

No need for response as we will
input directly along with PAC/wac
through our involvement in
the Article 9 Sub group

TOF 6/2004

The Office of the Minister
And Deputy First Minister
Block A
Castle Buildings
Stormont
Belfast
BT4 3SR



NORTHERN IRELAND

COURT
SERVICE



CIVIL POLICY BRANCH

21st Floor Windsor House
9-15 Bedford Street
Belfast BT2 7LT
Telephone: (028) 9032 8594
Fax: (028) 9031 4854



20 February 2004

Dear Sir/Madam

RE: USE OF IRISH LANGUAGE IN COURTS IN NORTHERN IRELAND

As you may be aware, an Interdepartmental Charter Group is currently working to ensure the effective implementation of the European Charter for Regional or Minority Languages ("the Charter") in Northern Ireland. A sub-group of the Charter Group has now been established to **consider the scope for applying those provisions of Article 9(1) of the Charter which relate to the use of Irish in courts and tribunals** (a copy of Article 9(1) is attached at Annex A).

The use of Irish in courts and tribunals is being considered in the context of the Government's commitments under Parts II and III of the Charter and the Criminal Justice Review. The Review recommended that consideration of the use of the Irish language in courts be taken forward in the wider context of the development of policy on the use of Irish in public life generally (recommendation 138).

The sub-group is tasked with:

- Identifying and evaluating the practical implications of applying the provisions of Article 9(1) of the Charter (use of language in court/tribunal proceedings) in respect of the Irish language;
- Considering the likely cost of doing so and any implications for the administration of justice;
- Commissioning research, as appropriate, into demand for the use of the Irish language in Article 9(1) proceedings; and



INVESTOR IN PEOPLE

- Evaluating the interface between Article 9(1) of the Charter and the Administration of Justice (Language) Act (Ireland) 1737 (a copy of the Act is attached at Annex B).

Recommendations with regard to the scope for using Irish in courts and tribunals will be made to Ministers by mid-2004.

As part of its programme of research, the sub-group is consulting interested parties to seek their views on the demand for, and implications of, the use of Irish in courts and tribunals. Those being consulted include the judiciary, legal professional bodies, public bodies and Irish language groups. Please send your response by **Wednesday 31st March 2004**.

Yours faithfully

PP Eoin McKenney

Siobhan Broderick

Key stakeholders:

Association of District Judges
Association of Justices of the Peace
Association of Lay Panel Members
Bar Council of Northern Ireland
Chief Constable of the PSNI
Chief Inspector for Criminal Justice
Commissioner for Children and Young People
Committee on the Administration of Justice (CAJ)
Coroners Association for Northern Ireland
Council of Her Majesty's County Court Judges
Crown Solicitor
Departmental Solicitor
Deputy Resident Magistrates' Association
Director of Public Prosecutions
Equality Commission for Northern Ireland
Foras na Gaeilge (The Irish Language Agency)
Guardian Ad Litem Agency
Law Society for Northern Ireland
Legal Service Commission
Local Councils
Northern Ireland Association of Citizens Advice Bureaux
Northern Ireland Human Rights Commission
Northern Ireland Prison Service
President of Industrial Tribunal and Fair Employment Tribunal
Probation Board for Northern Ireland
Resident Magistrates' Association

Article 9 – Judicial authorities

1. The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:

- a. in criminal proceedings:

- i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or
 - ii. to guarantee the accused the right to use his/her regional or minority language; and/or
 - iii. to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or
 - iv. to produce, on request, documents connected with legal proceedings in the relevant regional or minority language,

if necessary by the use of interpreters and translations involving no extra expense for the persons concerned;

- b. in civil proceedings:

- i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or
 - ii. to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or
 - iii. to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;

- c. in proceedings before courts concerning administrative matters:

- i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or
 - ii. to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or
 - iii. to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;

- d. to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned.

