

# ÉIRE.

---

## BILLE GARDA SIOCHANA (CUITEAMH), 1941. GARDA SIOCHANA (COMPENSATION) BILL, 1941.

---

*Mar do tugadh isteach.*

*As introduced.*

---

### ARRANGEMENT OF SECTIONS.

#### Section.

1. Definitions.
2. Deaths and injuries to which this Act applies.
3. Persons to whom compensation under this Act may be awarded.
4. Right to apply to the Minister for compensation under this Act.
5. Applications to the Minister for compensation under this Act.
6. Powers of the Minister in relation to applications to him.
7. Applications to the High Court for compensation under this Act.
8. Powers of the High Court on applications to it.
9. Power to state a case for the Supreme Court.
10. General provisions in relation to compensation under this Act.
11. Amendment of section 106 of the Grand Jury (Ireland) Act, 1836.
12. Exclusion of compensation under this Act from assessment of pensions, etc.
13. Power to extend this Act to other police forces.
14. Payment of compensation and other expenses.
15. Regulations.
16. Short title.

# ÉIRE.

BILLE GARDA SIOCHANA (CUITEAMH), 1941.  
GARDA SIOCHANA (COMPENSATION) BILL, 1941.

## BILL

*entitled*

5

AN ACT TO PROVIDE FOR THE GRANTING OUT OF  
PUBLIC MONEYS OF COMPENSATION TO DEPENDANTS AND PARTIAL DEPENDANTS OF MEMBERS  
OF THE GÁRDA SÍOCHÁNA (WHETHER SERVING OR RETIRED) WHO HAVE DIED OR SHALL DIE AT ANY  
TIME ON OR AFTER THE 1ST DAY OF JANUARY, 1940, FROM INJURIES MALICIOUSLY INFLICTED ON THEM  
IN THE COURSE OF OR IN RELATION TO THE PERFORMANCE BY THEM OF THEIR DUTIES AS  
MEMBERS OF THE GÁRDA SÍOCHÁNA, AND FOR THE LIKE GRANTING OF COMPENSATION TO MEMBERS  
OF THE GÁRDA SÍOCHÁNA (WHETHER SERVING OR RETIRED) ON WHOM PERSONAL INJURIES NOT  
CAUSING DEATH HAVE BEEN OR SHALL BE SIMILARLY INFLICTED AT ANY TIME ON OR AFTER  
THE 1ST DAY OF JANUARY, 1940, AND TO MAKE PROVISION FOR MATTERS INCIDENTAL TO OR  
CONNECTED WITH THE MATTERS AFORESAID, INCLUDING THE EXTENSION OF THIS ACT TO OTHER  
POLICE FORCES.

10

15

20

25

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

### Definitions.

1.—In this Act—

the expression “ the Minister ” means the Minister for Justice;  
the word “ prescribed ” means prescribed by regulations made by  
the Minister under this Act.

30

### Deaths and injuries to which this Act applies.

2.—(1) This Act applies—

(a) to the death of a member of the Gárda Síochána who dies  
after the date of the passing of this Act from injuries  
maliciously inflicted (whether before or after such passing)  
on him—

35

(i) in the performance of his duties as such member  
while actually on duty, or

(ii) while exercising powers or otherwise acting in his  
general capacity as a policeman when off duty or on  
leave or otherwise not actually on duty, or

40

(iii) while on duty or off duty or on leave or at any other  
time because of anything previously done (whether  
before or after the passing of this Act) by him as a  
member of the Gárda Síochána or merely because  
of his being a member of the Gárda Síochána, and

45

(b) to the death of a person who had previously been, but at  
the time of his death has ceased to be, a member of the  
Gárda Síochána (whether such cesser took place before  
or after the passing of this Act) and dies after the date

