



Number 34 of 2026

Criminal Law, Civil Law and Defence (Miscellaneous Provisions) Act 2026



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**CRIMINAL LAW, CIVIL LAW AND DEFENCE (MISCELLANEOUS PROVISIONS)
ACT 2026**

CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citations and commencement
2. Definitions

PART 2

AMENDMENT OF FIREARMS ACT 1925 AND ACT OF 2007

4. Amendment of Firearms Act 1925
5. Amendment of Act of 2007

PART 3

AMENDMENT OF WIRELESS TELEGRAPHY ACT 1926

6. Definition (Part 3)
7. Amendment of section 2 of Act of 1926
8. Amendment of section 3(6) of Act of 1926
9. Commission and An Garda Síochána to agree memorandum of understanding on information sharing
10. Amendment of section 12 of Act of 1926
11. Amendment of section 12B of Act of 1926

PART 4

NON-JUDICIAL FUNCTIONS OF CHIEF JUSTICE

12. Amendment of section 67 of Courts of Justice Act 1936
13. Amendment of section 11 of Courts Service Act 1998
14. Amendment of Judicial Council Act 2019

PART 5

AMENDMENT OF DEFENCE ACT 1954

15. Insertion of Part IIIA in Defence Act 1954

PART 6

AMENDMENT OF EXTRADITION ACT 1965

16. Definition (Part 6)
17. Amendment of section 26 of Act of 1965
18. Amendment of section 27 of Act of 1965
19. Amendment of section 29A of Act of 1965
20. Amendment of section 36 of Act of 1965

PART 7

AMENDMENT OF CRIMINAL JUSTICE (COMMUNITY SERVICE) ACT 1983

21. Amendment of Criminal Justice (Community Service) Act 1983

PART 8

CRIMINAL EVIDENCE

22. Amendment of section 10 of Misuse of Drugs Act 1984
23. Amendment of section 19A of Criminal Evidence Act 1992
24. Amendment of section 30 of Criminal Justice Act 1999
25. Repeal of Chapter 3 of Part 2 of Criminal Law (Sexual Offences and Human Trafficking) Act 2024 and transitional provision
26. Vouching of character of persons convicted of certain offences

PART 9

AMENDMENT OF CRIMINAL JUSTICE (PUBLIC ORDER) ACT 1994

27. Amendment of Criminal Justice (Public Order) Act 1994

PART 10

CERTIFICATION OF CITIZENSHIP IN CERTAIN PROCEEDINGS

28. Amendment of section 60 of Criminal Justice (Theft and Fraud Offences) Act 2001
29. Amendment of section 8 of Maritime Security Act 2004
30. Amendment of section 75 of Criminal Justice Act 2006
31. Amendment of section 63 of International Criminal Court Act 2006
32. Amendment of section 14 of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010
33. Amendment of Regulation 8 of European Union (Market Abuse) Regulations 2016

PART 11

AMENDMENT OF EUROPEAN ARREST WARRANT ACT 2003

- 34. Definition (Part 11)
- 35. Application of Part
- 36. Amendment of section 13 of Act of 2003
- 37. Amendment of section 14B of Act of 2003
- 38. Amendment of section 30A of Act of 2003
- 39. Amendment of section 35A of Act of 2003
- 40. Amendment of section 45 of Act of 2003

PART 12

AMENDMENT OF CRIMINAL JUSTICE ACT 2006

- 41. Amendment of Criminal Justice Act 2006

PART 13

AMENDMENT OF INTERNATIONAL CRIMINAL COURT ACT 2006

- 42. Definition (Part 13)
- 43. Amendment of section 2 of Act of 2006
- 44. Amendment of section 6 of Act of 2006
- 45. Amendment of section 8 of Act of 2006
- 46. Amendment of section 9 of Act of 2006
- 47. Amendment of section 12 of Act of 2006
- 48. Amendment of section 62 of Act of 2006
- 49. Order for purpose of definition of crime within jurisdiction of International Criminal Court
- 50. Further amendment of Act of 2006: crimes within jurisdiction of International Criminal Court
- 51. Amendment of Act of 2006 – insertion of Schedule 1A

PART 14

AMENDMENT OF CRIMINAL JUSTICE (FORENSIC EVIDENCE AND DNA DATABASE SYSTEM) ACT 2014

- 52. Amendment of section 2 of Criminal Justice (Forensic Evidence and DNA Database System) Act 2014
- 53. Amendment of section 154 of Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

PART 15

AMENDMENT OF ACT OF 2017

54. Offences relating to accommodation offered in exchange for sexual activity

PART 16

OUTDOOR SEATING AREAS FOR LICENSED PREMISES

55. Definitions (Part 16)
56. Licensed premises with street furniture licence to include outdoor seating area
57. Street furniture licence: duties of licensee and District Court clerk
58. Withdrawal or variation of street furniture licence: duties of licensee and District Court clerk
59. Transitional provision: outdoor seating area licensed under Act of 2021

PART 17

DISREGARD OF CERTAIN HISTORICAL CONVICTIONS AND OTHER DETERMINATIONS

60. Interpretation (Part 17)
61. Application for certificate of disregard
62. Procedure for making applications
63. Appointment of persons to consider applications and undertake reviews
64. Preliminary assessment of applications
65. Consideration by independent person of application
66. Consideration by Minister of recommendations, etc.
67. General effect of certificate of disregard and related matters
68. Reviews of decisions
69. Public body obligation to bring certain information to attention of Minister
70. Revocation of certificate of disregard
71. Notice of revocation
72. Public awareness of Part
73. Personal data under Part
74. Limitation of Part

PART 18

USE OF ELECTRONIC TECHNOLOGY IN CERTAIN COURT PROCEEDINGS

75. Definitions (Part 18)
76. Use of electronic means in criminal proceedings and relevant proceedings
77. Statement of truth in criminal proceedings and relevant proceedings

PART 19

PASSENGER NAME RECORD DATA

Preliminary and General

- 78. Interpretation (Part 19)
- 79. Application (Part 19)
- 80. Orders and regulations
- 81. Revocation
- 82. Service of notices and documents

Passenger Information Unit

- 83. Continuation and functions of Passenger Information Unit
- 84. Director of PIU
- 85. Staff of PIU
- 86. Data protection officer
- 87. Director to report statistical information to Minister
- 88. Processing of PNR data by PIU

Competent authorities, Independent Authority and Data Protection Commission

- 89. Competent authorities
- 90. Designation and functions of Independent Authority
- 91. Data Protection Commission

Designation of intra-EU flights by PIU and Minister

- 92. Designation by PIU of intra-EU flight
- 93. Review by Independent Authority
- 94. Application to relevant judge by Minister for designation of all intra-EU flights

Transfer and exchange of PNR data

- 95. Obligations of air carriers regarding transfer of PNR data
- 96. Assessment of passengers by PIU
- 97. Transfer of PNR data to another Member State and to competent authority
- 98. Request by competent authority for PNR data
- 99. Request from other Member State for PNR data

- 100. Requests by PIU or competent authority to PIU of another Member State for PNR data
- 101. Request by Europol to PIU for PNR data
- 102. Transfer of data to competent authority of third country
- 103. Disclosure of PNR data in case of duly justified urgency

Retention of PNR data and documentation

- 104. Period of data retention and depersonalisation
- 105. Maintenance of documentation and retention of records

Transitional provisions: Regulations of 2018

- 106. Interpretation (Part 19, Chapter 7)
- 107. Transitional arrangements in relation to assessment of PNR data by PIU
- 108. Transitional provisions: transfers of PNR data to PIU
- 109. Transitional provisions: requests to PIU for PNR data
- 110. Transitional provisions: requests by PIU for PNR data
- 111. Transitional provisions: retention of PNR data
- 112. Transitional provisions: retention of documentation and records

PART 20

MISCELLANEOUS AMENDMENTS

- 113. Amendment of section 22 of Criminal Procedure Act 1967
- 114. Amendment of section 28 of Civil Legal Aid Act 1995
- 115. Amendment of Schedule to Bail Act 1997
- 116. Amendment of section 257D of Children Act 2001
- 117. Amendment of Schedule 5 to Social Welfare Consolidation Act 2005
- 118. Amendment of Multi-Unit Developments Act 2011
- 119. Amendment of section 24 of Prisons Act 2015
- 120. Amendment of Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020
- 121. Amendment of Criminal Justice (Perjury and Related Offences) Act 2021
- 122. Amendment of section 34 of Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023
- 123. Amendment of section 37 of Criminal Justice (Miscellaneous Provisions) Act 2023
- 124. Amendment of section 34 of Judicial Appointments Commission Act 2023
- 125. Amendment of section 95 of Family Courts Act 2024

SCHEDULE 1

AMENDMENTS TO ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

SCHEDULE 2

PASSENGER NAME RECORD (PNR) DATA

SCHEDULE 3

SERIOUS CRIME

SCHEDULE 4

COMPETENT AUTHORITIES

ACTS REFERRED TO

Air Navigation and Transport Act 1973 (No. 29)
Air Navigation and Transport Act 1975 (No. 9)
Animal Health and Welfare Act 2013 (No. 15)
Assisted Decision-Making (Capacity) Act 2015 (No. 64)
Bail Act 1997 (No. 16)
Biological Weapons Act 2011 (No. 13)
Chemical Weapons Act 1997 (No. 28)
Child Trafficking and Pornography Act 1998 (No. 22)
Children Act 2001 (No. 24)
Civil Law (Miscellaneous Provisions) Act 2008 (No. 14)
Civil Law (Miscellaneous Provisions) Act 2021 (No. 14)
Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 (No. 13)
Civil Legal Aid Act 1995 (No. 32)
Civil Liability and Courts Act 2004 (No. 31)
Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24)
Cluster Munitions And Anti-Personnel Mines Act 2008 (No. 20)
Communications Regulation Act 2002 (No. 20)
Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 (No. 4)
Companies Act 2014 (No. 38)
Competition Act 2002 (No. 14)
Copyright and Related Rights Act 2000 (No. 28)
Courts (No. 2) Act 1986 (No. 26)
Courts of Justice Act 1936 (No. 48)
Courts Service Act 1998 (No. 8)
Criminal Damage Act 1991 (No. 31)
Criminal Evidence Act 1992 (No. 12)
Criminal Justice (Community Service) Act 1983 (No. 23)
Criminal Justice (Corruption Offences) Act 2018 (No. 9)
Criminal Justice (Female Genital Mutilation) Act 2012 (No. 11)
Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 (No. 11)
Criminal Justice (Miscellaneous Provisions) Act 2023 (No. 24)
Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6)
Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023 (No. 3)
Criminal Justice (Offences Relating to Information Systems) Act 2017 (No. 11)
Criminal Justice (Perjury and Related Offences) Act 2021 (No. 13)

Criminal Justice (Psychoactive Substances) Act 2010 (No. 22)
Criminal Justice (Public Order) Act 1994 (No. 2)
Criminal Justice (Public Order) Act 2011 (No. 5)
Criminal Justice (Smuggling of Persons) Act 2021 (No. 42)
Criminal Justice (Terrorist Offences) Act 2005 (No. 2)
Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50)
Criminal Justice (United Nations Convention Against Torture) Act 2000 (No. 11)
Criminal Justice Act 1990 (No. 16)
Criminal Justice Act 1994 (No. 15)
Criminal Justice Act 1999 (No. 10)
Criminal Justice Act 2006 (No. 26)
Criminal Justice Act 2011 (No. 22)
Criminal Law (Human Trafficking) Act 2008 (No. 8)
Criminal Law (Jurisdiction) Act 1976 (No. 14)
Criminal Law (Rape) (Amendment) Act 1990 (No. 32)
Criminal Law (Sexual Offences and Human Trafficking) Act 2024 (No. 28)
Criminal Law (Sexual Offences) Act 1993 (No. 20)
Criminal Law (Sexual Offences) Act 2006 (No. 15)
Criminal Law (Sexual Offences) Act 2017 (No. 2)
Criminal Law Amendment Act 1885 (48 & 49 Vict., c. 69)
Criminal Procedure Act 1967 (No. 12)
Customs Act 2015 (No. 18)
Data Protection Act 2018 (No. 7)
Defence Act 1954 (No. 18)
Domestic Violence Act 2018 (No. 6)
Electoral Reform Act 2022 (No. 30)
European Arrest Warrant Act 2003 (No. 45)
Explosive Substances Act 1883 (46 & 47 Vict., c. 3)
Explosives Act 1875 (38 & 39 Vic., c. 17).
Extradition Act 1965 (No. 17)
Family Courts Act 2024 (No. 48)
Finance Act 1999 (No. 2)
Finance Act 2001 (No. 7)
Finance Act 2005 (No. 5)
Firearms (Proofing) Act 1968 (No. 20)
Firearms Act 1925 (No. 17)
Firearms Act 1964 (No. 1)

Firearms and Offensive Weapons Act 1990 (No. 12)
Garda Síochána (Compensation) Act 2022 (No. 33)
Guardianship of Infants Act 1964 (No. 7)
Health and Social Care Professionals Act 2005 (No. 27)
International Criminal Court Act 2006 (No. 30)
International War Crimes Tribunals Act 1998 (No. 40)
Interpretation Act 2005 (No. 23)
Judicial Appointments Commission Act 2023 (No. 33)
Judicial Council Act 2019 (No. 33)
Legal Services Regulation Act 2015 (No. 65)
Licensing Acts 1833 to 2018
Local Government (Water Pollution) Act 1977 (No. 1)
Maritime Jurisdiction Act 2021 (No. 28)
Maritime Security Act 2004 (No. 29)
Markets in Financial Instruments Act 2018 (No. 25)
Medical Practitioners Act 1927 (No. 25)
Medical Practitioners Act 1978 (No. 4)
Medical Practitioners Act 2007 (No. 25)
Misuse of Drugs Act 1977 (No. 12)
Misuse of Drugs Act 1984 (No. 18)
Multi-Unit Developments Act 2011 (No. 2)
National Archives Act 1986 (No. 11)
Non-Fatal Offences against the Person Act 1997 (No. 26)
Nurses Act 1950 (No. 27)
Nurses Act 1985 (No. 18)
Nurses and Midwives Act 2011 (No. 41)
Nurses Registration (Ireland) Act 1919 (9 & 10 Geo. 5 c. 94)
Offences against the Person Act 1861 (24 & 25 Vict., c. 100)
Offences Against the State (Amendment) Act 1998 (No. 39)
Offences against the State Act 1939 (No. 13)
Planning and Development Act 2000 (No. 30)
Planning and Development Act 2024 (No. 34)
Policing, Security and Community Safety Act 2024 (No. 1)
Prisons Act 2007 (No. 10)
Prisons Act 2015 (No. 57)
Probation of Offenders Act 1907 (c.17)
Radiological Protection Act 1991 (No. 9)

Registration of Clubs (Ireland) Act 1904 (4 Edw. 7, c. 9)

Registration of Clubs Acts 1904 to 2008

Registration of Title Act 1964 (No. 16)

Road Traffic (Amendment) Act 1984 (No. 16)

Road Traffic Act 1961 (No. 24)

Sex Offenders Act 2001 (No. 18)

Sexual Offences (Jurisdiction) Act 1996 (No. 38)

Social Welfare Consolidation Act 2005 (No. 26)

Taxes Consolidation Act 1997 (No. 39)

Trade Marks Act 1996 (No. 6)

Transfer of Execution of Sentences Act 2005 (No. 28)

Transfer of Sentenced Persons Act 1995 (No. 16)

Treason Act 1939 (No. 10)

Vagrancy Act 1898 (61 & 62 Vict., c. 39)

Waste Management Act 1996 (No. 10)

Wireless Telegraphy Act 1926 (No. 45)

[No. 34.]

*Criminal Law, Civil Law and
Defence (Miscellaneous Provisions) Act 2026.*

[2026.]



Number 34 of 2026

**CRIMINAL LAW, CIVIL LAW AND DEFENCE (MISCELLANEOUS PROVISIONS)
ACT 2026**

An Act to amend the Firearms Act 1925 and the Prisons Act 2007 in relation to the possession, use or carriage of incapacitant spray by prison officers and to amend the Firearms Act 1925 in relation to the seizure and detention of firearms or ammunition by An Garda Síochána in the interest of public safety, security or peace; to amend the Wireless Telegraphy Act 1926 to enable members of An Garda Síochána to use certain apparatus for wireless telegraphy to interfere with unmanned aircraft systems for the purposes of carrying out the function of An Garda Síochána; to amend the Courts of Justice Act 1936, the Courts Service Act 1998 and the Judicial Council Act 2019 in relation to certain non-judicial functions of the Chief Justice; to amend the Defence Act 1954 to provide for certain powers of the Defence Forces in relation to safeguarding, protecting and defending the security of the State, the deployment of the Defence Forces in aid of the civil power, and the protection of military installations by the Defence Forces; to provide for a power of provisional arrest without warrant in relation to extradition requests in certain circumstances and for that and other purposes to amend the Extradition Act 1965; to make further provision in relation to community service orders and for that purpose to amend the Criminal Justice (Community Service) Act 1983; to amend the Misuse of Drugs Act 1984, the Criminal Evidence Act 1992 and the Criminal Justice Act 1999 in relation to evidence in certain proceedings; to repeal Chapter 3 of Part 2 of the Criminal Law (Sexual Offences and Human Trafficking) Act 2024 and to make provision in relation to evidence regarding the vouching of character of persons convicted of certain offences; to confer a power on members of An Garda Síochána to direct a person wearing a face covering to engage, or refrain from engaging, in certain matters in certain circumstances, to provide for an offence for failure to comply with such a direction and for those purposes to amend the Criminal Justice (Public Order) Act 1994; to make further provision in relation to certification of citizenship in certain proceedings and for that purpose to amend the Criminal Justice (Theft and Fraud Offences) Act 2001, the Maritime Security Act 2004, the Criminal Justice Act 2006, the International Criminal Court Act 2006, the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 and the European Union (Market Abuse) Regulations 2016; to amend the European Arrest Warrant Act 2003 to give

further effect to Council Framework Decision of 13 June 2002¹ on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision of 26 February 2009² amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial; to give effect to the ratification by the State of certain amendments to the Rome Statute of the International Criminal Court, to further enable authorities in the State to co-operate with the International Criminal Court, and for those and other related purposes to amend the International Criminal Court Act 2006; to make further provision in relation to DNA profiles and for that and another purpose to amend the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014; to make provision for offences relating to accommodation offered in exchange for sexual activity and for that purpose to amend the Criminal Law (Sexual Offences) Act 2017; to make provision for the licensing of outdoor seating areas of licensed premises in certain circumstances and for transitional arrangements for certain outdoor seating areas temporarily licensed under the Civil Law (Miscellaneous Provisions) Act 2021; to provide that the Minister for Justice, Home Affairs and Migration may, in respect of applications made to the Minister, issue to certain persons certificates of disregard in respect of certain historical convictions and other determinations relating to consensual sexual activity; to make provision for the use of electronic means, and the making of statements of truth, in certain proceedings; to give further effect to Directive (EU) 2016/681 on the use of passenger name record (“PNR”) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime; to provide for the continuation of the Passenger Information Unit and for the processing, including retention, of passenger name record data by that Unit and by competent authorities; to provide for the continued designation of intra-EU flights, and the designation of all extra-EU flights, for the purpose of the prevention, detection, investigation and prosecution of terrorist offences and serious crimes; to provide for the designation of an Independent Authority and the conferral of certain functions on that Authority, including the conduct of reviews of the process for the designation of intra-EU flights and the approval of applications for the transfer, to other Member States and third countries, of passenger name record data and for those purposes to provide for the revocation of the European Union (Passenger Name Record Data) Regulations 2018; to make further provision in respect of orders relating to anti-social behaviour and for that and other purposes to amend the Children Act 2001 and the Criminal Justice Act 2006; to amend the Criminal Procedure Act 1967, the Civil Legal Aid Act 1995, the Bail

1 OJ No. L 190, 18.07.2002, p. 1

2 OJ No. L 81, 27.3.2009, p. 81

Act 1997, the Social Welfare Consolidation Act 2005, the Multi-Unit Developments Act 2011, the Prisons Act 2015, the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020, the Criminal Justice (Perjury and Related Offences) Act 2021, the Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023, the Criminal Justice (Miscellaneous Provisions) Act 2023, the Judicial Appointments Commission Act 2023 and the Family Courts Act 2024; and to provide for related matters. [23rd July, 2026]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, collective citations and commencement

1. (1) This Act may be cited as the Criminal Law, Civil Law and Defence (Miscellaneous Provisions) Act 2026.
- (2) The Licensing Acts 1833 to 2018 and *Part 16*, in so far as it amends and extends those Acts, may be cited together as the Licensing Acts 1833 to 2026 and shall be construed together as one.
- (3) The Registration of Clubs Acts 1904 to 2008 and *Part 16*, in so far as it amends and extends those Acts, may be cited together as the Registration of Clubs Acts 1904 to 2026 and shall be construed together as one.
- (4) This Act (other than *subsection (1)* and this subsection, *sections 4(b)(i), 52, 117(b)* (in so far as it relates to the Courts Service), *118 and 124 and Parts 3, 4 and 5*) shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definitions

2. In this Act—

“Act of 2007” means the Prisons Act 2007;

“Act of 2017” means the Criminal Law (Sexual Offences) Act 2017;

“Minister” means the Minister for Justice, Home Affairs and Migration.

Expenses

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, be paid out of moneys provided by the Oireachtas.

PART 2

AMENDMENT OF FIREARMS ACT 1925 AND ACT OF 2007

Amendment of Firearms Act 1925**4.** The Firearms Act 1925 is amended—

- (a) in section 1(1), by the insertion of the following definition:

“ ‘Irish Prison Service’ means the prison service of the Department of Justice, Home Affairs and Migration which is charged with the management of prisons (within the meaning of the Prisons Act 2007);”,

- (b) in section 2(3)—

- (i) in paragraph (b), by the substitution of “member of garda staff (within the meaning of the Policing, Security and Community Safety Act 2024)” for “member of the civilian staff of the Garda Síochána”, and

- (ii) by the insertion of the following paragraph after paragraph (ba):

“(bb) the possession, use, or carriage of an incapacitant spray, in accordance with rules made under section 35 of the Prisons Act 2007, by a prison officer in the performance of his or her duty as such an officer;”,

- (c) by the insertion of the following section after section 4C:

“Seizure and detention of firearms or ammunition by An Garda Síochána in interest of public safety, security or peace

4D. (1) Where a member of An Garda Síochána who is—

- (a) in a public place,

- (b) in any other place—

- (i) under a power of entry authorised by law, or

- (ii) to which he or she was expressly or impliedly invited or permitted to be,

or

- (c) carrying out a search authorised by law,

finds or comes into possession of any firearm or ammunition and has reasonable grounds for suspecting that, in connection with the firearm or ammunition, there is a danger to the public safety, security or the peace, he or she may seize and detain said firearm or ammunition for a period not exceeding 14 days.

- (2) Where a member of An Garda Síochána has seized and detained a firearm or ammunition in accordance with subsection (1), a member of An Garda Síochána not below the rank of superintendent may, before

the expiration of the period specified in subsection (1), if he or she is satisfied that—

- (a) there are reasonable grounds for suspecting that the possession, use or carriage of the firearm or ammunition will endanger the public safety, security or the peace, and
- (b) there are sufficient grounds, having regard to paragraph (a), to consider revocation under section 5 of the firearm certificate in respect of the firearm or ammunition seized and detained under subsection (1),

authorise the detention of the firearm or ammunition for a further period not exceeding 21 days so that an issuing person may determine whether the firearm certificate should be revoked under section 5.

- (3) A person who obstructs or impedes a member of An Garda Síochána in the exercise of his or her powers under subsection (1) shall be guilty of an offence under this section and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding six months or to both.
- (4) This section shall not affect any other power, under any enactment or the common law, to seize or detain a firearm or ammunition.
- (5) In this section, ‘enactment’ has the same meaning as it has in the Interpretation Act 2005.”,
- (d) in section 10(6)(a), by the insertion of “, authorised by the Minister to effect a transaction relating to incapacitant spray for the purposes of the Irish Prison Service” before “or authorised by the Minister to effect”,
- (e) in section 16, by the insertion of the following subsection after subsection (5):
 - “(6) This section shall not apply to any consignment of incapacitant spray belonging to or purchased or intended for the use of the Irish Prison Service.”,
- and
- (f) in section 17, by the insertion of the following subsection after subsection (8):
 - “(9) This section shall not apply to the importation into the State of incapacitant spray which is so imported under the authority of the Minister for the use of the Irish Prison Service.”.

Amendment of Act of 2007

- 5. Section 35(2) of the Act of 2007 is amended by the insertion of the following paragraph after paragraph (c):

- “(ca) the possession, use, or carriage of an incapacitant spray by a prison officer in the performance of his or her duty as such an officer,”.

PART 3

AMENDMENT OF WIRELESS TELEGRAPHY ACT 1926

Definition (*Part 3*)

6. In this Part, “Act of 1926” means the Wireless Telegraphy Act 1926.

Amendment of section 2 of Act of 1926

7. Section 2 of the Act of 1926 is amended by the insertion of the following definition:

“ ‘Act of 2024’ means the Policing, Security and Community Safety Act 2024;”.

Amendment of section 3(6) of Act of 1926

8. Section 3(6) of the Act of 1926 is amended by the insertion of the following paragraph after paragraph (a):

“(aa) a radio frequency jammer kept by, or in the possession of, An Garda Síochána or a member of An Garda Síochána for the purposes of working or using such radio frequency jammer in accordance with sections 12(1B) and 12B(1B),”.

