

S8 Going South - Legal System

This leaflet is for you if you live in the North and you want to go South to live. It gives a general description of how the legal system operates in the South. It describes the courts and the criminal justice system. Certain aspects of the legal system are covered in other leaflets in this series - for example, consumer rights are described in Leaflet S10 – Shop.

The information in this leaflet was compiled in March 06.

The Courts System

Overall responsibility for the administration of justice rests with the Attorney General and the Department of Justice, Equality and Law Reform.

The Attorney General (AG) is appointed by the government and is the government's legal advisor. The AG's Office provides legal advice to the government and to government departments and offices. When people sue the State, the AG is involved. The AG must be involved in all cases where constitutional issues arise.

Office of the Attorney General,
Government Buildings,
Upper Merrion Street,
Dublin 2,
Phone +353 1 6314000
Fax +353 1 6761806
www.attorneygeneral.ie

Department of Justice, Equality and Law Reform
94 St. Stephens Green
Dublin 2
Tel: + 353 1 6028202
www.justice.ie

The Courts Service

The Courts Service manages the courts, maintains and manages court buildings and facilities, provides support services for judges and provides information for the public. The Courts Service is not responsible for the administration of justice - that is the function of judges.

The Courts Service,
Phoenix Street North,
Smithfield,
Dublin 7
Tel: (01) 888 6000
Website: www.courts.ie

The Different Courts

The main courts in the South are:

District Court

The country is divided into a large number of District Court areas. A Judge of the District Court is appointed in each area.

Nearly all criminal cases start in the District Court. The more serious cases are then sent forward to other courts. The District Court itself deals with minor offences, for example, most road traffic offences. You do not have a right to a trial by jury for a minor offence. The District Court may also deal with more serious offences in certain circumstances but, in these cases, you must be told of your right to a jury trial and you must be given the option of having such a trial. The maximum prison sentence that the District Court may impose for any one offence is 12 months. The Court may also impose fines.

In civil cases the District Court can award damages of up to €6,348.69.

This court also has power to make various family law orders such as maintenance, custody and access and barring orders. It grants certain licences such as a licence to extend the opening hours of pubs in the area, dance licences and lottery licences.

You have the right to appeal to the Circuit Court against any decision of the District Court.

Small Claims Court

The Small Claims Court is not a separate court but a special procedure which is available in the District Court in cases where the claim is less than €2,000.

It is a cheap and speedy means of resolving disputes about goods and services. You do not need a solicitor. You go to the Small Claims Registrar who will tell you how to claim. The Registrar then tries to solve the dispute without a court hearing. If this does not succeed, the case goes to the District Court for a hearing.

Circuit Court

There are eight circuits in the country. A Judge of the Circuit Court travels to towns within the circuit to hear cases. When the Circuit Court is hearing criminal cases it is called the Circuit Criminal Court. There is always a jury in these cases. The Circuit Criminal Court can deal with all criminal charges except those specifically reserved for the Central Criminal Court.

You may appeal to the Court of Criminal Appeal against a decision of the Circuit Court in a criminal case.

In civil cases the maximum damages which the Circuit Court can award is €38,092.14. You may appeal to the High Court against a decision of the Circuit Court in a civil case.

Special Criminal Court

The Special Criminal Court deals with certain offences of a subversive or terrorist nature for example, firearms offences. Three judges sit on the Special Criminal Court. There is no jury. You may appeal to the Court of Criminal Appeal against a decision of the Special Criminal Court.

High Court

The High Court can award unlimited damages in civil cases. The High Court also deals with Wards of Court, the winding-up of companies (e.g. appointment of receivers and liquidators), and injunctions in, for example, labour disputes. It may be consulted on points of law by the lower courts. It is the Court in which you may argue that legislation is contrary to the Constitution. It is also the Court in which you can look for a judicial review of government actions.

Central Criminal Court

The Central Criminal Court is the High Court when it is hearing criminal cases. There are certain crimes which may only be heard in this court. They are murder, rape, offences involving attacks on the organs of state and crimes such as treason, piracy and genocide. This Court also deals with criminal trials under the Competition Acts.

You may appeal to the Court of Criminal Appeal against a decision of the Central Criminal Court.

Court of Criminal Appeal

This is the court to which you appeal against decisions of either the Circuit Criminal Court, the Special Criminal Court or the Central Criminal Court. There is a limited right of appeal from it to the Supreme Court. This Court is made up of one Supreme Court judge and two High Court judges.

Supreme Court

This is the highest domestic court. You may appeal to it against most decisions of the High Court. The President is the only person who can go directly to the Supreme Court - she may ask it to look into the constitutionality of legislation which she has been asked to sign. Other people only get to the Supreme Court after going through one of the lower courts.

Court of Justice of the European Communities

Issues of EU law which arise in the domestic courts may be referred to the European Court of Justice.