- of such passing from injuries maliciously inflicted (whether before or after such passing) on him because of anything done (whether before or after such passing) by him as a member of the *Gárda Síochána* or merely because of his having been a member of the *Gárda Síochána*, and
- 5
- (c) to personal injuries (not causing death) maliciously inflicted after the date of the passing of this Act on a member of the *Gárda Síochána*—
- 10 (i) in the performance of his duties as such member while actually on duty, or
- (ii) while exercising powers or otherwise acting in his general capacity as a policeman when off duty or on leave or otherwise not actually on duty, or
- 15 (iii) while on duty or off duty or on leave or at any other time because of anything previously done (whether before or after the passing of this Act) by him as a member of the *Gárda Síochána* or merely because of his being a member of the *Gárda Síochána*, and
- 20 (d) to personal injuries (not causing death) maliciously inflicted after the date of the passing of this Act on a person who had previously been, but at the time when such injuries are inflicted has ceased to be, a member of the *Gárda Síochána* (whether such cesser took place before or after the passing of this Act) where such injuries are inflicted on such person because of anything done (whether before or after such passing) by him as a member of the *Gárda Síochána* or merely because of his having been a member of the *Gárda Síochána*.
- 25

30 (2) This Act also applies—

- (a) to a death which occurred on or after the 1st day of January, 1940, and before or on the date of the passing of this Act and which, if it had occurred after the date of such passing, would have been a death to which this Act applies by virtue of the foregoing sub-section of this section, and
- 35
- (b) to personal injuries (not causing death) which were inflicted on or after the 1st day of January, 1940, and before or on the date of the passing of this Act and which, if they had been inflicted after the date of such passing, would have been injuries to which this Act applies by virtue of the said foregoing sub-section.
- 40

3.—(1) The only persons to whom compensation under this Act may be awarded in respect of the death of a deceased person are :—

- 45 (a) the widow of such deceased person ;
- (b) the children or step-children of such deceased person ;
- (c) the parents of such deceased person ;
- (d) the brothers, half-brothers, sisters and half-sisters of such deceased person ;
- 50 (e) the grand parents of such deceased person ;
- (f) adopted children of such deceased person who were at his death under the age of twenty-one years and were supported, maintained, and educated wholly or partially by such deceased person.
- 55 (2) Compensation under this Act in respect of personal injuries not causing death may be awarded only to the person on whom those injuries were inflicted.

Persons to whom compensation under this Act may be awarded.

Right to apply to the Minister for compensation under this Act.

4.—(1) Any person who claims to be entitled to compensation under this Act in respect of the death of a deceased person may apply in accordance with this Act to the Minister for such compensation.

(2) Any person who claims to be entitled to compensation under this Act in respect of personal injuries inflicted on him may apply in accordance with this Act to the Minister for such compensation.

Applications to the Minister for compensation under this Act.

5.—The following provisions shall apply and have effect in respect of applications to the Minister for compensation under this Act, that is to say:—

- (a) where the application is in respect of a death occurring or injuries inflicted after the date of the passing of this Act, the application shall be made within three months after the day on which such death occurred or such injuries were inflicted (as the case may be) or within such longer time after that day as the Minister shall allow in any particular case; 15
- (b) where the application is in respect of a death which occurred or injuries which were inflicted before or on the date of the passing of this Act, the application shall be made within three months after the date of the passing of this Act or within such longer time after that date as the Minister shall allow in any particular case; 20 25
- (c) the application shall be made in the prescribed form and manner and shall state all such matters as are required by the said prescribed form to be stated therein;
- (d) where the applicant is an infant, the application shall be made on his behalf by his parent, guardian, or next friend, and such parent, guardian, or next friend (as the case may be) shall be deemed for the purposes of the subsequent paragraphs of this section to be the applicant; 30 35
- (e) the Minister may, if he so thinks proper, require the applicant to furnish such further information in relation to the application as the Minister shall specify;
- (f) the Minister may, if he so thinks proper, require the applicant to verify the application by the statutory declaration of the applicant or other person having personal knowledge of the relevant facts. 40

Powers of the Minister in relation to applications to him.