Commission and An Garda Síochána to agree memorandum of understanding on information sharing

9. The Act of 1926 is amended by the insertion of the following section after section 3:

“**3B.** (1) The Commission, having regard to its function under section 10(1)(b) of the Communications Regulation Act 2002, and the Garda Commissioner, having regard to the function of An Garda Síochána referred to in section 9 of the Act of 2024, may agree a memorandum of understanding concerning the sharing between them of information on radio frequency jammers—

- (a) kept by, or in the possession of, An Garda Síochána or a member of An Garda Síochána, and
 - (b) worked or used by a member of An Garda Síochána to interfere with the working of or otherwise injuriously affect any UAS.
- (2) Without prejudice to the generality of subsection (1), the Commission and the Garda Commissioner may agree that the memorandum of understanding referred to in that subsection provide for the sharing between them of information relating to any of the following:
- (a) the procurement, storage, calibration, testing and maintenance of radio frequency jammers by An Garda Síochána;

- (b) standard operating procedures internal to An Garda Síochána relating to the use of radio frequency jammers;
 - (c) the types of radio frequency jammers kept or used by An Garda Síochána, including the radio frequencies used by the radio frequency jammers and the power limits of the radio frequency jammers;
 - (d) instances of the use of radio frequency jammers by An Garda Síochána.
- (3) Without prejudice to subsection (1), the Commission and the Garda Commissioner shall agree a memorandum of understanding referred to in that subsection within the period of two months beginning on the date on which this section comes into operation.
- (4) Where a memorandum of understanding is not agreed in accordance with subsection (3)—
- (a) the Commission shall notify the Minister for Culture, Communications and Sport, and
 - (b) the Garda Commissioner shall notify the Minister for Justice, Home Affairs and Migration,
- of that fact.
- (5) The Commission and the Garda Commissioner shall keep under review the operation of a memorandum of understanding agreed under this section and may agree such amendments to, or revocations of, the memorandum as appear to them to be necessary or desirable.”.

Amendment of section 12 of Act of 1926

10. Section 12 of the Act of 1926 is amended—

- (a) in subsection (1), by the substitution of “Subject to subsections (1A) and (1B)” for “Subject to subsection (1A)”, and
- (b) by the insertion of the following subsection after subsection (1A):

“(1B) It shall be lawful for a member of An Garda Síochána to work or use a radio frequency jammer to interfere with the working of or otherwise injuriously affect any UAS where the member reasonably believes such work or use to be necessary for the purposes of carrying out the function of An Garda Síochána referred to in section 9 of the Act of 2024.”.

Amendment of section 12B of Act of 1926**11.** Section 12B of the Act of 1926 is amended—

- (a) in subsection (1), by the substitution of “Subject to subsections (1A) and (1B)” for “Subject to subsection (1A)”, and
- (b) by the insertion of the following subsection after subsection (1A):

“(1B) Subsection (1) shall not apply to the use by a member of An Garda Síochána of a radio frequency jammer for the purpose of interfering with a UAS where that member reasonably believes such use to be necessary for the purposes of carrying out the function of An Garda Síochána referred to in section 9 of the Act of 2024.”.

PART 4**NON-JUDICIAL FUNCTIONS OF CHIEF JUSTICE****Amendment of section 67 of Courts of Justice Act 1936****12.** (1) Subject to *subsection (2)*, section 67 of the Act of 1936 is amended—

- (a) in subsection (2), by the substitution of “8 nominated members” for “10 nominated members”,
- (b) in subsection (3)(a), by the deletion of the words “who shall be the chairperson of the Committee,”,
- (c) in subsection (4), by the substitution of the following paragraphs for paragraphs (a) and (aa):
 - “(a) 1 shall be an ordinary judge of the Supreme Court nominated by the Chief Justice;
 - (aa) 1 shall be an ordinary judge of the Court of Appeal nominated by the President of the Court of Appeal;”,
- (d) by the insertion of the following subsection after subsection (4):

“(4A) The Chief Justice shall be the chairperson of the Committee and—

 - (a) shall nominate another judge who is a member of the Committee to act as chairperson during the period a person is acting in his or her place as a member of the Committee under subsection (9), and
 - (b) may, at any other time, nominate another member of the Committee to act as chairperson during such period or on such occasion or occasions as are specified in the nomination concerned.”,
- (e) in subsection (9), by the substitution of the following paragraph for paragraph (a):

“(a) in the case of the Chief Justice, an ordinary judge of the Supreme Court, Court of Appeal or High Court,”

and

(f) by the insertion of the following subsection after subsection (11):

“(12) The Chief Justice may revoke a nomination made by him or her under subsection (4A) at any time and, where that revocation relates to a nomination referred to in paragraph (a) of that subsection, the Chief Justice shall make another nomination under that paragraph if the revocation takes effect during the period referred to in that subsection.”.

- (2) Notwithstanding the amendments to section 67 of the Act of 1936 effected by *subsection (1)(a) and (c)*, an ordinary judge of the Supreme Court or an ordinary judge of the Court of Appeal who is, immediately prior to the date of coming into operation of this section, a nominated member of the Superior Courts Rules Committee under subsection (4) of that section 67 shall, on and after that date, subject to subsection (5) of that section, remain a nominated member of that Committee.
- (3) It is hereby confirmed that, on the date on which it came into operation, section 20 of the Civil Law (Miscellaneous Provisions) Act 2008, in amending section 67 of the Act of 1936, had the effect of inserting, after subsection (1) of that section, the relevant subsections in substitution for subsections (4), (7), (8), (9) and (10) of that section as it stood immediately before that date.
- (4) In *subsection (3)*, “relevant subsections” means, in relation to the amendment of section 67 of the Act of 1936 by section 20 of the Civil Law (Miscellaneous Provisions) Act 2008, the subsections numbered (2) to (11) that are expressed by the said section 20 to be substituted for subsections (2) to (10) of that section of the Act of 1936.
- (5) In this section, “Act of 1936” means the Courts of Justice Act 1936.

Amendment of section 11 of Courts Service Act 1998

13. Section 11 of the Courts Service Act 1998 is amended—

- (a) in subsection (1), by the substitution of the following paragraph for paragraph (a):

“(a) the Chief Justice for the time being or a judge of the Supreme Court, the Court of Appeal, the High Court, the Circuit Court or the District Court nominated by the Chief Justice,”

and

- (b) by the substitution of the following subsection for subsection (4):

“(4) The Chief Justice shall be the chairperson of the Board or, if the Chief Justice is not a member, the judge of the Supreme Court, the Court of Appeal, the High Court, the Circuit Court or the District Court nominated under subsection (1)(a) shall be the chairperson.”.

Amendment of Judicial Council Act 2019

14. The Judicial Council Act 2019 is amended—

(a) in section 12—

(i) in subsection (1)(a), by the substitution of “or their replacements nominated under subsection (2A) or (3), as the case may be” for “or their replacements nominated under subsection (3)”;

(ii) in subsection (2)(a), by the deletion of “, who shall act as chairperson of the Board”;

(iii) by the insertion of the following subsections after subsection (2):

“(2A) The Chief Justice may, from time to time, nominate in writing a judge (other than a judge who is a member of the Board) of the Supreme Court, Court of Appeal, High Court, Circuit Court or District Court to perform the functions of the Chief Justice as such *ex officio* member during such period or on such occasion or occasions as are specified in the nomination.

(2B) The Chief Justice shall be the chairperson of the Board and—

(a) shall nominate in writing another member of the Board to act as chairperson during the period or on such occasion or occasions referred to in subsection (2A), and

(b) may, at any other time, nominate in writing another member of the Board to act as chairperson during such period or on such occasion or occasions as are specified in the nomination concerned.

(2C) The Chief Justice may, at any time, revoke a nomination made under subsection (2B) and, where that revocation relates to a nomination referred to in paragraph (a) of that subsection, the Chief Justice shall make another nomination under that paragraph if the revocation takes effect during the period or on such occasion or occasions referred to in subsection (2A).”,

and

(iv) in subsection (3)—

(I) by the substitution of “An *ex officio* member of the Board, other than the Chief Justice, may” for “An *ex officio* member of the Board may”, and

(II) by the substitution of “of which he or she is President” for “of which he or she is Chief Justice or President, as the case may be,”

(b) in section 13, by the insertion of the following subsection after subsection (1):

“(1A) A nomination under section 12(2A) shall—

(a) cease to have effect upon—

(i) the expiration of the period or the passing of the occasion or occasions, as the case may be, specified in the nomination, or

(ii) the revocation of the nomination by the Chief Justice,

(b) where the Chief Justice ceases to hold judicial office, cease to have effect upon such cessation,

(c) where the judge in respect of whom the nomination was made ceases to hold judicial office, cease to have effect upon such cessation, or

(d) where the judge, in respect of whom the nomination was made, by notice in writing given or sent to the Chief Justice indicates that he or she does not wish to continue to perform the functions concerned, cease to have effect upon the receipt of that notice by the Chief Justice.”,

and

(c) in section 44—

(i) in subsection (1)(a), by the substitution of “their replacements nominated under subsection (2A) or (3), as the case may be” for “their replacements nominated under subsection (3)”,

(ii) in subsection (2)(a), by the deletion of “, who shall act as chairperson of the Committee”,

(iii) by the insertion of the following subsections after subsection (2):

“(2A) The Chief Justice may, from time to time, nominate in writing a judge (other than an elected member of the Judicial Conduct Committee) of the Supreme Court, Court of Appeal, High Court, Circuit Court or District Court to perform the functions of the Chief Justice as such *ex officio* member during such period or on such occasion or occasions as are specified in the nomination and a reference in this Act to the Chief Justice as such *ex officio* member of the Judicial Conduct Committee shall, during such period or in respect of such occasion or occasions, be taken to be a reference to a judge so nominated.

(2B) The Chief Justice shall be the chairperson of the Judicial Conduct Committee and—

(a) shall nominate in writing another member of the Judicial Conduct Committee who is a judge to act as chairperson of that Committee during the period or on such occasion or occasions referred to in subsection (2A), and

- (b) may, at any other time, nominate in writing another member of the Judicial Conduct Committee who is a judge to act as chairperson during such period or on such occasion or occasions as are specified in the nomination concerned.

(2C) The Chief Justice may, at any time, revoke a nomination made under subsection (2B) and, where that revocation relates to a nomination referred to in paragraph (a) of that subsection, the Chief Justice shall make another nomination under that paragraph if the revocation takes effect during the period or on such occasion or occasions referred to in subsection (2A).”,

and

(iv) in subsection (3)—

- (I) by the substitution of “An *ex officio* member of the Judicial Conduct Committee, other than the Chief Justice, may” for “An *ex officio* member of the Judicial Conduct Committee may”, and
- (II) by the substitution of “of which he or she is President” for “of which he or she is Chief Justice or President, as the case may be,”,

and

(d) in section 46, by the insertion of the following subsection after subsection (1):

“(1A) A nomination under section 44(2A) shall—

- (a) cease to have effect upon—
 - (i) the expiration of the period or the passing of the occasion or occasions, as the case may be, specified in the nomination, or
 - (ii) the revocation of the nomination by the Chief Justice,
- (b) where the Chief Justice ceases to hold judicial office, cease to have effect upon such cessation,
- (c) where the judge in respect of whom the nomination was made ceases to hold judicial office, cease to have effect upon such cessation, or
- (d) where the judge, in respect of whom the nomination was made, by notice in writing given or sent to the Chief Justice indicates that he or she does not wish to continue to perform the functions concerned, cease to have effect upon the receipt of that notice by the Chief Justice.”.

PART 5

AMENDMENT OF DEFENCE ACT 1954

Insertion of Part IIIA in Defence Act 1954

15. The Defence Act 1954 is amended by the insertion of the following Part after section 40:

“PART IIIA

SAFEGUARDING, PROTECTING AND DEFENDING SECURITY OF THE STATE, AID OF CIVIL POWER AND
PROTECTION OF MILITARY INSTALLATIONS**Safeguarding, protecting and defending by Defence Forces**

40A. (1) Without prejudice to any other powers of a member of the Defence Forces in that behalf, a member of the Defence Forces shall have all such powers as are necessary or expedient, including the power to use such force as is reasonable, proportionate and necessary, for the purposes of safeguarding, protecting and defending the security of the State in either or both of the following circumstances:

- (a) where the passage or any activity of a foreign ship in the territorial sea or internal waters is considered to be prejudicial to such security;
- (b) where there is considered to be a risk to the sovereign rights and jurisdiction of the State in the exclusive economic zone.

(2) The Chief of Staff shall, with the consent of the Minister, prepare and issue guidance to members of the Defence Forces on the exercise of any power by a member of the Defence Forces pursuant to this section.

(3) The Chief of Staff shall, as soon as is reasonably practicable, regarding the exercise of any power by a member of the Defence Forces pursuant to this section, provide the Minister with such information as may be required by the Minister.

(4) In this section—

‘Act of 2021’ means the Maritime Jurisdiction Act 2021;

‘exclusive economic zone’ shall be construed in accordance with section 13 of the Act of 2021;

‘foreign ship’ has the same meaning as it has in the Act of 2021;

‘internal waters’ shall be construed in accordance with section 8 of the Act of 2021;

‘sovereign rights and jurisdiction of the State in the exclusive economic zone’ means the sovereign rights and jurisdiction of the State provided for in section 14 of the Act of 2021;

‘territorial sea’ shall be construed in accordance with section 7 of the Act of 2021.

Aid of civil power

- 40B.** (1) The Minister may, subject to subsection (2), following a request to the Minister from the Minister for Justice, Home Affairs and Migration, direct the deployment of a member of the Defence Forces in aid of the civil power.
- (2) The Minister may, subject to such conditions as he or she may specify, give general approval for the deployment of a member of the Defence Forces in aid of the civil power for such class or classes of assistance as may be agreed with the Minister for Justice, Home Affairs and Migration.
- (3) A member of the Defence Forces deployed in aid of the civil power may use such force as is reasonable, proportionate and necessary in the performance of his or her duties.
- (4) The Chief of Staff shall, with the consent of the Minister, prepare and issue guidance to members of the Defence Forces deployed in aid of the civil power.
- (5) In this section, ‘aid of the civil power’ means assistance provided by the Defence Forces to An Garda Síochána under this section.

Protection of military installations

- 40C.** (1) A member of the Defence Forces engaged in security duties within a military installation may use such force as is reasonable, proportionate and necessary to protect the military installation and any persons within the installation.
- (2) The Chief of Staff shall, with the consent of the Minister, prepare and issue guidance to members of the Defence Forces engaged in security duties referred to in subsection (1).
- (3) In this section, ‘military installation’ means—
- (a) a State ship,
 - (b) a service aircraft, or
 - (c) a building or place (or portion thereof) occupied by, used by, or under the control (whether temporarily or otherwise) of, the Defence Forces,
- and includes the airspace above the military installation.”.

PART 6

AMENDMENT OF EXTRADITION ACT 1965

Definition (*Part 6*)

16. In this Part, “Act of 1965” means the Extradition Act 1965.

Amendment of section 26 of Act of 1965

17. Section 26(1)(b) of the Act of 1965 is amended by the substitution of “under section 27 or the person has already been brought before the Court under section 27(6)” for “under section 27”.

Amendment of section 27 of Act of 1965

18. Section 27 of the Act of 1965 is amended—

(a) in subsection (3A), by the substitution of “the provisions of subsections (1) and (2)” for “the provisions of subsection (2) of this section”,

(b) by the insertion of the following subsections after subsection (3A):

“(3AA) A member of An Garda Síochána may, without a warrant, arrest any person whom the member believes, on reasonable grounds, to be a person named in an alert.

(3AB) A person arrested under subsection (3AA) shall—

(a) upon the person’s arrest, be informed, in ordinary language, of the reason for the arrest, and

(b) as soon as may be after the person’s arrest, be furnished with a copy of the alert.”,

(c) in subsection (6), by the substitution of “A person arrested under this section shall, other than where the person is arrested under a warrant issued under this section and the warrant is cancelled under subsection (5)” for “A person arrested under a warrant issued under this section shall, unless the warrant is cancelled under subsection (5)”,

(d) by the substitution of the following subsection for subsection (7):

“(7) If, within the period of 28 days after such person’s arrest, no such certificate is produced, he shall be released from custody or the terms of his bail.”,

(e) in subsection (9)—

(i) in paragraph (a), by the substitution of “issued,” for “issued, or”,

(ii) in paragraph (b), by the substitution of “refused, or” for “refused.”, and

(iii) by the insertion of the following paragraph after paragraph (b):

“(c) that person was arrested under subsection (3AA) and subsequently released from custody or the terms of his or her bail in accordance with subsection (7).”,

(f) in subsection (11), by the deletion of “under a warrant issued”,

(g) by the insertion of the following subsection after subsection (11):

“(11A) Where a person arrested under this section is the subject of an alert, the High Court shall direct the Commissioner of An Garda Síochána to request the SIRENE Bureau concerned to add a flag to the alert where—

(a) the person has been remanded on bail,

(b) the extradition of the person is prohibited by or refused under any provision of this Part, or

(c) the person has been released from custody or the terms of his or her bail in accordance with subsection (7).”,

and

(h) in subsection (12)—

(i) by the deletion of the definition of “Council Decision”,

(ii) in the definition of “Schengen Convention”, by the substitution of “SIS Regulation” for “Council Decision”,

(iii) in the definition of “SIS”, by the substitution of “SIS Regulation” for “Council Decision”, and

(iv) by the insertion of the following definitions:

“ ‘flag’ means the addition to an alert by the SIRENE Bureau concerned to the effect that an action to be taken on the basis of the alert in accordance with Article 24, 25 or 26 of the SIS Regulation shall not be taken in the State;

‘SIRENE Bureau’ means the authority designated by the Swiss Confederation or the Principality of Liechtenstein, as the case may be, in accordance with Article 7 of the SIS Regulation to perform the functions referred to in that Article;

‘SIS Regulation’ means Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018³, as amended by Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019⁴, Regulation (EU) 2021/1133 of the European Parliament and of the Council of 7 July 2021⁵, Regulation (EU) 2021/1150 of the European Parliament and of the Council of 7 July

3 OJ No. L 312, 7.12.2018, p. 56

4 OJ No. L 135, 22.5.2019, p. 85

5 OJ No. L 248, 13.7.2021, p. 1

2021⁶ and Regulation (EU) 2022/1190 of the European Parliament and of the Council of 6 July 2022⁷.”.

Amendment of section 29A of Act of 1965

19. Section 29A(6) of the Act of 1965 is amended by the substitution of “the period specified in section 27(7)” for “the period of 18 days specified in section 27(7)”.

Amendment of section 36 of Act of 1965

20. Section 36(1) of the Act of 1965 is amended—
- (a) by the substitution of “section 26 or 27, or otherwise making an arrest under section 27,” for “section 26 or section 27”, and
 - (b) in paragraph (b)(i), by the deletion of “under the warrant”.

PART 7

AMENDMENT OF CRIMINAL JUSTICE (COMMUNITY SERVICE) ACT 1983

Amendment of Criminal Justice (Community Service) Act 1983

21. The Criminal Justice (Community Service) Act 1983 is amended—
- (a) in section 3—
 - (i) in subsection (1)—
 - (I) in paragraph (a), by the substitution of “24 months” for “12 months”,
 - (II) by the insertion of the following paragraph after paragraph (a):

“(aa) Where a court considers that a community service order under paragraph (a) should not be made, the court shall give reasons for its decision.”,
 - and
 - (III) in paragraph (b), by the substitution of “24 months” for “12 months”,
 - (ii) in subsection (1D), by the substitution of “relevant officer” for “probation officer”, and
 - (iii) in subsection (2)(a), by the substitution of “480” for “240”,
 - (b) in section 4(1)(a)(ii), by the substitution of “relevant officer” for “probation officer”,
 - (c) in section 5(1), by the substitution of “480” for “240”,

⁶ OJ No. L 249, 14.7.2021, p. 1

⁷ OJ No. L 185, 12.7.2022, p. 1

(d) in section 7—

(i) by the substitution of the following subsection for subsection (2):

“(2) Subject to section 9, the work to be performed under a community service order shall be performed—

(a) where the total number of hours the offender is required to work under that order does not exceed 240 hours, in the period of one year beginning on the date of the order, or

(b) where the total number of hours the offender is required to work under that order exceeds 240 hours, in the period of 2 years beginning on the date of the order,

but, unless revoked, the order shall remain in force until the offender has worked under it for the number of hours specified in it.”,

and

(ii) in subsection (5), by the substitution of “relevant officer” for “probation officer”,

and

(e) in section 11(1), by the substitution of “relevant officer” for “probation officer”.

PART 8

CRIMINAL EVIDENCE

Amendment of section 10 of Misuse of Drugs Act 1984

22. Section 10 of the Misuse of Drugs Act 1984 is amended—

(a) in subsection (1), by the substitution of “FSI” for “Forensic Science Ireland of the Department of Justice”, and

(b) by the insertion of the following subsections after subsection (1):

“(2) In any proceedings for an offence under section 3 of the Principal Act, the production of a certificate—

(a) purporting to be signed by an approved member of An Garda Síochána,

(b) relating to an examination, inspection or test, as the case may be, by way of an approved category of applicable drug test, carried out by the member, of a relevant controlled drug or other substance, product or preparation, and

(c) specifying—

(i) the approved category of applicable drug test concerned, and

(ii) the relevant controlled drug or other substance, product or preparation concerned,

shall, until the contrary is proved, be evidence of any fact thereby stated without proof of any signature thereon or that any such signature is that of the member.

(3) The Minister for Justice, Home Affairs and Migration, having consulted with the Director of FSI, may by order prescribe a controlled drug for the purposes of paragraph (d) of the definition of relevant controlled drug in subsection (6) where he or she is satisfied that it is appropriate to do so, having regard to—

(a) the availability of an examination, inspection or test that is capable of being carried out on a substance, product or preparation in a place other than a laboratory with the purpose of ascertaining whether the controlled drug is present in the substance, product or preparation, and

(b) the efficacy, accuracy, usability and safety of any such examination, inspection or test.

(4) The Director of FSI may, where he or she is satisfied that it is appropriate to do so, having regard to the efficacy, accuracy, usability and safety of a category of applicable drug test, certify, in writing, the category as an approved category of applicable drug test for the purposes of subsection (2).

(5) The Director of FSI may, where he or she is satisfied that a member of An Garda Síochána—

(a) has undertaken appropriate training, provided by FSI, on the administration of applicable drug tests, and

(b) is competent in such administration,

certify, in writing, the member as an approved member of An Garda Síochána for the purposes of subsection (2).

(6) In this section—

‘applicable drug test’ means an examination, inspection or test that is capable of being carried out on a substance, product or preparation in a place other than a laboratory with the purpose of ascertaining whether a relevant controlled drug is present in the substance, product or preparation;

‘approved category of applicable drug test’ means an applicable drug test certified under subsection (4);

‘approved member of An Garda Síochána’ means a member of An Garda Síochána certified under subsection (5);

‘Director’, in relation to FSI, has the same meaning as it has in the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014;

‘FSI’ means Forensic Science Ireland of the Department of Justice, Home Affairs and Migration;

‘member’, in relation to An Garda Síochána, has the same meaning as it has in the Policing, Security and Community Safety Act 2024 (other than in Part 6 of that Act);

‘relevant controlled drug’ means—

- (a) cannabis,
- (b) cannabis resin,
- (c) cocaine, or
- (d) any other controlled drug prescribed under subsection (3) for the purposes of this definition.”.

Amendment of section 19A of Criminal Evidence Act 1992

23. (1) Section 19A of the Act of 1992 is amended—

(a) in subsection (1)—

(i) by the insertion of the following definitions:

“ ‘Act of 1950’ means the Nurses Act 1950;

‘Act of 1985’ means the Nurses Act 1985;

‘Act of 2005’ means the Health and Social Care Professionals Act 2005;

‘Act of 2011’ means the Nurses and Midwives Act 2011;

‘applicable record’, in relation to criminal proceedings for a sexual offence, means a child protection record, a counselling record, a medical record or a social work record—

- (a) in relation to which there is a reasonable expectation of privacy,
- (b) which was not compiled for the purposes of, or in contemplation of, the investigation into, or the prosecution of, the sexual offence concerned, and
- (c) whether or not the service the subject of the record was provided for remuneration;

‘child protection’ means an intervention or a series of interventions designed to safeguard children from abuse, neglect, violence, exploitation or harm and to promote their safety, wellbeing and rights;

‘child protection professional’ means a person who has undertaken training or study resulting in a qualification, or who has professional experience, relevant to child protection;

‘child protection record’ means any record, or part of a record, made by any means, by a person who was a child protection professional at the time of the making of the record, in the course of investigating or managing concerns, or carrying out assessments or interventions, in relation to the safety, welfare, or protection of a complainant when the complainant was a child;

‘complainant’ means a person in respect of whom a sexual offence is alleged to have been committed;

‘disclosure application’ has the meaning assigned to it by subsection (2);

‘medical professional’ means—

- (a) a registered medical practitioner,
- (b) a registered nurse, or
- (c) a registered midwife;

‘medical record’ means any record, or part of a record, made by any means, relating to the medical treatment of a complainant by, or ordered or initiated by, a person who was a medical professional at the time of the making of the record;

‘registered medical practitioner’, in relation to a particular point in time, means a person—

- (a) who was a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007,
- (b) whose name was entered in the General Register of Medical Practitioners established under section 26 of the Medical Practitioners Act 1978, or
- (c) who was registered in the Register of Medical Practitioners prepared and established under the Medical Practitioners Act 1927, at that point in time;

‘registered midwife’, in relation to a particular point in time, means a person whose name was entered in—

- (a) the midwives division of the register of nurses and midwives established under section 46(1) of the Act of 2011,
- (b) the midwives division of the register of nurses established under section 27 of the Act of 1985, or

- (c) the midwives division of the register of nurses maintained under section 41 of the Act of 1950,

at that point in time;

‘registered nurse’, in relation to a particular point in time, means a person—

- (a) whose name was entered in the nurses division of the register of nurses and midwives established under section 46(1) of the Act of 2011,
- (b) other than a registered midwife, whose name was entered in the register of nurses established under section 27 of the Act of 1985,
- (c) other than a registered midwife, whose name was entered in the register of nurses maintained under section 41 of the Act of 1950, or
- (d) who was registered in the register kept in pursuance of the Nurses Registration (Ireland) Act 1919,

at that point in time;

‘social care worker’—

- (a) in relation to a particular point in time prior to the establishment under section 36 of the Act of 2005 of the register of members of the profession of social care worker, means a person who was practising as such and who held a qualification that is listed opposite the profession of social care worker in the third column of Schedule 3 to the Act of 2005 or a qualification that is a corresponding qualification, within the meaning of Part 9 of that Act, to that qualification, or
- (b) in relation to a particular point in time following the establishment of that register, means a person whose name was entered in that register,

at that point in time;

‘social worker’—

- (a) in relation to a particular point in time prior to the establishment under section 36 of the Act of 2005 of the register of members of the profession of social worker, means a person who was practising as such and who held a qualification that is listed opposite the profession of social worker in the third column of Schedule 3 to the Act of 2005 or a qualification that is a corresponding qualification, within the meaning of Part 9 of that Act, to that qualification, or

- (b) in relation to a particular point in time following the establishment of that register, means a person whose name was entered in that register,

at that point in time;

‘social work record’ means any record, or part of a record, made by any means, by a person who was a social worker or social care worker at the time of the making of the record, as part of a professional practice relating to assessing or supporting the welfare of a complainant or any related intervention by the social worker or social care worker.”,

- (ii) in the definition of “counselling”, by the deletion of “(whether or not for remuneration)”, and

- (iii) by the substitution of the following definition for the definition of “counselling record”:

“ ‘counselling record’ means any record, or part of a record, made by any means, by a competent person in connection with the provision of counselling to a complainant;”,

- (b) by the substitution of the following subsections for subsections (2), (3), (4), (5) and (6):

“(2) Where, in criminal proceedings for a sexual offence, the prosecutor or the accused is of the opinion that an applicable record ought to be disclosed to the accused under subsection (11), the prosecutor or the accused, as the case may be, shall make an application (in this section referred to as a ‘disclosure application’), in writing, to the court stating the reasons grounding the application.

