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**Bille na gCúirteanna (Uimh. 2), 2016**  
**Courts (No. 2) Bill 2016**

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*Meabhrán Mínitheach*  
*Explanatory Memorandum*

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**BILLE NA gCÚIRTEANNA (UIMH. 2), 2016**  
**COURTS (NO. 2) BILL 2016**

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**EXPLANATORY MEMORANDUM**

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**Purpose of the Bill**

The purpose of the Bill is to provide part of the legislative framework necessary for the introduction of the “third payment option” in relation to road traffic offences in respect of which a fixed charge notice may be served under Part 3 of the Road Traffic Act 2010.

The “third payment option”, set out in section 44 of Part 3 of the Road Traffic Act 2010, provides a member of the public to whom a District Court summons has been issued with an alternative to attending court in respect of an alleged road traffic offence for which they were originally issued with a fixed charge notice. A fixed charge notice provides for two payment options before a summons is issued requiring a person to attend court, i.e., the first period of 28 days during which the person may pay the fixed amount, the second consecutive period of 28 days during which the person may pay the fixed amount plus 50%. The key objective now proposed is to provide a “third payment option” of the fixed amount plus 100% as provided for in section 44 of the Road Traffic Act 2010, which has yet to be commenced.

The technical solution for the introduction of the “third payment option” has been developed under the aegis of the Criminal Justice (Fixed Charge Processing System) Working Group, jointly chaired by the Department of Justice and Equality and the Department of Transport, Tourism and Sport. This solution gives rise to the amendment of the Courts (No. 3) Act 1986 now proposed in this Bill as the Act currently operates on the basis that a summons is issued as a singular document by the District Court office which is then conveyed, whether electronically or otherwise, to the applicant or agent for service. The proposed new administrative arrangements to introduce the “third payment option” involves the Garda Síochána taking on the printing of District Court summonses in order to facilitate the integrated printing, in the case of a fixed charge offence, of a summons and a fixed charge notice.

**Main provisions of the Bill**

This is a short Bill consisting of four sections. It primarily deals with the proposal to amend the Courts (No. 3) Act 1986 which deals with the issue of summonses in relation to offences as a matter of administrative procedure.

*Section 1* provides for the definition of the term “Act of 1986” as meaning the Courts (No. 3) Act 1986. The Act of 1986 sets out in primary law provisions relating to the issue of summonses in relation to offences. Section 1 of the Act of 1986 (amended by section 49 of the Civil Liability and Courts Act 2004) provides that proceedings in the District Court in

respect of an offence may be commenced by the issuing, as a matter of administrative procedure, of a document (referred to as a summons) to the prosecutor by the appropriate office, i.e. the office of a District Court clerk or any office of the Courts Service designated for this purpose.

*Section 2* provides for the amendment of section 1 of the Courts (No. 3) Act 1986. It provides for six amendments which are set out in paragraphs (a) to (f) of the section.

*Paragraph (a)* adds a new section 1(2A) to the Act of 1986 which provides that the issue of a summons under section 1(2) of the Act of 1986 shall be deemed to have been effected by the transmission by the appropriate court office by electronic means of all the information necessary to create the summons document in an automatic manner, i.e. using electronic means. This allows for the information necessary for the creation of the summons to be provided by the Courts Service and for the creation of the summons document by a print service provider acting on behalf of the Garda Síochána. The new arrangements, facilitated by this Bill, will allow for the integrated printing and issue of the relevant fixed charge notice (i.e. the third payment option) with each summons.

*Paragraph (b)* adds a new section 1(4A) to the Act of 1986 which provides that a single transmission by electronic means can be in relation to more than one summons issued or more than one application made for a summons. This provision allows for the automated processing, within an information technology environment, of batches of summonses or applications for summonses.

*Paragraph (c)* provides for the insertion of a clause into section 1(8) of the Act of 1986 to include a reference to a summons the issue of which is deemed to have been effected under the section 1(2A) referred to above in relation to *paragraph (a)*. Section 1(8) of the Act of 1986 provides that references to an original summons in any enactment shall be construed as references to a true copy of the summons.

*Paragraph (d)* provides for the insertion of paragraph (aa) into section 1(9) of the Act of 1986. Section 1(9) of the Act of 1986 deals with the acceptance in proceedings of certain matters relating to summonses unless the contrary is shown. The paragraph (aa) provides that a summons which has been created in an automatic manner shall be presumed to have been created on the basis of the information transmitted by the appropriate court office unless the contrary is shown.

*Paragraph (e)* provides for the insertion of a clause into section 1(10) of the Act of 1986 to include a reference to a summons the issue of which is deemed to have been effected under the section 1(2A) referred to above in relation to *paragraph (a)*. Section 1(10) of the Act of 1986 provides that a true copy of a summons shall, unless the contrary is shown, be evidence of the summons concerned.

*Paragraph (f)* provides for two defined terms to be inserted into section 1(14) of the Act of 1986. Section 1(14) deals with the definition of certain terms for the purposes of section 1 of the Act of 1986. *Paragraph (f)(i)* inserts a definition of the term “document” as including electronic material or electronic information. *Paragraph (f)(ii)* substitutes the definition of the term “true copy” in relation to a summons. This amendment effectively expands the definition of “true copy” to include a summons document created in an automatic manner under the section 1(2A) referred to above in relation to *paragraph (a)*. Such a summons document, which is created in an automatic manner, is not required to be certified by the prosecutor as being a true copy.

*Section 3* makes specific provision in relation to a summons to be issued in circumstances where the person who is alleged to have committed a specified road traffic offence is a member of the Garda Síochána. At present, section 88(3) of the Courts of Justice Act 1924 and the relevant District Court Rules include a provision that a summons against a person who is a member of the Garda Síochána shall be signed by a Judge. However, such a procedure cannot be accommodated in the proposed new arrangements for the creation of the summons in an automatic manner. Accordingly, *subsection (1)* provides for the non-application of this restriction in relation to the issue of a summons against a person who is a member of the Garda Síochána in respect of the specified offences under the Road Traffic Act 2010.

*Section 4* deals with the short title of the Bill; collective citation and construction with the Courts (Supplemental Provisions) Acts; and commencement by means of ministerial order. These are standard legislative provisions.

*An Roinn Dlí agus Cirt agus Comhionannais*  
*Nollaig, 2016.*