CHAPTER V

AN ACT to explain and amend an Act, intituled, "The Privilege of Parliament Act (Ireland), 1727".^[1]

The laws concerning privileges of Parliament and doubts thereupon.

Manner of proceeding.

No privilege allowed in suit or motion for injunction to be restored to possession taken by force, or fraudulently obtained by holding over, or betraying possession.

WHEREAS the laws in being have not proved effectual for limiting and explaining the privileges of Parliament, several doubts having arisen thereupon:

(I.) For the further explanation thereof it shall and may be lawful to and for any person or persons, during the continuance of the privilege of Parliament, to file any original bill in any court of equity, or to sue out any original writ (without further proceeding on such bill or writ) against any person or persons intitled to privilege of Parliament; any law, usage, or custom, to the contrary notwithstanding.

II. And further no privilege of Parliament shall be insisted upon or allowed in any suit or motion for obtaining an injunction to be restored to the possession of any lands, tenements, or hereditaments, the possession of which has been taken away by force, or has been obtained fraudulently by the tenant or tenants holding over his to their term or terms, or by the tenant or tenants betraying the possession of his or their landlord or landlords, lessor or lessors, or some other person or persons; but that in each and every of the said cases it shall and may be lawful to and for any lessor or lessors, landlord or landlords, or other person, dispossessed by force as aforesaid, to proceed for the recovery of his or their possession in such and the like manner, as he or they might have done, had such suit or motion been commenced or moved against any person not intitled to, nor being the servant, agent, or tenant, of any person intitled to, the privilege of Parliament; any law or usage to the contrary notwithstanding.

[3. III rep. by 33 & 34 Vict. c. 134 s. 104, vol. B; S.L.R. 1953.]

CHAPTER VI

AN ACT that all Proceedings in Courts of Justice within this Kingdom shall be in the English Language.^[2]

WHEREAS many and great mischiefs do frequently happen to the subjects of this kingdom from the proceedings in courts of justice being in an unknown language; those who are summoned and impleaded having no knowledge or understanding of what is alledged for or against

^[1] Short title: "The Privilege of Parliament Act (Ireland) 1727". 1727. c. 1 (N.I.).

^[2] Short title: "The Administration of Justice (Language) Act (Ireland), 1953". 1953. c. 1 (N.I.).

11 GEORGE II. A.D. 1737

CHAPTER V

AN ACT to explain and amend an Act, intituled, "The Privilege of Parliament Act (Ireland), 1727".^[1]

The laws concerning privilege in-effectual: and doubts thereupon:

Mode of proceeding.

No privilege allowed in suit or motion for injunction to be restored to possession taken by force, or fraudulently obtained by holding over, or betraying possession.

WHEREAS the laws in being have not proved effectual for limiting and explaining the privileges of Parliament, several doubts having arisen thereupon:

[I.] FOR the further explanation thereof it shall and may be lawful to and for any person or persons, during the continuance of the privilege of Parliament, to file any original bill in any court of equity; or to sue out any original writ (without further proceeding on such bill or writ) against any person or persons intituled to privilege of Parliament; any law, usage, or custom, to the contrary notwithstanding.

II. AND further no privilege of Parliament shall be insisted upon or allowed in any suit or motion for obtaining an injunction to be restored to the possession of any lands, tenements, or hereditaments, the possession of which has been taken away by force, or has been obtained fraudulently by the tenant or tenants holding over his to their term or terms, or by the tenant or tenants betraying the possession of his or their landlord or landlords, lessor or lessors, or some other person or persons; but that in each and every of the said cases it shall and may be lawful to and for any lessor or lessors, landlord or landlords, or other person, dispossessed by force as aforesaid, to proceed for the recovery of his or their possession in such and the like manner, as he or they might have done, had such suit or motion been commenced or moved against any person not intituled to, nor being the servant, agent, or tenant, of any person intituled to, the privilege of Parliament; any law or usage to the contrary notwithstanding.