(3) Where the prosecutor intends to make a disclosure application under subsection (2), he or she shall, not later than the beginning of such period as may be prescribed in rules of court, notify the accused of his or her intention to make the application.

(4) Where the accused intends to make a disclosure application under subsection (2), he or she shall, not later than the beginning of such period as may be prescribed in rules of court, notify the prosecutor of his or her intention to make the application.

(5) Where a disclosure application is made under subsection (2), the court shall consider the application and where it is satisfied that the grounds relied upon in the application—

- (a) establish that the record is likely to be relevant to an issue at trial, the court shall order that a hearing referred to in subsection (8) be held, or

- (b) do not establish that the record is likely to be relevant to an issue at trial, the court shall refuse the application.
- (6) Where the court orders, under subsection (5)(a), that a hearing referred to in subsection (8) be held—
 - (a) the court may order that the person who has possession or control of the applicable record concerned shall produce the record to the prosecutor not later than the beginning of such period in advance of the hearing as may be prescribed in rules of court, and
 - (b) without prejudice to subsection (7), the prosecutor shall, not later than the beginning of such period as may be prescribed in rules of court, notify the person who has possession or control of the applicable record concerned, the complainant, and any other person to whom the prosecutor believes the applicable record relates of the order of the court under subsection (5)(a) and, where applicable, paragraph (a).”,
- (c) in subsections (7) and (8), by the substitution of “applicable record” for “counselling record” in each place it occurs,
- (d) in subsection (9)—
 - (i) by the substitution of “applicable record” for “counselling record”, and
 - (ii) by the substitution of “applicable records” for “counselling records”,
- (e) in subsection (10)—
 - (i) by the substitution of “applicable record” for “counselling record”, and
 - (ii) in paragraph (f), by the substitution of “to engage with the provision of services by a child protection professional, a competent person, a medical professional, a social care worker or a social worker” for “to seek counselling”,
- (f) by the substitution of the following subsection for subsection (11):
 - “(11) Subject to subsection (12), a court shall not, after the hearing referred to in subsection (8), order disclosure of the content of the applicable record concerned to the accused, and where applicable, the prosecutor, unless the court is satisfied, having examined the record, that—
 - (a) the record is likely to be relevant to an issue at trial, and
 - (b) one or both of the following apply:
 - (i) there would be a real risk of an unfair trial in the absence of such disclosure;
 - (ii) it is otherwise in the interests of justice to so order.”,
- (g) in subsections (12), (13) and (16), by the substitution of “applicable record” for “counselling record” in each place it occurs, and

- (h) by the deletion of subsection (17).
- (2) (a) The amendment of section 19A of the Act of 1992 effected by *subsection (1)* shall not apply in respect of criminal proceedings for a sexual offence (within the meaning of the said section 19A) that were instituted prior to the coming into operation of *subsection (1)*.
- (b) For the purposes of *paragraph (a)*, criminal proceedings are instituted—
 - (i) when a summons or warrant of arrest is issued in respect of an offence,
 - (ii) when a person is arrested without a warrant, or
 - (iii) when a person is remanded for trial pursuant to Chapter IV of Part V of the Defence Act 1954.
- (3) In this section, “Act of 1992” means the Criminal Evidence Act 1992.

Amendment of section 30 of Criminal Justice Act 1999

- 24. Section 30(1) of the Criminal Justice Act 1999 is amended by the substitution of “a member of garda personnel (within the meaning of the Policing, Security and Community Safety Act 2024, other than Part 6 of that Act) and stating that the member of garda personnel” for “a member of the Garda Síochána and stating that the member”.

Repeal of Chapter 3 of Part 2 of Criminal Law (Sexual Offences and Human Trafficking) Act 2024 and transitional provision

- 25. (1) Chapter 3 of Part 2 of the Criminal Law (Sexual Offences and Human Trafficking) Act 2024 is repealed.
- (2) Notwithstanding the repeal effected by *subsection (1)*, the said Chapter 3 shall continue to have effect in respect of a person convicted of a specified offence referred to in that Chapter where the conviction occurred before the date of the coming into operation of this section.

Vouching of character of persons convicted of certain offences

- 26. (1) Subject to *subsection (2)*, where a person is convicted of an indictable offence and he or she intends to adduce evidence of his or her character for the purpose of the determination by the court of the sentence to be imposed on him or her for the offence, such evidence shall—
 - (a) where the evidence is to be given orally before the court, be given on oath, or
 - (b) otherwise be given by affidavit.
- (2) *Subsection (1)* shall apply only in respect of a person who is convicted of an offence referred to in that subsection on or after the date of the coming into operation of this section.

PART 9

AMENDMENT OF CRIMINAL JUSTICE (PUBLIC ORDER) ACT 1994

Amendment of Criminal Justice (Public Order) Act 1994

27. The Criminal Justice (Public Order) Act 1994 is amended—

(a) by the insertion of the following section after section 8B:

“Failure to comply with direction of member of An Garda Síochána to remove face covering

8C. (1) Where a member of An Garda Síochána finds a person in a public place wearing a face covering on his or her face and suspects, with reasonable cause, that such person is—

(a) without lawful authority or reasonable excuse, acting in a manner which consists of loitering in a public place in circumstances, which may include the company of other persons, that give rise to a reasonable apprehension for the safety of persons or the safety of property or for the maintenance of public peace, and

(b) wearing the face covering on his or her face—

(i) with intent to intimidate another person, or

(ii) in a manner that is likely to intimidate another person,

the member may direct the person wearing the face covering so suspected to do any or all of the following:

(I) desist from acting in such a manner;

(II) remove the face covering from his or her face;

(III) leave immediately the vicinity of the place concerned in a peaceable or orderly manner.

(2) It shall be an offence for any person, without lawful authority or reasonable excuse, to fail to comply with a direction given by a member of An Garda Síochána under this section.

(3) A person who is guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding €1,000 or to imprisonment for a term not exceeding 6 months or to both.

(4) In this section, ‘face covering’ means an article of any type, which, when worn by a person, covers the person’s face or part of the person’s face.”,

and

(b) in section 24(5), by the substitution of “8, 8C, 9A” for “8, 9A”.

PART 10

CERTIFICATION OF CITIZENSHIP IN CERTAIN PROCEEDINGS

Amendment of section 60 of Criminal Justice (Theft and Fraud Offences) Act 2001

28. Section 60 of the Criminal Justice (Theft and Fraud Offences) Act 2001 is amended by the substitution of the following subsection for subsection (2):

“(2) For the purposes of sections 38(1) and 45—

- (a) a certificate purporting to be signed by an officer of the Minister for Foreign Affairs and Trade and stating that a passport was issued by that Minister of the Government to a person on a specified date, and
- (b) a certificate purporting to be signed by an officer of the Minister for Justice, Home Affairs and Migration and stating that, to the best of the officer’s knowledge and belief, the person has not ceased to be an Irish citizen,

shall be admissible in any proceedings, without further proof, as evidence that the person was an Irish citizen on the date on which the offence concerned is alleged to have been committed, unless the contrary is shown.”.

Amendment of section 8 of Maritime Security Act 2004

29. Section 8 of the Maritime Security Act 2004 is amended by the substitution of the following subsection for subsection (1):

“(1) In any proceedings relating to an offence under section 2—

- (a) a certificate purporting to be signed by an officer of the Minister for Foreign Affairs and Trade and stating that a passport was issued by that Minister of the Government to a person on a specified date, and
- (b) a certificate purporting to be signed by an officer of the Minister for Justice, Home Affairs and Migration and stating that, to the best of the officer’s knowledge and belief, the person has not ceased to be an Irish citizen,

is evidence that the person was an Irish citizen on the date on which the offence concerned is alleged to have been committed, unless the contrary is shown.”.

Amendment of section 75 of Criminal Justice Act 2006

30. Section 75 of the Criminal Justice Act 2006 is amended—

- (a) by the substitution of the following subsection for subsection (1):

“(1) In any proceedings for an offence under section 71 or 74—

- (a) a certificate that is signed by an officer of the Minister for Foreign Affairs and Trade and stating that a passport was issued by that Minister of the Government to a person on a specified date, and
- (b) a certificate that is signed by an officer of the Minister and stating that, to the best of the officer’s knowledge and belief, the person has not ceased to be an Irish citizen,

is evidence that the person was an Irish citizen on the date on which the offence concerned is alleged to have been committed, unless the contrary is shown.”,

(b) by the insertion of the following subsection after subsection (1):

“(1A) In any proceedings for an offence under section 71, a certificate that is signed by the Director of Public Prosecutions or by a person authorised by him or her and that states any of the matters specified in paragraph (a), (b) or (c) of section 74(3) is evidence of the facts stated in the certificate, unless the contrary is shown.”,

and

(c) in subsection (2)—

- (i) by the substitution of “subsection (1) or (1A)” for “subsection (1)”, and
- (ii) in paragraph (c), by the substitution of “Minister for Foreign Affairs and Trade, the Minister” for “Minister for Foreign Affairs”.

Amendment of section 63 of International Criminal Court Act 2006

31. Section 63 of the International Criminal Court Act 2006 is amended by the substitution of the following subsection for subsection (2):

“(2) In any proceedings against a person for an offence under this Act—

- (a) a certificate purporting to be signed by an officer of the Minister for Foreign Affairs and Trade and stating that a passport was issued by that Minister of the Government to the person on a specified date, and
- (b) a certificate purporting to be signed by an officer of the Minister and stating that, to the best of the officer’s knowledge and belief, the person has not ceased to be an Irish national,

is admissible, without further proof, as evidence that the person was an Irish national on the date the person is alleged to have committed the offence.”.

Amendment of section 14 of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010

32. Section 14 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 is amended by the substitution of the following subsection for subsection (4):

“(4) In any proceedings for an offence under section 8 committed in the circumstances referred to in section 8(1)(c)(i)—

- (a) a certificate purporting to be signed by an officer of the Minister for Foreign Affairs and Trade and stating that a passport was issued by that Minister of the Government to a person on a specified date, and
- (b) a certificate purporting to be signed by an officer of the Minister and stating that, to the best of the officer’s knowledge and belief, the person has not ceased to be an Irish citizen,

is evidence that the person was an Irish citizen on the date on which the offence is alleged to have been committed, and is taken to have been signed by the person purporting to have signed it, unless the contrary is shown.”.

Amendment of Regulation 8 of European Union (Market Abuse) Regulations 2016

33. Regulation 8 of the European Union (Market Abuse) Regulations 2016 (S.I. No. 349 of 2016) is amended by the substitution of the following paragraph for paragraph (4):

“(4) In any proceedings for an offence under this Regulation—

- (a) a certificate purporting to be signed by an officer of the Minister for Foreign Affairs and Trade and stating that a passport was issued by that Minister of the Government to a person on a specified date, and
- (b) a certificate purporting to be signed by an officer of the Minister for Justice, Home Affairs and Migration and stating that, to the best of the officer’s knowledge and belief, the person has not ceased to be an Irish citizen,

is evidence that the person was an Irish citizen on the date on which the offence is alleged to have been committed, and is taken to have been signed by the person purporting to have signed it, unless the contrary is shown.”.

PART 11

AMENDMENT OF EUROPEAN ARREST WARRANT ACT 2003

Definition (*Part 11*)

34. In this Part, “Act of 2003” means the European Arrest Warrant Act 2003.

Application of Part

- 35.** (1) The amendments to the Act of 2003 effected by this Part shall apply to a relevant arrest warrant and a true copy thereof, that is—
- (a) endorsed in accordance with section 13(2) of the Act of 2003,
 - (b) produced to the High Court under section 14(4) of the Act of 2003, or
 - (c) issued under section 33(1) of the Act of 2003,
- on or after the date on which this Part comes into operation.
- (2) In this section, “relevant arrest warrant” and “true copy” have the same meanings, respectively, as they have in the Act of 2003.

Amendment of section 13 of Act of 2003

- 36.** Section 13 of the Act of 2003 is amended—
- (a) in subsection (1), by the substitution of “produce, or cause to be produced, the relevant arrest warrant” for “apply, or cause an application to be made,” and
 - (b) in subsection (2), by the substitution of “The High Court shall, in relation to a relevant arrest warrant produced to it under subsection (1)” for “Upon an application under subsection (1), the High Court shall, in relation to a relevant arrest warrant”.

Amendment of section 14B of Act of 2003

37. The Act of 2003 is amended by the substitution of the following section for section 14B:

“Warrant for temporary transfer of person to issuing state

14B. (1) The High Court shall, on the grant of an order under section 14A(3)(a), issue a warrant under this section for the temporary transfer of the person the subject of the order out of the State for the purpose of ensuring that that person is heard in the issuing state pursuant to the applicable relevant provisions (within the meaning of section 14A).

(2) A warrant issued under this section is authority for—

- (a) where the person the subject of an order under section 14A(3)(a) is remanded in custody or on bail in the State at the time of the

- making of the order, the taking of that person from the place where he or she is detained or by arrangement where he or she is on bail,
- (b) the delivering of the person the subject of an order under section 14A(3)(a) into the custody of a person representing the issuing state at a place of departure from the State,
 - (c) the detaining of the person in the issuing state, and
 - (d) where the person the subject of an order under section 14A(3)(a) was remanded in custody in the State immediately before that person was delivered into the custody of a person representing the issuing state, the bringing of the person back to the State and returning him or her to the place where he or she was detained.
- (3) A warrant under this section may not be issued unless an assurance is given by the issuing state that the person the subject of an order under section 14A(3)(a) will not be proceeded against, sentenced, detained or subjected to any other restriction on his or her personal freedom in respect of any offence under the law of the issuing state committed before the person's departure from the State.
 - (4) A person the subject of an order under section 14A(3)(a) is deemed to be in lawful custody when being taken from a place where he or she is detained or to a place where he or she is to be detained under a warrant under this section.
 - (5) A person the subject of an order under section 14A(3)(a) who escapes from custody or is unlawfully at large may be arrested without warrant by a member of An Garda Síochána and taken in custody to a place where he or she is to be detained.
 - (6) A person (other than a member of An Garda Síochána) who is authorised to have custody of a person the subject of an order under section 14A(3)(a) is deemed to be such a member for the purposes of this section.”.

Amendment of section 30A of Act of 2003

38. Section 30A of the Act of 2003 is amended—

- (a) in subsection (1), by the substitution of “the High Court shall, without delay,” for “the High Court shall”, and
- (b) by the insertion of the following subsection after subsection (1):

“(1A) Where the High Court has requested the consent of a third country under subsection (1), it shall remand a person to whose surrender the consent relates in custody or on bail (and, for that purpose, the High Court shall have the same powers in relation to remand as it would have if the person were brought before it charged with an indictable offence).”.

Amendment of section 35A of Act of 2003

39. Section 35A of the Act of 2003 is amended—

- (a) in subsection (2), by the substitution of “in relation to such detention, upon request of the person concerned and, for that purpose, the High Court shall have the same powers in relation to remand as it would have if the person were brought before it charged with an indictable offence” for “in relation to such detention”, and
- (b) by the insertion of the following subsection after subsection (2):

“(3) A retrial or appeal referred to in subsection (2) shall commence without delay.”.

Amendment of section 45 of Act of 2003

40. Section 45 of the Act of 2003 is amended by the insertion of the following subsection after subsection (2):

- “(3) A request under subsection (2) for a copy of the judgment shall not—
- (a) extend, suspend or otherwise affect the time limits specified in section 15 or 16 in relation to the person who made the request,
 - (b) warrant the postponement of the surrender, under section 18, of the person who made the request, or
 - (c) operate as a stay on proceedings under this Act relating to the person who made the request.”.

PART 12**AMENDMENT OF CRIMINAL JUSTICE ACT 2006****Amendment of Criminal Justice Act 2006**

41. The Criminal Justice Act 2006 is amended—

- (a) in section 99, by the insertion of the following subsection after subsection (1):

“(1A) Where a person from whom a recognisance referred to in subsection (1) is to be taken is for the time being in custody in a prison, the recognisance may be taken in the prison by the governor of that prison or a prison officer designated for that purpose by that governor.”,
- (b) in section 113(1), by the deletion of the definition of “senior member of the Garda Síochána”,
- (c) in section 115, by the substitution—

- (i) other than in subsection (4), of “member of An Garda Síochána not below the rank of inspector” for “senior member of the Garda Síochána” in each place where it occurs, and
 - (ii) in subsection (4), of “member of An Garda Síochána concerned” for “senior member of the Garda Síochána”,
- and
- (d) in section 116(2), by the substitution of “member of An Garda Síochána not below the rank of inspector” for “senior member of the Garda Síochána”.

PART 13

AMENDMENT OF INTERNATIONAL CRIMINAL COURT ACT 2006

Definition (*Part 13*)

42. In this Part, “Act of 2006” means the International Criminal Court Act 2006.

Amendment of section 2 of Act of 2006

43. Section 2 of the Act of 2006 is amended—

- (a) in subsection (1)—
 - (i) by the substitution of the following definition for the definition of “Statute”:

“ ‘Statute’, subject to section 64A, means the Rome Statute of the International Criminal Court, done at Rome on 17 July 1998, as amended by the text set out—
- (a) in Annex I of Resolution RC/Res.5, adopted on 10 June 2010 pursuant to Article 121 (the text of which amendment in the English language is set out in paragraph 1 of Part 1 of Schedule 1A),
- (b) in Annex I of Resolution RC/Res.6, adopted on 11 June 2010 pursuant to Article 121 (the text of which amendment in the English language is set out in Part 2 of Schedule 1A),
- (c) in Annexes I to III of Resolution ICC-ASP/16/Res.4, adopted on 14 December 2017 pursuant to Article 121 (the text of which amendment in the English language is set out in paragraph 2 of Part 1 of Schedule 1A), and
- (d) in Annex I of Resolution ICC-ASP/18/Res.5, adopted on 6 December 2019 pursuant to Article 121 (the text of which amendment in the English language is set out in paragraph 3 of Part 1 of Schedule 1A);”,

and

(ii) by the insertion of the following definitions:

“ ‘crime of aggression’ has the same meaning as it has in Article 8 *bis*;

‘crime within the jurisdiction of the International Criminal Court’ means, subject to subsection (1B), any of the following:

- (a) genocide (within the meaning of section 6(1));
- (b) a crime against humanity (within the meaning of section 6(1));
- (c) a war crime (within the meaning of section 6(1));
- (d) subject to subsection (1A), the crime of aggression;
- (e) the intentional committing of any of the acts specified in Article 70.1 (offences against the administration of justice);
- (f) an act specified in a relevant amendment and prescribed in an order made under section 64A;

‘relevant amendment’ has the meaning assigned to it by section 64A;”,

and

(b) by the insertion of the following subsections after subsection (1):

“(1A) For the purposes of paragraph (d) of the definition of crime within the jurisdiction of the International Criminal Court, the reference to Article 8 *bis* in the definition of crime of aggression shall not be construed as a reference to that Article as amended by a relevant amendment.

(1B) In this Act, a reference to a crime within the jurisdiction of the International Criminal Court shall be construed as including any act in respect of which a person who commits such an act is by virtue of Article 25, 27 or 28 criminally responsible for any of the acts referred to in paragraphs (a) to (f) of the definition of crime within the jurisdiction of the International Criminal Court in subsection (1).”.

Amendment of section 6 of Act of 2006

44. Section 6 of the Act of 2006 is amended by the insertion of the following subsection after subsection (2):

“(3) A reference in this section to an Article shall not be construed as a reference to that Article as amended by a relevant amendment.”.

Amendment of section 8 of Act of 2006

45. Section 8 of the Act of 2006 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) Subject to subsection (1A), any person who does any act specified in Article 25.3 (individual criminal responsibility), other than an act in relation to the crime of aggression, is guilty of an offence (in this Act referred to as an ‘ancillary offence’).”,

and

(b) by the insertion of the following subsection after subsection (1):

“(1A) For the purposes of subsection (1), a reference in Article 25.3 to a crime within the jurisdiction of the Court shall not be construed in accordance with the text of the Statute as amended by a relevant amendment.”.

Amendment of section 9 of Act of 2006

46. Section 9 of the Act of 2006 is amended by the insertion of the following subsection after subsection (4):

“(5) Without prejudice to the generality of subsection (4), proceedings may not be taken in respect of—

- (a) an alleged war crime in respect of an alleged infringement of subparagraph (b)(xxvii), (b)(xxviii), (b)(xxix), (e)(xiii), (e)(xiv), (e)(xv), (e)(xvi), (e)(xvii), (e)(xviii) or (e)(xix) of Article 8.2, or
- (b) an alleged ancillary offence relating to an alleged infringement referred to in paragraph (a),

where such alleged infringement or alleged ancillary offence, as the case may be, is in respect of conduct that occurred before the coming into operation of *paragraph (a)(i) of section 43 of the Criminal Law, Civil Law and Defence (Miscellaneous Provisions) Act 2026*.”.

Amendment of section 12 of Act of 2006

47. Section 12 of the Act of 2006 is amended by the insertion of the following subsection after subsection (4):

“(4A) The reference in subsection (2)(a) to Article 8.2 shall not be construed as a reference to that Article as amended by a relevant amendment.”.

Amendment of section 62 of Act of 2006

48. Section 62(1) of the Act of 2006 is amended by the substitution of “an ICC offence, offence under section 11(1) or other serious offence” for “an ICC offence or other serious offence”.

Order for purpose of definition of crime within jurisdiction of International Criminal Court

49. The Act of 2006 is amended by the insertion of the following section after section 64:

“64A. (1) The Government, on the request of the Minister made after consultation with the Minister for Foreign Affairs and Trade, may by order prescribe as a crime within the jurisdiction of the International Criminal Court an act specified in an amendment adopted under Article 121 or 123, on or after the coming into operation of this section, to Article 6, 7, 8 or 8 *bis* (in this Act referred to as a ‘relevant amendment’), whether or not such relevant amendment has entered into force.

(2) Where an order has been made under subsection (1), references to the Statute in the following provisions shall be construed as references to the Statute as amended by the relevant amendment:

(a) section 3, except in so far as that section relates to proceedings for an offence under Part 2;

(b) section 4;

(c) Parts 3 to 5;

(d) sections 58 to 59;

(e) section 63.

(3) Where an order is proposed to be made under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House.”.

Further amendment of Act of 2006: crimes within jurisdiction of International Criminal Court

50. The Act of 2006 is amended—

(a) in section 4(1)(b), by the substitution of “crimes within the jurisdiction of the International Criminal Court” for “offences within the jurisdiction of the Court”,

(b) in section 19, by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence” in both places where it occurs,

(c) in section 22(1)(c)(i), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence or an offence under section 11(1)(a)”,

(d) in section 31(1)(b), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence”,

- (e) in section 37, in paragraph (a) of the definition of “gift caught by this Part”, by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence”,
- (f) in section 38, by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence” in each place where it occurs,
- (g) in section 50—
 - (i) in subsection (1B), by the substitution of “crime within the jurisdiction of the International Criminal Court” for “ICC offence”,
 - (ii) in subsection (1L), by the substitution of “crime within the jurisdiction of the International Criminal Court” for “ICC offence”,
 - (iii) in subsection (3)(a), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence”, and
 - (iv) in subsection (12), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence” in each place where it occurs,
- (h) in section 50A, by the substitution of “crime within the jurisdiction of the International Criminal Court” for “ICC offence” in both places where it occurs,
- (i) in section 51(7)(d), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence”,
- (j) in section 52, by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence” in each place where it occurs,
- (k) in section 53(1), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence”, and
- (l) in section 63(3)(b), by the substitution of “crimes within the jurisdiction of the International Criminal Court” for “offences within the jurisdiction of the Court”.

Amendment of Act of 2006 – insertion of Schedule 1A

- 51.** The Act of 2006 is amended by the insertion of the text set out in *Schedule 1* as Schedule 1A to that Act.

PART 14

AMENDMENT OF CRIMINAL JUSTICE (FORENSIC EVIDENCE AND DNA DATABASE SYSTEM) ACT 2014

Amendment of section 2 of Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

- 52.** Section 2(1) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 is amended by the substitution of the following definition for the definition of

“DNA profile”:

“ ‘DNA profile’, in relation to a person, means—

- (a) subject to paragraphs (b) and (c), information comprising a set of identification characteristics of the non-coding part of DNA derived from an examination and analysis of a sample of biological material that is clearly identifiable as relating to the person and that is capable of comparison with similar information derived from an examination and analysis of another sample of biological material for the purpose of determining whether or not that other sample could relate to that person,
- (b) where the sample is taken from, or in relation to, the person or the body of the person under section 48, 49 or 50, information comprising a set of identification characteristics of the DNA derived from an examination and analysis of a sample of biological material that is clearly identifiable as relating to the person and that is capable of comparison with similar information derived from an examination and analysis of another sample of biological material for the purpose of determining whether or not that other sample could relate to that person, or
- (c) in the case of a DNA profile received pursuant to section 143(1) or 144(1)(b), information comprising a set of identification characteristics of the DNA derived from an examination and analysis of a sample of biological material that is clearly identifiable as relating to the person and that is capable of comparison with similar information derived from an examination and analysis of another sample of biological material for the purpose of determining whether or not that other sample could relate to that person.”.

Amendment of section 154 of Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

53. Section 154 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 is amended—

- (a) in subsection (1), by the substitution of “under this Act or under section 10 of the Misuse of Drugs Act 1984” for “under this Act”, and
- (b) in subsection (4), by the substitution of “under a provision of this Act or under section 10 of the Misuse of Drugs Act 1984” for “under a provision of this Act”.

