The Author

# List of Abbreviations

## General Introduction

Chapter 1. General Background of the Country

Chapter 2. Historical Background of the Irish Legal System, Family Law, and Succession Law

§1. Emergence of the Irish Legal System

15

18

18

3

13

15

| §2. | CHARACTERISTICS OF IRISH LAW AND SOURCES OF IRISH LAW | 20 |
|-----|---|----|
| §3. | Sources of Family and Succession Law                  | 22 |
|     | I. Family Law   | 22 |
|     | II. Succession Law                                    | 22 |
|     | III. Constitution                                     | 24 |
| §4. | The Courts Administering Family and Succession Law    | 25 |
|     | I. Jurisdiction of the Courts                         | 25 |
|     | II. The High Court Family Law Jurisdiction            | 26 |
|     | III. The Circuit Court Family Law Jurisdiction        | 27 |
|     | IV. The District Court Family Law Jurisdiction        | 28 |
|     | V. Appeals and Transfer of Proceedings                | 28 |
|     | VI. Hearing of Family Law Proceedings                 | 29 |

Selected Bibliography

## Part I. Persons

Chapter 1. The Status of a Person

33

§1. The Definition of a Person

§2. CAPACITY I. Legal Capacity of Minors

Chapter 2. Registration of Civil Status

§1. The Registrar

| Chapter 3. Personality Rights                 | 37   |
|---|------|
| §1. Introduction                              | 37   |
| §2. Minor Contracts                           | . 37 |
| §3. Tort Liability and Other Causes of Action | 37   |
| §4. Employment                                | 38   |
| §5. WITNESS                                   | 38   |
| §6. Criminal Responsibility                   | 38   |

§7. SUCCESSION LAW

40

41

41

44

44

### §8. CRIMES AGAINST CHILDREN

§9. Children and Family Law Proceedings

Chapter 4. Names

§1. Composition of a Name

§2. Surname

I. Registration and Acquisition of Surname

II. Change of Name

§3. Forename

44 45 45

46

46

46

0.

## Chapter 5. Nationality

§1. Birth

6

§2. Person Born to Non-Nationals Residing in the State

47

47

48

48

48

.

§3. BY DESCENT

§4. BY MARRIAGE AND NATURALIZATION

Chapter 6. Domicile and Residence

§1. DOMICILE I. Domicile of Origin

.

- II. Domicile of Choice 48 III. Dependent Domicile 49 §2. RESIDENCE 49 Chapter 7. Mentally Handicapped Persons 50 Part II. Family Law 55 Chapter 1. Marriage 55 §1. The Nature of Marriage 55 56 §2. The Capacity to Marry
  - T

| I.    | Engagement  | 56 |
|-------|---|----|
| ĬI.   | Formalities of Marriage   | 56 |
|       | A. Roman Catholic Marriages                                     | 56 |
|       | B. Church of Ireland Marriages                                  | 57 |
|       | C. Presbyterian Marriages                                       | 57 |
|       | D. Other Protestant Marriages                                   | 57 |
|       | E. Jewish Marriages   | 57 |
|       | F. Marriages in the Office of the Registrar                     | 57 |
| III.  | Different Sex   | 58 |
| IV.   | Consanguinity   | 58 |
|       | Age and Notice  | 59 |
| VI.   | Prior Marriage  | 60 |
| VII.  | Monogamy  | 60 |
| VIII. | Absence of Formalities  | 60 |
| IX.   | Absence of Consent  | 60 |
|       | A. Mental Illness   | 61 |
| +     | B. Intoxication   | 61 |
|       | C. Duress, Intimidation, Undue Influence, and External Pressure | 62 |
|       | D. Defective Knowledge of a Material Fact                       | 63 |
|       | E. Fraud, Mistake, and Misrepresentation                        | 63 |
|       | F. Intention to Not Fulfil a Fundamental Term of                |    |
|       | the Marriage Contract   | 64 |
| Х.    | Consequences  | 64 |
|       |   |    |

| §3. | EFFEC | CTS OF MARRIAGE           | 64 |
|-----|-------|---------------------------|----|
|     |       | Taking the Husband's Name | 64 |
|     | II.   | Consortium                | 6. |
|     | III.  | Sexual Intercourse        | 6. |
|     | IV.   | Confidences in Marriage   | 6. |
|     | V.    | Contract                  | 60 |
|     | VI.   | Tort                      | 60 |
|     | VII.  | Criminal Law              | 60 |
|     | VIII. | Duty to Maintain          | 6  |

| §4. Void and Voidable Marriages                  | 67 |
|--|----|
| I. Void Marriages                                | 67 |
| II. Voidable Marriages                           | 67 |
| A. Impotence                                     | 67 |
| B. Incapacity to Enter into and Sustain a Normal |    |
| Marital Relationship                             | 68 |
| 1. Mental Illness                                | 69 |
| 2. Immaturity                                    | 69 |
| 3. Homosexual Orientation                        | 70 |
|  |    |

