

# MHC TIMES

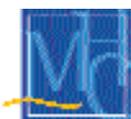
ISSUE 15

**Immigration**

**Corporate Governance in Ireland**

**Commercial Courts**

**Data Protection Commissioner**



**MASON HAYES & CURRAN**

S O L I C I T O R S



Ailbe Gilvary

Ireland has been privileged to hold the presidency of the EU since January 1 2004. It has certainly been a busy few months not least witnessing the accession of 10 new member states and making significant advances towards finalising an EU constitution.

It has also been a busy time for MHC and Declan Moylan our Managing Partner in his regular diary describes certain key developments.

Finally, with the European Championships in Portugal about to kick off, I thought I would give you some more sports punditry in the closing argument!

*Ailbe Gilvary*

EDITOR

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Declan Moylan

## Economy

The pace of Ireland's economic growth and development has accelerated again. Most forecasters agree that growth over the next 12 months will exceed European averages by a substantial margin. The inflation rate is dropping again and unemployment is at an historic low.

## Market Positioning

Against this background MHC continues its policy of aligning itself with its market. Our judgement is that international inward investment to Ireland will continue, on an increased basis. We believe that US investors in particular will view Ireland as a favoured location for corporate establishments, mergers and acquisitions transactions, and general commercial activity. MHC's New York office is active in communicating to US corporates news of Ireland's attractiveness as a European business location. Our NYC-resident lawyer, Dan Walsh, reports a significant increase in new enquiries from American enterprises interested in Ireland.

## Investment Funds

Activity in the investment funds sector in Ireland remains healthy. During 2003, MHC appointed Fiona Breathnach as Head of its Investment Funds unit. Fiona's deep experience in the funds and financial law sector serves to position us well in offering a fresh and excellent service to old and new clients and connections.

## Life Sciences

The Irish government has identified life sciences and biotechnology as key sectors for attracting new international investors. MHC has just made a key appointment in anticipation of an upsurge of interest and activity. Martin Kelleher has joined us as Head of Life Sciences after several years' experience with a major international pharmaceutical corporate. Martin's brief is to communicate to the market MHC's excellence in life sciences and biotechnology, and to lead his team in giving a peerless service in those areas.

## Infrastructure Projects

Anyone monitoring developments in Ireland will also observe huge levels of infrastructural activity, such as highway and tunnel construction. This pattern of development is set to increase and will, in due course, embrace new railway and tramway developments. MHC judges that its clients and connections will have greatly enhanced needs for legal advice arising from these trends and is currently enhancing its relevant capabilities and strengths through a process of lawyer recruitment and promotion. In the next issue of MHC TIMES, I will be making interesting announcements about this recruitment process.

## New Headquarters

Perhaps the biggest news in MHC's recent history is its decision this year to relocate from Dublin's traditional of five district to the vibrant and newly-favoured docklands district. In February, the firm announced its intention to move to a brand new, state-of-the-art headquarters near Grand Canal Dock in early 2006. Construction of our building commences imminently and we aim to make it the most striking, functional and outstanding professional services headquarters in the country.

We are enthused by this project and believe that it will contribute enormously to our growth and development to the benefit of our clients and our staff.

Over the next few issues of MHC



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Melanie Crowley

Melanie considers options available to employers seeking to employ individuals from outside the European Economic Area ("EEA") or Switzerland.

What with specially chartered aeroplanes departing groups of illegal immigrants and a High Court ruling determining certain provisions of the Immigration Act 1999 to be unconstitutional, immigration issues are very topical at the moment.

### Work Permits

The Irish work permit system is administered by the Department of Enterprise, Trade & Employment. Until quite recently, and certainly during the "Celtic Tiger" it was relatively easy to obtain a work permit and special exceptions were in place for training purposes and intra-company transfers. However, the work permit system has changed dramatically over the course of the last year.

