns. He was called to the Bar in 1980 and became a senior counsel in 1999.

Pictured left: Mr. Justice Paul McDermott appointed to the Special Criminal Court

Retirements

Judge Clare Leonard

There was great praise for Judge Clare Leonard in Dublin's Chancery Street courts recently as she retired following 21 years of service in the District Court. The judge, who was appointed in 1992, is best remembered for her long period of service in the Children Court and in Dun Laoire District Court.

President of the District Court, Judge Rosemary Horgan, said that Judge Leonard had "served with a sincere, sensitive, intelligent and patient manner. She has also contributed to the legal world through her work on legal studies and especially through her writings on xenophobia and racism". She said that Judge Leonard had faced the "greatest challenge in the Children Court where she was ever conscious of the true nature of adolescence and mindful that detention was a last deterrent. A hallmark of her work was she treated "every child, every case, every parent, as unique, and she dealt with every case with courtesy".



Judge Clare Leonard (centre) with her nieces

Colleague judge Mary Collins added that “in a world before online databases and judicial studies support, Judge Leonard was a great resource of knowledge and intellect and was always on the end of a phone ready to share insights and understanding of legal concepts”. She added that Judge Leonard had “made great strides in her time in the Children Court when the involvement of three separate Government departments meant that at times no one was in charge and a period of inertia was present”. She described her as a private person, a true renaissance woman with a myriad of interests to pursue in her retirement.

Speakers from the Courts Service, legal professions, Gardai and Probation Service spoke of Judge Leonard’s work at trying to save the person, rehabilitate, and not simply incarcerate, people at their most vulnerable. Elisha D’Arcy of the Courts Service Judicial Support Unit remembered the judge being the first to go to Europe on her own initiative and procure funding for judicial training for District Court judges. Registrar Hazel Bell said it was great to work with the judge in the past year, and that she had operated the court with military precision – “even if it had cost a few rattled doors”.

The judge spoke succinctly and said “if I had known I was so appreciated I might not have retired. These 21 years have passed with a flash. It feels like I am on early release”. She said that in her time as a judge there had been a great change in the demographic of the country, that court matters were more complex due to large amounts of new legislation, and that there was a changed moral compass in society.

She finished by saying it had been a privilege to work with all in the District Court.

We wish her well in her retirement.

Emer O’Mahony

Emer O’Mahony started work in the Office of the General Solicitor for Minors and Wards of Court in December 2006 as a higher executive officer after transferring from the Office of Public Works.

She had a pen on which was written “If not you, who?” which defined her work. Apart from her significant case load, which she managed very effectively, she was also office manager. Emer carried out her duties in a seamless way for the benefit of all staff members and the office. Each person within and without the office was treated with utter respect – she is a true listener.

We were never surprised when her beloved son, Eric and daughter, Jessica, became involved from a young age in social and charitable work. Jessica worked voluntarily last year with Peru Children’s Charity in Lima, Peru for which Patricia Hickey of the office raises funds every year, see page 20.

We will miss Emer’s gentle presence in the office. We wish her a long and fulfilling ‘career break’ and know that she will use every moment well.

Margaret Molony



Colleagues wish Emer O'Mahony (centre) well as she retires from the Office of the General Solicitor for Wards of Court

Obituary

Mr. Justice Kevin Lynch

The death occurred recently at age 85 of retired Supreme Court judge, Mr. Justice Kevin Lynch.

Mr. Justice Lynch was born in Dublin and educated at St. Mary's College, Rathmines and University College Dublin. He was called to the Bar in 1949 and became a senior counsel in 1970. He was appointed to the High Court in 1984 and to the Supreme Court in 1996 before his retirement in December 1999.

He came to national prominence during the 1980's when he chaired the Kerry Babies Tribunal which examined the behaviour of Gardai following the discovery of a dead baby on a beach in Caherciveen in 1984.



Mr. Justice Kevin Lynch

The large attendance at his funeral in the Church of the Sacred Heart in Donnybrook, Dublin included many retired and serving judicial colleagues from the High Court and Supreme Court, including Chief Justice Mrs. Justice Denham, retired Chief Justice Mr. Justice Ronan Keane, retired Chief Justice Mr. Justice Thomas Finlay and retired president of the High Court Mr. Justice Frederick Morris. In a moving eulogy his son Kevin recalled "a lovely caring lawyer who always got to the truth of the matter".

Judge Lynch is survived by his wife of 56 years, Bernadette, their five children and 14 grandchildren.

BOOK REVIEW: THE MARTIN BECK SERIES BY MAJ SJOWELL AND PER WAHLOO

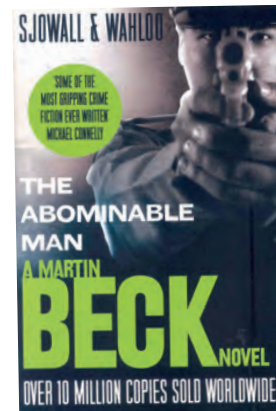
The Martin Beck series comprises ten crime fiction novels set in Sweden and written between 1965 and 1975 by Maj Sjöwall and her husband Per Wahloo. The series commenced with *Roseanna* and ended with *The Terrorists*. It has been available in translation for many years but all the novels have been reissued in the past few years in paperback and are available, as they say, in the crime fiction section of all good bookshops.