Chapter 2. Divorce, Judicial Separation, Legal Separation, Matrimonial Relief, and Foreign Judgments

§1. DIVORCE

§

8

- I. Introduction
- II. Grounds
- §2. JUDICIAL SEPARATION I. Introduction
  - II. Grounds
- §3. Pre-Trial and Ancillary Reliefs on the Grant of A JUDICIAL SEPARATION AND DIVORCE
- §4. SEPARATION AGREEMENT
- §5. OTHER FAMILY LAW APPLICATIONS I. Maintenance for Spouses and Children

4

|    | II. Enforcement   | 81 |
|----|---|----|
|    | III. Social Welfare Payments                                | 83 |
|    | IV. Succession Rights                                       | 83 |
|    | V. Spousal Protection                                       | 84 |
| 6. | Recognition of Judgments in Foreign Matrimonial Proceedings | 86 |
|    | I. Polygamous and Monogamous Marriages                      | 86 |
|    | II. Marriage Validity                                       | 86 |

| III. | Nullity of Marriage  | 88 |
|------|--|----|
|      | Recognition of Foreign Nullity Decrees                     | 88 |
| V.   | Recognition of Foreign Divorces                            | 90 |
| VI.  | Judicial Separation  | 91 |
| VII. | Financial Relief after Foreign Divorce or Legal Separation | 91 |
|      | Recognition of Foreign Financial Orders                    | 93 |
|      |  |    |

Chapter 3. Cohabitation without Marriage

- §1. GUARDIANSHIP AND CUSTODY
- §2. FINANCIAL SUPPORT
- §3. Domestic Violence
- §4. Property Rights
- §5. Succession Rights
- Chapter 4. Filiation

Chapter 5. Adoption ж. .

#### §1. INTRODUCTION

100

100

102

102

103

104

104

100

96

96

96

96

97

97

98

| §2. | REQUIREMENTS FOR DOMESTIC VOLUNTARY ADOPTION  |
|-----|---|
| §3. | INVOLUNTARY DOMESTIC ADOPTION   |
| §4. | FOREIGN ADOPTIONS   |
| §5. | CONSEQUENCES OF ADOPTION  |
| Cha | apter 6. Parental Authority, Guardianship, Custody,<br>Access, and Matters Relating to Children |
| §1. | PARENTAL AUTHORITY AND GUARDIANSHIP   |

108

110

111

- §2. CUSTODY DISPUTES
- §3. CHILD ABDUCTION
- §4. WARDSHIP
- §5. Obligation of the State Towards Children

## Part III. Matrimonial Property Law

Chapter 1. Matrimonial Property Dispute Resolution

§1. PROPERTY DISPUTES 115 I. Property Owned Solely by One Spouse 116 II. Jointly Owned Property 117

115

115

§2. HOUSEHOLD ALLOWANCE

§3. PROTECTION OF THE FAMILY HOME

Part IV. Succession Law

Chapter 1. Succession

Chapter 2. Intestate Succession

Chapter 3. Testamentary Succession

§1. WILLS

118

121

123

125

125

127

129

131

133

135

137

- §2. The Making of a Will
- §3. Alterations and Revocation
- §4. INTERPRETATION OF WILLS
- §5. FAILURE OF GIFTS
- §6. Spousal Right
- §7. CHILDREN'S RIGHTS

§8. UNWORTHINESS TO SUCCEED AND DISINHERITANCE

Chapter 4. Acts Inter Vivos Related to the Estate

§1. INTER VIVOS GIFTS

10

- §2. Administration of Estates
  - I. Introduction
  - II. Executors and Administrators, Appointment, Duties, and Liabilities
  - III. Grant of Probate

139

139

141 141

141

|     | IV. Gra | ant of Administration                   | 145 |
|-----|---------|---|-----|
|     | V. Ad   | ministration of Assets                  | 147 |
| 83. | TRUSTS  |   | 150 |
| 30. |         | Ownership of Property                   | 150 |
|     |         | Tenure and the Feudal System            | 150 |
|     | III.    | Estates                                 | 152 |
|     | IV.     | Equity and the Development of Trusts    | 153 |
|     | V.      | Trusts                                  | 154 |
|     | VI.     | Subject Matter of a Trust               | 155 |
|     | VII.    | Classification of Trusts                | 155 |
|     | VIII.   | Creation of a Trust                     | 156 |
|     | IX.     | Trustees                                | 157 |
|     |         | Appointment                             | 158 |
|     | XI.     | Retirement                              | 158 |
|     |         | Removal                                 | 159 |
|     | XIII.   | Duties                                  | 159 |
|     |         | Powers                                  | 161 |
|     |         | Liability                               | 162 |
|     |         | Protection against Liability            | 162 |
|     |         | Protection of Beneficiaries and Tracing | 163 |
|     | XVIII.  | Charitable Trusts                       | 164 |
|     |         | Purpose Trusts                          | 164 |
|     | XX.     | Void and Voidable Trusts                | 165 |

## Index

4

.

