

CIVIL LEGAL EXPERT EXAMINATION IN IRELAND



(SUBJECT TO LEGAL OR JURISPRUDENTIAL DEVELOPMENTS)

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Questions	Answers	Observations
o. Separate administrative order	No	
1. Procedures for launching an expertise		
1.1. Initiative :	Party (ies) (or judge for litigation about physical injury compensation)	There is no control by the courts of the selection, recruitment or appointment of experts.
1.2. Compulsory expertises	No	
1.3. Decision	Generally the litigants (the judge when it concerns physical injury compensation)	
1.4. « In futurum » expertise possible ?	No	
2. Appointing an expert (or experts)		There is no list of approved experts and each party in litigation is responsible for recruiting and appointing its own experts. There is no limit placed in advance on the number of experts each party may employ nor on the areas of expertise to be covered by expert evidence. There has however been recent judicial opinion (Wright v HSE [2013] 1EHC 363) critical of the use of excessive numbers of experts and expressing a hope that procedural rules will shortly be introduced to limit the number of experts. During the pretrial period there is no court management of experts; indeed under the present rules there could not be any control since the first time the judge is made aware of the expert report is the moment when the expert is sworn to give oral evidence. Whilst the parties are required in advance of trial to exchange a list of experts they may call, the court does not seek to influence that list and has no access to the experts' reports.
2.1. List In case of a list : Identification, address, Internet address (URL)	No list	
2.2 Oath	Unspecified	
2.3. Choice of the expert	Judge	
2.4. Parties associated to the appointment ?	Yes	
2.5. Nationality	Irrelevant	
2.6. Objection by the parties	If he appears to be biased, there is a debate on his credibility	
2.7. Possibility to refuse to the mission	Yes	
2.8. Possibility to add an other expert	Unspecified	
2.9. Possibility for the expert to use an assistant	Unspecified	
3. Expert's mission definition		The parties may commission reports from experts in any discipline they consider appropriate. There is no control by the court on the format of an expert's report nor is there any required declaration or statement of truth.
3.1. Who defines the mission ?	The party that calls for the expert opinion	
3.2. Type of missions	All	
4. Expert's mission progress		At this stage the reports remain privileged. If at any time a party decides not to call the expert then the same privilege which existed in relation to his/her reports or statements shall be deemed always to have applied, notwithstanding any exchange or delivery which may have taken place. Whilst this rule applies specifically to personal injury actions, it is custom and practice so to exchange reports in other civil actions although not required by the rules of court. There is no disclosure before trial of lay evidence so that expert reports are inevitably composed and exchanged without the expert being aware of the lay evidence that will be given by the other side during the course of trial. Since the entire Plaintiff case is heard by the court first, the rules inevitably mean that the Plaintiff's expert may not defer to Defendant expert reports since they are deemed to retain a degree of privilege, unless that privilege is (unusually) waived.
4.1. Supervision by a judge	No, but ex-post assessment of the probative value of the expert opinion	
4.2. Presence of both parties	The contradiction is introduced by the notification of the report - written according to the rules of disclosure - and later at the hearing, during examination or cross-examination questions	

Questions	Answers	Observations
4.3. Attendance to the hearing	Yes	
5. Closing an expertise :		
5.1. Does a conciliation end an expertise ?	Not applicable, expert-witness system.	The judge will not normally see a copy of the expert's report until such time as the expert is sworn at the time of trial. Whilst the report is available thereafter for the judge to examine, it may not form in whole or in part the substance of the expert's oral evidence at trial.
5.2. Compulsory form for the report	No	
5.3. Does the report end the expert's mission ?	No (the expert gives oral evidence before the jurisdiction)	
5.4. Is there a compulsory structure for the report ?	No	
5.5. Is a pre-report compulsory ?	No	
5.6. Do the expert's conclusions tie the judge ?	No	
5.7. Possibility for a second opinion	Cross-examination takes place by confronting the expert opinions	
6. Paying for the expertise :		
6.1. Provision - deposit	The Parties	Costs follow the judgment in decided cases and there will in practice be a limit to the number of experts for whom the winning party may be able to recover costs. When the judge appoints the expert, he states which litigant will have to pay for this measure. When the expert is appointed by a litigant, the litigant directly pays the technician. After the litigation, the matching costs are put in the same basket as the proceedings costs with which the judge has burdened one of the parties.
6.2. Deposit determination	Judge	
6.3. Possibility for a complementary deposit	Unspecified	
6.4. Determination of remuneration and charges	Expert	
6.5. Challenging possible ?	Not applicable	
7. Expert's liability		
7.1. Are there documents governing the expertise ?	Yes	In this jurisdiction greater emphasis is placed on the oral evidence of the expert at trial in those cases which come before a court. Whilst the reports are of great importance when settlements are negotiated, they assume a much lower profile once oral evidence is heard.
7.2. Expert's liability	Civil and penal	
7.3. Obligation for the expert to have an insurance	No	
8. Statutes of the expert		
8.1. Selection criterias (accreditation)	No	There is no litigation privilege between expert and solicitor and every written communication between experts and those instructing them is not only discoverable but is routinely disclosed to the other side. Statutory instrument 391 of 1998 sets out the rules for disclosure in personal injury cases only. In such cases the report (including every communication between solicitor and expert) must be disclosed before trial to the other party in the case. The plaintiff must furnish the other parties a schedule listing all reports of expert witnesses intending to be called within one month of the service of the notice of trial or within such further times as may be agreed by the parties permitted by the court. Disclosure must be made by the Defendant within seven days of receipt of the Plaintiff's schedule. Within a further period of 7 days exchange of copies of reports listed in both sides' respective schedules must take place.
8.2. Competencies classification	Other referentials	
8.3. Required qualifications	No	
8.4. Accreditation	No accreditation	
8.5. Possibility to accredit a legal entity	No	
8.6. Accreditation duration	No accreditation	
8.7. Ability periodic monitoring	No	
8.8. Activity monitoring	No	
8.9. Activity reporting by the expert	No	
8.10. Ethics rules	Yes	
8.11. « Best practices »	Yes	
8.12. Possibility for sanctions	Yes	
8.13. Texts governing the expert's statutes	No	

Northern Ireland

The Woolf Reforms of Procedure for the Civil Courts in England and Wales do not apply in the province of Northern Ireland. The rules of expert and lay evidence in the province are largely unreformed. There is no disclosure of lay evidence at any stage before trial. Experts are required to produce their reports without the knowledge of lay evidence. Litigation privilege applies and only the final report, intended for the court, is under normal circumstances disclosed. A formal declaration to be inserted into the expert's report has recently been introduced. There is an informal arrangement for the exchange of expert reports shortly before trial and on the basis of those reports a recent innovation has required expert discussions to take place. The parties are responsible for the creation of an agenda which governs the scope of the discussion. The expert reports and the joint reports of the experts' discussions are then available to the court at the time of trial.