



**AN BILLE UM CHEARTAS COIRIUIL, 1965**  
**CRIMINAL JUSTICE BILL, 1965**

*Mar a tugadh isteach*  
*As introduced*

**ARRANGEMENT OF SECTIONS**

**PART I**

**PRELIMINARY**

**Section**

1. Short title.
2. Commencement.
3. Repeals.

**PART II**

**PRELIMINARY EXAMINATION OF INDICTABLE  
OFFENCES IN THE DISTRICT COURT**

4. Procedure.
5. Documents to be served on accused.
6. Preliminary examination.
7. Decision on preliminary examination.
8. Additional documents.
9. Waiver by accused of preliminary examination.
10. Procedure where accused pleads guilty in District Court to indictable offence.
11. Power of High Court to send accused forward for trial.
12. Further power to take depositions.
13. Deposition as evidence.
14. Compelling attendance of prospective witness.
15. Power to exclude public.
16. Prohibition of publication of proceedings.
17. Inclusion of further counts in indictment.
18. Amendment of Criminal Justice Act, 1951, and Criminal Justice (Legal Aid) Act, 1962.

[No. 26 of 1965]

## PART III

### BAIL

#### Section

19. Remand in custody or on bail by the District Court.
20. Form of recognisance.
21. Period of remand.
22. Remand to custody of Garda Síochána.
23. Acceptance of deposit in lieu of sureties.
24. Sufficiency of bailsmen.
25. Exercise of jurisdiction.
26. Provisions as to admission to bail.
27. Bail in case of treason, murder and certain other offences.
28. Endorsement on warrants as to release on bail.
29. Release on bail in certain cases by members of Garda Síochána.

### SCHEDULE

#### ENACTMENTS REPEALED

#### MARGINAL ABBREVIATIONS

- 1936 = Courts of Justice Act, 1936 (No. 48)  
1951 = Criminal Justice Act, 1951 (No. 2)



AN BILLE UM CHEARTAS COIRIUIL, 1965  
CRIMINAL JUSTICE BILL, 1965

**BILL**

*entitled*

**5 AN ACT TO AMEND CRIMINAL LAW AND ADMINISTRATION.**

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

**PART I**

**PRELIMINARY**

10 **1.**—This Act may be cited as the Criminal Justice Act, 1965. **Short title.**

**2.**—This Act shall come into operation on such day as the **Commencement.**  
Minister for Justice by order appoints.

**3.**—Each of the enactments mentioned in the Schedule is hereby **Repeals.**  
repealed to the extent specified in the third column.

15 **PART II**

**PRELIMINARY EXAMINATION OF INDICTABLE OFFENCES IN THE  
DISTRICT COURT**

20 **4.**—(1) Where an accused person is before a justice of the District **Procedure.**  
Court charged with an indictable offence then, unless the case is  
being tried summarily or the accused pleads guilty, the justice  
shall conduct a preliminary examination of the charge in accordance  
with the provisions of this Part.

25 (2) References in any enactment to the preliminary investigation  
of an indictable offence shall be construed as references to the said  
procedure.

**5.**—(1) The Attorney General shall cause the following docu- **Documents to be**  
ments to be served on the accused— **served on accused.**

- 30 (a) a statement of the charges against him,  
(b) a list of the witnesses whom the Attorney General proposes  
to call at the trial,  
(c) a statement of the evidence that is to be given by each of  
them, and  
(d) a list of exhibits (if any).

(2) Copies of the documents shall also be furnished to the Court.

(3) The Attorney General may cause to be served on the accused and furnished to the Court a further statement of the evidence to be given by any witness whose statement of evidence has already been supplied.

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(4) The justice shall remand the accused in custody or on bail until the documents have been so supplied.

Preliminary  
examination.

6.—(1) The justice shall consider the documents and exhibits.

(2) The prosecution and the accused shall each be entitled to require the taking on sworn deposition of so much of the evidence of any person, whether included in the supplied list of witnesses or not, as appears to the justice to be necessary to enable him to form an opinion on any issue material to the questions which he is required to decide. The witness may be cross-examined on his evidence.

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(3) (a) The justice shall ask the accused if he has anything to say in answer to the charge. The justice shall caution the accused that he is not obliged to say anything unless he wishes to do so and that whatever he does say will be taken down in writing and may be given in evidence at his trial.

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(b) Whatever the accused says in answer to the justice's question and caution shall be taken down in writing and read over to him and shall be signed by the justice.

(c) The accused's statement, appearing to be so signed, may be given in evidence at his trial without further proof unless it is proved that it was not signed by the justice by whom it purports to have been signed.