In the first instance, employers are now required to register any vacant position for which they may wish to apply for a work permit with the Irish national training body, Foras Áiseanna Saothair ("FÁS") in turn advertise the position and notify their counterparts around the EEA of the vacancy. FÁS may then send a shortlist of applicants to a prospective employer to interview. In addition, employers will be required to detail all of their own efforts to recruit an EEA or Swiss national to fill the vacant position.

Not only have the training and intra-company transfer exceptions now been suspended indefinitely, but since April 2003, the Department has published a list of occupational sectors which it considers

ineligible for work permits. The sectors include clerical and administrative staff, sales staff, transport staff, builders, child care workers, certain craft workers and bar workers and reception staff in the hotel and catering industry.

From 1 May 2004 individuals from the ten accession states to the European Union will no longer require work permits in order to work in Ireland. The accession states are Poland, Lithuania, Latvia, Czech Republic, Hungary, Slovakia, Slovenia, Malta and Cyprus. The Department of Enterprise, Trade & Employment recently announced that they will henceforth give preferential consideration to work permit applications received in respect of accession state nationals. In addition, since 1 February 2004 employers are no longer required to advertise vacant positions with FÁS where work permit applications relate to individuals from the EU accession states. The Department

### Work permits are valid for

has also announced that it will return all new applications received from non-accession states where they are satisfied from experience that the position may be filled by an accession state national.

It is however possible to apply for a renewal of a work permit without going through the whole process of re-advertising the position with FÁS. It is also noteworthy that work permits belong to an employer and are employer specific. Once an individual who is the subject of a work permit ceases to be an employee, that work permit ceases to have effect.

The Employment Permits Act, 2003 makes it an offence to employ an individual without a work permit where one is required and provides that any person contravening the provisions of the Act shall be liable on summary conviction to a fine of up to 3,000 and/or imprisonment for a term of 12 months, or, if convicted on indictment, to a fine of up to 250,000 and/or imprisonment for a term of up to 10 years.

### Work Visas/Authorisations

In 2000, the system of work authorisations and work visas was introduced and is administered by the Department of Foreign Affairs.

Nationals from some countries require an

entry visa to enter Ireland. These are sometimes referred to as "Visa Required Nationals". Visa Required Nationals in possession of an offer of employment from an employer in Ireland in one of a number of designated sectors may apply for a Working Visa from the Irish Embassy or Consulate in that national's own country. Non-Visa Required Nationals (i.e. the holders of passports who do not require entry visas into Ireland) who have an offer of employment from an employer in Ireland in one of the designated sectors may apply for a work authorisation from the Irish Embassy or Consulate in their own country.

The designated categories are currently as follows:-

- information and computing technology professionals and technicians
- architects
- engineers and technicians
- quantity surveyors and building surveyors
- town planners
- certain medical practitioners
- dentists
- registered nurses

Work visas and work authorisations are valid for 2 years. Holders may be granted permission to continue to work and reside in Ireland at the end of their first period of validity. Applications are made directly to the Visa Office in Harcourt Street or to the Superintendent of local Garda stations outside Dublin.

Work visas and work authorisations are personal to employees and the holders of work visas authorisations are allowed to change their employer after arriving in Ireland for so long as they continue to hold a Work Authorisation/Visa and reside here.

### Intra-Company Transfers

Intra-Company transfers or secondments were allowed for persons who were posted for a maximum period of 4 years to an establishment or undertaking in Ireland which was owned by a company or group which has operations in more than one Member State of the European Union. In such situations employers were not required to apply for work permits. However, due to what the Department of Enterprise, Trade and Employment referred to as an "abuse" of this process it has been suspended indefinitely.

### Foreign Contractor Scheme

The Foreign Contractor Scheme is a recent introduction by the Economic Migration Unit of the Department of Enterprise, Trade & Employment. It applies where a company has no legal entity in Ireland but has been contracted to carry out some work here in Ireland. In certain circumstances and subject to stringent conditions, the Department of Enterprise, Trade and Employment is prepared to consider work permit applications from foreign entities once a foreign entity can prove the existence of a contract between it and the Irish organisation seeking their services.