6.—(1) Subject to the provisions of sub-section (5) of this section, the Minister shall consider every application duly made to him for compensation under this Act and shall do such one of the following things in respect thereof as he shall think proper, that is to say:— 45

- (a) refuse the application on either of the following grounds, that is to say:—
  - (i) that he is not satisfied of the matters mentioned in whichever of the two next following sub-sections of this section is applicable, or 50
  - (ii) that the applicant has failed or refused to comply with a requisition made by the Minister under the next preceding section of this Act for further information or for verification of the application; 55
- (b) with the consent of the Minister for Finance and subject to being satisfied in accordance with whichever of the two next following sub-sections of this section is applic-

able, award to the applicant such compensation under this Act as the Minister shall, having regard to the provisions of this Act, think proper;

5 (c) with the consent of the Minister for Finance authorise the applicant to apply to the High Court in accordance with this Act for compensation under this Act in respect of the death or injuries (as the case may be) which were the subject of the said application to the Minister.

(2) The Minister shall not award under this section compensation in respect of the death of a deceased person unless he is satisfied—

(a) that this Act applies to the said death, and

15 (b) that the applicant for the said compensation is a person to whom compensation under this Act may be awarded in respect of the said death, and

(c) that such applicant was wholly or partly dependent on the said deceased person, and

(d) that such applicant has suffered loss by the said death.

(3) The Minister shall not award under this section compensation in respect of personal injuries not causing death unless he is satisfied that this Act applies to the said injuries and that the applicant for the said compensation is the person on whom the said injuries were inflicted.

(4) The decision of the Minister under this section on an application to him for compensation under this Act shall be final and conclusive.

(5) Where an application is duly made to the Minister for compensation under this Act in respect of the death of a deceased person and the applicant in his application requests that the application be dealt with by the High Court, the Minister shall authorise the applicant to apply to the High Court in accordance with this Act for such compensation.

7.—(1) Any person who has applied to the Minister under this Act for compensation under this Act and has been authorised by the Minister to apply for such compensation to the High Court may apply to the High Court in accordance with such authorisation and this section.

Applications to the High Court for compensation under this Act.

(2) The following provisions shall apply and have effect in respect of every application under this section to the High Court for compensation under this Act, that is to say:—

(a) the application shall be made not later than two months after the date on which the authorisation of the application by the Minister was communicated to the applicant;

45 (b) the application shall be made by summary summons or in such other summary manner as shall be prescribed by rules of Court and shall be grounded on an affidavit stating the facts relied on in support of the application and made by the applicant or one of the applicants or, where the applicant is an infant, by his parent, guardian, or next friend;

(c) except the said affidavit, all the evidence at the hearing of the application shall be given *viva voce*, save in so far as the Court otherwise directs;

55 (d) the person making the said affidavit shall not be precluded, by reason of having made the said affidavit, from giving *viva voce* evidence at the hearing of the application;

(e) the Minister for Finance shall be named as the defendant;

(f) the application shall be heard and determined by one judge of the High Court whose decision shall be final and unappealable, save as is otherwise provided by this Act;

60 (g) the President of the High Court shall from time to time make arrangements for securing that all applications

under this section shall, so far as practicable, be heard by the same judge;

- (h) whether the application is successful or unsuccessful, the costs of the applicant when taxed and ascertained shall (save as the judge hearing the application shall for cause otherwise order) be paid by the Minister for Finance, and that Minister shall (save as aforesaid) bear his own costs and the order of the judge on the application shall provide accordingly. 5

Powers of the High Court on applications to it.