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(d) Nothing in this subsection shall prevent the prosecutor from giving in evidence any admission or confession, or other statement made at any time by the accused, which is admissible by law as evidence against the accused.

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Decision on  
preliminary  
examination.

7.—(1) If the justice is of opinion that there is a sufficient case to put the accused on trial for the offence with which the accused has been charged he shall send him forward for trial in custody or on bail on that charge.

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(2) If the justice is of opinion that there is a sufficient case to put the accused on trial for some indictable offence other than that charged, he shall cause him to be charged with that offence, take his plea and, unless *section 10* applies, send him forward for trial in custody or on bail.

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(3) If the justice is of opinion that a summary offence only is disclosed, then, if the prosecution does not object, he shall deal with the case as if that offence had been originally charged.

(4) In any other case, the justice shall order the accused to be discharged, if he is in custody for no other cause than the offence under enquiry.

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Additional  
documents.

8.—Where the accused has been sent forward for trial the Attorney General shall cause to be served on him the names of any further witnesses whom he proposes to call at the trial, with a

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statement of the evidence that is to be given by each of them, a list of any further exhibits, a statement of any further evidence that is to be given by any witness whose name appears on the list of witnesses already supplied, and copies of any statement recorded under section 6 and any deposition taken under that section or under section 12.

9.—(1) The accused may waive the preliminary examination and elect to be sent forward for trial with a plea of not guilty.

Waiver by accused of preliminary examination.

(2) In that event, the justice shall send him forward for trial in custody or on bail and the Attorney General shall cause to be served on him the documents required to be supplied to the accused under this Part.

10.—(1) This section applies to all indictable offences except the following—an offence under the Treason Act, 1939, murder, attempt to murder, conspiracy to murder, piracy or a grave breach such as is referred to in section 3 (1) (i) of the Geneva Conventions Act, 1962, including an offence by an accessory before or after the fact.

Procedure where accused pleads guilty in District Court to indictable offence.

1939, No. 10.  
1962, No. 11.  
[1951, ss. 3, 4].

(2) If at any time the District Court ascertains that a person charged with an offence to which this section applies wishes to plead guilty and the Court is satisfied that he understands the nature of the offence and the facts alleged, the Court may—

(a) if the Attorney General does not object, deal with the offence summarily, in which case the accused shall be liable to the penalties provided for by subsection (3), or

(b) if the accused signs a plea of guilty, send him forward for sentence, in custody or on bail, with that plea.

(3) (a) On conviction by the District Court for an offence dealt with summarily under subsection (2) (a), the accused shall be liable to a fine not exceeding £100 or, at the discretion of the Court, to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

(b) In the case, however, of an offence under section 11 of the Wireless Telegraphy Act, 1926, the District Court shall not impose a fine exceeding £10 or a term of imprisonment exceeding one month.

1926, No. 45.

(4) (a) Where a person is sent forward for sentence under this section he may, by leave of the court to which he has been committed, withdraw his written plea and plead not guilty to the charge.

(b) In that event, the trial judge shall enter a plea of not guilty, which shall have the same operation and effect in all respects as an order of a justice of the District Court sending the accused forward for trial to that court on that charge, and the Attorney General shall cause to be served on him the documents required to be supplied to the accused under this part.

11.—(1) Where a justice of the District Court decides not to send a person forward for trial the High Court, on the application of the Attorney General, may, after consideration of the documents required to be supplied to the accused, any exhibits and any deposition taken or statement recorded under this Part in relation to the offence, direct that he be sent forward for trial to a specified court to which such justice could lawfully have sent him.

Power of High Court to send accused forward for trial.

[1936, s. 62]

(2) Where the High Court directs that a person be sent forward for trial to any particular court on any particular charge, it shall cause the direction to be communicated to the district court clerk for the district court area in which the person concerned was brought before the justice of the District Court on that charge, and thereupon such direction shall have the same operation and effect in all respects as an order of a justice of the District Court sending that person forward for trial to that court on that charge, and all persons concerned shall act accordingly.

(3) When a direction by the High Court under this section has been communicated to the district court clerk in pursuance of subsection (2), the district court clerk shall cause to be served on the person to whose trial such direction relates notice in writing stating that the High Court has directed under this section that that person be sent forward for trial to a specified court on a specified charge and that that person is required to attend before the said court at a specified time and place and there to stand his trial on the said charge.

(4) If a person on whom a notice has been served under subsection (3) fails to attend before the court at the time and place specified in the notice, it shall be lawful for the court, on proof of the service of the notice on that person not less than seven days before the day on which he is required to attend, to issue a bench warrant to arrest that person and bring him before the said court in custody.