### Van der Elst Case

The European Court of Justice (ECJ) decision of 9 August 1994 in Raymond Van der Elst v Office de Migrations Internationales dealt with one of the main tenets of European law, i.e. the freedom to provide services. The ECJ held that Member State may not prohibit or impede the activities of a provider of services established in one Member State by restricting activities which that service provider can lawfully provide in another Member State. Thus, where an employer holds a work permit for a non-EEA/Swiss National in one Member State, that employee may work in another Member State for the same employer without the necessity to apply for another work permit. The Department of Justice in Ireland is only however, prepared to allow foreign nationals with work permits from other Member States into Ireland to work subject to certain conditions. In the first instance, the Department of Justice requires written confirmation that the employee coming to Ireland has been in employment with the employer over for one year. In addition, they require a copy of the employee's Contract of Employment which is valid beyond the proposed duration of the employee's stay in Ireland. Further evidence in the form of a P60, or the foreign equivalent, is also required. The maximum duration which an individual is allowed to work in Ireland pursuant to a work permit from another Member State is 12 months.

Melanie is an assistant solicitor in the HR unit of the Litigation Department.



Paula Phelan

Paula examines recent trends in Irish corporate governance.

Corporate Governance has emerged as a major issue for companies worldwide in the wake of such scandals as Enron and Worldcom. Focus has centred on company directors and not taking responsibility for their actions and insufficient disclosure in the accounts and reports of certain companies.

It is anticipated that the introduction of the Companies (Auditing and Accounting) Act, 2003 will have a positive impact on corporate governance here and will also be a positive indicator for international companies deciding to set up in Ireland.

#### Current Regulatory Framework

Current regulations governing corporate governance in Ireland are a mixture of mandatory rules and non-mandatory guidelines.

The mandatory rules consist of:

- legislation - the Companies Acts 1963 to 2003
- the common law (cases defining fiduciary duties of directors)
- the company's articles of association
- the Listing Rules, published by the Irish Stock Exchange

The non-mandatory rules include the Combined Code on Corporate Governance. While this code itself is not mandatory, under the Listing Rules, companies on the stock exchange must comply with it. The Combined Code combines the suggestions of the Cadbury, Greenbury and Hampel Committees in the

UK. The Combined Code contains the "Principles of Good Governance" and a "Code of Best Practice". Where a listed company does not comply with the code, it must state this in their annual report.

#### Recent and proposed legislation

Since 2001 there has been a series of enactments which have addressed corporate governance issues.

##### A. Company Law Enforcement Act 2001

This Act imposed a positive obligation on company directors to procure compliance with the Companies Acts. It also established the Office of the Director of Corporate Enforcement with the main function of encouraging compliance with company law and to investigate any purported breaches.

In 2003, 33 convictions or other orders were made by the Courts on applications made by this Office. Almost 200 directors were restricted after examination of liquidator's reports and several hundred warning letters were sent to directors and other officers indicating that certain requirements were not complied with and stating that action would be taken if this were not remedied.

##### B. Criminal Law (Theft and Fraud Offences) Act 2001

This Act updated the criminal law on corporate fraud and false accounting, as well as imposing reporting requirements on auditors where it appears that offences under the Act may have been committed

##### C. The Companies (Auditing & Accounting) Act 2003

This Act was passed in December 2003 although we currently await its commencement through Ministerial Order. The new Act is aimed at improving the current structures for corporate governance in place in companies in Ireland today.

The 2003 Act's main provisions are as follows:

###### 1. Audit Committees

All public limited companies must have an audit committee. "Large private companies" (with a balance sheet total in

excess of 5,000,000 or a turnover in excess of 50,000,000) are required to establish an Audit Committees or state why not in their directors' report. If there is no such Committee formed, directors must state whether any individual will fulfil a similar role.

## 2 Compliance Statement

The Board of Directors of medium-sized companies are required to prepare a "Directors' Compliance Statement" which contains the information concerning its policies regarding compliance with its legal obligations under:

- the Companies Acts
- tax law; and
- any other enactments that "provide a legal framework within which the company operates and that may materially affect the company's financial statements".