[S. III rep. by 23 & 24 Vict. c. 154. s. 104, sch. B; S.L.R. 1953.]

CHAPTER VI

AN ACT that all Proceedings in Courts of Justice within this Kingdom shall be in the English Language.^[2]

WHEREAS many and great mischiefs do frequently happen to the subjects of this kingdom from the proceedings in courts of justice being in an unknown language; those who are summoned and impleaded having no knowledge or understanding of what is alledged for or against

^[1] Short title, "The Privilege of Parliament Act (Ireland) 1737.", 1951. c. 1 (N.I.).]

^[2] Short title, "The Administration of Justice (Language) Act (Ireland), 1737.", 1951. c. 1 (N.I.).]

them in the pleadings of their lawyers and attorneys, who use a character not legible to any but persons practising the law:

[I.] To remedy those great mischiefs, and to protect the lives and fortunes of the subjects of this kingdom more effectually than heretofore from the peril of being ensnared, and brought into danger, by forms and proceedings in courts of justice in an unknown language, . . .^[1] all writs, process, and returns thereof, and proceedings thereon, and all pleadings, rules, orders, indictments, informations, inquisitions, presentments, verdicts, prohibitions, certificates, and all patents, charters, pardons, commissions, records, judgments, statutes, recognizances, bonds, rolls, entries, fines, and recoveries, and all proceedings relating thereunto, and all proceedings of courts-leet, courts-baron, and customary-courts, and all copies thereof, and all proceedings whatsoever in any courts of justice within this kingdom, and which concern the law and administration of justice, shall be in the English tongue and language, and not in Latin or French, or any other tongue or language whatsoever, and shall be written or printed in a common legible hand and character, and not in any hand commonly called Court-hand, with the like way of writing or printing, and with such abbreviations, as are now commonly used in the English language, and with the like manner of expressing numbers by figures as have been heretofore or are now commonly used in the said courts respectively; any law, custom, or usage, heretofore to the contrary thereof notwithstanding; and all and every person and persons, who shall write or print any of the proceedings, or other the matters or things above mentioned, in any hand commonly called Court-hand, or in any language except the English language, shall for every such offence forfeit and pay the sum of twenty pounds . . .^[2]

All proceedings in courts of justice, patents, charters, pardons, commissions, &c. shall be in English,

and in legible character, not in court-hand, and with usual abbreviations in English, and figures.

II. PROVIDED nevertheless, That such penalty shall not be extended to the expressing the proper or known names of writs, or other process, or technical words, in the same language as hath been commonly used, so as the same be written or printed in a common legible hand and character, and not in any hand commonly called Court-hand; and that all prosecutions for offences against this act shall be commenced within three calendar months, after the same shall be committed.

Penalty £20 to prosecutor.

But names of writs, process or technical words, may be expressed as commonly used,

so as not in court-hand. Prosecutions to be in three months.

[Ss. III, IV rep. by S.L.R.(I.) 1878.]

V. PROVIDED always, That nothing in this act contained shall extend to certifying beyond the seas any case or proceedings in the court of admiralty^[3]; but that in such cases the commissions and proceedings may be certified in Latin, as formerly they have been.

Commissions and proceedings in admiralty may be certified in Latin.

[S. VI rep. by S.L.R. 1950. Ss. VII, VIII rep. by S.L.R.(I.) 1878.]

^[1] Rep., S.L.R.(N.I.) 1953.]

^[2] Rep., 1954. c. 11 (N.I.) ss. 1 (1), 3, sch.]

^[3] Jurisdiction exercised by Q.B.D. of High Ct. of Justice in N.I., 40 & 41 Vict. c. 57. s. 9; 60 & 61 Vict. c. 66. s. 6; 10 & 11 Geo. 5. c. 67. ss. 38, 40, 41; S.R. & O. 1921, Nos. 1802, 1804 (Rev. vol. XVI. pp. 954, 967).]