8.—(1) Where the judge hearing an application to the High Court for compensation under this Act in respect of the death of a deceased person is satisfied— 10

- (a) that this Act applies to the said death, and  
(b) that the applicant is a person to whom compensation under this Act may be granted in respect of the said death, and 15  
(c) that the applicant was wholly or partly dependent on the said deceased person, and  
(d) that the applicant has suffered loss by the said death, and  
(e) that the applicant is duly authorised by the Minister to make the application, 20

the judge shall award to the applicant compensation under this Act in respect of the said death and shall fix the amount of such compensation in accordance with this Act and shall order that the compensation so awarded and fixed shall be paid to the applicant by the Minister for Finance. 25

(2) Where the judge hearing an application to the High Court for compensation under this Act in respect of personal injuries not causing death is satisfied—

- (a) that this Act applies to the said injuries, and  
(b) that the applicant is the person on whom the said injuries were inflicted, and 30  
(c) that the applicant is duly authorised by the Minister to make the application,

the judge shall award to the applicant compensation under this Act in respect of the said injuries and shall fix the amount of such compensation in accordance with this Act and shall order that the compensation so awarded and fixed shall be paid to the applicant by the Minister for Finance. 35

Power to state a case for the Supreme Court.

9.—The judge hearing an application to the High Court for compensation under this Act may, if he so thinks proper on his own motion or at the request of the applicant or of the Minister for Finance, state a case for the opinion of the Supreme Court on any question of law arising during the hearing of such application. 40

General provisions in relation to compensation under this Act.

10.—(1) The following provisions shall apply and have effect in relation to every award of compensation under this Act by the Minister or by a judge of the High Court in respect of a death, that is to say:— 45

- (a) in fixing the amount of the compensation, the Minister or the judge, as the case may be— 50  
(i) shall have regard to any funeral expenses incurred by the applicant in respect of the burial of the deceased and any medical or surgical expenses similarly incurred in respect of the injuries to the deceased which caused his death, and 55  
(ii) shall take into consideration the financial benefits which might reasonably be expected to have been received in the future by the applicant from the deceased if the deceased had not died at the time at which he did die, and 60

(iii) shall take into consideration the fact, if it is a fact, that prior to his death the deceased was awarded compensation under this Act in respect of the injuries which subsequently caused his death, and shall also take into account the amount (if any) of such compensation;

(b) where there is more than one applicant in respect of the same death and the Minister or the judge awards compensation to two or more or all of the applicants, he shall make a separate award of compensation to each of those applicants, whether they made separate applications or a joint application;

(c) where the Minister awards compensation to an applicant who is an infant, he shall either, as he shall think proper, direct that such compensation be paid to a parent, guardian, or other person for the benefit of such applicant or direct that such compensation be paid to two persons nominated by him upon trust to hold and apply such compensation for the benefit of such applicant at such times and in such manner as they think proper;

(d) where a judge of the High Court awards compensation to an applicant who is an infant, he shall either, as he shall think proper, direct that such compensation be paid to a parent, guardian, or other person for the benefit of such applicant or direct that such compensation be paid into Court and be applied for the benefit of such applicant in such manner as the High Court shall from time to time direct;

(e) when an infant to whom compensation under this Act in respect of a death has been awarded attains the age of twenty-one years so much of such compensation as has not been applied for his benefit shall become his absolute property;

(f) when an infant to whom compensation under this Act in respect of a death has been awarded dies before attaining the age of twenty-one years, so much of such compensation as has not been applied for his benefit shall, after providing for the reasonable funeral expenses of such infant, be repaid to the Minister for Finance for the benefit of the Exchequer.

(2) In fixing the amount of compensation under this Act in respect of personal injuries not causing death, the Minister or the judge, as the case may be,—

(a) shall have regard to any medical or surgical expenses incurred or likely to be incurred by the applicant in respect or in consequence of the injuries, and

(b) shall take into consideration the detrimental effect which the injuries might reasonably be expected to have on the future earning power generally of the applicant and, in particular (if the injuries do not preclude the applicant from continuing to be a member of the *Gárda Síochána*), on his future career in that force, and

(c) shall have regard to the pain and suffering occasioned by the injuries to the applicant and also, in a proper case, to any disease or tendency to disease caused by the injuries.