Further power to take depositions.

12.—(1) Where a justice of the District Court is of opinion that a prospective witness may be unable to attend or be prevented from attending to give evidence at the trial of an accused person and that it is necessary in the interests of justice to take his evidence by way of sworn deposition, he may order accordingly.

(2) The deposition shall be taken in the presence of a justice of the District Court and of the accused.

(3) The deponent may be cross-examined on his evidence.

Deposition as evidence.

[1951, s. 9]

13.—(1) A deposition taken under section 6 or 12 may, subject to subsection (2), be read as evidence at the trial of the accused if it is proved that—

(a) the deponent is dead or so ill or incapacitated as to be unable to attend the trial, and

(b) the deposition was taken in the presence of the accused, and

(c) the accused or his counsel or solicitor had an opportunity of cross-examining the deponent.

(2) The deposition shall not be read, except in the case of the deponent's death, without the accused's consent.

Compelling attendance of prospective witness.

14.—(1) Where, on the application of the Attorney General, it appears to a justice of the District Court that—

(a) a person (in this section referred to as a prospective witness) is able to give material evidence in relation to an indictable offence which is under investigation, and

(b) the prospective witness has neglected or refused, on request, to make a statement of that evidence to a member of the Garda Síochána,

the justice may—

(i) compel the attendance of the prospective witness before him or before some other justice, and

(ii) require him to make a statement, and to produce for examination such accounts, papers or other documents in his possession or power, as are deemed necessary by the justice.

(2) A statement under this section shall be taken on sworn deposition.

(3) The statement taken shall not be admissible in evidence against the person making it in any proceedings.

5 (4) The statement shall be taken in private.

(5) A copy of the statement shall be supplied to the Attorney General.

10 (6) The District Court shall have the same powers for enforcing compliance with this section by a prospective witness as the Court has in relation to witnesses in criminal proceedings.

15 **15.**—(1) Subject to the provisions of this section and any other enactment, a preliminary examination and an application under *section 11* shall be in open court. Power to exclude public.  
[1951, s. 20 (1) (a)]

(2) Where the court is satisfied, because of the nature or circumstances of the case or otherwise in the interests of justice, that it is desirable, the court may exclude the public or any particular portion of the public or any particular person or persons except *bona fide* representatives of the Press from the court during the hearing.

20 (3) *Subsection (2)* is without prejudice to the right of a parent, relative or friend of the accused or of an injured party to remain in court in any case to which *section 20 (4)* of the Criminal Justice Act, 1951, applies. 1951, No. 2.

25 **16.**—(1) No person shall publish or cause to be published any information as to any particular preliminary examination or application under *section 11* other than a statement of the fact that such examination or application in relation to a named person on a specified charge has been held and of the decision thereon. Prohibition of publication of proceedings.  
[cf. 1951, s. 20]

30 (2) (a) A person who contravenes *subsection (1)* in relation to an application under *section 11* shall be guilty of contempt of the High Court.

35 (b) If it appears to a justice of the District Court, on the application of the Attorney General, that any person has contravened *subsection (1)* in relation to a preliminary examination, he may certify to that effect under his hand to the High Court and the Court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of that person, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in the like manner as if he had been guilty of contempt of the Court.

40 (3) *Subsection (1)* shall not apply to the publication of such information as the judge or justice before whom the proceedings are brought permits to be published at the request of the accused.

50 **17.**—Where a person has been sent forward for trial under this Part the indictment against him may include, either in substitution for or in addition to counts charging the offence for which he has been sent forward, any counts founded on facts or evidence disclosed in any of the documents with which he is required to be supplied under this Part, being counts which may lawfully be joined in the same indictment. Inclusion of further counts in indictment.

**18.**—(1) Section 2 (2) of the Criminal Justice Act, 1951, is hereby amended by the substitution, for paragraph (b), of the following paragraph :

“(b) A person shall not be tried summarily for an offence specified in the First Schedule at reference numbers 1, 5, 2, 3 or 9 or for an attempt to commit such an offence unless the Attorney General has consented to his being so tried.”

1951, No. 2.

(2) The First Schedule to the Criminal Justice Act, 1951 (which specifies the indictable offences which may be tried summarily 10 with the consent of the accused) is hereby amended—

(a) by the deletion, at reference numbers 8 and 15, of “ fifty pounds ” and the substitution of “ one hundred pounds ”;

(b) by the insertion, at reference number 14, of “ or 28 ” 15 after “ 27 ”;

(c) by the deletion of the matter set out at reference number 18;

(d) by the insertion of the following additional references :

“ 22. An offence under section 13 of the Debtors 20 (Ireland) Act, 1872,

23. An offence under sections 20, 21, 22, 23 or 51 of the Malicious Damage Act, 1861.”

1962, No. 12.