It is also necessary to include information on internal procedures for ensuring compliance. Details of measures for reviewing the effectiveness of these policies and procedures is also required. This requirement has been restricted to companies with a balance sheet total of more than 7,618,428 and with a turnover of more than 15,236,856. The auditor of such a company is required to give an opinion as to whether the compliance statement is fair and reasonable and this statement will have to be reviewed and amended where necessary every three years.

## 3 Irish Auditing and Accounting Supervisory Authority (IAASA)

The new act creates a regulatory authority to monitor and supervise the accounts of all public limited companies and large private companies to ensure they comply with company law. The IAASA will notify the company of such purported non-compliance and if it is not satisfied that the company has remedied such default, it may apply to court for an order to correct this. The body also acts as a source of advice to the Minister on accounting and auditing matters. It also grants recognition to accountancy bodies and lays down standards of conduct for their members.

In this and other ways (such as the requirement of companies to disclose non-audit fees paid to the auditor) the 2003 Act has anticipated the proposed amending

EU Directive.

## Sarbanes-Oxley Act 2002

Accordingly, compliance with Irish law probably goes a very long way to ensuring compliance under Sarbanes-Oxley.

That being said however, directors in the US will face massive criminal penalties of \$5 million and/or 20 years imprisonment for non-compliance with their new law. Further changes in the US include proposed amendments to the stock exchange rules of the NASDAQ and NYSE all of which are likely to impact on certain companies in Ireland.

## EU Reform

In May 2003 the EU Commission released an Action Plan for consultation on company law and corporate governance - "Modernising Company Law and Enhancing Corporate Governance in the EU". While the Commission does not intend to draw up an EU-wide Code on Corporate Governance, it suggests that EU countries should adopt a common approach to corporate governance.

In November 2003 an EU Company Law Experts Group set up by the Commission made recommendations on corporate governance including the need for better disclosure, strengthening shareholder rights, accountability of directors and also the need to co-ordinate rules on corporate governance throughout the EU.

## Conclusion

The basic principles of a good corporate governance environment are transparency, accountability, fairness, and responsibility, with the foundation being disclosure. A good corporate governance environment in Ireland is of huge importance for companies wishing to set up here and companies that wish to trade with companies here. As stated above, a parent company wishing to establish a subsidiary here can be more confident that the legislation in Ireland provides for a very high standard of control on management and the accounting/auditing

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Philip Nolan

Philip comments on direct marketers risk prosecution by the Data Protection Commissioner.

### Introduction

The European Communities (Electronic Communications Networks and Services) (Data Protection and Privacy) Regulations 2003 (the "Regulations") were recently introduced in order to give effect to an E.U. Directive which aims to tackle the growing problem of unwanted e-mails which purport to sell goods and services. These Regulations have, in particular, strengthened the rules concerning direct marketing and have made it more difficult for companies to engage lawfully in direct marketing campaigns.

Who can be prosecuted?

Any person that engages in direct marketing in Ireland must adhere to the Regulations or face prosecution by the Data Protection Commissioner. Each individual direct marketing communication that is sent or made in breach of the Regulations constitutes a separate offence under the Regulations. Accordingly, a direct marketer who breaches the Regulations may be fined up to 3,000 for each and every communication that contravenes the Regulations. Moreover, a person who suffers loss and damage as a result of a contravention of any of the requirements of the Regulations may be entitled to damages.

What type of direct marketing do the Regulations apply to?

The new regulations concern communications that are not requested by the recipient, known as unsolicited communications, where they are made for the purpose of direct marketing by means of a publicly available electronic communications service.