(3) In every case in which compensation under this Act is awarded by the Minister or by a judge of the High Court, the compensation shall be a lump sum and the Minister or the judge (as the case may be) in fixing the amount thereof,—

(a) shall take into consideration the fact, if it is a fact, that the applicant is entitled (under the statutes and

statutory orders and regulations relating to the pensions of members of the *Gárda Síochána* and their dependants) to a pension, allowance, or gratuity out of public funds in respect of the death or injuries which is or are the subject of the application, but shall not regard the amount of such pension, allowance, or gratuity (if any) as a measure or standard by reference to which the amount of the compensation is to be fixed, and

(b) shall, where the applicant has, before the passing of this Act, made an application to the Circuit Court under section 106 of the Grand Jury (Ireland) Act, 1836, in respect of the death or injuries which is or are the subject of the application under this Act, take into consideration the costs and expenses incurred by the applicant before the passing of this Act in or about such application to the Circuit Court and any appeal to the High Court from the order (if any) of the Circuit Court on such application.

Amendment of section 106 of the Grand Jury (Ireland) Act, 1836.

11.—(1) The expression “peace officer” wherever it occurs in section 106 of the Grand Jury (Ireland) Act, 1836, shall be construed as not meaning or including a member of the *Gárda Síochána*, and the operation of the said section shall be restricted accordingly.

(2) Every application under section 106 of the Grand Jury (Ireland) Act, 1836, in respect of the murder or maiming of a member of the *Gárda Síochána* which is pending in the Circuit Court at the passing of this Act, and also every appeal from an order made by the Circuit Court on any such application under the said section 106 which is pending in the High Court at the said passing, shall, on the passing of this Act, abate and be incapable of being further proceeded with.

(3) Every order made by the Circuit Court before the passing of this Act on an application under section 106 of the Grand Jury (Ireland) Act, 1836, whereby any money was ordered to be paid by the corporation of a county borough or the council of a county or of an urban district to any person in respect of the murder or maiming of a member of the *Gárda Síochána* on or after the 1st day of January, 1940, shall, on the passing of this Act, become and be wholly void and shall be incapable of being executed or otherwise enforced either in respect of the payment of the said money or in respect of the payment of any costs or expenses thereby ordered to be paid by such corporation or council to such person.

Exclusion of compensation under this Act from assessment of pensions, etc.

12.—When assessing the amount of any pension, allowance, or gratuity under an order made under, or an order or other enactment continued in force by, section 13 of the Police Forces Amalgamation Act, 1925 (No. 7 of 1925), payable to a member of the *Gárda Síochána* on account of an injury to which this Act applies inflicted on him either before or after the passing of this Act or payable to the widow or a child or dependant of a member of the *Gárda Síochána* on account of the death (being a death to which this Act applies) of such member either before or after the passing of this Act, it shall not be lawful and, in the case of any such assessment made before the passing of this Act, shall be deemed never to have been lawful to take into account or have regard to the compensation (if any) awarded or which may be awarded under this Act either (as the case may be) to such member on account of such injury or to such widow, child, or dependant on account of such death.

Power to extend this Act to other police forces.

13.—(1) The Minister may by order, whenever he so thinks proper, declare that this Act shall apply to any particular police force specified in such order, whether such police force was established before or is established after the passing of this Act and whether such police force is a permanent or a temporary force.

(2) The Minister may by order, whenever he so thinks proper, revoke or amend any order previously made by him under the foregoing sub-section of this section or under this sub-section.

5 (3) Whenever and so long as an order made under the first sub-section of this section is in force, this Act shall (subject to any amendment of such order made under the next preceding sub-section of this section) apply to the police force specified in that behalf in such order as well as to the *Gárda Síochána*, and for 10 in this Act (except this section) shall, while such order remains in force but subject as aforesaid, be construed as including the said police force so specified and this Act shall have effect accordingly.