PART 15

AMENDMENT OF ACT OF 2017

Offences relating to accommodation offered in exchange for sexual activity

54. The Act of 2017 is amended by the insertion of the following section after section 45:

“45A. (1) A person who offers a tenancy of, or a licence in relation to, relevant accommodation, which tenancy or licence is of a type that would ordinarily be granted in exchange for payment, to another person in exchange for a person engaging in sexual activity with another person in lieu of payment in respect of the tenancy or licence shall be guilty of an offence.

(2) Subject to subsection (3), a person who advertises, or causes the advertisement of, an offer of a tenancy of, or a licence in relation to, relevant accommodation, which tenancy or licence is of a type that would ordinarily be granted in exchange for payment, where the tenancy or licence is offered by a person in exchange for a person engaging in sexual activity with another person in lieu of payment in respect of that tenancy or licence, shall be guilty of an offence.

(3) In any proceedings for an offence under subsection (2), it shall be a defence for the accused to show that he or she did not know and had no reason to suspect that the advertisement related to an offer of a tenancy of, or licence in relation to, relevant accommodation, in exchange for a person engaging in sexual activity with another person in lieu of payment in respect of the tenancy or licence.

(4) A person guilty of an offence under this section shall be liable on summary conviction to a class A fine.

(5) In this section—

‘advertisement’ includes every form of advertisement, whether or not to the public, in a newspaper or other publication, on television or radio, by display of a notice, by electronic communication, including by means of the internet, or by any other means;

‘licence’ means, in relation to a residential property, a licence, whether oral or in writing or implied, given by a person (whether or not the owner of the residential property concerned) permitting another person to enter and reside in the residential property, or part thereof;

‘relevant accommodation’ means a self-contained residential property, or part thereof, that is, or is capable of being, the subject of a tenancy or a licence;

‘residential property’ means any building which is in use as, or is suitable for use as, a dwelling;

‘tenancy’ includes—

- (a) a periodic tenancy,
 - (b) a tenancy for a fixed term, and
 - (c) a sub-tenancy,
- whether oral or in writing or implied.”.

PART 16

OUTDOOR SEATING AREAS FOR LICENSED PREMISES

Definitions (*Part 16*)

55. In this Part—

“Act of 1904” means the Registration of Clubs (Ireland) Act 1904;

“Act of 2000” means the Planning and Development Act 2000;

“Act of 2021” means the Civil Law (Miscellaneous Provisions) Act 2021;

“Act of 2024” means the Planning and Development Act 2024;

“certified copy”, in relation to a street furniture licence, means a copy of the street furniture licence that is certified to be a true copy of the street furniture licence by—

- (a) an officer of the planning authority that granted the street furniture licence,
- (b) a commissioner for oaths,
- (c) a practising solicitor (within the meaning of the Legal Services Regulation Act 2015), or
- (d) a member of An Garda Síochána;

“club” means a club registered under the Registration of Clubs Acts;

“Licensing Acts” means the Licensing Acts 1833 to 2018;

“outdoor seating area” means, in relation to a licensed premises, an outdoor area in relation to which the following matters apply:

- (a) the number of seated patrons who can be accommodated in the area does not exceed the number of patrons who may be accommodated in the licensed premises;
- (b) the area contains sufficient seating to accommodate the number of seated patrons referred to in *paragraph (a)*;
- (c) the area does not contain any counter or barrier across which intoxicating liquor can be served to the public;

- (d) the sale or supply of intoxicating liquor by the licensee to patrons in the area is an ancillary part of the business carried on on that premises;

“planning authority” has the meaning assigned to it by the Act of 2024;

“Registration of Clubs Acts” means the Registration of Clubs Acts 1904 to 2008;

“street furniture licence” means a licence granted to a licensee of a licensed premises under section 254 of the Act of 2000 or section 13 of the Act of 2024 in respect of tables and chairs, prescribed under section 254(1)(g) of the Act of 2000 or section 13(2)(h) of the Act of 2024, situated outside the premises.

Licensed premises with street furniture licence to include outdoor seating area

56. (1) This section applies to—

- (a) an outdoor seating area of a licensed premises that is lawfully used by the licensee of the licensed premises pursuant to a street furniture licence, and
 - (b) an outdoor seating area (within the meaning of the Act of 2021) where—
 - (i) *paragraphs (a) and (b) of section 59(1)* apply, and
 - (ii) the outdoor seating area is lawfully used by a licensee of a licensed premises pursuant to a street furniture licence.
- (2) Subject to this section and notwithstanding any other enactment, an outdoor seating area to which this section applies shall be part of the licensed premises concerned.
- (3) Subject to this section and notwithstanding any other enactment, the Licensing Acts and, where a licensed premises is a club, the Registration of Clubs Acts, shall apply to an outdoor seating area to which this section applies as they apply to the licensed premises concerned and, without prejudice to the generality of the foregoing—
- (a) it shall be lawful for the licensee of that licensed premises to sell or supply intoxicating liquor in the outdoor seating area on the same basis that it is lawful to sell or supply intoxicating liquor under the licence, or, in respect of a club, the certificate of registration under the Act of 1904 in force, attaching to that premises, and
 - (b) for the purposes of the renewal—
 - (i) of the licence concerned under section 4 of the Courts (No. 2) Act 1986, failure to operate the outdoor seating area in accordance with this section or the Licensing Acts shall be grounds for objection to the renewal of the licence, or
 - (ii) of the certificate of registration concerned under section 3 of the Act of 1904, failure to operate the outdoor seating area in accordance with this section, the Licensing Acts or the Registration of Clubs Acts shall be a basis for objection to the renewal of the certificate under section 5 of the Act of 1904.

- (4) *Subsection (3)(b)* shall apply to the renewal of the licence or certificate of registration, as the case may be, referred to in that subsection irrespective of whether, at the time of such renewal, the licensee has ceased to operate the outdoor seating area concerned.
- (5) Notwithstanding the type of licence held by a licensee, or, in respect of a club, that a certificate of registration under the Act of 1904 is in force, in respect of a licensed premises, the sale or supply of intoxicating liquor in an outdoor seating area shall not be lawful where the intoxicating liquor is sold or supplied for consumption off the premises.
- (6) Notwithstanding the type of licence held by a licensee, or, in respect of a club, that a certificate of registration under the Act of 1904 is in force, in respect of a licensed premises, the sale or supply of intoxicating liquor in an outdoor seating area shall be lawful only—
 - (a) subject to *paragraph (b)*, within the times permitted by the Licensing Acts and, where the licensed premises is a club, the Registration of Clubs Acts, in respect of the licence or the certificate of registration, or
 - (b) where any one or more than one of such times has been restricted by or under any enactment, within the time or times concerned as so restricted.
- (7) *Subsection (2)* shall not be construed as authorising—
 - (a) a use, in relation to an outdoor seating area, that would be—
 - (i) an unauthorised use within the meaning of the Act of 2000, or
 - (ii) an unauthorised use within the meaning of the Act of 2024,or
 - (b) any activity in an outdoor seating area that is otherwise unlawful.
- (8) In this section, “enactment” has the same meaning as it has in the Interpretation Act 2005.

Street furniture licence: duties of licensee and District Court clerk

- 57.** (1) Where a street furniture licence is granted to the licensee of a licensed premises, the licensee shall, as soon as practicable after the licence is granted, give notice in writing of its granting to the District Court clerk in the licensing area in which the premises are situated.
- (2) A notice under *subsection (1)* shall state the name of the licensee and the name and address of the licensed premises and shall be accompanied by—
- (a) a certified copy of the street furniture licence, and
 - (b) a map of the outdoor seating area to which the street furniture licence relates.
- (3) As soon as practicable after receiving a notice under *subsection (1)*, the District Court clerk concerned shall record the particulars of the street furniture licence in the entry for the licensed premises concerned in the register of licences kept under the

Licensing Acts, or where the licensed premises is a club, in the register of clubs kept under the Registration of Clubs Acts.

Withdrawal or variation of street furniture licence: duties of licensee and District Court clerk

- 58.** (1) This section applies where a street furniture licence relating to licensed premises is withdrawn or varied by the planning authority concerned.
- (2) A licensee shall, within 21 days of the withdrawal or variation of a street furniture licence, give notice in writing of the withdrawal or variation to the District Court clerk in the licensing area in which the premises are situated.
- (3) A notice under *subsection (2)* shall state the name of the licensee and the name and address of the licensed premises and, where it relates to the variation of a street furniture licence, shall be accompanied by—
- (a) a certified copy of the street furniture licence as so varied, and
- (b) a map of the outdoor seating area to which the street furniture licence relates.
- (4) As soon as practicable after receiving a notice under *subsection (2)*, the District Court clerk concerned shall record the particulars of the street furniture licence in the entry for the licensed premises concerned in the register of licences kept under the Licensing Acts, or where the licensed premises is a club, in the register of clubs kept under the Registration of Clubs Acts.

Transitional provision: outdoor seating area licensed under Act of 2021

- 59.** (1) Subject to *subsection (2)*, this section applies to an outdoor seating area (within the meaning of the Act of 2021) of a licensed premises where on the coming into operation of this section—
- (a) the Act of 2021 (other than section 8 of that Act) remains in operation in accordance with a resolution passed under section 9(4) of that Act, and
- (b) the outdoor seating area is, in accordance with section 2 of that Act, part of the licensed premises.
- (2) This section shall not apply to an outdoor seating area referred to in *section 56(1)(b)*.
- (3) On the expiration of the period of time specified in the resolution referred to in *subsection (1)(a)*—
- (a) an outdoor seating area to which this section applies shall be deemed to be part of the licensed premises for a further period, beginning on the expiration of the period specified in that resolution and expiring on the commencement of the next sitting of the annual licensing District Court, after such expiration, in the licensing area in which the licensed premises concerned is situated, and
- (b) the Act of 2021 shall, notwithstanding the expiration of the period specified in that resolution, continue to apply in respect of that outdoor seating area during that further period.

PART 17

DISREGARD OF CERTAIN HISTORICAL CONVICTIONS AND OTHER DETERMINATIONS

Interpretation (*Part 17*)**60.** In this Part—

“Act of 1907” means the Probation of Offenders Act 1907;

“Act of 2010” means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“additional information”, in relation to an application, includes a media report (howsoever described), relating to the arrest, questioning, cautioning, charging, proceedings on foot of the charge but preliminary to the conviction, prosecution, conviction or sentencing of a person, in respect of which the applicable conviction or other determination relates;

“applicable activity” means, in relation to an application, the sexual activity or activities to which an applicable conviction or other determination concerned relates;

“applicable conviction or other determination” means a conviction or other determination the subject of an application;

“applicant” has the meaning assigned to it by *section 62*;

“application” has the meaning assigned to it by *section 61*;

“caution” means a formal written warning or notice administered to a person by a member of An Garda Síochána in lieu of the person being charged with an offence;

“certificate of disregard” has the meaning assigned to it by *section 66*;

“circumstances ancillary” means, in relation to a conviction or other determination, any or all of the following:

- (a) the offence the subject of the conviction or other determination;
- (b) the conduct constituting that offence;
- (c) any arrest, questioning or cautioning of the relevant person prior to being charged with the offence;
- (d) the charging of the relevant person with the offence;
- (e) any proceedings on foot of the charge but preliminary to the conviction or other determination;
- (f) any penalty or other order of a court concerned, made on foot of the conviction;
- (g) any proceedings, by way of appeal or otherwise, for reviewing the conviction or other determination or any penalty imposed on foot of the conviction;
- (h) anything done in pursuance of, or undergone in compliance with, any order made in connection with or as a result of the conviction or other determination;

“civil partner” shall be construed in accordance with section 3 of the Act of 2010;

“cohabitant” means a cohabitant within the meaning of section 172(1) of the Act of 2010;

“consent” has the same meaning as it has in section 9 of the Criminal Law (Rape) (Amendment) Act 1990;

“conviction”, in relation to a person, means the conviction by a court of the person of an offence or, in the case of an appeal whether against conviction or sentence or both, the final determination by a court of the appeal, or the withdrawal of the appeal;

“disregard” shall be construed in accordance with *section 67*;

“disregarded conviction or other determination” means a conviction or other determination in respect of which a certificate of disregard is in effect;

“enactment” has the same meaning as it has in the Interpretation Act 2005;

“guardian” means, in relation to a relevant person who is deceased, a person who—

(a) was a guardian of the relevant person pursuant to the Guardianship of Infants Act 1964, or

(b) was appointed to be the guardian of the relevant person by—

(i) a deed or will, or

(ii) an order of a court in the State,

and was not removed from office;

“immediate family member” means, in relation to a relevant person who is deceased, a parent, step-parent, guardian, spouse, civil partner, cohabitant, partner or child of the relevant person;

“independent assessor” has the meaning assigned to it by *section 70*;

“independent assessor’s recommendation” has the meaning assigned to it by *section 70*;

“independent person” has the meaning assigned to it by *section 63*;

“independent person’s recommendation” has the meaning assigned to it by *section 65*;

“independent reviewer” has the meaning assigned to it by *section 63*;

“independent reviewer’s recommendation” has the meaning assigned to it by *section 68*;

“Irish Prison Service” means the prison service of the Department of Justice, Home Affairs and Migration, which is charged with the management of prisons within the meaning of section 2 of the Act of 2007;

“notice of revocation” has the meaning assigned to it by *section 71*;

“other determination” means, in relation to a person—

(a) a caution administered to the person, or

- (b) an order made by a court in respect of the person under section 1(1) of the Act of 1907;

“participant” means a person who participated in any of the applicable activity or whose participation was sought by whatever means;

“partner” means, in relation to a relevant person who is deceased, a person who was in an intimate and committed personal relationship with the relevant person immediately prior to the relevant person’s death;

“Probation Service” means those officers of the Minister assigned to perform functions in the part of the Department of State for which the Minister is responsible, commonly known by that name;

“public body” means—

- (a) An Garda Síochána,
- (b) the Courts Service,
- (c) the Defence Forces,
- (d) the Irish Prison Service,
- (e) the Office of the Attorney General,
- (f) the Office of the Chief State Solicitor,
- (g) the Office of the Director of Public Prosecutions, or
- (h) the Probation Service;

“record” includes a part of a record and a copy of a record;

“relative” means, in relation to a relevant person who is deceased, a brother, step-brother, sister, step-sister, grandchild, uncle, aunt, niece, nephew, grandniece or grandnephew of the relevant person;

“relevant conviction or other determination”, in relation to a person, means—

- (a) the conviction of the person on or after 6 December 1922 by a court of criminal or military jurisdiction—
 - (i) of the offence of buggery, or
 - (ii) of an offence under—
 - (I) section 62 of the Offences against the Person Act 1861,
 - (II) section 11 of the Criminal Law Amendment Act 1885, or
 - (III) section 1(1)(b) of the Vagrancy Act 1898,

or

- (b) an other determination in relation to an offence referred to in *paragraph (a)*;

“relevant person” has the meaning assigned to it by *section 61*;

“sexual activity” includes alleged or attempted sexual activity or the solicitation of such activity;

“transferred record” means a record transferred by a public body to the National Archives under the National Archives Act 1986.

Application for certificate of disregard

- 61.** (1) A person (in this Part referred to as a “relevant person”) who has a relevant conviction or other determination, or if the relevant person is deceased, a person referred to in *section 62(1)(c)* or *(d)*, may apply to the Minister under *section 62* for a certificate of disregard in respect of that relevant conviction or other determination (in this Part referred to as an “application”) where—
- (a) the conduct constituting the offence was sexual activity between persons of the same sex, and
 - (b) the relevant person, or, where appropriate, a person referred to in *section 62(1)(c)* or *(d)* considers that—
 - (i) each of the criteria specified in *subsection (2)* is satisfied, or
 - (ii) *subsection (3)* applies in relation to the relevant person.
- (2) The criteria referred to in *subsection (1)(b)(i)* are the following:
- (a) the relevant person did not cause, or attempt to cause, another person to participate in any of the sexual activity concerned without the consent of that other person;
 - (b) the relevant person did not engage, or attempt to engage, in any of the sexual activity concerned with another person who—
 - (i) subject to *subsection (4)*, was under the age of 17 years, or
 - (ii) bore the characteristics of a protected person (within the meaning of section 21 of the Act of 2017);
 - (c) the relevant person was not, at the time of any of the sexual activity concerned, a person in authority (within the meaning of section 1 of the Criminal Law (Sexual Offences) Act 2006) in relation to another participant in the sexual activity concerned who—
 - (i) was over the age of 17 years but under the age of 18 years, or
 - (ii) bore the characteristics of a relevant person (within the meaning of section 22 of the Act of 2017);
 - (d) the relevant person did not, in the course of the sexual activity, engage in conduct referred to in section 5 of the Act of 2017;
 - (e) the relevant person did not pay, give, offer, or promise to pay or give another person money or any other form of remuneration or consideration for the purpose of participating in any of the sexual activity concerned;

- (f) the sexual activity would not, if occurring in the same circumstances at the time that the relevant person makes the application, constitute an offence.
- (3) The criteria specified in *subsection (2)* shall not apply in circumstances where the relevant person was compelled, coerced or deceived into participating in the sexual activity or otherwise did not consent to the sexual activity the subject of the conviction or other determination, as the case may be.
- (4) *Subsection (2)(b)(i)* shall not apply where any person under the age of 17 years, with whom the relevant person engaged in any of the sexual activity, was at the time the activity concerned took place—
 - (a) either—
 - (i) older than the relevant person, or
 - (ii) not more than 2 years younger than the relevant person,
 - (b) not under 15 years of age, and
 - (c) not the subject of a relationship which involved intimidation or exploitation by the relevant person.
- (5) Notwithstanding *subsection (2)(f)*, the relevant person or, where appropriate, a person referred to in *section 62(1)(c)* or *(d)* may make an application where he or she believes—
 - (a) (for such reasons as shall be stated in the application) that the relevant person would not have been cautioned or prosecuted, as the case may be, in relation to the sexual activity concerned had the sexual activity been heterosexual in nature, and
 - (b) the criteria specified in *paragraphs (a) to (e) of subsection (2)* are satisfied.

Procedure for making applications

62. (1) An application may be made to the Minister—

- (a) by the relevant person concerned,
- (b) by a person nominated in writing by the relevant person to make the application on the relevant person's behalf,
- (c) where the relevant person is deceased, by an immediate family member, or
- (d) where the relevant person is deceased but there is no immediate family member who can or wishes to make an application, by a relative, other than where there is an objection by an immediate family member to such an application being made in respect of the relevant person,

and a person who makes an application shall in this Part be referred to as an “applicant”.

- (2) An application shall be in writing and in such form and contain such information as the Minister may specify and—
- (a) may include such additional information as the applicant considers relevant to the application,
 - (b) may be accompanied by a statutory declaration made by the relevant person, or another participant in the sexual activity concerned, stating that the relevant conviction or other determination which is the subject of the application satisfies the criteria under *section 61* for a certificate of disregard, and
 - (c) shall, where an application is one to which *section 61(5)* applies, set out the reasons as to why the relevant person or, where appropriate, a person referred to in *subsection (1)(c)* or *(d)*, believes that the relevant person would not have been cautioned or prosecuted, as the case may be, in relation to the sexual activity concerned had the sexual activity been heterosexual in nature.
- (3) An application shall be made within a period of 24 months of the commencement of this Part, however, the Minister may, at his or her discretion, accept and consider an application made after the expiry of this period.
- (4) A fee shall not be payable to the Minister in relation to an application.

Appointment of persons to consider applications and undertake reviews

- 63.** (1) The Minister shall appoint one or more persons on such terms and conditions as the Minister may determine for the following purposes:
- (a) to consider applications under *sections 64* and *65* (in this Part referred to as an “independent person”);
 - (b) to carry out reviews under *section 68* (in this Part referred to as an “independent reviewer”).
- (2) A person shall not be appointed under *subsection (1)* unless the Minister is satisfied that the person is suitable to be so appointed by reason of his or her possessing such relevant experience, qualifications or specialist knowledge, or satisfying such other criteria, as the Minister considers appropriate having regard to the functions of the person under this Part.
- (3) The Minister may request in writing a person appointed under this section to provide the Minister with such information, and within such period as the Minister may specify in the request, in relation to the carrying out by the person of his or her functions under this Part and, where the Minister makes such a request, the person shall comply with that request.

Preliminary assessment of applications

- 64.** (1) An independent person shall, in respect of any application before him or her, consider the application and may request from any person such further information as the independent person reasonably considers necessary to verify—

- (a) the identity of the applicant,
 - (b) where applicable, the relationship of the applicant to the relevant person, and
 - (c) where *section 62(1)(d)* applies, confirmation of the circumstances giving rise to the application being brought by the applicant concerned.
- (2) Where the independent person, having had regard to the application and such information, if any, as he or she has obtained under this section, is not satisfied that the applicant is a person who may make the application in accordance with *section 62(1)*, the independent person shall not consider the application further and shall notify in writing—
- (a) the applicant, informing him or her of the decision and the reasons for that decision, and that he or she may make a request in writing to the Minister, within 28 days of the date of the notification, to seek a review of the decision under *section 68*, and
 - (b) the Minister, informing him or her of the decision, accompanied by the application and such other information, if any, that the independent person obtained in relation to the application.
- (3) Where the independent person, having had regard to such information, if any, as he or she has obtained under this section, is satisfied that the applicant is a person who may make the application in accordance with *section 62(1)*, the independent person shall proceed to consider the application under *section 65*.

Consideration by independent person of application

65. (1) An independent person may, for the purposes of considering an application, request in writing a public body to furnish him or her with copies of any records that the public body may hold or any transferred records that the public body may formerly have held, which are, or may be, relevant to the consideration of the application, including any record relating to or referencing the arrest, questioning, caution, charge, prosecution, making of an order under section 1(1) or (2) of the Act of 1907, conviction, sentencing, imprisonment or probation supervision of any person in connection with the application concerned.
- (2) Where a public body receives a request from an independent person under *subsection (1)*, the public body shall within 60 days of the date of the request or such longer period as the independent person may allow—
- (a) provide the independent person with a copy of any record requested, or
 - (b) where the public body is unable to locate any such record, notify the independent person of that fact.
- (3) Having had regard to such information as is contained in the application and such further information, if any, as the independent person may have obtained from a public body under *subsection (2)*, the independent person shall, if he or she considers

it necessary, make all further reasonable efforts to locate and obtain such additional information as may assist the independent person to—

- (a) verify the existence of the applicable conviction or other determination,
 - (b) determine whether the applicable conviction or other determination is a relevant conviction or other determination, or
 - (c) consider whether the relevant conviction or other determination satisfies the criteria under *section 61* for a certificate of disregard.
- (4) An independent person may consult with any person whom the independent person reasonably considers may be appropriate by reason of that other person's experience, qualifications, specialist knowledge or knowledge of the matters being considered by the independent person.
- (5) An independent person, in considering an application, shall consider whether the criteria in *section 61* are satisfied and shall consider all other information in his or her possession pursuant to this section for those purposes.
- (6) Without prejudice to the generality of *subsection (5)*, in a case of an application to which *section 61(5)* applies, the independent person shall consider—
- (a) whether it is likely that the relevant person would not have been cautioned or prosecuted, as the case may be, in relation to the sexual activity concerned had that activity been heterosexual in nature, and
 - (b) in considering *paragraph (a)*, whether a person, other than a person engaging in the sexual activity concerned, would have been able to observe the sexual activity without actively seeking out the said activity for the purpose of so observing.
- (7) An independent person shall, having considered the application concerned in accordance with this section, make a recommendation in writing (in this Part referred to as an “independent person's recommendation”), providing reasons for that recommendation, to the Minister within 4 months of receipt of the application or such longer period as the Minister may allow, advising the Minister that the independent person—
- (a) is satisfied that the applicable conviction or other determination should be disregarded and that he or she is recommending that a certificate of disregard be issued, or
 - (b) is not satisfied that the applicable conviction or other determination should be disregarded and that he or she is recommending that a certificate of disregard should not be issued.
- (8) An independent person's recommendation shall be accompanied by the application, all records and any other information that the independent person obtained in relation to the application.

Consideration by Minister of recommendations, etc.

66. (1) Where the Minister receives an independent person's recommendation he or she shall consider the recommendation concerned and shall—
- (a) if satisfied that the applicable conviction or other determination should be disregarded, issue to the applicant a certificate (in this Part referred to as a "certificate of disregard") in respect of the relevant conviction or other determination, or
 - (b) if not satisfied that the applicable conviction or other determination should be disregarded, notify, in writing, the applicant—
 - (i) that the Minister has decided to refuse to issue a certificate of disregard, giving reasons for that decision, and
 - (ii) that he or she may in writing, within 28 days of the date of the notification, request a review of the decision under *section 68*.
- (2) A certificate of disregard shall bear the official seal of the Minister and shall have effect from the date of issue.
- (3) Where the Minister issues a certificate of disregard under *subsection (1)(a)*—
- (a) the Minister shall, as soon as practicable, notify, or cause to be notified, each public body which holds or may hold (or which may have transferred to the National Archives) a record relating to the disregarded conviction or other determination or any circumstances ancillary thereto of the certificate of disregard in respect of the conviction or other determination concerned, and
 - (b) each public body notified under *paragraph (a)* shall, as soon as practicable, annotate any such record (including any transferred record) in order to record the disregard of the applicable conviction or other determination in such manner as does not in any way amend or otherwise alter the record itself but which ensures that, if such record is subsequently consulted or processed for any purpose, the fact of such disregard is clearly and immediately visible.

General effect of certificate of disregard and related matters

67. (1) A person shall not be required—
- (a) by any enactment or rule of law,
 - (b) pursuant to the exercise of any law of the State or of another state, or
 - (c) by the provisions of any agreement or arrangement with any party in the State or another state which purports to require the person to disclose a conviction or other determination incurred by the person or any circumstances ancillary thereto,
- to disclose a disregarded conviction or other determination or any circumstances ancillary thereto.