### Telephone Calls

Under the regulations, direct marketers may be prosecuted if they contact persons via telephone where the owner of the line to which the call is made either notified the person making the call that they do not consent to the receipt of such a call (i.e. they "opted-out") or where the owner has registered on the National Directory Database that they do not want to be contacted for direct marketing purposes. Thus, it seems that large businesses may prohibit direct marketers from making calls to all of their employees by registering on the National Directory Database. Accordingly, direct marketers may have to consult the National Directory Database prior to making unsolicited telephone calls. Although the "opt-out" section of the National Directory Database is expected to be operational shortly, direct marketers face a possible dilemma in this respect as it is currently not up and running.

### Communications other than by Telephone Call

The regulations also apply to unsolicited communications other than by telephone call. The applicable rules vary, in this regard, depending on whether the communication is made to a line owned by an individual or company.

#### A. Individuals

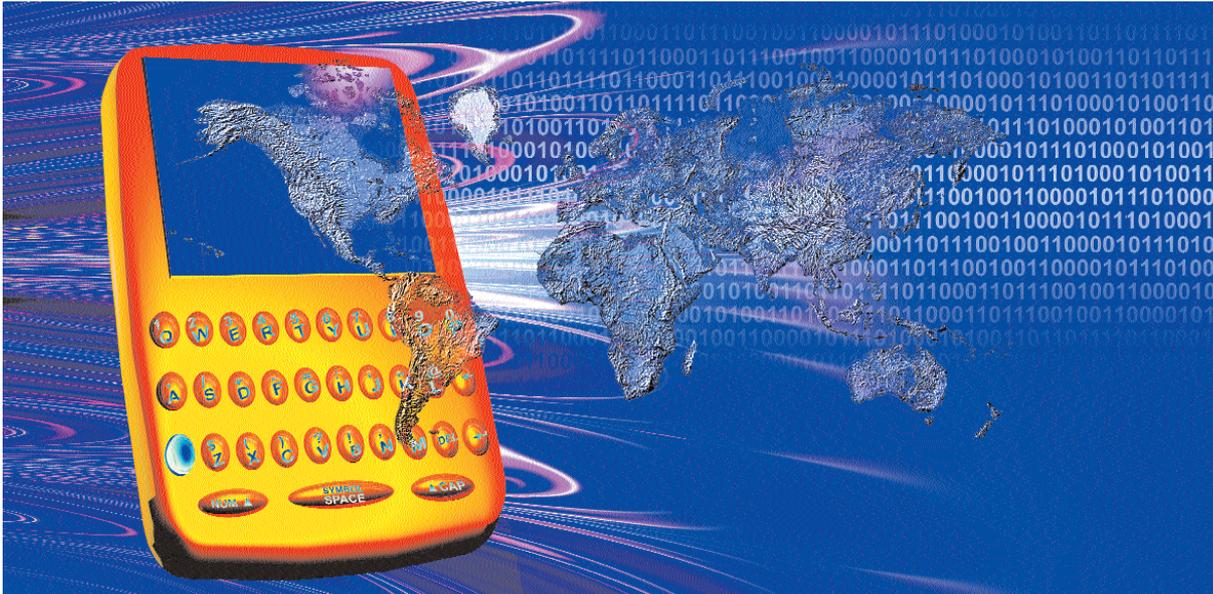
The Regulations provide that a person shall not send an unsolicited communication by e-mail, SMS, fax or automated calling machine to the line of an individual unless the prior consent of that individual is obtained. Thus, there is an "opt-in" requirement in respect of direct marketing by these means to

individuals. This creates quite an onerous obligation for direct marketers.

### B. Companies

In the case of corporates, persons are now prohibited from making unsolicited communications where the corporate body has previously notified the direct marketer that they do not agree to the receipt of such a communication on the line or where the corporate body has registered

contacted. Failure to do so can also constitute an offence under the Regulations and be punishable by a fine. Nevertheless, leniency is extended to direct marketers in one respect under the new Regulations. In spite of the requirements explained above, a business engaged in direct marketing activities is permitted to use a customer's e-mail or SMS contact details for direct marketing where they came into possession of such details in the context of the sale of a



on the National Directory Database as a company that does not want to receive direct marketing communications on its line. In this way, a corporate may opt-out in respect of all communications to its line, thus protecting all of its employees from unwanted direct marketing.