15 (4) In this section the expression "police force" does not include a force the members of which normally devote part only of their time to service in such force, whether they are or are not liable to be required to devote the whole of their time to such service in particular circumstances.

14.—The following moneys and expenses shall be paid out of moneys provided by the *Oireachtas*, that is to say:—

- 20 (a) all compensation awarded by the Minister on an application to him for compensation under this Act;
- (b) every sum payable (whether for compensation or costs) by the Minister for Finance to any person in pursuance of an order made by a judge of the High Court on an application for compensation under this Act;
- 25 (c) expenses (other than the payment of compensation) incurred by the Minister in the administration of this Act to such extent as may be sanctioned by the Minister for Finance;
- 30 (d) expenses (other than sums payable for compensation or costs as aforesaid) incurred by the Minister for Finance in the administration of this Act.

Payment of compensation and other expenses.

15.—The Minister may by order make regulations prescribing any matter or thing which is in this Act referred to as prescribed or to be prescribed.

Regulations.

16.—This Act may be cited as the *Gárda Síochána* (Compensation) Act, 1941.

Short title.

Éire.

---

BILLE GARDA SIOCHANA (CUITEAMH),  
1941.

---

## BILLE

(mar do tugadh isteach)

dá ngairmtear

Acht chun soerú do dhéanamh chun cúiteamh do dheonadh as airgead puiblí do chleithiúnaithe agus do leath-chleithiúnaithe ball den Ghárda Síochána (ag fónamh no ar seur) d'éag an ladh lá d'Eanar, 1940, no d'éag no éagfaidh tráth ar bith ina dhiaidh sin, de dheaseaibh díobhála do rinneadh dóibh go mailíseach agus iad ag cólfonadh no maidir le hiad do bheith ag cólfonadh a ndualgas mar bhaill den Ghárda Síochána, agus chun cúiteamh do dheonadh amhlaidh do bhaill den Ghárda Síochána (ag fónamh no ar seur) dá ndearnadh an ladh lá d'Eanar, 1940, no dá ndearnadh no dá ndéanfar tráth ar bith ina dhiaidh sin, díobhála pearsanta amhlaidh ná fuarthas bás dá ndeaiseaith, agus chun soerú do dhéanamh i geóir nithe ghabhas no bhaineas leis na nithe roimhráite, ar a n-áirmhítear an tAcht so do chur i mbaint le fórsaí eile póilíneachta.

---

An tAire Dlíghídh agus Cirt do thug isteach.

---

Do horduíodh, ag Dáil Eireann, do chlóbhuailadh, 10adh Iúil, 1941.

---

BAILE ATHA CLIATH:  
FOILLSITHE AG OIFIG AN tSOLATHAIR.

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

Clóbhuailte ag CAHILL & Co., LTD.

---

[Raol Glan.]

Wt. 18—928. 575. 7/41. C.&Co. (8123).

Éire.

---

GARDA SIOCHANA (COMPENSATION)  
BILL, 1941.

---

## BILL

(as introduced)

entitled

An Act to provide for the granting out of public moneys of compensation to dependants and partial dependants of members of the Garda Síochána (whether serving or retired) who have died or shall die at any time on or after the 1st day of January, 1940, from injuries maliciously inflicted on them in the course of or in relation to the performance by them of their duties as members of the Garda Síochána, and for the like granting of compensation to members of the Garda Síochána (whether serving or retired) on whom personal injuries not causing death have been or shall be similarly inflicted at any time on or after the 1st day of January, 1940, and to make provision for matters incidental to or connected with the matters aforesaid, including the extension of this Act to other police forces.

---

Introduced by the Minister for Justice.

---

Ordered by Dáil Eireann, to be printed,  
10th July, 1941.

---

DUBLIN:  
PUBLISHED BY THE STATIONERY OFFICE.

To be purchased through any bookseller, or directly from the Government Publications Sale Office, 3-4, College Street, Dublin.

Printed by CAHILL & Co., LTD.

---

[Sixpence Net.]