- (2) Notwithstanding any other enactment or rule of law, where a question is put to a person purporting to seek information in relation to the person's previous convictions or other determinations or any circumstances ancillary thereto—
- (a) the question shall be regarded as not applying to a disregarded conviction or other determination and the person may respond accordingly, and
 - (b) the person shall not incur any liability or be otherwise prejudiced in law because that person did not disclose the disregarded conviction or other determination or circumstances ancillary thereto.
- (3) Notwithstanding any other enactment or rule of law, in any proceedings before a court—
- (a) no evidence shall be admissible to show that a person has—
 - (i) committed,
 - (ii) been arrested in relation to,
 - (iii) received a caution in relation to,
 - (iv) been charged with,
 - (v) been prosecuted for,
 - (vi) received a conviction for,
 - (vii) been the subject of an order under section 1(1) or (2) of the Act of 1907, or
 - (viii) been sentenced in respect of,an offence the subject of a disregarded conviction or other determination, and
 - (b) in any such proceedings the person shall not be asked, and if asked shall not be required to answer, any question which cannot be answered without disclosing the disregarded conviction or other determination or circumstances ancillary thereto.
- (4) *Subsections (1) to (3)* are without prejudice to the right of a person to disclose a disregarded conviction or other determination of which the person is the subject.
- (5) Notwithstanding any other enactment or rule of law, where an enquiry is put to An Garda Síochána under any procedure whereby a person may lawfully seek information regarding any conviction or other determination incurred by another person, An Garda Síochána shall not, in response to such enquiry, disclose a disregarded conviction or other determination or any circumstances ancillary thereto.
- (6) Where An Garda Síochána provides a copy of a person's criminal record at that person's request, An Garda Síochána shall not include information relating to a disregarded conviction unless so requested by the person and, if so requested, shall provide such information separately from information concerning that person's other convictions (if any).

- (7) Where a conviction or other determination has been disregarded, the fact of such conviction or other determination, or any circumstances ancillary thereto, shall not be a proper ground for dismissing or excluding the person the subject of said conviction or other determination from any office, profession, occupation or employment, or for prejudicing him or her in any way in any occupation or employment.
- (8) This section applies to a response given on or after the date of issue of a certificate of disregard to—

- (a) a request made (either orally or in writing), or
- (b) a requirement notified (either orally or in writing),

before or after the said date seeking, or requiring, as the case may be, information in relation to a person's previous convictions or other determinations where the information sought or required, as the case may be, relates to a conviction or other determination to which the said certificate of disregard applies.

- (9) In this section—

“court” means any court in the State exercising jurisdiction under civil, criminal or military law;

“state”, in relation to a state other than the State, includes a territory, whether in the state or outside it, for whose external relations the state or its government is wholly or partly responsible and references to a state shall be construed as including references to a subdivision of the government of the state or a national, regional or local entity of the state.

Reviews of decisions

68. (1) An applicant may request in writing a review of a decision made under *section 64(2)* or *66(1)(b)*, and where he or she does so, the request shall include reasons for seeking the review and may be accompanied by such supporting documentation as the applicant considers appropriate for the purpose of the review.
- (2) Where the Minister receives a request for a review under *subsection (1)* he or she shall, unless he or she reasonably considers the request to be frivolous, vexatious or otherwise manifestly unfounded, appoint a person, other than the independent person who made the decision under *section 64(2)* or the recommendation under *section 65*, as the case may be, as an independent reviewer for the purposes of carrying out a review.
- (3) The Minister shall, upon appointing an independent reviewer, provide him or her with a copy of the application, any records or information obtained by the independent person under *section 64* or *65*, as the case may be, and where applicable, the independent person's recommendation under *section 65*.
- (4) *Section 64(1)* shall apply to a review of a decision made under *section 64(2)* as it applies to a consideration by an independent person of an application under that section, with any necessary modifications.

- (5) *Subsections (3) to (6) of section 65 shall apply to a review of a decision made under section 66(1)(b) as they apply to a consideration by an independent person of an application under that section, with any necessary modifications.*
- (6) An independent reviewer shall, having reviewed the documentation provided under *subsection (3)* and any information obtained under this section, make a recommendation in writing (in this Part referred to as an “independent reviewer’s recommendation”), providing reasons for that recommendation, to the Minister within 28 days after the independent reviewer was appointed or such longer period as the Minister may allow, as to whether or not the Minister should—
 - (a) affirm the decision made under *section 64(2)*, or
 - (b) affirm the decision made under *section 66(1)(b)*.
- (7) The Minister, having considered an independent reviewer’s recommendation made under *subsection (6)(a)*, may—
 - (a) decide to affirm the decision made under *section 64(2)* and refuse to consider the application further, in which case the Minister shall inform in writing the applicant of the decision and give reasons for that decision, or
 - (b) decide to refuse to affirm the decision made under *section 64(2)*, in which case the Minister shall inform in writing the applicant of the decision.
- (8) Where *subsection (7)(b)* applies, the Minister shall, under *section 63(1)(a)*, appoint a person (other than the independent person who made the decision under *section 64(2)* or the independent reviewer who considered or reviewed the decision concerned) to proceed to consider the application under *section 65*.
- (9) The Minister, having considered an independent reviewer’s recommendation made under *subsection (6)(b)*, may—
 - (a) refuse to issue a certificate of disregard, in which case the Minister shall inform in writing the applicant and give reasons for the decision, or
 - (b) issue a certificate of disregard, in which case the Minister shall, accordingly, issue such certificate under *section 66*.

Public body obligation to bring certain information to attention of Minister

- 69.** Where, having been notified of the issuance of a certificate of disregard in respect of a relevant person under *section 66(3)(a)*, a public body subsequently becomes aware of information which might reasonably be grounds for a belief that the application upon which the certificate of disregard was granted included, or was supported by, false or misleading information or documentation, the public body shall, as soon as practicable, bring such information to the attention of the Minister.

Revocation of certificate of disregard

- 70.** (1) Where, subsequent to the issuance of a certificate of disregard in respect of a relevant person, the Minister—

(a) having received information, under *section 69* or otherwise, which causes him or her to reasonably believe—

(i) that an application upon which the certificate of disregard was granted included, or was supported by, false or misleading information or documentation, and

(ii) that, in all the circumstances, it is likely that the independent person would not have recommended that a certificate of disregard be issued in respect of the relevant conviction or other determination concerned had the application not included, or had it not been supported by, such false or misleading information or documentation,

and

(b) having consulted with such persons as he or she reasonably considers may be appropriate by reason of that other person's experience, qualifications, specialist knowledge or knowledge of the matters concerned,

is no longer satisfied that the disregarded conviction or other determination concerned should be the subject of a certificate of disregard, the Minister shall notify in writing the applicant concerned that he or she proposes to revoke the certificate of disregard.

(2) A notification under *subsection (1)* shall—

(a) set out the reasons for the Minister's belief that the certificate of disregard in respect of the disregarded conviction or other determination concerned should be revoked, and

(b) inform the applicant that he or she may in writing, within 28 days of the date of the notification, request a review of the proposed revocation.

(3) An applicant may in writing request a review under *subsection (2)(b)* and any such request—

(a) shall include the reasons why the applicant considers that the certificate of disregard should not be revoked, and

(b) may be accompanied by such supporting documentation as the applicant considers appropriate.

(4) Where the Minister receives a request for a review of a proposed revocation under *subsection (3)*, he or she shall, subject to *subsection (5)*, unless he or she reasonably considers the request to be frivolous, vexatious or otherwise manifestly unfounded, appoint a person (in this Part referred to as an "independent assessor"), other than the independent person who considered the application under *section 64* or *65* or, where applicable, the independent reviewer who carried out a review under *section 68*, to carry out such review of the proposed revocation.

(5) The Minister shall appoint on such terms and conditions as he or she may determine a retired judge of the Circuit Court, the High Court, the Court of Appeal or the Supreme Court to be an independent assessor to undertake a review under this section.

- (6) The Minister shall, upon appointing an independent assessor, provide him or her with—
- (a) a copy of the application together with any records or information obtained under *section 65* and the recommendation under that section, and where applicable, any information obtained under *section 68*, and
 - (b) the information referred to in *subsection (1)*.
- (7) An independent assessor shall, if he or she considers it necessary, make such further reasonable efforts to locate and obtain such additional information as may assist the independent assessor to carry out a review of a proposed revocation.
- (8) An independent assessor may consult with any person whom the independent assessor reasonably considers may be appropriate by reason of that other person's experience, qualifications, specialist knowledge or knowledge of the matters being considered by the independent assessor.
- (9) An independent assessor shall, within 14 days of his or her appointment or such longer period as the Minister may allow, review the documentation provided under *subsection (6)* and any information obtained under this section, and shall consider whether he or she is satisfied—
- (a) that the application included, or was supported by, false or misleading information or documentation, and
 - (b) that, in all the circumstances, it is likely that the independent person would not have recommended that a certificate of disregard be issued in respect of the relevant conviction or other determination concerned had the application not included, or had it not been supported by, such false or misleading information or documentation.
- (10) Where an independent assessor has completed his or her assessment under *subsection (9)*, he or she shall furnish the Minister with a recommendation in writing (in this Part referred to as an “independent assessor's recommendation”) recommending—
- (a) where the independent assessor is not satisfied of the matters specified in *paragraphs (a) and (b) of subsection (9)*, that the certificate of disregard should not be revoked, giving reasons for the recommendation, or
 - (b) where the independent assessor is satisfied of the matters specified in *paragraphs (a) and (b) of subsection (9)*, that the certificate of disregard should be revoked, giving reasons for the recommendation.
- (11) The Minister may request in writing a person appointed under *subsection (4)* to provide the Minister with such information, and within such period as the Minister may specify in the request, in relation to the carrying out by the person of his or her functions under this Part and, where the Minister makes such a request, the person shall comply with that request.

- (12) For the purposes of this section and *section 71*, where the relevant person is alive but is not the applicant, “applicant” shall be construed as a reference to both the applicant and the relevant person.

Notice of revocation

71. (1) Where the Minister receives an independent assessor’s recommendation he or she shall consider the recommendation concerned and shall—
- (a) if satisfied that the certificate of disregard should be revoked, issue to the applicant a notice revoking the certificate (in this Part referred to as a “notice of revocation”) and any such notice shall be accompanied by reasons in writing for the decision to revoke the certificate of disregard concerned, or
 - (b) if not satisfied that the certificate of disregard should be revoked, notify, in writing, the applicant of his or her decision not to revoke the certificate of disregard concerned.
- (2) Where, in relation to a notification made under *section 70(1)*, the Minister has not received a request in accordance with *section 70(3)*, or where he or she has received such a request but reasonably considers it to be frivolous, vexatious or otherwise manifestly unfounded, the Minister shall issue to the applicant a notice of revocation and any such notice shall be accompanied by reasons in writing for the decision to revoke the certificate of disregard concerned.
- (3) Where the Minister issues a notice of revocation—
- (a) he or she shall, as soon as practicable, notify, or cause to be notified, each public body that holds or may hold (or which may have transferred to the National Archives) a record relating to the previously disregarded conviction or other determination or any circumstances ancillary thereto, and
 - (b) each public body notified under *paragraph (a)* shall, as soon as practicable, annotate any such record in order to reflect the revocation of the disregard in such manner as ensures that, where any such record (including any transferred record) is processed for any purpose, the fact of such revocation is clearly and immediately visible.
- (4) A notice of revocation shall bear the official seal of the Minister and shall have effect from the date of issue.

Public awareness of Part

72. The Minister shall make such reasonable efforts, including by the holding of a public information campaign, as he or she considers appropriate to promote awareness among the public, and in particular relevant persons, including among persons residing outside the State, of this Part, including the process for the making and consideration of applications and the effect of *section 67*.

Personal data under Part

- 73.** (1) Personal data processed for the purposes of the performance of their respective functions under this Part by the Minister, a public body, or an independent person, independent reviewer or independent assessor appointed by the Minister under this Part shall be so processed in accordance with the Data Protection Regulation and the Data Protection Act 2018.
- (2) The Minister is designated as data controller in relation to personal data processed by an independent person, independent reviewer or independent assessor for the purposes of the performance by the independent person, independent reviewer or independent assessor of his or her functions under this Part.
- (3) Where the Minister, independent person, independent reviewer or independent assessor receives or obtains a copy of a record or any other written information (other than a media report) under *section 62, 64, 65, 68 or 70*, he or she shall redact from such copy or from such other written information—
- (a) any information relating to any other offence committed, or alleged to have been committed, by the relevant person unless—
 - (i) such information may, in the opinion of the Minister or the independent person, independent reviewer or independent assessor (as the case may be), assist in considering whether the applicable conviction or other determination should be the subject of a certificate of disregard, or
 - (ii) the relevant person is deceased,
 and
 - (b) in such manner as to avoid hindering a consideration of whether the applicable conviction or other determination should be the subject of a certificate of disregard, any information which may identify, or could be used to identify, a living person other than the relevant person in connection with the applicable activity or any other offence or alleged offence.
- (4) In this section—
- “data controller” has the meaning it has in the Data Protection Regulation;
- “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016⁸ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);
- “personal data” has the same meaning as it has in the Data Protection Regulation.

Limitation of Part

- 74.** Nothing in this Part shall operate to—
- (a) confer any right on any person,

8 OJ No. L 119, 4.5.2016, p. 1

- (b) create any cause of action, or
- (c) impose any liability on the State or on any person.

PART 18

USE OF ELECTRONIC TECHNOLOGY IN CERTAIN COURT PROCEEDINGS

Definitions (*Part 18*)

75. In this Part—

“criminal proceedings” means proceedings against a person for an offence and includes any appeal proceedings related to the offence;

“relevant proceedings” means proceedings under—

- (a) the Extradition Act 1965,
- (b) the Transfer of Sentenced Persons Act 1995,
- (c) Part II of the International War Crimes Tribunals Act 1998,
- (d) the European Arrest Warrant Act 2003,
- (e) the Transfer of Execution of Sentences Act 2005,
- (f) Part 3 of the International Criminal Court Act 2006, or
- (g) Part 3 of the Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023,

and includes any appeal proceedings related to such proceedings.

Use of electronic means in criminal proceedings and relevant proceedings

76. (1) Notwithstanding any other enactment or rule of law, and without prejudice to any such provision in any enactment or rules of court, rules of court may, in relation to criminal proceedings or relevant proceedings, make provision for—

- (a) the lodgement or filing of a document with, and the making of an application to, a court by transmitting the document or application by electronic means to the court office concerned,
- (b) the issue by or on behalf of a court or court office, by transmitting the document concerned by electronic means, of any of the following:
 - (i) a summons;
 - (ii) a judgment, decree or other order or determination of a court (including any judgment, decree or other order or determination entered in or issuing from a court office);
 - (iii) a warrant;

- (iv) any other document required under any enactment or rule of law to be issued by or on behalf of a court or court office,
 - or
 - (c) the transmission by or on behalf of a court or court office by electronic means of any other document or information required under any enactment or rule of law to be transmitted by or on behalf of a court or court office.
- (2) Where rules of court referred to in *subsection (1)* provide for the transmission of a document by electronic means, such rules may, in addition—
- (a) provide that such transmission be subject to such conditions and exceptions as may be specified in the rules,
 - (b) in relation to the transmission of a document referred to in *subsection (1)(a)*, require that—
 - (i) such a document be authenticated, and
 - (ii) the identity of the person transmitting such a document be verified, including by the provision of the personal public service number issued to the person, in such manner as may be specified in the rules,
 - (c) in relation to the transmission of a document referred to in *paragraph (b) or (c) of subsection (1)*, require that the identity of the person receiving such a document be verified, including by the provision of the personal public service number issued to the person, in such manner as may be specified in the rules, and
 - (d) specify whether such transmission is in place of, or is an alternative to, any other method by which such document could be filed, lodged, issued or transmitted, or such application could be made, as the case may be.
- (3) Rules of court may provide that, where a document that is required under any enactment or rule of law to be furnished to, or lodged or filed with, a court, is, in accordance with rules of court referred to in *subsection (1)*, furnished to, or lodged or filed with, the court by electronic means—
- (a) a copy of that document transmitted by electronic means and displayed in readable form, or
 - (b) a printed version of such a copy,
- shall be treated as the original of the document.
- (4) References, howsoever expressed, in any enactment or rule of law to—
- (a) the furnishing of a document to a court,
 - (b) the lodgement or filing of a document with a court,
 - (c) the making of an application to a court,
 - (d) the transmission of a document to or by a court, or

(e) the issue of a document by a court,

shall be construed as including references to the performance of such action by electronic means, where this is provided for in rules of court referred to in *subsection (1)*.

(5) In this section—

“court office” means—

(a) an office of, or attached to—

(i) the Supreme Court,

(ii) the Court of Appeal,

(iii) the High Court,

(iv) the President of the High Court,

(v) the Circuit Court, or

(vi) the District Court,

or

(b) an office of the Courts Service designated by the Courts Service for the purpose of receiving documents or applications, or issuing documents, by electronic means for the purposes of any enactment or rule of law;

“personal public service number” has the same meaning as it has in section 262 of the Social Welfare Consolidation Act 2005.

Statement of truth in criminal proceedings and relevant proceedings

77. (1) Subject to *subsection (2)*, where, in criminal proceedings or relevant proceedings, evidence is to be given on, or a document or information is to be verified by, affidavit or statutory declaration, rules of court may, notwithstanding any other enactment or rule of law, make provision for a statement, which shall be known as a *section 77* statement of truth, to be made and transmitted by electronic means in place of the affidavit or statutory declaration concerned and subject to such conditions and exceptions as may be specified by such rules.

(2) A *section 77* statement of truth—

(a) may be in electronic form,

(b) shall contain a statement that the person making the statement of truth has an honest belief that the facts stated therein are true,

(c) may be signed by the person making it by that person entering his or her name in an electronic format or otherwise electronically as may be permitted by rules of court, and

- (d) shall comply with any other requirements as to its content, verification, authentication or form as may be prescribed by rules of court.
- (3) Where rules of court have made provision for the matters referred to in *subsection (1)*, any reference in any enactment to an affidavit or a statutory declaration shall be construed as including a reference to a *section 77* statement of truth which may be made in place of such affidavit or statutory declaration by virtue of that subsection.
- (4) Without prejudice to the law as to contempt of court, a person who makes, or causes to be made, a statement in a *section 77* statement of truth without an honest belief as to the truth of that statement shall be guilty of an offence.
- (5) A person guilty of an offence under *subsection (4)* shall be liable—
 - (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months, or both, or
 - (b) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 5 years, or both.

PART 19

PASSENGER NAME RECORD DATA

CHAPTER 1

*Preliminary and General***Interpretation (Part 19)****78. (1)** In this Part—

“air carrier” means an air transport provider with a valid operating licence or equivalent permitting it to carry out carriage of passengers by air;

“API data” means advance passenger information and includes the type, number, country of issuance and expiry date of any identity document, nationality, family name, given name, gender, date of birth, airline, flight number, departure date, arrival date, departure port, arrival port, departure time and arrival time;

“competent authority” means an authority—

- (a) referred to in *section 89(1)*, or
- (b) designated under *section 89(2)*,

that is competent for the prevention, detection, investigation and prosecution of a terrorist offence or serious crime;

“competent authority of another Member State” means an authority of another Member State that is competent for the prevention, detection, investigation and prosecution of—

(a) a terrorist offence (within the meaning of *paragraph (b)* of the definition of that term), or

(b) a serious crime (within the meaning of *paragraph (b)* of the definition of that term);

“competent authority of a third country” means an authority of a third country that is competent for the prevention, detection, investigation and prosecution of a terrorist offence or serious crime under the law of that third country;

“data protection officer” shall be construed in accordance with *section 86(1)*;

“designated intra-EU flight” shall be construed in accordance with *section 79*;

“Directive” means Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016⁹ on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime;

“Director” means the Director of the PIU;

“extra-EU flight” means a scheduled or non-scheduled flight by an air carrier flying—

(a) from a third country and planned to land in the State, or

(b) from the State and planned to land in a third country,

including a flight with any stop-overs in another Member State or in a third country;

“Independent Authority” has the meaning assigned to it by *section 90(1)*;

“intra-EU flight” means a scheduled or non-scheduled flight by an air carrier flying—

(a) from a Member State and planned to land in the State, or

(b) from the State and planned to land in one or more than one Member State,

without any stop-overs in the territory of a third country;

“Minister” means the Minister for Justice, Home Affairs and Migration;

“notify” means notify in writing;

“PIU” means the Passenger Information Unit continued in being under *section 83*;

“PIU of another Member State” means the Passenger Information Unit established or designated by that other Member State in accordance with Article 4(1), and cognate words shall be construed accordingly;

“PNR data” means, subject to *subsections (2) to (6)*, the passenger name record data specified in *Schedule 2* collected by an air carrier;

“PNR database” means the database maintained by the PIU for the storage of PNR data;

“prescribed” means prescribed by regulations made by the Minister;

9 OJ No. L 119, 4.5.16, p.132

“push method” means the method whereby PNR data is transferred by an air carrier into the PNR database;

“Regulations of 2018” means the European Union (Passenger Name Record Data) Regulations 2018 (S.I. No. 177 of 2018);

“serious crime”—

(a) in *sections 92(2), 98(1), 98(2), 100(1), 100(3), 100(4) and 104(7)*, means—

- (i) an offence specified in *Schedule 3* that is punishable by a custodial sentence or a detention order of a maximum period of at least 3 years, or
- (ii) such other offence, within the meaning of Article 3(9), as may be prescribed by the Minister,

(b) in *sections 95(9), 99(1), 99(5), 99(8) and 101(1)*, has the same meaning as it has in Article 3(9), and

(c) in *sections 79, 96(1) and 104(1)*, means an offence referred to in *paragraph (a) or (b)*, or both;

“terrorist offence”—

(a) in *sections 92(2), 98(1), 98(2), 100(1), 100(3), 100(4) and 104(7)* means—

(i) an offence under—

(I) section 21 or 21A of the Offences against the State Act 1939 (where committed by a terrorist group within the meaning of section 5(1) of the Criminal Justice (Terrorist Offences) Act 2005),

(II) section 6 of the Offences Against the State (Amendment) Act 1998 (where committed by a terrorist group within the meaning of section 5(1) of the Criminal Justice (Terrorist Offences) Act 2005), or

(III) section 6 or 13 of the Criminal Justice (Terrorist Offences) Act 2005,

or

(ii) such other offence, within the meaning of Article 3(8), as may be prescribed by the Minister,

(b) in *sections 95(9), 99(1), 99(5), 99(8) and 101(1)* has the same meaning as it has in Article 3(8), and

(c) in *sections 79, 94(1), 96(1) and 104(1)*, means an offence referred to in *paragraph (a) or (b)*, or both.

(2) A reference in *paragraph 5 of Schedule 2* to address and contact information (telephone number, email address) shall be taken to be a reference to the postal address, telephone number and email address of the air passenger on behalf of whom a reservation for a flight is made.

(3) A reference in *paragraph 6 of Schedule 2* to all forms of payment information, including billing address shall be taken to be a reference to information relating to the

payment methods for, and billing of, an air ticket, to the exclusion of any other information not directly related to a flight.

- (4) A reference in *paragraph 8 of Schedule 2* to frequent flyer information shall be taken to be a reference only to data relating to the status of the passenger concerned in the context of a customer loyalty programme of a given airline or a given group of airlines as well as the number identifying that passenger as a frequent flyer.
- (5) A reference in *paragraph 12 of Schedule 2* to general remarks (including all available information on unaccompanied minors under 18 years, such as name and gender of the minor, age, language(s) spoken, name and contact details of guardian on departure and relationship to the minor, name and contact details of guardian on arrival and relationship to the minor, departure and arrival agent) shall be taken to be a reference to the following information only:
 - (a) the name, gender and age of, and the languages spoken by, unaccompanied minor air passengers under 18 years,
 - (b) the name and contact details of the guardian on departure and his or her relationship to the minor,
 - (c) the name and contact details of the guardian on arrival and his or her relationship to the minor, and
 - (d) the departure and arrival agent.
- (6) A reference in *paragraph 18 of Schedule 2* to any advance passenger information (API) data collected (including the type, number, country of issuance and expiry date of any identity document, nationality, family name, given name, gender, date of birth, airline, flight number, departure date, arrival date, departure port, arrival port, departure time and arrival time) shall be taken to be a reference to the following information only:
 - (a) API data (the type, number, country of issuance and expiry date of any identity document, nationality, family name, given name, gender, date of birth, airline, flight number, departure date, arrival date, departure port, arrival port, departure time and arrival time), and
 - (b) API data specified in Regulation 3(2) of the European Communities (Communication of Passenger Data) Regulations 2011 (S.I. No. 597 of 2011).
- (7) Unless the context otherwise requires—
 - (a) a word or expression that is used in this Part and that is also used in the Directive has the same meaning in this Part that it has in the Directive, and
 - (b) a reference in this Part to a numbered Article is a reference to the Article so numbered of that Directive.

Application (Part 19)

- 79.** This Part applies to the use, for the prevention, detection, investigation and prosecution of a terrorist offence or a serious crime, of PNR data of a passenger of—
- (a) an extra-EU flight, and
 - (b) an intra-EU flight that is designated under *section 92 or 94* (in this Part referred to as a “designated intra-EU flight”).

Orders and regulations

- 80.** (1) The Minister may by regulations provide for any matter referred to in this Part as prescribed or to be prescribed.
- (2) An order or regulation under this Part may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the order or regulation.
- (3) Every order and regulation made by the Minister under this Part shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Revocation

- 81.** Subject to *sections 83(1), 84(2), 85(1), 85(2), 85(3), 86(2), 89(1), 96(3)* and *Chapter* , the Regulations of 2018 are revoked.

Service of notices and documents

- 82.** A notice or other document that is required to be served on or given to a person under this Part shall be served on or given to the person in one of the following ways:
- (a) by electronic means, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given to, him or her in that manner;
 - (b) by delivering it to the person;
 - (c) by addressing it to the person and leaving it at the address where the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
 - (d) by sending it to the person by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.

CHAPTER 2

Passenger Information Unit

Continuation and functions of Passenger Information Unit

- 83.** (1) Notwithstanding the coming into operation of *section 81*, the unit established under Regulation 4(1) of the Regulations of 2018 and known as the Passenger Information Unit (in this Part referred to as the “PIU”) shall continue in being as a unit in the Department of Justice, Home Affairs and Migration, in accordance with the provisions of this Part.
- (2) The functions of the PIU shall include:
- (a) the collection of PNR data from air carriers, and the storage and processing of such data;
 - (b) the designation of intra-EU flights in accordance with *section 92*;
 - (c) the transfer of PNR data, and the result of any processing of such data under *paragraph (a)*, to a competent authority, the PIU or competent authority of another Member State, a competent authority of a third country or Europol;
 - (d) the receipt of PNR data, and the result of any processing of such data, from the PIU of another Member State.

