

ÉIRE

**BILLE UM CHIONTAI IN AGHAIDH AN STAIT (LEASU),
1940.**

**OFFENCES AGAINST THE STATE (AMENDMENT) BILL,
1940.**

Mar do ritheadh ag dhá Thigh an Oireachtais.

As passed by both Houses of the Oireachtas.

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ÉIRE

**BILLE UM CHIONTAI IN AGHAIDH AN STAIT (LEASU),
1940.**

**OFFENCES AGAINST THE STATE (AMENDMENT) BILL,
1940.**

5

BILL

entitled

**AN ACT TO REPEAL PART VI OF THE OFFENCES
AGAINST THE STATE ACT, 1939, AND TO MAKE
OTHER PROVISIONS IN RELATION TO THE DETEN- 10
TION OF CERTAIN PERSONS.**

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

PART I.

PRELIMINARY AND GENERAL.

Short title, con-
struction, and
collective
citation.

**1.—(1) This Act may be cited as the Offences Against the State 15
(Amendment) Act, 1940.**

**(2) This Act shall be construed as one with the Offences Against
the State Act, 1939 (No. 13 of 1939).**

**(3) The Offences Against the State Act, 1939, and this Act may
be cited together as the Offences Against the State Acts, 1939 and 20
1940.**

Repeal.

**2.—Part VI of the Offences Against the State Act, 1939 (No. 13
of 1939), is hereby repealed.**

PART II.

POWERS OF DETENTION.

25

Commencement
and cesser of this
Part of this Act.

**3.—(1) This Part of this Act shall not come into or be in force
save as and when and for so long as is provided by the subsequent
sub-sections of this section.**

**(2) If and whenever and so often as the Government makes and
publishes a proclamation declaring that the powers conferred by 30
this Part of this Act are necessary to secure the preservation of
public peace and order and that it is expedient that this Part of
this Act should come into force immediately, this Part of this Act
shall come into force forthwith.**

**(3) If at any time while this Part of this Act is in force the 35
Government makes and publishes a proclamation declaring that
this Part of this Act shall cease to be in force, this Part of this
Act shall forthwith cease to be in force.**

**(4) Whenever the Government has made and published a pro-
clamation under the second sub-section of this section, it shall be 40
lawful for Dáil Eireann, at any time while this Part of this Act
is in force by virtue of such proclamation, to pass a resolution**

annulling such proclamation, and thereupon such proclamation shall be annulled and this Part of this Act shall cease to be in force, but without prejudice to the validity of anything done under this Part of this Act after the making of such proclamation and before
5 the passing of such resolution.

(5) A proclamation made by the Government under this section shall be published by publishing a copy thereof in the *Iris Oifigiúil* and may also be published in any other manner which the Government shall think proper.

10 4.—(1) Whenever a Minister of State is of opinion that any particular person is engaged in activities which, in his opinion, are prejudicial to the preservation of public peace and order or to the security of the State, such Minister may by warrant under his hand and sealed with his official seal order the arrest and detention of
15 such person under this section.

Special powers
of arrest and
detention.

(2) Any member of the *Gárda Síochána* may arrest without warrant any person in respect of whom a warrant has been issued by a Minister of State under the foregoing sub-section of this section.

20 (3) Every person arrested under the next preceding sub-section of this section shall be detained in a prison or other place prescribed in that behalf by regulations made under this Part of this Act until this Part of this Act ceases to be in force or until he is released under the subsequent provisions of this Part of this Act,
25 whichever first happens.

(4) Whenever a person is detained under this section, there shall be furnished to such person, as soon as may be after he arrives at a prison or other place of detention prescribed in that behalf by regulations made under this Part of this Act, a copy of the
30 warrant issued under this section in relation to such person and of the provisions of section 8 of this Act.

(5) Every warrant issued by a Minister of State under this section shall be in the form set out in the Schedule to this Act or in a form to the like effect.

35 5.—(1) It shall be lawful for any member of the *Gárda Síochána* to do all or any of the following things in respect of any person who is arrested and detained under this Part of this Act, that is
to say:—

Powers of search,
etc., of detained
persons.

- 40 (a) to demand of such person his name and address;
(b) to search such person or cause him to be searched;
(c) to photograph such person or cause him to be photographed;
(d) to take, or cause to be taken the fingerprints of such person.

(2) Every person who shall obstruct or impede the exercise in
45 respect of him by a member of the *Gárda Síochána* of any of the powers conferred by the next preceding sub-section of this section or shall fail or refuse to give his name and address when demanded of him by a member of the *Gárda Síochána* under the said sub-section or shall give a name or an address which is false or mis-
50 leading shall be guilty of a contravention of the regulations made under this Part of this Act in relation to the preservation of discipline and shall be dealt with accordingly.

