



February 2015

Ireland's New Court of Appeal

On 4 October 2013 the Irish public voted on the 33rd amendment to the Irish Constitution. The purpose of the proposed amendment was to establish a Court of Appeal to sit between the High and Supreme Courts and to take over the existing appellate jurisdiction of the Supreme Court.

The referendum, which was approved by a majority of 61%, resulted in the introduction of a new Court of Appeal and the Court of Appeal Act, 2014 ("the Act") was signed into law on 20 July 2014.

Why was the Court of Appeal needed?

Prior to the passing of the referendum, Ireland, unlike most other European countries, did not have an intermediate appeals court to deal with appeals. The knock on effect of this was that the volume and complexity of the appeals being brought to the Supreme Court resulted in a bottle neck in the system and significant delays in the hearing of appeals. Prior to the referendum the delays in having an appeal heard had risen to up to four and a half years and it was this delay, among other issues, which the Act sought to rectify.

Jurisdiction of the Court of Appeal

The Court of Appeal has the jurisdiction which prior to the Act was placed in the Supreme Court and the Court of Appeal is now the default court for all appeals from the High Court. In the vast majority of cases the decision of the Court of Appeal will be final.

There are certain exceptions however and a direct appeal to the Supreme Court is allowed in certain limited circumstances. Parties are entitled to bypass the Court of Appeal and appeal a ruling of the High

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Court directly to the Supreme Court if the Supreme Court is satisfied that:

- (i) the High Court decision involves a matter of general public importance, and/or
- (ii) the interest of justice requires that the appeal be heard by the Supreme Court.

A leap frog appeal can only be brought with the permission of the Supreme Court and any application for permission to appeal directly to the Supreme Court is made to the Supreme Court. Their decision on whether or not to accept the appeal is made by reference to the papers filed before it and not by means of an oral hearing.

Conclusion

The Supreme Court has recently transferred a number of cases from its list to the Court of Appeal to allow it to commence its function. The big question which remains is will the Court of Appeal achieve its aim of reducing the backlog and speeding up the judicial process?

The creation of the Court of Appeal has been described as the biggest change to the structure of the Court system in Ireland since independence and whether or not it succeeds in its aim will only become clear when the Court in time. What is clear however is that in light of the delays which had built up in the hearing of an appeal from the High Court to the Supreme Court the introduction of the Court of Appeal was necessary and it is a welcome addition to the Court system in Ireland. Only time will tell if the changes introduced by the Act have had the desired effect.

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