Director of PIU

- 84.** (1) The Minister shall, subject to *subsection (2)*, appoint a person to be the Director of the PIU (in this Part referred to as the “Director”).
- (2) A person who, immediately before the coming into operation of *section 81*, stands appointed as Director under Regulation 4(2) of the Regulations of 2018, shall, on such coming into operation, continue to be the Director.
- (3) The Director shall manage and control generally the staff, administration and business of the PIU.
- (4) The Minister shall nominate a person to perform the functions of the Director during any absence, incapacity or suspension from duty of the Director or during any vacancy in the office of Director.
- (5) The Director may delegate in writing any of his or her functions to a member of staff of the PIU and the member of staff shall be accountable to the Director for the performance of the function so delegated.
- (6) The Director may revoke a delegation made by him or her under *subsection (5)*.

Staff of PIU

- 85.** (1) A person who, immediately before the coming into operation of *section 81*, was a member of staff of the PIU shall, on such coming into operation, continue to be a member of staff of the PIU.
- (2) A person who, immediately before the coming into operation of *section 81*, stands seconded to the PIU under an arrangement entered into under Regulation 4(3) of the Regulations of 2018 shall, on such coming into operation, remain seconded to the PIU for the remainder of the period of such secondment, subject to the same terms and conditions as applied to the secondment immediately before such coming into operation.
- (3) A person who, immediately before the coming into operation of *section 81*, stands engaged by the PIU under Regulation 4(4) of the Regulations of 2018 for a period of temporary service with the PIU shall, on such coming into operation, continue to be engaged by the PIU for the remainder of that period, subject to the same terms and conditions as applied to the engagement immediately before such coming into operation.
- (4) The Director may enter into an arrangement with a competent authority for the secondment of a member of staff of the competent authority to the PIU.
- (5) The Director may enter into an arrangement to engage one or more than one person (on contract or otherwise) for a period of temporary service with the PIU.

Data protection officer

- 86.** (1) Subject to *subsection (2)*, the Director shall appoint a person (in this Part referred to as the “data protection officer”) who shall be responsible for monitoring the processing of PNR data under this Part and for implementing data protection safeguards.
- (2) A person who, immediately before the coming into operation of *section 81*, stands appointed as data protection officer under Regulation 14(1) of the Regulations of 2018 shall, on such coming into operation, continue as data protection officer as if he or she had been appointed under this section.
- (3) The functions of the data protection officer shall include the following:
- (a) informing the Director and staff of the PIU of their obligations in relation to the processing of PNR data under this Part and advising them in relation to those obligations;
 - (b) monitoring compliance by the Director and staff of the PIU with—
 - (i) their obligations under this Part in relation to the processing of PNR data, and
 - (ii) the policies of the PIU as data controller in relation to the protection of personal data, including audit activity;

- (c) providing advice to the Director and staff of the PIU on awareness-raising activities, staff training and the allocation of responsibilities in relation to data protection;
 - (d) advising the Director and staff of the PIU in relation to, and monitoring the carrying out of, data protection impact assessments;
 - (e) acting as a contact point for persons both within and outside the PIU in respect of issues relating to the processing of PNR data by the PIU.
- (4) The PIU shall notify the data protection officer of—
- (a) a transfer of PNR data under *section 98(5), 99(4), 99(11), 101(4), 102(5) or 103(1)* in advance of such transfer taking place, and
 - (b) a transfer notified to the PIU in accordance with *section 102(8)*.
- (5) Where the data protection officer is informed by the PIU under *subsection (4)(a)* of a transfer of PNR data, the data protection officer shall, after the transfer has taken place, carry out a review of the transfer for the purpose of monitoring compliance by the PIU with the provisions of this Part concerning the processing of PNR data.
- (6) The Director shall—
- (a) ensure that the data protection officer is involved in an appropriate and timely manner in all matters relating to the protection of personal data,
 - (b) support the data protection officer in performing the functions referred to in *subsection (3)* by providing him or her with access to processing operations and the resources necessary to carry out those functions, and
 - (c) assist the data protection officer in maintaining his or her expert knowledge in relation to data protection.

Director to report statistical information to Minister

- 87.** (1) Subject to *subsection (3)*, the Director shall, on a yearly basis, and not later than 31 May in each year, submit to the Minister a report containing statistical information on PNR data provided to the PIU.
- (2) The statistics referred to in *subsection (1)* shall, at a minimum, cover—
- (a) the total number of passengers whose PNR data have been collected and exchanged by the PIU, and
 - (b) the number of passengers identified for further examination by a competent authority or a competent authority of another Member State.
- (3) The statistics provided under this Part shall not contain any personal data.

Processing of PNR data by PIU

- 88.** (1) The PIU shall process PNR data for the purpose of the performance of its functions under this Part—

- (a) to the extent necessary and proportionate for that purpose, and
 - (b) in a manner that does not discriminate against a person on any grounds.
- (2) PNR data shall not be processed by the PIU in such a manner as to reveal the race, ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation of a person.
 - (3) Where PNR data revealing the information referred to in *subsection (2)* are received by the PIU from an air carrier, they shall be deleted immediately.
 - (4) Where PNR data collected by the PIU include data other than those specified in *Schedule 2*, such data shall be deleted immediately and permanently upon receipt.
 - (5) The storage, processing and analysis of PNR data by the PIU shall be carried out exclusively within a secure location or locations within the State.
 - (6) The PIU shall put in place and implement appropriate technical and organisational measures and procedures to ensure a high level of security for the PNR data appropriate to the risks represented by the processing and nature of such data.

CHAPTER 3

*Competent authorities, Independent Authority and Data Protection Commission***Competent authorities**

- 89.** (1) Notwithstanding the coming into operation of *section 81*, a competent authority referred to in Regulation 9 of the Regulations of 2018 and specified in *Schedule 4* shall continue to be a competent authority for the purposes of this Part and the Directive.
- (2) Subject to *subsection (3)*, the Minister may by order designate a body as a competent authority for the purposes of this Part.
 - (3) The Minister shall not make an order under *subsection (2)* in respect of a body for which a Minister of the Government other than the Minister has responsibility and in whom functions, whether statutory or otherwise, in respect of the body are vested, other than with the consent of that Minister of the Government.

Designation and functions of Independent Authority

- 90.** (1) The Minister may by order designate a person (in this Part referred to as the “Independent Authority”) as the national authority for the purposes of the performance of the functions conferred on it by this Part.
- (2) The functions of the Independent Authority shall include—
 - (a) the review of—
 - (i) in accordance with *section 93*, the process for designation by the PIU of an intra-EU flight under *section 92*, and

- (ii) an authorisation for the transfer of PNR data under *section 103*,
and
- (b) the approval of—
 - (i) an application for the transfer of PNR data under *section 98, 99, 101 or 102*,
and
 - (ii) a request for PNR data under *subsection (1) of section 100* to which
subsection (5) of that section applies.
- (3) The Independent Authority shall have all powers necessary or expedient for the performance of its functions under this Part.
- (4) The Independent Authority shall be independent in the performance of its functions.

Data Protection Commission

91. The Data Protection Commission shall be responsible for advising on and monitoring the application of this Part within the State with a view to protecting fundamental rights in relation to the processing of personal data under this Part.

CHAPTER 4

Designation of intra-EU flights by PIU and Minister

Designation by PIU of intra-EU flight

92. (1) Subject to *subsection (2)*, the PIU may designate in writing an intra-EU flight for the purposes of this Part for a period not exceeding 6 months from the date of designation.
- (2) A designation under *subsection (1)* may only be made where the PIU carries out an assessment and determines, having due regard to the risks to the fundamental rights and freedoms of data subjects which may result from the designation, that—
- (a) the designation is necessary and proportionate for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and
 - (b) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air.
- (3) The PIU shall, before the expiry of the period of 6 months following the designation of an intra-EU flight under *subsection (1)*, carry out an assessment for the purpose of determining whether the designation of the designated intra-EU flight concerned is, having due regard to the risks to the fundamental rights and freedoms of data subjects which may result from the designation, necessary and proportionate for the purpose referred to in *subsection (2)*.
- (4) Where, on the basis of an assessment under *subsection (3)*, the PIU determines that the continued designation of an intra-EU flight is necessary and proportionate for the

purpose referred to in that subsection, the PIU may extend the designation of the intra-EU flight concerned for a further period not exceeding 6 months.

- (5) Where, on the basis of an assessment under *subsection (3)*, the PIU determines that the continued designation of an intra-EU flight is not necessary and proportionate for the purpose referred to in that subsection, the PIU shall not extend the designation of the intra-EU flight concerned.
- (6) Without prejudice to *subsection (3)*, the PIU may, at any time, where it considers it appropriate to do so, carry out an assessment of a designation in force under this section for the purpose referred to in that subsection.
- (7) Where, on the basis of an assessment carried out under *subsection (6)*, the PIU determines that the designation of an intra-EU flight is no longer necessary and proportionate for the purposes for which it was so designated, the PIU shall revoke the designation.

Review by Independent Authority

93. (1) Subject to *subsection (5)*, the Independent Authority shall conduct a review of the process for designation of an intra-EU flight under *section 92* in order to determine whether the PIU, in carrying out an assessment of an intra-EU flight under *subsection (2), (3)* and, where applicable, *(6)* of that section (in this section referred to as a “relevant assessment”), complied with those provisions.
- (2) In conducting a review under *subsection (1)*, the Independent Authority may—
- (a) consider the criteria applied by the PIU in determining whether the designation of an intra-EU flight is necessary and proportionate for the purpose referred to in *section 92(2)*, and
 - (b) examine a relevant assessment carried out in respect of one, or more than one, intra-EU flight designated under *section 92*, whether or not the designation is in force at the time of the review.
- (3) Without prejudice to *subsection (4)*, a review under *subsection (1)* shall be conducted—
- (a) in respect of the first review, not later than 12 months from the date on which the first intra-EU flight is designated under *section 92* following the coming into operation of this Part, and
 - (b) once in every 12 month period thereafter.
- (4) The Independent Authority may, at any time, conduct a review under *subsection (1)* where it has reasonable grounds for believing that a relevant assessment was not carried out by the PIU in accordance with *section 92*.
- (5) Before commencing a review under *subsection (1)*, the Independent Authority shall notify the Director of its proposal to conduct the review, which notice shall specify—
- (a) the matters referred to in *subsection (2)* to which the review shall relate,

- (b) the date on which the review shall commence, which shall not be earlier than 10 working days from the date on which the notice is given, and
 - (c) any documents, records or other information within the possession or control of the PIU that are relevant to, or required for, the conduct of the review, including details of the criteria referred to in *subsection (2)(a)*.
- (6) The Independent Authority shall, as soon as practicable after the completion of a review under *subsection (1)*, notify the PIU of the outcome of the review.
- (7) Where the Independent Authority, having carried out a review under *subsection (1)*, determines that the PIU, in carrying out a relevant assessment, did not comply with the requirements of *section 92*, the Independent Authority may issue a direction in writing to the Director specifying—
- (a) the measures which the PIU is required to take in order to comply with the requirements of *section 92* in the carrying out of a relevant assessment under that section, and
 - (b) the timeframe within which such measures are to be completed.
- (8) The Director shall comply with a direction issued under *subsection (7)*.
- (9) The Director shall, within the timeframe specified in the direction, notify the Independent Authority of the measures taken by the PIU to comply with the direction.
- (10) The Independent Authority may, where it is not satisfied that the Director has complied with a direction under *subsection (7)*, issue such further direction under that subsection as it considers appropriate.
- (11) A direction issued under *subsection (7)* may, where the Independent Authority considers it appropriate, require the PIU to revoke a designation of an intra-EU flight that is in force under *section 92* at the time of the issuing of the direction.
- (12) The Independent Authority may communicate with the Minister on any matter concerning a review under this section, including where it considers that the PIU has failed to comply with a direction under *subsection (7)*.
- (13) The Minister may, where he or she receives a communication under *subsection (12)*, direct the PIU to comply with a direction issued under *subsection (7)* within such timeframe as the Minister may specify.

Application to relevant judge by Minister for designation of all intra-EU flights

94. (1) The Minister may, where he or she is satisfied, on the basis of an assessment conducted in accordance with *subsection (2)*, that there exists a genuine and present or foreseeable threat related to a terrorist offence, make an application to a relevant judge for an order requiring the PIU to designate all intra-EU flights as designated intra-EU flights for such period as may be specified in the order.
- (2) Before making an application under *subsection (1)*, the Minister shall assess whether the threat referred to in that subsection exists and, for that purpose, shall—

- (a) have regard to the necessity and proportionality of the designation of all intra-EU flights for the purpose of the prevention, detection, investigation and prosecution of the terrorist offence, taking into account the risks to the fundamental rights and freedoms of data subjects which may result from the designation, and
 - (b) be satisfied of the existence of an objective link, whether of a direct or an indirect nature, between the offence and the carriage of passengers by air.
- (3) An application under *subsection (1)* shall—
 - (a) be made *ex parte*,
 - (b) be upon information on oath specifying the grounds on which the order is sought, which information shall include the results of the assessment conducted under *subsection (2)*,
 - (c) specify the period of time, being a period not exceeding 12 months, for which the designation referred to in *subsection (1)* is, in the view of the Minister, necessary and proportionate for the purposes referred to in *subsection (2)*, and
 - (d) be heard otherwise than in public.
- (4) A relevant judge, as respects an application under *subsection (1)*, may make an order directing the PIU to designate all intra-EU flights as designated intra-EU flights only if satisfied that the making of the order is necessary for, and proportionate to, the purposes referred to in *subsection (2)*.
- (5) Where a relevant judge makes an order under *subsection (4)*, that order shall—
 - (a) require the PIU to designate all intra-EU flights as designated intra-EU flights for such period as is specified in the order, and
 - (b) specify—
 - (i) the period for which the order shall have effect, and
 - (ii) any conditions and directions to which the designation is subject.
- (6) Where an order is made under *subsection (4)*, the Minister shall, without delay, arrange for—
 - (a) service of the order on the PIU, and
 - (b) publication of—
 - (i) the order in the national media, and
 - (ii) a notice of the making of the order in *Iris Oifigiúil*.
- (7) The President of the High Court shall, at the request of the Minister, designate one or more than one judge of the High Court to perform the functions of a relevant judge under this section, and a reference in this section to a “relevant judge” shall be construed as a reference to a judge so designated.

CHAPTER 5

*Transfer and exchange of PNR data***Obligations of air carriers regarding transfer of PNR data**

95. (1) An air carrier shall, in accordance with this section, transfer by the push method to the PNR database all PNR data which it has collected in the normal course of business in respect of passengers to be carried by the air carrier on an extra-EU flight or on a designated intra-EU flight.
- (2) Where a flight referred to in *subsection (1)* is code-shared between one or more air carriers, the air carrier which operates the flight shall transfer the PNR data of all passengers on the flight to the PIU in accordance with that subsection.
- (3) An air carrier shall, where an extra-EU flight has one or more stop-overs at airports of Member States, transfer the PNR data of all passengers, including those who disembark at the time of a stop-over, to the PIU.
- (4) An air carrier shall, where a designated intra-EU flight has one or more stop-overs at airports of Member States, transfer the PNR data of all passengers, including those who disembark at the time of a stop-over, to the PIU.
- (5) Where an air carrier collects API data in respect of passengers on an extra-EU flight or a designated intra-EU flight, the air carrier shall, whether or not it retains those data by the same technical means as for other PNR data, transfer that API data to the PIU by the push method and such data shall be considered as PNR data for the purposes of this Part.
- (6) Subject to *subsections (7) and (8)*, an air carrier shall transfer the PNR data referred to in *subsection (1)* to the PNR database—
- (a) 24 to 48 hours before a scheduled flight departure time, and
- (b) immediately after flight closure, that is once the passengers have boarded the aircraft in preparation for departure and it is no longer possible for passengers to board or leave the flight.
- (7) An air carrier shall transfer the PNR data referred to in *subsection (1)* to the PNR database—
- (a) by electronic means using the common protocols and supported data formats adopted in accordance with Article 16(2), or
- (b) in the event of technical failure or difficulty, by any other appropriate means ensuring the same level of technical and organisational security.
- (8) An air carrier may limit PNR data transferred under *paragraph (b) of subsection (6)* to an update of the PNR data already transferred under *paragraph (a) of that subsection*.

- (9) An air carrier shall, on a case-by-case basis, where requested by the PIU under *section 99(11)(a)*, transfer PNR data to the PIU at times other than those provided for in *subsection (6)*—
- (a) where access to that data is necessary in order to respond to a specific and actual threat related to a terrorist offence or serious crime, and
 - (b) the PIU has determined, in accordance with *section 99(8)*, there is an objective link, whether of a direct or an indirect nature, between the offence or crime referred to in *paragraph (a)* and the carriage of passengers by air.
- (10) An air carrier shall use its best endeavours to ensure that any data collected by it that is not PNR data is not transferred to the PIU.
- (11) An air carrier that fails to comply with a requirement under this section, other than the requirement under *subsection (10)*, shall be guilty of an offence and shall be liable—
- (a) on summary conviction, to a class A fine, or
 - (b) on conviction on indictment, to a fine not exceeding €250,000.
- (12) It shall be a defence for an air carrier charged with an offence under *subsection (11)* to show that it took all reasonable steps to ensure compliance with this section.
- (13) Proceedings for an offence under this section may be brought and prosecuted summarily by the Director.
- (14) Where an offence under *subsection (11)* is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
- (15) Where the affairs of a body corporate are managed by its members, *subsection (14)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Assessment of passengers by PIU

96. (1) The PIU shall carry out an assessment of PNR data in respect of passengers on—

- (a) an extra-EU flight, or
- (b) a designated intra-EU flight,

prior to their scheduled arrival in, or departure from, the State for the purpose of identifying persons who require further examination by a competent authority or a competent authority in another Member State and, where relevant, by Europol, to determine whether such persons may be, or may have been, involved in a terrorist

offence or serious crime, in respect of which there is an objective link, whether of a direct or an indirect nature, with the carriage of passengers by air.

- (2) Subject to *subsection (3)*, the PIU may determine criteria (in this section referred to as “pre-determined criteria”) to be used in processing PNR data for the purpose of conducting an assessment under *subsection (1)* and, where such criteria are determined, they shall—
 - (a) be targeted, proportionate and specific in nature,
 - (b) be regularly reviewed in consultation with the competent authorities, and
 - (c) not, in any circumstance, be based on the race, ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sexual life or sexual orientation of a person.
- (3) Notwithstanding the coming into operation of *section 81*, where immediately before the coming into operation of that section, pre-determined criteria referred to in Regulation 5 of the Regulations of 2018 are in use in conducting assessments under that Regulation, those criteria shall be considered to be pre-determined criteria for the purposes of this section until new criteria are established under *subsection (5)*.
- (4) When carrying out an assessment under *subsection (1)*, the PIU may—
 - (a) compare PNR data against databases relevant for the purpose referred to in that subsection, only where such databases are databases containing data on persons or objects sought or under alert, in accordance with European Union, international and national law and the laws of the State applicable to such databases, or
 - (b) process PNR data against pre-determined criteria.
- (5) The PIU may establish pre-determined criteria and may, from time to time, update those criteria.

Transfer of PNR data to another Member State and to competent authority

97. (1) Where the PIU carries out an assessment under *section 96(1)* and identifies a person who requires further examination by a competent authority in another Member State, the PIU shall, subject to *subsection (4)*, transfer the PNR data relating to that person and, where applicable, the result of the processing of such data by it, to the PIU of the Member State concerned for onward transfer to the competent authority in the Member State concerned.
- (2) Where the PIU carries out an assessment under *section 96(1)* and identifies a person who requires further examination by a competent authority, the PIU shall, subject to *subsection (4)*, transfer the PNR data relating to that person and, where applicable, the result of the processing of such data by it, to the competent authority concerned.
 - (3) Where the PIU of another Member State transfers PNR data, or the result of the processing of such data, or both, to the PIU for onward transfer by the PIU to a

competent authority, the PIU shall, subject to *subsection (4)*, transfer the data and, where applicable, the result of the processing of such data, to the competent authority that is to carry out further examination of the data.

- (4) Where a person referred to in *subsection (1)* or *(2)* has been identified by the automated processing of PNR data, the PIU shall only transfer the PNR data relating to that person, in accordance with those subsections, where the PIU has carried out a review of the identification by non-automated means and has verified the identification of the person concerned.

Request by competent authority for PNR data

98. (1) A competent authority is entitled—

- (a) to request, under *subsection (2)*, and receive, under *section 97(2)*, PNR data, and the result of the processing of such data by the PIU, from the PIU, and
- (b) to request, under *section 100(3)*, PNR data, and the result of the processing of such data by the PIU of another Member State, from that PIU,

in order to examine that data and take appropriate action for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime.

- (2) Where a request is received by the PIU from a competent authority for PNR data, or the result of the processing of such data by the PIU, or both, the PIU shall, subject to *section 103*, make an application to the Independent Authority for approval to transfer the data requested to the competent authority concerned where, on the basis of the request—

- (a) the PIU considers there are reasonable grounds for believing that—
 - (i) the transfer of the data requested is necessary for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and

- (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,

and

- (b) the PIU—

- (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.

- (3) An application under *subsection (2)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.

- (4) Following receipt of an application under *subsection (2)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—
- (a) decide, on the basis of the application, whether to approve the transfer of the PNR data, and, where applicable, the result of the processing of such data, and
 - (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.
- (5) Where, under *subsection (4)*, the Independent Authority approves the transfer of the data requested, the PIU shall, as soon as practicable after receipt of the notification under *paragraph (b)* of that subsection, transfer the data to the competent authority concerned.
- (6) Subject to *subsection (7)*, PNR data, and the result of the processing of such data by the PIU, transferred to a competent authority under *subsection (5)*, may be processed by the competent authority only for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime.
- (7) Where evidence of an offence, other than the one referred to in *subsection (6)*, is detected during the processing of data referred to in that subsection, that subsection shall not affect law enforcement or judicial powers to process that data for purposes relating to that other offence.
- (8) A competent authority shall not take any decision that produces an adverse legal effect on a person or significantly affects the person—
- (a) only by reason of the automated processing of PNR data, or
 - (b) on the basis of the race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation of the person.

Request from other Member State for PNR data

- 99.** (1) Where a request is received by the PIU from the PIU of another Member State for PNR data, or the result of the processing of such data by the PIU, or both, the PIU shall, subject to *section 103*, make an application to the Independent Authority for approval to transfer the data requested to the PIU of the other Member State where, on the basis of the request—
- (a) the PIU considers there are reasonable grounds for believing that—
 - (i) the transfer of the data requested is necessary for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,
- and

- (b) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (2) An application under *subsection (1)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.
- (3) Following receipt of an application under *subsection (1)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—
 - (a) decide, on the basis of the application, whether to approve the transfer of the PNR data and, where applicable, the result of the processing of such data, and
 - (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.
- (4) Where, under *subsection (3)*, the Independent Authority approves the transfer of the data requested, the PIU shall, as soon as practicable after receipt of the notification under *paragraph (b)* of that subsection, transfer the data to the PIU of the other Member State.
- (5) Where, in the case of an emergency, a competent authority of another Member State submits to the PIU a direct request for PNR data, or the result of the processing of such data by the PIU, or both, the PIU shall, subject to *section 103*, make an application to the Independent Authority for approval to transfer the data requested to the competent authority of the other Member State where, on the basis of the request—
 - (a) the PIU considers there are reasonable grounds for believing that—
 - (i) the circumstances set out in the request constitute an emergency and the transfer of the data requested is necessary for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,
 - and
 - (b) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or

- (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (6) An application under *subsection (5)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.
- (7) *Subsections (3) and (4)* shall apply to an application under *subsection (5)* as they apply to an application under *subsection (1)*, subject to the modification that a reference in *subsections (3) and (4)* to *subsection (1)* shall be construed as a reference to *subsection (5)*.
- (8) Where, in exceptional circumstances, a request is received by the PIU from the PIU of another Member State to obtain PNR data from an air carrier at a time other than that provided for in *section 95(6)*, the PIU shall, subject to *section 103*, make an application to the Independent Authority for approval to transfer the PNR data to the PIU of the Member State concerned where, on the basis of the request—
 - (a) the PIU considers there are reasonable grounds for believing that—
 - (i) the transfer of the PNR data requested is necessary for the purpose of responding to a specific and actual threat related to a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,
 - and
 - (b) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (9) An application under *subsection (8)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.
- (10) Following receipt of an application under *subsection (8)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—
 - (a) decide, on the basis of the application, whether to approve the transfer of the PNR data, and
 - (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.

- (11) Where, under *subsection (10)*, the Independent Authority approves the transfer of the PNR data requested, the PIU shall as soon as practicable after receipt of the notification under *paragraph (b)* of that subsection—
- (a) request the air carrier to transfer the PNR data to the PIU in accordance with *section 95(7)*, and
 - (b) provide the PNR data to the PIU of the Member State concerned.

Requests by PIU or competent authority to PIU of another Member State for PNR data

100. (1) Subject to *subsection (5)*, the PIU may make a request for PNR data, or the result of the processing of such data by the PIU of another Member State, or both, to that PIU where the PIU considers—

- (a) there are reasonable grounds for believing that—
 - (i) the transfer of the data to the PIU is necessary for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature between the offence or crime and the carriage of passengers by air,and
 - (b) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (2) A request under *subsection (1)* may be for one or more of the PNR data elements specified in *Schedule 2*, as are considered necessary by the PIU for the purpose referred to in that subsection, and shall include the reasons for the request.
- (3) In cases of emergency, a competent authority may make a request for PNR data, or the result of the processing of such data by the PIU of another Member State, or both, directly to that PIU, where the competent authority considers—
- (a) there are reasonable grounds for believing that—
 - (i) the circumstances set out in the request constitute an emergency and the transfer of the data to the competent authority is necessary for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,

and

(b) the competent authority—

- (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
- (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.

(4) In exceptional circumstances, the PIU may request the PIU of another Member State to request an air carrier to transfer PNR data to the PIU of that Member State at a time other than the time the air carrier normally transfers PNR data to the PIU of the other Member State concerned, and transmit the data to the PIU, where the PIU considers—

(a) there are reasonable grounds for believing that—

- (i) the transfer of the data to the PIU is necessary for the purpose of responding to a specific and actual threat related to a terrorist offence or serious crime, and
- (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,

and

(b) the PIU—

- (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
- (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.