6.—A Minister of State may by writing under his hand, if and
55 whenever he so thinks proper, order the release of any particular person who is for the time being detained under this Part of this Act, and thereupon such person shall forthwith be released from such detention.

Release of
detained persons.

7.—(1) A Minister of State may by order make regulations for
all or any of the following purposes, that is to say:—

- 60 (a) prescribing the prisons, internment camps, and other places in which persons may be detained under this Part of this Act;

Regulations in
relation to
places of
detention.

(b) providing for the efficient management, sanitation, control, and guarding of such prisons, internment camps, and other places;

(c) providing for the enforcement and preservation of discipline amongst the persons detained in any such prison, internment camp, or other place as aforesaid;

(d) providing for the punishment of persons so detained who contravene the regulations;

(e) prescribing or providing for any other matter or thing incidental or ancillary to the efficient detention of persons detained under this Part of this Act.

(2) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling such regulation is passed by either House of the Oireachtas within the next subsequent twenty-one days on which such House has sat after such regulation is laid before it, such regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under such regulation.

**Commission for
inquiring into
detentions.**

8.—(1) As soon as conveniently may be after this Part of this Act comes into force, the Government shall set up a Commission (in this section referred to as the Commission) to perform the functions imposed upon the Commission by this section.

(2) The following provisions shall apply and have effect in relation to the Commission, that is to say:—

(a) the members of the Commission shall be appointed and be removable by the Government;

(b) the Commission shall consist of three persons of whom one shall be a commissioned officer of the Defence Forces with not less than seven years' service and each of the others shall be a barrister or solicitor of not less than seven years' standing or be or have been a judge of the Supreme Court, the High Court, or the Circuit Court or a justice of the District Court;

(c) there may be paid out of moneys provided by the Oireachtas to any member of the Commission such (if any) fees or remuneration as the Minister for Finance shall determine.

(3) Any person who is detained under this Part of this Act may apply in writing to the Government to have the continuation of his said detention considered by the Commission, and upon such application being so made the following provisions shall have effect, that is to say:—

(a) the Government shall, with all convenient speed, refer the matter of the continuation of such person's detention to the Commission;

(b) the Commission shall inquire into the grounds of such person's detention and shall, with all convenient speed, report thereon to the Government;

(c) the Minister for Justice shall furnish to the Commission such information and documents (relevant to the subject-matter of such inquiry) in the possession or procurement of the Government or of any Minister of State as shall be called for by the Commission;

(d) if the Commission reports that no reasonable grounds exist for the continued detention of such person, such person shall, with all convenient speed be released.

9.—The Government shall once at least in every six months furnish to each House of the Oireachtas particulars of (a) persons detained under this part of this Act, (b) persons in respect of whom the Commission has made a report to the Government, (c) persons in respect of whom the Commission has reported that no reasonable grounds exist for their continued detention, (d) persons who had been detained under this part of this Act but who had been released on the report of the Commission, and (e) persons who had been detained under this part of this Act but who had been released without a report of the Commission.

Returns to be laid before each House of the Oireachtas.

SCHEDULE.

FORM OF WARRANT UNDER SECTION 4.

OFFENCES AGAINST THE STATE (AMENDMENT) ACT, 1940.

SECTION 4.

In exercise of the powers conferred on me by section 4 of the Offences Against the State (Amendment) Act, 1940 (No. — of 1940), I,, Minister for, being of opinion that, of, is engaged in activities which, in my opinion, are prejudicial to the preservation of public peace and order (or to the security of the State), do by this warrant order the arrest and detention of the said, under the said section 4.

Given under my Official Seal this..... day of..... 19.....

.....
Minister for

Éire.

Éire.

BILLE UM CHIONTAÍ IN AGHAIDH AN
STAIT (LEASU), 1940.

OFFENCES AGAINST THE STATE
(AMENDMENT) BILL, 1940.

BILLE

dá ngairmtear

Acht chun Cuid VI den Acht um Chiontaí in
Aghaidh an Stáit, 1939, d'athghairm agus
chun soeruithe eile do dhéanamh i dtaobh
daoine áirithe do choinneáil.

*Rithte ag dhá Thigh an Oireachtais, 5adh Eanair,
1940.*

BAILE NAHA CLIATH:
FOILLSITHE AG OIFIG AN TSOLATHAIR.

Le ceannach trí non díoltóir leabhar, no díreach
ó Oifig Díolta Foillseacháin Rialtais, 3-4, Sráid
an Choláiste, Baile Atha Cliath.

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BILL

entitled

An Act to repeal Part VI of the Offences Against
the State Act, 1939, and to make other pro-
visions in relation to the detention of
certain persons.

*Passed by both Houses of the Oireachtas,
5th January, 1940.*

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