The Personal Injuries Assessment Board (PIAB)

The PIAB is the statutory body which assesses compensation for personal injuries in the following civil actions:

- employer's liability – if you take an action against your employer because of negligence or breach of duty during employment
- motor vehicle actions
- public liability – that is, if you take an action against a property owner because of injuries which occurred while you were using the property concerned

These cases must first of all be referred to the PIAB. In most cases the time limit for submitting a claim is 2 years. You cannot take a claim to a court without the authorisation of the Board. The PIAB cannot deal with your claim if liability is in dispute.

You may have legal advice and representation when your case is being handled by the PIAB but the costs of any legal advice will not be awarded against either party.

In order to reduce the need for legal advice, the Board operates a helpline for claimants. This will give help with, among other things, filling up the forms.

You do not have to accept the assessment of the PIAB. If you or the other party do not accept the assessment, you will be authorised to take a court case.

The Personal Injuries Assessment Board
P.O. BOX 8
Clonakilty
Co. Cork
Tel: LoCall 1890 829 121
www.piab.ie

The Criminal Justice System

The Gardai (Police)

The national police force in the South is An Garda Síochána – usually known as the Gardai. The Garda Commissioner has overall responsibility for the operation of the force. It is organised into six operational regions - these are further divided into divisions and districts. The Gardai are responsible for the investigation of most crime and for traffic control.

www.garda.ie

Garda Ombudsman Commission

This statutory board was formed in 2006 and deals with complaints about inappropriate behaviour by Gardai. If you consider that a member of the Garda Síochána committed an offence or was guilty of discourtesy, neglect of duty, abuse of authority etc. you may complain to the Commission. The complaint may be resolved informally or there may be a formal investigation.

Garda Síochána Complaints Board
Block 1, 5th Floor, Irish Life Centre,
Lower Abbey Street, Dublin 1.
Tel: (01) 872 8666

Under recent legislation the above Complaints Board will be abolished and complaints against Garda will be dealt with by a new body called the Garda Ombudsman Commission.

It is also proposed that a new body to be called the Garda Síochána Inspectorate will be introduced with the function of inspecting the operation and administration of the Garda and advising on best policing practice.

Prosecution of offences

Crimes are normally prosecuted by the Gardaí or the Director of Public Prosecutions (DPP). In general, the more serious offences are prosecuted by the DPP. It is possible to bring private prosecutions in certain limited circumstances. If you are unhappy about a decision of the Gardaí or the DPP in relation to a prosecution, you can complain to the Gardaí or the DPP. However, they are not under an obligation to explain their actions.

Director of Public Prosecutions (DPP)
14-16 Upper Merrion Street,
Dublin 2
Tel: (01) 678 9222
www.dppireland.ie

The Office of the DPP will not accept correspondence relating to criminal prosecution files by e-mail. You should contact the Office by post.

You may write to the DPP if you are:

- a victim of a crime;
- a family member of a victim of a crime;
- an accused person; or
- a family member of an accused person.

Lawyers, doctors and social workers may also write on behalf of their clients.

It is against the law for anybody else to contact the DPP in order to influence a decision to withdraw or not to start a prosecution.

The prosecution of criminal offences takes place in either the District Court, the Circuit Criminal Court, The Central Criminal Court or the Special Criminal Court. Which court is involved depends mainly on the nature of the criminal offence – see above.

Prisons

The prisons are run by the Department of Justice, Equality and Law Reform. Information about prisons may be got from:

Irish Prisons Service
Monastery Road
Clondalkin
Dublin 22
Tel: + 353 1 4616000
www.irishprisons.ie

Inspector of Prisons

The Inspector of Prisons inspects and reports on prisons and other places of detention.
Prisons Inspectorate
1 Lower Grand Canal Street
Dublin 2
Tel: + 353 1 6610447
www.justice.ie

Legal Aid

You may get legal aid in a criminal case by applying to the Judge when you are charged.

You may get civil legal aid if you pass a means test. The Legal Aid Board administers the civil legal aid scheme which is available in a number of Law Centres throughout the country.

Legal Aid Board
Head Office,
Quay St,
Cahirciveen,
Co. Kerry.
Tel. (066) 9471000
www.legalaidboard.ie

Lawyers

Solicitors and barristers are self-regulating professions. Lists of practising solicitors and barristers are available from:

The Law Society of Ireland
Blackhall Place
Dublin 7
Tel: (01) 672 4800
www.lawsociety.ie

The Bar Council
Law Library
Four Courts
Dublin 7
Tel (01) 817 5000
www.lawlibrary.ie

Certain solicitors (and barristers) are able to practice both North and South. Complaints against solicitors in the South are dealt with by the Law Society of Ireland who can refer unresolved disputes to the Solicitors Disciplinary Tribunal.

Sources

The websites listed plus
Criminal Procedure Act 1967
Criminal Justice Act 1993
Courts of Justice Act 1924
Charleton et al, *Criminal Law*, Butterworths 1999