(5) Where, in the case of a request referred to in *subsection (1)*, it is a requirement in the Member State to which the request referred to in that subsection is made that, before such a request is made to the PIU in that Member State, a court or other independent authority in the requesting Member State provide approval for the transfer of the PNR data, and, where applicable, the result of the processing of such data, the PIU shall make an application to the Independent Authority for approval to have the data transferred to it by the PIU of the other Member State.

(6) An application under *subsection (5)* shall be in writing, submitted by electronic means, and shall contain a copy of the request which the PIU proposes to make to the PIU of the other Member State.

(7) Following receipt of an application under *subsection (5)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—

- (a) decide, on the basis of the application, whether to approve the transfer of the PNR data and, where applicable, the result of the processing of such data, to the PIU, and
 - (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.
- (8) Where, under *subsection (7)*, the Independent Authority approves the transfer of data by the PIU of the other Member State, the PIU shall, when making a request under *subsection (1)* to which *subsection (5)* applies, notify the PIU of that other Member State of the decision of the Independent Authority.

Request by Europol to PIU for PNR data

101. (1) Where a request for PNR data, or the result of the processing of such data by the PIU, or both, is received by the PIU from Europol, having been submitted by Europol to the PIU in accordance with Article 10, the PIU shall, subject to *section 103*, make an application to the Independent Authority for approval to transfer the data to Europol where, on the basis of the request—

- (a) the PIU considers there are reasonable grounds for believing that—
 - (i) the transfer of the data requested will substantially contribute to the prevention, detection or investigation of a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,and
 - (b) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (2) An application under *subsection (1)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.
- (3) Following receipt of an application under *subsection (1)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—
- (a) decide, on the basis of the application, whether to approve the transfer of the PNR data and, where applicable, the result of the processing of such data, to Europol, and

- (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.
- (4) Where, under *subsection (3)*, the Independent Authority approves the transfer of the data requested, the PIU shall, as soon as practicable after receipt of the notification under *paragraph (b)* of that subsection, transfer the data to Europol in accordance with Article 10(4).

Transfer of data to competent authority of third country

102. (1) Where a request is received by the PIU from a competent authority of a third country for PNR data, or the result of the processing of such data by the PIU, or both, the PIU may, subject to *section 103*, make an application to the Independent Authority for approval to transfer the data to the competent authority of the third country concerned, where, on the basis of the request—

- (a) the PIU considers there are reasonable grounds for believing that—
 - (i) the transfer of the data requested is necessary for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime in a Member State or the third country making the request, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,
 - (b) the PIU is satisfied that the circumstances referred to in *subsection (2)* apply, and
 - (c) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (2) The circumstances referred to in *subsection (1)* are that—
- (a) the transfer is consistent with the law of the State in relation to data protection,
 - (b) subject to *subsection (6)*, where the data that are sought in the request under *subsection (1)* were obtained by the PIU from the PIU of another Member State, the other Member State has given its prior consent to the transfer, and
 - (c) the third country concerned agrees that it will only transfer the PNR data that is the subject of the request to another third country where—
 - (i) such transfer is strictly necessary for the purpose of the prevention, detection, investigation and prosecution of a terrorist offence or serious crime in a Member State or the third country making the request, in respect of which offence or crime there is an objective link, whether of a direct or an indirect nature, with the carriage of passengers by air, and

- (ii) having received the express written authorisation of the Director.
- (3) An application under *subsection (1)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.
- (4) Following receipt of an application under *subsection (1)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—
- (a) decide, on the basis of the application, whether to approve the transfer of the PNR data and, where applicable the result of the processing of such data, and
- (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.
- (5) Where, under *subsection (4)*, the Independent Authority approves the transfer of the data requested, the PIU shall, as soon as practicable after receipt of the notification under *paragraph (b)* of that subsection, transfer the data to the competent authority of the third country.
- (6) For the purposes of *subsection (2)(b)*, in exceptional circumstances, the PIU may, where PNR data is obtained by it from another Member State, permit the transfer of that data to a competent authority of a third country without the prior consent of the other Member State from which the PNR data were obtained, only if—
- (a) the transfer is essential in order to respond to a specific and actual threat related to a terrorist offence or serious crime in a Member State or third country, and
- (b) the prior consent of the Member State concerned cannot be obtained in good time.
- (7) Where *subsection (6)* applies in respect of a transfer of data under *subsection (5)*, the PIU shall, without delay, notify the PIU of the Member State from which the PNR data were originally obtained and make a record of the notification.
- (8) Where the PIU is notified by a PIU of another Member State that there has been a transfer, by that PIU, to a third country of PNR data—
- (a) that was originally obtained from the PIU, and
- (b) without the prior consent of the PIU,
- the PIU shall make a record of the notification and shall notify the data protection officer for the purposes of *section 86(5)*.
- (9) PNR data shall be transferred under this section by the PIU to the competent authority of a third country only in accordance with the provisions of this Part and upon ascertaining that the use the recipients intend to make of the PNR data is consistent with the conditions and safeguards contained in this Part.
- (10) In this section—
- “serious crime” means—

- (a) where it relates to an offence in a Member State, an offence referred to in *paragraph (b)* of the definition of “serious crime”, and
- (b) where it relates to an offence in a third country, an offence in the third country equivalent to that referred to in *paragraph (a)*;

“terrorist offence” means—

- (a) where it relates to an offence in a Member State, an offence referred to in *paragraph (b)* of the definition of “terrorist offence”, and
- (b) where it relates to an offence in a third country, an offence in the third country equivalent to that referred to in *paragraph (a)*.

Disclosure of PNR data in case of duly justified urgency

103. (1) Where—

- (a) but for this section, the PIU would, in respect of a request under *section 98(2), 99(1), 99(5), 99(8), 101(1) or 102(1)*, otherwise be satisfied to bring an application to the Independent Authority under the subsection concerned for approval to transfer data, and
- (b) where the circumstances specified in *subsection (2)* apply in respect of the request,

the Director shall authorise the transfer of the data, or the result of the processing of such data, or both, which is the subject of that request, in accordance with this section.

- (2) The circumstances referred to in *subsection (1)* are that the Director is satisfied, on the basis of the request, that it is likely that, before approval for the transfer of the data concerned could be obtained from the Independent Authority under the subsection concerned, the prevention, detection, investigation and prosecution of a terrorist offence or serious crime, to which the request relates, would be impeded.
- (3) Where the Director authorises the transfer of PNR data under *subsection (1)*, he or she shall, as soon as practicable, and in any event not later than 24 hours after he or she issues the authorisation, apply to the Independent Authority for review of the authorisation.
- (4) An application under *subsection (3)* shall—
 - (a) be made in writing, and
 - (b) specify the grounds on which the authorisation under *subsection (1)* was issued.
- (5) Following receipt of an application under *subsection (3)*, the Independent Authority, as soon as practicable, and in any event not later than 72 hours after receiving the application shall—
 - (a) review the grounds for the authorisation issued under *subsection (1)* for the purpose of determining whether it was necessary for, and proportionate to, the purposes for which it was issued,

- (b) determine, on the basis of the review carried out under *paragraph (a)*, whether to affirm or revoke the authorisation, and
- (c) notify the PIU of its decision and the reasons for that decision.
- (6) Where the Independent Authority revokes an authorisation under *subsection (5)*, the notice referred to in *paragraph (c)* of that subsection shall direct the Director to, without delay, notify the person specified in *subsection (7)* that—
 - (a) the data transferred pursuant to the authorisation should be deleted, and
 - (b) that the use or further use of that data by the person is prohibited.
- (7) The person referred to in *subsection (6)* is—
 - (a) in the case of a transfer of data to a competent authority pursuant to a request under *section 98(2)*, the competent authority concerned,
 - (b) in the case of a transfer of data to the PIU of another Member State pursuant to a request under *section 99(1)* or *(8)*, or a competent authority of another Member State pursuant to a request under *section 99(5)*, the PIU of the Member State or competent authority of the Member State concerned,
 - (c) in the case of a transfer of data to Europol pursuant to a request under *section 101(1)*, Europol, and
 - (d) in the case of a transfer of data to a competent authority of a third country pursuant to a request under *section 102*, the competent authority of the third country that made the request under that section.
- (8) Where the Independent Authority revokes an authorisation under *subsection (5)*, the Authority may, where it considers it appropriate to do so, refer the matter to the Data Protection Commission.

CHAPTER 6

*Retention of PNR data and documentation***Period of data retention and depersonalisation**

- 104.** (1) PNR data transferred by an air carrier or by the PIU of another Member State to the PIU may be retained in the PNR database—
- (a) for an initial period of 6 months from the date of the transfer, and
 - (b) after the expiration of the period referred to in *paragraph (a)*, for a further period not exceeding 4 years and 6 months, where—
 - (i) the PIU has determined, having processed the PNR data in accordance with this Part during that initial period of 6 months—
 - (I) that there exists, in respect of the data, objective evidence of a risk related to a terrorist offence or serious crime, and

- (II) there is an objective link, whether of a direct or an indirect nature, between the offence or crime referred to in *clause (I)* and the carriage of passengers by air,
- and
- (ii) the data are depersonalised in accordance with *subsection (3)*.
- (2) Where the PIU does not make a determination referred to in *subsection (1)(b)(i)* during the period referred to in that provision in respect of PNR data, the PNR data concerned shall be deleted permanently.
- (3) PNR data shall be depersonalised through masking out the following data elements which could serve to identify directly a passenger to whom the PNR data relates:
- (a) passenger name or names, including the—
 - (i) names of other passengers on the passenger name record, and
 - (ii) number of passengers on the passenger name record travelling together;
 - (b) address and contact information;
 - (c) all forms of payment information, including billing address, to the extent that it contains any information which could serve to identify directly the passenger to whom the PNR data relate or any other persons;
 - (d) frequent flyer information;
 - (e) any general remarks relating to the PNR data to the extent that they contain any information which could serve to identify directly the passenger to whom the PNR data relate;
 - (f) any API data that have been collected.
- (4) Where an assessment is carried out under *section 96(1)* and the result of that assessment is the identification of a person who requires further examination by a competent authority or a competent authority in another Member State (in this section referred to as a “positive match”), that result shall only be retained by the PIU for as long as is necessary to—
- (a) transfer the PNR data relating to that person and, where applicable, the result of the processing of such data by the PIU, to the PIU of the Member State concerned under *section 97(1)*, or
 - (b) transfer the PNR data relating to that person and, where applicable, the result of the processing of such data by the PIU, to the competent authority concerned under *section 97(2)*.
- (5) Where an assessment is carried out under *section 96(1)* by automated processing and results in a positive match, which, following an individual review by non-automated means in accordance with *section 97(4)*, is proven not to be a positive match (in this section referred to as a “false positive match”), the result of the automated processing and the result of the review by non-automated means may be retained by the PIU, for

the purpose of avoiding future false positive matches in respect of the person, for a period not exceeding 6 months from when the PNR data were received by the PIU.

- (6) PNR data retained in accordance with *subsection (1)* shall be deleted permanently upon the expiration of the period of 5 years from the date they were transferred to the PIU.
- (7) PNR data, or the result of the processing of such data, or both, that have been transferred to a competent authority by the PIU shall be deleted permanently by the competent authority—
 - (a) upon the expiration of a period of 5 years from the date they were transferred to the competent authority, or
 - (b) where the data were retained by the competent authority for the purpose of the prevention, detection, investigation and prosecution of a terrorist offence or serious crime and proceedings for such offence are brought against any person, on the day on which final judgment is given in the proceedings,
 whichever occurs later.
- (8) The Director shall ensure that all PNR data retained by the PIU in accordance with this section are kept securely and that only such persons as are authorised in writing by him or her shall be permitted to have access to such data.

Maintenance of documentation and retention of records

- 105.** (1) The PIU shall maintain documentation relating to all of its systems and procedures relating to the processing of personal data under this Part, which documentation shall contain at a minimum—
- (a) the name and contact details of members of staff of the PIU authorised to process PNR data and, where applicable, levels of access authorised to that data;
 - (b) details of the requests made to the PIU by competent authorities and PIUs of other Member States under this Part;
 - (c) details of all requests from, and transfers to, a competent authority of a third country of PNR data, or the result of the processing of such data by the PIU.
- (2) The PIU shall keep records of the processing operations involving the collection, consultation, disclosure and erasure of PNR data.
- (3) Records kept under *subsection (2)* in relation to the consultation and disclosure of PNR data shall include, in particular, details of—
- (a) the purpose, date and time of the processing operation concerned, and
 - (b) in so far as is possible—
 - (i) the identity of the staff member of the PIU who consulted or disclosed the PNR data, and
 - (ii) in the case of data that is disclosed, the identity of the recipients of such data.

- (4) Records kept under *subsection (2)* shall be—
 - (a) used by the PIU solely for the purposes of verification, self-monitoring, ensuring data integrity and security and auditing, and
 - (b) subject to *subsection (5)*, kept for a period of 5 years.
- (5) Where records kept under *subsection (2)* contain PNR data, that PNR data shall be retained in accordance with *section 104*.
- (6) The PIU shall, on request of the Data Protection Commission, make available to the Commission all documentation and records required to be maintained under this section.
- (7) The Director shall ensure that all documentation created by or on behalf of, and maintained by, the PIU in relation to processing systems and procedures, and all records kept by the PIU in accordance with this section, are kept securely and that only such persons as are authorised in writing by him or her shall be permitted to have access to such documentation or records.

CHAPTER 7

*Transitional provisions: Regulations of 2018***Interpretation (Part 19, Chapter 7)**

- 106.** A reference in this Chapter to a numbered Regulation is a reference to that Regulation so numbered in the Regulations of 2018.

Transitional arrangements in relation to assessment of PNR data by PIU

- 107.** (1) Where, before the date of coming into operation of *section 81*, the PIU has commenced but not completed an assessment referred to in Regulation 5(1)(a), the assessment shall, on or after that date, be completed under *section 96* and the provisions of this Part shall apply accordingly to that assessment.

- (2) Where—

- (a) before the coming into operation of *section 81*, the PIU has carried out an assessment referred to in Regulation 5(1)(a) and has identified a person who requires further examination, and
- (b) on that date, the PIU has not transmitted the PNR data or the result of the processing of such data in accordance with Regulation 6(1) or (2),

the assessment shall, on and after that date, be taken to be an assessment carried out under *section 96(1)* and the provisions of this Part shall apply accordingly.

Transitional provisions: transfers of PNR data to PIU**108. (1) Where—**

(a) before the date of coming into operation of *section 81*, an air carrier has transferred to the PIU—

(i) PNR data, in accordance with Regulation 10(1) or (2), or

(ii) API data, in accordance with Regulation 10(3),

and

(b) on that date, an assessment referred to in Regulation 5(1)(a) has not been commenced by the PIU, or has been commenced but has not been completed,

the transfer of the data by the air carrier to the PIU shall, on and after that date, be taken to be a transfer—

(i) in the case of PNR data referred to in *subsection (1)(a)(i)*, *section 95(1)*, and

(ii) in the case of API data referred to in *subsection (1)(a)(i)*, *section 95(5)*,

and the provisions of this Part shall apply accordingly.

(2) Where—

(a) before the date of coming into operation of *section 81*, PNR data relating to a person, or the result of the processing of those data, have been transmitted to the PIU by the PIU of another Member State under Regulation 6(3), and

(b) on that date, the data have not been transmitted by the PIU to the relevant competent authority (within the meaning of the Regulations of 2018),

the data shall, on and after that date, be taken to be data received by the PIU under *section 97(3)* and the provisions of this Part shall apply accordingly.

Transitional provisions: requests to PIU for PNR data**109. (1) Where—**

(a) before the date of coming into operation of *section 81*, a request is received by the PIU for PNR data, or the result of the processing of such data, from—

(i) the PIU of another Member State, under paragraph (1) of Regulation 7, or

(ii) a competent authority of another Member State under paragraph (4) of that Regulation,

and

(b) on that date, the PNR data, or the result of the processing of such data, have not been transmitted to the PIU of the other Member State, or the competent authority of the other Member State, as the case may be, on foot of the request,

the request shall, on and after that date, be taken to be—

(i) in the case of a request referred to in *paragraph (a)(i)*, a request received under *section 99(1)*, and

(ii) in the case of a request referred to in *paragraph (a)(ii)*, a request submitted under *section 99(5)*,

and the provisions of this Part shall apply accordingly.

(2) Where—

(a) before the date of coming into operation of *section 81*, a request is received by the PIU for PNR data, or the result of the processing of such data, from—

(i) a PIU of another Member State, under paragraph (2) of Regulation 7, or

(ii) a competent authority of another Member State, under paragraph (5) of that Regulation,

and

(b) on that date, an application has not been made to the District Court under paragraph (2) or paragraph (5), as the case may be, of that Regulation,

the request shall, on and after that date, be taken to be—

(i) in the case of a request referred to in *paragraph (a)(i)*, a request received under *section 99(1)*, and

(ii) in the case of a request referred to in *paragraph (a)(ii)*, a request submitted under *section 99(5)*,

and the provisions of this Part shall apply accordingly.

(3) Where, before the date of coming into operation of *section 81*—

(a) a request is received by the PIU for PNR data, or the result of the processing of such data, from—

(i) a PIU of another Member State, under paragraph (2) of Regulation 7, or

(ii) a competent authority of another Member State, under paragraph (5) of that Regulation,

and

(b) an application has been made to the District Court under paragraph (2) or paragraph (5), as the case may be, of that Regulation, but has not been determined by that Court on that date,

then on or after that date, that application shall be determined by the District Court in accordance with the Regulations of 2018 and, where the District Court approves the transmission of the data concerned, the PIU shall transfer the full data to the PIU of the other Member State, or the competent authority of the other Member State, as the case may be, in accordance with that Regulation.

(4) Where—

- (a) before the date of coming into operation of *section 81*, the transmission of data has been approved by the District Court under paragraph (2) or (5) of Regulation 7, and
- (b) on that date, the data have not been transferred under the paragraph concerned following such approval,

then on or after that date, the PIU shall transfer the full data to the PIU of the other Member State, or the competent authority of the other Member State, as the case may be, in accordance with that Regulation.

(5) Where—

- (a) before the date of coming into operation of *section 81*, a request is received under paragraph (7) of Regulation 7 by the PIU from the PIU of another Member State to obtain PNR data from an air carrier, and
- (b) on that date, the PIU has not requested the air carrier concerned to transfer the requested data to the PIU,

the request shall be taken to be a request under *section 99(8)* and the provisions of this Part shall apply accordingly.

(6) Where—

- (a) before the date of coming into operation of *section 81*, a request is received under Regulation 8(1) by the PIU from Europol for PNR data, or the result of the processing of such data, and
- (b) on that date, the data have not been transferred to Europol,

the request shall, on and after that date, be taken to be a request received by the PIU under *section 101(1)*, and the provisions of this Part shall apply accordingly.

(7) Where—

- (a) before the date of coming into operation of *section 81*, a request is received under paragraph (2) of Regulation 8 by the PIU from Europol for PNR data, or the result of the processing of such data, and
- (b) on that date, an application has not been made to the District Court under that Regulation,

the request shall, on and after that date, be taken to be a request received by the PIU under *section 101(1)* and the provisions of this Part shall apply accordingly.

(8) Where—

- (a) before the date of coming into operation of *section 81*, a request is received under paragraph (2) of Regulation 8 by the PIU from Europol for PNR data, or the result of the processing of such data, and

(b) on that date, an application has been made to the District Court under that Regulation but has not been determined by that Court,

then, on or after that date, that application shall be determined by the District Court in accordance with the Regulations of 2018, and where the District Court approves the transmission of the data concerned, the PIU shall transmit the full data to Europol in accordance with that Regulation.

(9) Where—

(a) before the date of coming into operation of *section 81*, the transmission of data has been approved by the District Court under paragraph (2) of Regulation 8, and

(b) on that date, the data have not been transmitted under that provision following such approval,

then, on or after that date, the PIU shall transmit the full data to Europol in accordance with that Regulation.

(10) Where—

(a) before the date of coming into operation of *section 81*, a request is received under paragraph (2) of Regulation 9 by the PIU from a competent authority for PNR data, or the result of the processing of such data, and

(b) on that date, an application has not been made to the District Court under that Regulation,

the request shall, on and after that date, be taken to be a request made under *section 98(2)* and the provisions of this Part shall apply accordingly.

(11) Where, before the coming into operation of *section 81*—

(a) a request is received under paragraph (2) of Regulation 9 by the PIU from a competent authority for PNR data, or the result of the processing of such data, and

(b) an application has been made to the District Court under that Regulation but has not been determined by that Court,

then, on or after that date, that application shall be determined by the District Court in accordance with the Regulations of 2018, and where the District Court approves the transmission of the data concerned, disclosure of the full PNR data may be made in accordance with that Regulation.

(12) Where—

(a) before the date of coming into operation of *section 81*, the transmission of data has been approved by the District Court under paragraph (2) of Regulation 9, and

(b) on that date, the data have not been disclosed under that provision following such approval,

then, on or after that date, disclosure of the full PNR data may be made in accordance with that Regulation.

(13) Where—

- (a) before the date of coming into operation of *section 81*, a request has been received by the PIU under paragraph (1) of Regulation 16 from a third country for PNR data, or the result of the processing of such data, and
- (b) on that date, the PNR data, or the result of the processing of such data, have not been transmitted to the third country,

the request shall, on and after that date, be taken to be a request received by the PIU under *section 102(1)* and the provisions of this Part shall apply accordingly.

(14) Where—

- (a) before the date of coming into operation of *section 81*, a request is received by the PIU under paragraph (2) of Regulation 16 from a third country for PNR data, or the result of the processing of such data, and
- (b) on that date, an application has not been made to the District Court under that Regulation,

the request shall, on and after that date, be taken to be a request received by the PIU under *section 102(1)* and the provisions of this Part shall apply accordingly.

(15) Where—

- (a) before the date of coming into operation of *section 81*, a request is received by the PIU under paragraph (2) of Regulation 16 from a third country for PNR data, or the result of the processing of such data, and
- (b) on that date, an application has been made to the District Court under that Regulation but has not been determined by that Court,

then, on or after that date, that application shall be determined by the District Court in accordance with the Regulations of 2018, and where the District Court approves the transmission of the data concerned, the PIU shall transmit the full data to the third country concerned in accordance with that Regulation.

(16) Where—

- (a) before the date of coming into operation of *section 81*, the transmission of data has been approved by the District Court under paragraph (2) of Regulation 16, and
- (b) on that date, the data have not been transmitted under that provision following such approval,

then, on or after that date, the PIU shall transmit the full data to the third country concerned in accordance with that Regulation.

(17) Where—

- (a) before the date of coming into operation of *section 81*, a transfer of PNR data to a third country has taken place pursuant to paragraph (3) of Regulation 16 without

the prior consent of the Member State from which the PNR data were obtained,
and

- (b) on that date, the PIU has not informed the PIU of the Member State concerned of the transfer,

the PNR data shall, on and after that date, be taken to have been transferred in accordance with *section 102(6)* and the provisions of this Part shall apply accordingly.

Transitional provisions: requests by PIU for PNR data

110. (1) Where—

- (a) before the date of coming into operation of *section 81*, a request is made by the PIU to the PIU of another Member State under paragraph (8) or (10) of Regulation 7, and
- (b) on that date, the data requested have not been transferred to the PIU by the PIU of the other Member State concerned,

the request shall, on and after that date, be taken to be—

- (i) in the case of a request under paragraph (8) of that Regulation, a request under *section 100(1)*, and
- (ii) in the case of a request under paragraph (10) of that Regulation, a request under *section 100(4)*,

and the provisions of this Part shall apply accordingly.

(2) Where—

- (a) before the date of coming into operation of *section 81*, a request is made by a competent authority to the PIU of another Member State under paragraph (9) of Regulation 7, and
- (b) on that date, the PNR data requested have not been transferred to the competent authority by the PIU of the Member State concerned,

the request shall, on and after that date, be taken to be a request under *section 100(3)*, and the provisions of this Part shall apply accordingly.

Transitional provisions: retention of PNR data

111. (1) PNR data that is, immediately before the date of coming into operation of *section 81*, lawfully retained in a database of the PIU, may, on the coming into operation of that section, continue to be retained under *section 104*, subject to the modifications that, in the case of data continued to be retained pursuant to this section—

- (a) a reference in *section 104(1)(a)* to an initial period of 6 months from the date of the transfer shall be taken to be a reference to the balance of an initial period of 6 months from the date of the transfer of the PNR data concerned to the PIU under the Regulations of 2018, and

- (b) a reference in *section 104(1)(b)* to a further period not exceeding 4 years and 6 months shall be taken to be a reference to the balance of a period, not exceeding 4 years and 6 months commencing on the date of the expiration of the initial period of 6 months from the date of the transfer of the PNR data under the Regulations of 2018.
- (2) PNR data that is, immediately before the date of coming into operation of *section 81*, lawfully retained by a competent authority, in accordance with Regulation 11 shall, on the coming into operation of that section, continue to be retained by that competent authority under *subsection (7)* of *section 104*, subject to the modification that, in the case of data continued to be retained pursuant to this section, a reference in *paragraph (a)* of that subsection to a period of 5 years shall be taken to be a reference to the balance of the period of 5 years referred to in Regulation 11(3)(a).
- (3) Where, immediately before the date of coming into operation of *section 81*, the result of an assessment of passengers under Regulation 5(1)(a) has been retained for the purpose referred to in that provision, the PIU may, on and after that date, continue to retain that result under *subsection (4)* of *section 104* for as long as is necessary for the purpose referred to in *paragraphs (a)* or *(b)*, as the case may be, of that subsection.
- (4) Where the result of automated processing has been proven to be negative as referred to in Regulation 11(6) and that result is, immediately before the coming into operation of *section 81*, retained by the PIU in accordance with that provision for a period of less than 6 months, that result may, on the coming into operation of that section, continue to be retained by the PIU under *section 104(5)*—
 - (a) for the balance of that 6 month period, and
 - (b) for the purposes referred to in that subsection.