Accordingly, businesses that engage in direct marketing by sending unsolicited communications face the daunting task of confirming that an intended recipient has either opted-in or not-opted out prior to engaging in any direct marketing, depending on the intended recipient and method of communication. They may also have to consult the National Directory Database to confirm that the recipient is not registered as having opted-out.

In addition, direct marketers are also required under the Regulations to provide certain information including the sender's name, and in certain instances, an address or number at which they can be

product or service in accordance with general data protection laws. However, the customer must be given the opportunity to object in an easy manner, without charge, to the use of its details on the occasion of each message and must not have objected to such a practice. This is subject, however, to the condition that the details are only used by the legal entity which collected the contact details for direct marketing of "similar products or services".

### Conclusion

In light of the severity of the fines that direct marketers may face for each and every communication that is sent or made in breach of the Regulations, businesses that engage in direct marketing, even

Philip Nolan is a Senior Associate in the Commercial Department.





Noel Devins

### Noel Devins reviews the rules of the commercial court.

On 6 January 2004, the Minister for Justice announced the establishment of a specialist commercial division of the High Court. The newly established commercial court began operations on 12 January 2004 and it will deal with an extensive range of commercial disputes, primarily involving claims with a value in excess of 1,000,000.00.

The rules stipulate that the commercial court will operate as a division of the High Court through a commercial list, rather than as a stand alone court. Mr. Justice Peter Kelly has been designated as the judge having charge of the commercial list who, together with Mrs. Justice Finlay Geoghegan, will hear and determine proceedings entered into the High Court commercial list.

### Overview

The primary aim of the new rules is to compel the parties to commercial litigation to focus only on the specific issues that they cannot agree upon. The parties are encouraged, and indeed may be required, to settle as many issues as possible between them at an early stage in the proceedings in order to ensure that the trial will focus only on relevant issues which remain in dispute.

### Commercial Proceedings

The new rules contain an extensive definition of the type of matters which may

be considered to be "commercial". This definition includes disputes, with a value in excess of 1,000,000 in relation to business contracts, the purchase or sale of commodities, the export and import of goods, insurance and re-insurance, construction of vehicles, vessels and aircraft, and business agencies. The definition also includes proceedings under the Arbitration Acts 1954 to 1998, most intellectual property disputes and judicial review cases of a commercial nature. In effect, most proceedings which involve a dispute of a commercial nature, subject to the monetary threshold being exceeded, may qualify as a commercial proceeding and therefore be heard by the commercial court. However, it should be noted that a specific provision of the rules states that a judge of the commercial court has discretion to regard any dispute as one of a commercial nature and, therefore, appropriate for placing on the commercial court list. This may have the effect of cases below the monetary threshold, nevertheless, being heard by the commercial court.

### Application for Entry in the Commercial List

Commercial proceedings commence as usual in the High Court and may, thereafter, be transferred to the commercial list on application of any party to the proceedings. Once in the commercial list, the judge hearing it can then either make initial directions or fix a date for an initial directions hearing.

### Initial Directions Hearing

At the initial directions hearing the judge has extensive powers to make such directions as are deemed necessary to enable the progress of the proceedings. The judge, in determining any directions or orders, may require the parties to provide specific information in respect of the proceedings including such details as witnesses, particulars of any matter of a scientific or technical nature or particulars of alternative dispute resolution mechanisms which are available to the parties.

Such directions may include the fixing of the manner and timeframes for making the discovery, or to allow inspection of

documents. The judge may also be able to direct that each side's expert witnesses meet in an attempt to agree certain aspects of the case and also to exchange reports. Directions can also be given in relation to the examination on oath of any witnesses at any place whether within or outside of the state. Failure to comply with directions may result in a costs' penalty against the offending party which such party may have to discharge before it can either continue to pursue or defend the proceedings. The use of such directions should allow the judge to identify the relevant issues involved and to determine whether or not the case should be subject to case management.