While the series can be regarded as the progenitor of the Scandinavian crime novel, exemplified in more recent years

by the work of Henning Mankell and Jo Nesbo, amongst others, it also owes its origins in terms of police procedurals to American crime fiction, notably the 87th Precinct series by Ed McBain.

Martin Beck is a senior detective in the Stockholm police and, although he is involved in each case in the series, the novels also focus on his colleagues, Larsson, Kollberg Melander, and others, both in terms of their work as detectives and their characters, their flaws and their virtues. For example, Beck is unhappily married and escapes from his domestic responsibilities as much as he can but feels guilty about it.

However, the focus of the novels are on solving serious crimes, showing the footslogging nature of police work, following blind allies but eventually getting a break and solving the mystery. The series also gives on a window on social changes of the period. For example, the novel "The Fire Engine that Disappeared" published in 1969 includes references



to the anti Vietnam War protests of the late 1960's taking place in Stockholm. While the authors were committed Marxists, their views, while clear,

are not presented in any polemical way.

An interesting feature of the reprints are the Introductions which are written by modern crime fiction authors, among them, Henning Mankell, Colin Dexter, Lee Child and another husband and wife team, Nicci French.

I would definitely recommend the series. Try one and see.

Noel A. Doherty



Quiz Time: Christmas traditions around the world

Take our Seasonal Quiz and dazzle your relatives around the dinner table with facts about some Christmas traditions:

Closing date for quiz entries is Friday 31st January 2014. To win a €40 An Post 'One for All' voucher send your answers by email to courtsservicenews@courts.ie or by hard copy to Mairéad Fitzsimons, Information Office, 6th Floor, Phoenix House, Smithfield, Dublin 7.

1. Which country is home to the *Killantzaroi*, goblins that appear only during the 12-day period between Christmas and Epiphany?
2. In which country is it traditional for the eldest daughter in every family to wear an evergreen wreath with seven lighted candles on her head on the feast day of St. Lucia, December 13th?
3. In Syria, Christian children receive their gifts from whom?
4. The portrayal of Santa Claus as a jolly old elf began with a famous poem originally known as 'A Visit from St. Nicholas'. What other title is the poem also known by?
5. In Italy, legend has it that 'La Befana' fills the stocking of good children with toys and sweets on the eve of the Epiphany. What mode of transportation does she use?
6. The Nordic countries (Denmark, Sweden, Norway notably) tend to celebrate Christmas chiefly on which date?
7. *Presepe* in Italy refers to what Christmas tradition?
8. Traditional in Germany at Christmas, what sort of food is *stollen*?
9. In which country is it said that finding a spider web on Christmas morning brings good luck, and so Christmas trees are decorated with artificial spider webs?
10. In which country at Christmas time do the people dress up in an ornamental hat named a *Puritina* and dance in a line?

RECIPE: TURKEY HASH BROWNS

Turn leftover potato and turkey into a breakfast or midday meal for six with these tasty hash patties/burgers. **Gerry Curran** tells us how:

INGREDIENTS

- 4 tablespoons vegetable oil
- 1 medium carrot, peeled and cut into small dice
- 1 medium celery stalk, small dice
- 1 medium onion, small dice
- 1 garlic clove - minced
- 2 teaspoons finely chopped fresh thyme leaves
- 1 tablespoon coarsely chopped fresh parsley leaves
- 12 ounces of shredded, cooked turkey
- 8 ounces of cold mash
- 1 large egg, lightly beaten
- 1/4 cup plain flour
- 1/2 teaspoon salt, plus more for seasoning
- 1/4 teaspoon freshly ground black pepper, plus more for seasoning

METHOD

1. Heat 2 tablespoons of the oil in a large non-stick frying pan over medium heat until shimmering. Add the carrot, celery, onion, and thyme, season with salt and pepper, and cook, stirring occasionally, until the onions and carrots have softened, (about 10 minutes). Add the garlic 8 minutes through. Place the mixture into a large bowl and lightly wipe the pan - don't wash it.
2. Add the remaining ingredients to the bowl (except for the oil) and gently mix to combine. Using your floured hands, form the mixture into 6 patties of about 4 inch diameter and place on a large plate or steel tray.
3. Heat the remaining oil in the frying pan over medium heat until almost simmering. Add 3 of the patties and cook until the bottoms are golden brown, about 8 minutes. Gently flip with an egg slice, to cook on the other side for about 8 minutes more. Repeat with the remaining hash browns.

Through the lens



Dutch Young Civil servants Organisation of the High Councils of State visited the Courts in October and met with Mr. Justice John Mc Menamin, Judge of the Supreme Court, Judge Mary Collins, Judge of the District Court and Mr. Justice Peter Charleton (all standing)



Patricia Hickey from the Wards of Court General Solicitors Office who raised €1,705 for Peru's Children Charity by hosting a Christmas Fair



Congratulations to veteran court reporter Ray Managh (right) who was recently presented with honorary life membership of the National Union of Journalists. He is pictured with Gerry Curran, Courts Service Media Relations Officer and Cathaoirleach of the National Union of Journalists.



Congratulations to Mairéad Fitzsimons, Courts Service Information Office, pictured with her husband John on their wedding day in Spain in September