Transitional provisions: retention of documentation and records

- 112.** (1) Documentation maintained by the PIU under paragraph (1) of Regulation 12 immediately prior to the date of coming into operation of *section 81* shall, on and after that date, continue to be maintained by the PIU in accordance with *section 105*.
- (2) Records that are lawfully kept by the PIU under paragraph (2) of Regulation 12 immediately prior to the date of coming into operation of *section 81* shall, on and after that date, be kept for the balance of the period of 5 years referred to in paragraph (4)(b) of that Regulation in accordance with *section 105*, subject to the modification that, in the case of records continued to be kept pursuant to this section, a reference in *section 105(4)* to a period of 5 years shall be taken to be a reference to the balance of the period of 5 years referred to in paragraph (4)(b) of Regulation 12.

PART 20

MISCELLANEOUS AMENDMENTS

Amendment of section 22 of Criminal Procedure Act 1967

113. Section 22(1B) of the Criminal Procedure Act 1967 is amended—

- (a) in paragraph (a), by the substitution of “District Court,” for “District Court, or”,
- (b) in paragraph (b), by the substitution of “District Court clerk, or” for “District Court clerk.”, and
- (c) by the insertion of the following paragraph after paragraph (b):

“(c) where the person entering into the recognisance is for the time being in custody in a Garda Síochána station, the sergeant or other member of An Garda Síochána in charge of the station, in that station.”.

Amendment of section 28 of Civil Legal Aid Act 1995

114. Section 28 of the Civil Legal Aid Act 1995 is amended by the substitution of the following subsection for subsection (5C):

“(5C) Notwithstanding any other provision of this Act, the Board shall grant a legal aid certificate to a complainant or witness for the purpose of his or her being represented in relation to a disclosure application (within the meaning of section 19A of the Criminal Evidence Act 1992) that concerns him or her and of which he or she has been notified under subsection (6)(b) or (7) of that section.”.

Amendment of Schedule to Bail Act 1997

115. The Schedule to the Bail Act 1997 is amended by—

- (a) the substitution of the following subparagraph for subparagraph (c) of paragraph 19:

“(c) section 112(2) (using or taking a mechanically propelled vehicle without lawful authority).”,

and

- (b) the insertion of the following paragraphs after paragraph 45:

“Offences under the Criminal Justice Act 1999

46. An offence under section 41 of the Criminal Justice Act 1999.

Offences under the Sex Offenders Act 2001

47. An offence under section 12 of the Sex Offenders Act 2001.

Offences under the Domestic Violence Act 2018

48. An offence under section 38 or 39 of the Domestic Violence Act 2018.”.

Amendment of section 257D of Children Act 2001

116. Section 257D of the Children Act 2001 is amended by the substitution of “inspector” for “superintendent” in both places where it occurs.

Amendment of Schedule 5 to Social Welfare Consolidation Act 2005

117. Schedule 5 to the Social Welfare Consolidation Act 2005 is amended in paragraph 1(4) by—

- (a) the substitution of “An Garda Síochána,” for “An Garda Síochána and the Defence Forces in respect of their own members,”, and
- (b) the insertion, after “the Companies Registration Office,”, of the following:

“the Courts Service,
the Defence Forces in respect of its own members,
the Director of Public Prosecutions,”.

Amendment of Multi-Unit Developments Act 2011

118. The Multi-Unit Developments Act 2011 is amended—

- (a) in section 3(8), in the definition of “prescribed”, by the deletion of “having consulted the Minister for the Environment, Heritage and Local Government”, and
- (b) in section 33, by the deletion of “and the Minister for the Environment, Heritage and Local Government”.

Amendment of section 24 of Prisons Act 2015

119. Section 24(2)(a) of the Prisons Act 2015 is amended by the substitution of “two years of the term of imprisonment concerned remain” for “one year of the term of imprisonment concerned remains”.

Amendment of Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020

120. The Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 is amended—

- (a) in section 11, by the substitution of the following subsection for subsection (3):

“(3) A direction under subsection (1) or (2) may include such ancillary or consequential directions as the court concerned considers appropriate.”,

(b) in section 20(2)—

(i) in paragraph (b), by the substitution of “in such manner as may be specified in the rules,” for “in such manner as may be specified in the rules, and”, and

(ii) by the insertion of the following paragraph after paragraph (b):

“(ba) in relation to the transmission of a document referred to in paragraph (b) or (c) of subsection (1), require that the identity of the person receiving such a document be verified, including by the provision of the personal public service number (also within the said meaning) issued to the person, in such manner as may be specified in the rules, and”,

and

(c) in section 26, by the substitution of the following subsection for subsection (3):

“(3) A direction under subsection (1) or (2) may include such ancillary or consequential directions as the court concerned considers appropriate.”.

Amendment of Criminal Justice (Perjury and Related Offences) Act 2021

121. The Criminal Justice (Perjury and Related Offences) Act 2021 is amended—

(a) in section 1—

(i) in subsection (1), by the insertion of the following definitions:

“ ‘Act of 2026’ means the *Criminal Law, Civil Law and Defence (Miscellaneous Provisions) Act 2026*;

‘section 77 statement of truth’ has the same meaning as it has in section 77 of the *Act of 2026*;”,

and

(ii) in subsection (2), by the substitution of “Section 21(3) of the Act of 2020 and section 77(3) of the *Act of 2026*” for “Section 21(3) of the Act of 2020”,

(b) in section 2—

(i) in subsection (1)—

(I) in paragraph (b), by the deletion of “or”,

(II) in paragraph (c), by the substitution of “section 21 of the Act of 2020, or” for “section 21 of the Act of 2020”, and

(III) by the insertion of the following paragraph after paragraph (c):

“(d) in a section 77 statement of truth made in place of an affidavit in accordance with section 77 of the *Act of 2026*;”,

and

- (ii) in subsection (2), by the substitution of “paragraph (a), (b), (c) or (d)” for “paragraph (a), (b) or (c)”,

and

- (c) in section 6(1), by the insertion of the following paragraph after paragraph (b):

“(ba) a *section 77* statement of truth made in place of a statutory declaration in accordance with *section 77* of the *Act of 2026*,”.

Amendment of section 34 of Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023

- 122.** Section 34(1)(b) of the Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023 is amended by the substitution of “English language, or a translation of the Certificate in the Irish language or the English language,” for “English language”.

Amendment of section 37 of Criminal Justice (Miscellaneous Provisions) Act 2023

- 123.** Section 37(1) of the Criminal Justice (Miscellaneous Provisions) Act 2023 is amended by the substitution of “section 96 of the Family Courts Act 2024” for “section 40 of the Civil Liability and Courts Act 2004”.

Amendment of section 34 of Judicial Appointments Commission Act 2023

- 124.** Section 34(1) of the Judicial Appointments Commission Act 2023 is amended—

- (a) in paragraph (a), by the substitution of “Part 4,” for “Part 4, or”,
- (b) in paragraph (b), by the substitution of “57(5), or” for “57(5)”, and
- (c) by the insertion of the following paragraph after paragraph (b):

“(c) the Judicial Appointments Advisory Board that was transferred to the Commission under section 68(2),”.

Amendment of section 95 of Family Courts Act 2024

- 125.** Section 95 of the Family Courts Act 2024 is amended, in the definition of “relevant enactment”, by the insertion of the following paragraph after paragraph (l):

“(la) section 37 of the Criminal Justice (Miscellaneous Provisions) Act 2023;”.

Section 51

SCHEDULE 1

AMENDMENTS TO ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

“SCHEDULE 1A

AMENDMENTS TO ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

PART 1

AMENDMENTS TO ARTICLE 8 OF STATUTE

1. Amendment to Statute set out in Annex I of Resolution RC/Res.5, adopted on 10 June 2010 pursuant to Article 121 of the Statute

Amendment to article 8

Add to article 8, paragraph 2 (e), the following:

- “(xiii) Employing poison or poisoned weapons;
- (xiv) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- (xv) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions.”

2. Amendment to Statute set out in Annexes I to III of Resolution ICC-ASP/16/Res.4, adopted on 14 December 2017 pursuant to Article 121 of the Statute

Annex I**Amendment to be inserted as article 8-2-b)xxvii) and article 8-2-e)xvi) of the Rome Statute**

Employing weapons, which use microbial or other biological agents, or toxins, whatever their origin or method of production;

Annex II**Amendment to be inserted as article 8-2-b)xxviii) and article 8-2-e)xvii)**

Employing weapons the primary effect of which is to injure by fragments which in the human body escape detection by X-rays;

Annex III**Amendment to be inserted as article 8-2-b)xxix) and article 8-2-e)xviii)**

Employing laser weapons specifically designed, as their sole combat function or as one of their combat functions, to cause permanent blindness to unenhanced vision, that is to the naked eye or to the eye with corrective eyesight devices;

3. Amendment to Statute set out in Annex I of Resolution ICC-ASP/18/Res.5, adopted on 6 December 2019 pursuant to Article 121 of the Statute

Amendment to be inserted as article 8-2-e)-xix) of the Rome Statute

Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies.

PART 2**AMENDMENT TO STATUTE SET OUT IN ANNEX I OF RESOLUTION RC/RES.6, ADOPTED ON 11 JUNE 2010 PURSUANT TO ARTICLE 121 OF THE STATUTE**

1. *Article 5, paragraph 2, of the Statute is deleted.*
2. *The following text is inserted after article 8 of the Statute:*

Article 8 bis**Crime of aggression**

1. For the purpose of this Statute, “crime of aggression” means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.
2. For the purpose of paragraph 1, “act of aggression” means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Any of the following acts, regardless of a declaration of war, shall, in accordance with United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, qualify as an act of aggression:

- a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;
- b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
- c) The blockade of the ports or coasts of a State by the armed forces of another State;
- d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;
- e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;
- f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;
- g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

3. *The following text is inserted after article 15 of the Statute:*

Article 15 bis

Exercise of jurisdiction over the crime of aggression (State referral, *proprio motu*)

- 1. The Court may exercise jurisdiction over the crime of aggression in accordance with article 13, paragraphs (a) and (c), subject to the provisions of this article.
- 2. The Court may exercise jurisdiction only with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by thirty States Parties.
- 3. The Court shall exercise jurisdiction over the crime of aggression in accordance with this article, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Statute.

4. The Court may, in accordance with article 12, exercise jurisdiction over a crime of aggression, arising from an act of aggression committed by a State Party, unless that State Party has previously declared that it does not accept such jurisdiction by lodging a declaration with the Registrar. The withdrawal of such a declaration may be effected at any time and shall be considered by the State Party within three years.
5. In respect of a State that is not a party to this Statute, the Court shall not exercise its jurisdiction over the crime of aggression when committed by that State's nationals or on its territory.
6. Where the Prosecutor concludes that there is a reasonable basis to proceed with an investigation in respect of a crime of aggression, he or she shall first ascertain whether the Security Council has made a determination of an act of aggression committed by the State concerned. The Prosecutor shall notify the Secretary-General of the United Nations of the situation before the Court, including any relevant information and documents.
7. Where the Security Council has made such a determination, the Prosecutor may proceed with the investigation in respect of a crime of aggression.
8. Where no such determination is made within six months after the date of notification, the Prosecutor may proceed with the investigation in respect of a crime of aggression, provided that the Pre-Trial Division has authorized the commencement of the investigation in respect of a crime of aggression in accordance with the procedure contained in article 15, and the Security Council has not decided otherwise in accordance with article 16.
9. A determination of an act of aggression by an organ outside the Court shall be without prejudice to the Court's own findings under this Statute.
10. This article is without prejudice to the provisions relating to the exercise of jurisdiction with respect to other crimes referred to in article 5.

4. *The following text is inserted after article 15 bis of the Statute:*

Article 15 ter

Exercise of jurisdiction over the crime of aggression (Security Council referral)

1. The Court may exercise jurisdiction over the crime of aggression in accordance with article 13, paragraph (b), subject to the provisions of this article.
2. The Court may exercise jurisdiction only with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by thirty States Parties.
3. The Court shall exercise jurisdiction over the crime of aggression in accordance with this article, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Statute.
4. A determination of an act of aggression by an organ outside the Court shall be without prejudice to the Court's own findings under this Statute.
5. This article is without prejudice to the provisions relating to the exercise of jurisdiction with respect to other crimes referred to in article 5.

5. *The following text is inserted after article 25, paragraph 3, of the Statute:*

- 3 bis. In respect of the crime of aggression, the provisions of this article shall apply only to persons in a position effectively to exercise control over or to direct the political or military action of a State.

6. *The first sentence of article 9, paragraph 1, of the Statute is replaced by the following sentence:*

1. Elements of Crimes shall assist the Court in the interpretation and application of articles 6, 7, 8 and 8 bis.

7. *The chapeau of article 20, paragraph 3, of the Statute is replaced by the following paragraph; the rest of the paragraph remains unchanged:*

3. No person who has been tried by another court for conduct also proscribed under article 6, 7, 8 or 8 bis shall be tried by the Court with respect to the same conduct unless the proceedings in the other court:”.

SCHEDULE 2

PASSENGER NAME RECORD (PNR) DATA

1. PNR record locator
2. Date of reservation or issue of ticket
3. Date(s) of intended travel
4. Name(s)
5. Address and contact information (telephone number, email address)
6. All forms of payment information, including billing address
7. Complete travel itinerary for specific PNR
8. Frequent flyer information
9. Travel agency or travel agent
10. Travel status of passenger, including confirmations, check in status, no-show or go-show information
11. Split or divided PNR information
12. General remarks (including all available information on unaccompanied minors under 18 years, such as name and gender of the minor, age, language(s) spoken, name and contact details of guardian on departure and relationship to the minor, name and contact details of guardian on arrival and relationship to the minor, departure and arrival agent)
13. Ticketing field information, including ticket number, date of ticket, issuance and one-way tickets, automated ticket fare quote fields
14. Seat number and other seat information
15. Code share information
16. All baggage information
17. Number and other names of travellers on the PNR
18. Any advance passenger information (API) data collected (including the type, number, country of issuance and expiry date of any identity document, nationality, family name, given name, gender, date of birth, airline, flight number, departure date, arrival date, departure port, arrival port, departure time and arrival time)
19. All historical changes to the PNR data specified in numbers 1 to 18.

SCHEDULE 3

SERIOUS CRIME

1. General

An offence under—

sections 2(1), (2), (3), (4) and (6) of the Criminal Law (Jurisdiction) Act 1976 (No. 14 of 1976) to the extent that the offence in the Schedule of that Act related to the alleged offence is one specified in *Schedule 3* of this Act

section 11 of the Criminal Justice (Terrorist Offences) Act 2005 (No. 2 of 2005) to the extent that the offence in Part 1 or Part 2 of Schedule 6 of that Act related to the alleged offence is one specified in *Schedule 3* of this Act

section 71 of the Criminal Justice Act 2006 (No. 26 of 2006) to the extent that it relates to the alleged offence of conspiracy to commit an offence specified in *Schedule 3* of this Act and the offence is one for which a person may be punished by imprisonment for a term of 3 years or more

2. Participation in a criminal organisation

An offence under—

section 21 or 21A of the Offences against the State Act 1939 (No. 13 of 1939)

section 6 of the Offences Against the State (Amendment) Act 1998 (No. 39 of 1998)

section 72 or 73 of the Criminal Justice Act 2006 (No. 26 of 2006)

3. Trafficking in human beings

An offence under—

section 9 of the Criminal Law (Sexual Offences) Act 1993 (No. 20 of 1993)

section 3 of the Child Trafficking and Pornography Act 1998 (No. 22 of 1998)

section 2, 4 or 5 of the Criminal Law (Human Trafficking) Act 2008 (No. 8 of 2008)

section 5 of the Criminal Justice (Public Order) Act 2011 (No. 5 of 2011)

section 38 of the Domestic Violence Act 2018 (No. 6 of 2018)

section 6, 7, 8 or 14 (other than subsection (8)(c) of that section) of the Criminal Justice (Smuggling of Persons) Act 2021 (No. 42 of 2021)

4. Sexual exploitation of children and child pornography

An offence under—

section 6 of the Criminal Law (Sexual Offences) Act 1993 (No. 20 of 1993)

section 2, 3, 4 or 5 of the Sexual Offences (Jurisdiction) Act 1996 (No. 38 of 1996) in so far as it relates to any offence specified in the Schedule of that Act that carries a maximum term of imprisonment of at least 3 years

section 3, 4, 4A, 5, 5A or 6 of the Child Trafficking and Pornography Act 1998 (No. 22 of 1998)

section 249(1) of the Children Act 2001 (No. 24 of 2001)

section 176(2) of the Criminal Justice Act 2006 (No. 26 of 2006)

section 2, 3 or 3A of the Criminal Law (Sexual Offences) Act 2006 (No. 15 of 2006)

section 3, 4, 5, 6, 7, 8 or 42 of the Criminal Law (Sexual Offences) Act 2017 (No. 2 of 2017)

5. Illicit trafficking in narcotic drugs and psychotropic substances

An offence under—

section 3 (other than in the case of a first or second offence as provided for by section 27(1)), 15, 15A, 15B, 17, 19 or 21 (in so far as it relates to any offence specified in section 27 of that Act that carries a maximum term of imprisonment of at least 3 years) of the Misuse of Drugs Act 1977 (No. 12 of 1977)

section 34 of the Criminal Justice Act 1994 (No. 15 of 1994)

section 3(1), 3(2), 4, 5(1), 8(6) or 10(8) of the Criminal Justice (Psychoactive Substances) Act 2010 (No. 22 of 2010)

section 14 of the Customs Act 2015 (No. 18 of 2015)

6. Illicit trafficking in weapons, munitions and explosives

An offence under—

section 4, 5, 31, 40, 43 or 81 of the Explosives Act 1875 (38 & 39 Vict.) c. 17

section 2, 3, 4(1) or 5 of the Explosive Substances Act 1883 (46 & 47 Vict.) c. 3

section 2, 15, 16 or 17 of the Firearms Act 1925 (No. 17 of 1925)

section 27A or 27B of the Firearms Act 1964 (No. 1 of 1964)

section 4 of the Firearms (Proofing) Act 1968 (No. 20 of 1968)

section 7, 8 or 12 of the Firearms and Offensive Weapons Act 1990 (No. 12 of 1990)

section 3 of the Chemical Weapons Act 1997 (No. 28 of 1997)

section 6 or 9 of the Cluster Munitions and Anti-Personnel Mines Act 2008 (No. 20 of 2008)

section 14 of the Customs Act 2015 (No. 18 of 2015)

7. Corruption

An offence under—

section 5, 6, 7, 9 or 10 of the Criminal Justice (Corruption Offences) Act 2018 (No. 9 of 2018)

section 42A of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

8. Fraud, including that against the financial interests of the European Union

Conspiracy to defraud

An offence under—

section 119 of the Registration of Title Act 1964 (No. 16 of 1964)

section 2 of the Criminal Damage Act 1991 (No. 31 of 1991)

section 1078 of the Taxes Consolidation Act 1997 (No. 39 of 1997)

section 102 (other than subsections (1) and (2) of that section) of the Finance Act 1999 (No. 2 of 1999)

section 4, 6, 7, 9, 10, 11, 25, 26, 27, 28, 29, 42, 42A, 42B(3), 45 (in so far as it relates to an offence under section 42, 42A or 42B(3)) or 51 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

section 119 of the Finance Act 2001 (No. 7 of 2001)

section 6 of the Competition Act 2002 (No. 14 of 2002) being an offence involving an agreement, decision or concerted practice to which section 8(1) applies

subsection (3) or (4) of section 78 and section 78A of the Finance Act 2005 (No. 5 of 2005)

section 251, 252 (other than an offence under section 252(1)(d)), 253, 254, 255, 262 or 262A of the Social Welfare Consolidation Act 2005 (No. 26 of 2005)

section 17 or 19 of the Criminal Justice Act 2011 (No. 22 of 2011)

section 82, 87(5), 101, 102(3), 102(5), 286, 294, 324, 330, 387, 388, 389, 406, 507, 716, 717, 718, 719, 720(1), 721, 722, 767(4), 776, 876, 877, 878, 1148, 1200 or 1260 of the Companies Act 2014 (No. 38 of 2014)

section 14 of the Customs Act 2015 (No. 18 of 2015)

section 15A of the Assisted Decision-Making (Capacity) Act 2015 (No. 64 of 2015)

section 5 of the Markets in Financial Instruments Act 2018 (No. 25 of 2018)

section 26(1) of the Garda Síochána (Compensation) Act 2022 (No. 33 of 2022)

9. Laundering of the proceeds of crime and counterfeiting of currency, including the euro

An offence under—

section 33, 34, 35, 36, 37 or 38 (in so far as it relates to an offence under section 33, 34, 35, 36 or 37) of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

section 7, 8, 9, 10, 30A, 30B, 33A(3), 36A, 38, 38A, 39, 40C, 54, 57, 57A, 59, 108A or 109A of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010)

10. Computer-related crime / cybercrime

An offence under—

section 2, 3 or 4 of the Criminal Damage Act 1991 (No. 31 of 1991)

section 9 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

section 2, 3, 4, 5 or 6 of the Criminal Justice (Offences Relating to Information Systems) Act 2017 (No. 11 of 2017)

section 8 of the Criminal Law (Sexual Offences) Act 2017 (No. 2 of 2017)

11. Environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties

An offence under—

section 3 or 4 of the Local Government (Water Pollution) Act 1977 (No. 1 of 1977)

section 32 (other than an offence under subsection (6) where the offence consists of a contravention of regulations under subsection (4) of that section) of the Waste Management Act 1996 (No. 10 of 1996)

section 71B of the Animal Health and Welfare Act 2013 (No. 15 of 2013)

12. Facilitation of unauthorised entry and residence

An offence under—

section 6, 7, 8 or 14 (other than subsection (8)(c) of that section) of the Criminal Justice (Smuggling of Persons) Act 2021 (No. 42 of 2021)

13. Murder, grievous bodily injury

Murder

Manslaughter

An offence under—

section 4, in relation to conspiracy to murder, of the Offences against the Person Act 1861 (24 & 25 Vict.) c.100

section 53 of the Road Traffic Act 1961 (No. 24 of 1961) where the alleged contravention of subsection (1) causes death or serious bodily harm to another person

section 4(a) and (b) of the Criminal Justice Act 1990 (No. 16 of 1990)

section 3A, 4, 4A, 5, 6, 7(1), 8, 12, 13, 13A or 14 of the Non-Fatal Offences against the Person Act 1997 (No. 26 of 1997)

section 2 or 3 of the Criminal Justice (United Nations Convention Against Torture) Act 2000 (No. 11 of 2000)

section 2, 3 or 4 of the Criminal Justice (Female Genital Mutilation) Act 2012 (No. 11 of 2012)

14. Illicit trade in human organs and tissue

An offence under section 2 or 4 of the Criminal Law (Human Trafficking) Act 2008 (No. 8 of 2008)

15. Kidnapping, illegal restraint and hostage-taking

An offence under—

section 15, 16 or 17 of the Non-Fatal Offences against the Person Act 1997 (No. 26 of 1997)

section 9 of the Criminal Justice (Terrorist Offences) Act 2005 (No. 2 of 2005)

section 38 of the Domestic Violence Act 2018 (No. 6 of 2018)

16. Organised and armed robbery

An offence under—

section 26 of the Firearms Act 1964 (No. 1 of 1964)

section 4, 12, 13, 14, 15, 17 or 18 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

section 71A, 72 or 73 of the Criminal Justice Act 2006 (No. 26 of 2006)

17. Illicit trafficking in cultural goods, including antiques and works of art

An offence under section 4, 12, 13, 14, 15, 17 or 18 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

18. Counterfeiting and piracy of products

An offence under—

section 92 of the Trade Marks Act 1996 (No. 6 of 1996)

section 140 or 141 of the Copyright and Related Rights Act 2000 (No. 28 of 2000)

section 33, 34, 35, 36, 37 or 38 (in so far as it relates to an offence under section 33, 34, 35, 36 or 37) of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

19. Forgery of administrative documents and trafficking therein

An offence under section 25, 26, 27, 28 or 29 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

20. Illicit trafficking in hormonal substances and other growth promoters

An offence under—

Regulation 34 of the European Communities (Control of Animal Remedies and their Residues) Regulations 2009 (S. I. No. 183 of 2009)

21. Illicit trafficking in nuclear or radioactive materials

An offence under—

section 38 of the Radiological Protection Act 1991 (No. 9 of 1991)

section 2 of the Biological Weapons Act 2011 (No. 13 of 2011)

22. Rape

An offence under—

section 2, 3 or 4 of the Criminal Law (Rape) (Amendment) Act 1990 (No. 32 of 1990)

section 22 of the Sex Offenders Act 2001 (No. 18 of 2001)

section 21 or 22 of the Criminal Law (Sexual Offences) Act 2017 (No. 2 of 2017)

23. Crimes within the jurisdiction of the International Criminal Court

An offence under section 7, 8 or 11 of the International Criminal Court Act 2006 (No. 30 of 2006)

24. Unlawful seizure of aircraft/ships

An offence under—

section 11 of the Air Navigation and Transport Act 1973 (No. 29 of 1973)

section 3 of the Air Navigation and Transport Act 1975 (No. 9 of 1975)

section 10 of the Criminal Law (Jurisdiction) Act 1976 (No. 14 of 1976)

section 2 of the Maritime Security Act 2004 (No. 29 of 2004)

25. Sabotage

An offence under—

section 1 of the Treason Act 1939 (No. 10 of 1939)

section 2 of the Criminal Damage Act 1991 (No. 31 of 1991)

section 166, 167 or 168 of the Electoral Reform Act 2022 (No. 30 of 2022)

section 24, 25(8), 26(2) or 29(6) of the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 (No. 4 of 2023)

26. Trafficking in stolen vehicles

An offence under—

section 112(2) (inserted by section 3 of the Road Traffic (Amendment) Act 1984 (No. 16 of 1984)) of the Road Traffic Act 1961 (No. 24 of 1961)

section 10 of the Criminal Law (Jurisdiction) Act 1976 (No. 14 of 1976)

section 4, 14, 17 or 18 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

27. Industrial espionage

An offence under—

section 4, 9, or 15 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

section 2, 3, 4, 5 or 6 of the Criminal Justice (Offences Relating to Information Systems) Act 2017 (No. 11 of 2017)

[2026.]

*Criminal Law, Civil Law and
Defence (Miscellaneous Provisions) Act 2026.*

[No. 34.]

SCHEDULE 4

Section 89(1)

COMPETENT AUTHORITIES

Minister for Justice, Home Affairs and Migration

An Garda Síochána

Office of the Revenue Commissioners

Minister for Social Protection

Permanent Defence Force