## Case Management

Case management involves the parties regular appearances before the court to report on the progress of the pre-trial procedures. Case management aims to ensure that the proceedings are progressed "in a manner which is just, expeditious and likely to minimise the costs of the proceedings". Any of the parties to the proceedings may apply to hold a case management conference. At such a conference the judge may fix a timetable for the completion of preparation for trial and make any orders or give any further directions which are considered necessary. Should the judge feel that there is unnecessary delay in the conduct of the proceedings, he or she may request the party responsible to attend before the court to explain such delay. The judge may also penalise the offending party on costs as a result. This deviates from the "costs follow the event" maxim and is similar to the powers available to arbitrators under the Arbitration Acts

Case management will requires the parties to focus only on the relevant issues through the "carrot" of time saved if the process is properly pursued and,

To provide a clear picture of the state of the case before trial.

alternatively, the "stick" of costs being awarded against parties not properly availing of the process.

## Pre-trial Conference

Prior to a case being listed for hearing, a pre-trial conference must be held.

The parties must complete and submit to the court a pre-trial questionnaire in a specified form before the date fixed for the pre-trial conference.

As a result, the judge should be in a position to determine what issues need to be addressed before the matter may be brought to trial, estimate the likely length of the trial and whether any special technological arrangements are required. Once the judge is satisfied that the proceedings are ready for hearing a trial date will be fixed. Lastly, the court may direct the parties to consult with each other with a view to agreeing a list of documents which will be relied upon at the trial.

## Evidence

The rules provide that, unless a judge shall otherwise order, a party intending to rely upon oral evidence of a witness or expert at trial must serve signed and dated written statements of evidence upon the other side before the trial. Such written statements may in certain cases be treated as the evidence in chief of the witness or expert once verified on oath by him or her. A judge may even allow a witness to give evidence through a live video link or by other means either from within or outside the State.

## Alternative Dispute Resolution ("ADR")

A judge may, on application of any of the parties or his or her own motion, adjourn the proceedings or any issue within for a period of 28 days to allow the parties to consider if such proceedings or issue ought to be referred to a process of mediation, conciliation or arbitration. Should the parties decide to refer the proceedings or issue to such ADR method then the proceedings will be adjourned for a limited time to enable them to do so.

## Costs

Noel is an assistant solicitor in the Commercial Litigation Department.

Apart from the Judge's ability to make interim costs orders, parties are also likely to experience a significant front loading of

## APPOINTMENTS

Congratulations to our newly qualified solicitors.



*Pictured from left to right: Deirdre Fagan (Litigation), Jason Harte (Litigation), Noel Devins (Litigation), Elizabeth Roche (Property), Killian Morris (Investments), Emma Keavney (Commercial)*



*Conor Manning*

Conor is a solicitor in the corporate group.

He practices in the areas of mergers and acquisitions, venture capital investment, joint ventures, corporate establishments and corporate finance.

Martin is a senior associate in the corporate group and head of life sciences. He previously worked for eight years with Elan Corporation, plc (NYSE:ELN), a global biotechnology company.

From 1996 to 2001, Martin worked as an in-house counsel for Elan in Ireland and advised on the operational and commercial aspects of Elan's global business. In 2002, Martin transferred to New York and played an important role in Elan's successful restructuring. During this period, Martin passed the New York Bar exam. He returned to Ireland in late



*Martin Kelleher*



*Vanessa Hogan*

Vanessa is a solicitor in the employment group. She studied at University College Dublin and the University of Bristol, and completed an internship with the European Commission in Brussels.

Vanessa is involved in both contentious and non-contentious employment law. She advises on all aspects of employment legislation, employment contracts, company handbooks and policies.

### Tails of the Unexpected!

Lorcan, partner in the Litigation Department, pictured with his 7.27kg (16lbs) salmon caught on fly on 22nd June 2003 at the weir in Galway.



*Lorcan Buckley*



Ciara Doyle

Ciara presents a summary of some recent legal developments

### Update: Personal Injuries Assessment Board Act, 2003

The Personal Injuries Assessment Board Act, 2003 was enacted on 28th December 2003. It provides for the formal establishment of the Personal Injuries Assessment Board ("PIAB") for the purposes of assessing personal injuries compensation to be paid to persons who suffer personal injury. The date of the implementation of the PIAB has been the subject of great speculation has been postponed a number of times. The Board has now begun to deal with claims arising during the course of employment. It is anticipated that the PIAB will begin to deal with claims arising from road traffic accidents later in the year.

### Equality Bill 2004

The Minister for Justice, Michael McDowell, announced the publication of the Equality Bill 2004, implementing a number of EU Council Directives. These directives collectively prohibit direct and indirect discrimination and harassment on the grounds of gender, race, religion or sexual orientation, in relation to employment, self employment and occupational training. Many of these provisions are already in place but the main effect of the Bill will be to broaden the scope of the Employment Equality Act 1998 and the Equal Status Act 2000.

Protection from discrimination under the Employment Equality Act is being extended in a number of regards, in particular, protection from discrimination on the age ground will now apply to persons over 65 years and for the first time, self-employed people will be brought within the general scope of the Act. The duty on employers to adapt the workplace to facilitate employees with disabilities will also be enhanced.

### The Civil Liability and Courts Bill 2004

In summary the Bill provides for substantive and procedural changes in respect of actions to recover damages for personal injuries and the object is to clamp down on fraudulent and exaggerated actions. The Bill provides for a reduction of the limitation period for personal injuries actions from three years to one year. This will ensure claims are brought forward without undue delay. All pleadings in a personal injuries action which contain statements of fact will be required to be supported by a verifying affidavit. The significance of this provision is that from the outset the claimant is swearing the truth of the allegations made and so will not be able to take a bogus legal action in the expectation of securing a settlement without the need to go to trial. Persons who swear falsely will be guilty of an offence. Upon conviction on indictment the penalty shall be a fine not exceeding 100,000 or imprisonment for a term not exceeding 10 years or both.

Another significant feature of the Bill is the provision relating to the deductibility of collateral benefits and income undeclared for tax purposes.

The Bill also relaxes the in camera rule which will lead to more transparency in the operation of family law courts. In addition it contains a provision for the transfer of dormant funds held in the courts to the Exchequer to be applied to defray the cost of court buildings.

Ciara Doyle is a graduate of ... and is currently working in the Litigation Department.

## SOCCER PUNDITS AT THEIR BEST - SECOND HALF!

"The first ninety minutes of a football match are the most important"

"And here's Moses Kiptanui - the 19 year old Kenyan who turned 20 a few weeks ago"

"There's nobody fitter at his age, except maybe Raquel Welch"

"I would not say he is the best left winger in the Premiership but there is none better"

"The Croatians don't play well without the ball"

"Batistuta gets most of his goals with the ball"

"If we played like that every week, we wouldn't be so inconsistent"

"Football today is like a game of chess - its all about money"

"What I said to them at half time would be unprintable on the radio"

"The score is Sunderland nil, Leicester nil, the temperature is nil and the entertainment value is less than nil"

"Asking Rudi Gullit to perform in this sort of match is like asking Kiri Te Kanawa to jam with the Spice Girls"

"Playing with wingers is more effective playing against European sides like Brazil than English sides like Wales"

"The Port Elizabeth ground is more of a circle than an oval - it's long and square"

"Sure there have been deaths and injuries in boxing but none of them serious"

"I used to go missing a lot - Miss Canada, Miss United Kingdom, Miss World"

"Being naturally right footed, he doesn't often chance his arm with his left foot"

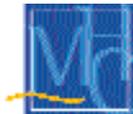
"Chile have three options - they could win or lose"

"I was in a no-win situation so I am glad I won rather than lost"

"Tambay's hopes which were previously nil are now absolutely zero"

"I imagine the conditions in those cars are totally unimaginable"

"The young Ralph Schumacher has been upstaged by the teenaged Jenson Button, who is 20"



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