(3) Section 2 of the Criminal Justice (Legal Aid) Act, 1962, shall not apply in relation to proceedings under this Part unless the accused is charged with murder. 25

### PART III

#### BAIL

Remand in  
custody or on  
bail by the  
District Court.

**19.**—(1) Where the District Court has power to remand a person charged with an offence, the Court may—

(a) remand him in custody, that is to say, commit him to 30 custody to be brought before the Court at the end of the period of remand or such earlier time as the Court may require, or

(b) remand him on bail, that is to say, take from him a recognisance, with or without sureties, conditioned as 35 provided in *section 20*.

(2) The Court may, instead of taking a recognisance from the accused in accordance with *subsection (1)*, fix the amount of the recognisance in which he and his sureties, if any, are to be bound with a view to their being subsequently taken in accordance with 40 *subsection (3)* and in the meantime commit him to custody in accordance with *subsection (1) (a)*.

(3) Where the Court fixes the amount of a recognisance under *subsection (2)*, the recognisance may thereafter be taken by a justice of the Court or by a peace commissioner. 45

(4) Where a person is brought before the Court after remand under *subsection (1)* the Court may further remand him.

20.—(1) Where a person is remanded on bail under *section 19*— **Form of recognisance.**

(a) the recognisance—

- (i) may be conditioned for his appearance before the Court at the end of the period of remand, or
- 5 (ii) may be conditioned for his appearance before the Court at every place and time to which during the course of the proceedings the hearing may be adjourned.

(2) Where the recognisance is conditioned as provided in *subsection (1) (a) (ii)*, the fixing at any time of the time for the next appearance shall be deemed to be a remand.

(3) Nothing in *subsection (1)* or (2) shall deprive the Court of power at any subsequent hearing to remand him afresh.

21.—(1) The Court shall not remand a person for a period **Period of remand.**  
15 exceeding eight days, except where this section otherwise provides.

(2) Where the Court remands a person on bail, it may remand him for a longer period than eight days if he and the prosecutor consent.

(3) Where the Court remands a person in custody (other than  
20 on the occasion of his first appearance before the Court) it may remand him for a period exceeding eight days but not exceeding thirty days if he and the prosecutor consent.

(4) If the Court is satisfied that any person who has been remanded is unable by reason of illness or accident to appear or to  
25 be brought before the Court at the expiration of the period of remand, the Court may, in his absence, remand him for such further period, which may exceed eight days, as the Court considers reasonable.

(5) The power of the Court under *subsection (4)* to remand a  
30 person on bail for a further period may be exercised by enlarging his recognisance and those of his sureties, if any, to a later time.

(6) Where a person remanded on bail is bound by the recognisance to appear before the Court at any time and the Court has no power to remand him under *subsection (4)* the Court may, in  
35 his absence, enlarge his recognisances and those of his sureties, if any, to a later time, and such enlargement shall be deemed to be a further remand.

22.—(1) The Court may, where it remands a person in custody **Remand to custody of Garda Síochána.**  
40 of a member of the Garda Síochána.

(2) Outside the Dublin Metropolitan Police District the Court, before so remanding him, shall satisfy itself that suitable facilities are available for the custody of such person during the period of remand.

45 23.—A justice of the District Court or a peace commissioner may accept from a person charged with an offence who is of no fixed abode or is not resident in the State the deposit of a sum of money equivalent to the amount of bail in lieu of a surety or sureties. **Acceptance of deposit in lieu of sureties.**

24.—The justice or peace commissioner shall in every case satisfy  
50 himself as to the sufficiency of the persons proposed to be accepted as bailsmen. **Sufficiency of bailsmen.**

25.—The jurisdiction of the Court under *sections 19* to *21* **Exercise of jurisdiction.**  
in relation to a person charged with an offence shall be exercised by the justice of the Court having jurisdiction in relation to the charge.

26.—(1) A justice of the District Court or a peace commissioner shall admit to bail a person charged before him with an offence, other than an offence to which section 27 applies, if it appears to him to be a case in which bail ought to be allowed.

(2) In deciding whether to grant or to refuse bail regard shall be had to all the relevant circumstances of the particular case including the nature of the offence charged and the interests of the protection of the public, of the administration of justice and of the accused himself.

(3) Refusal of bail at a particular appearance before the District Court shall not prevent a renewal of the application for bail at a subsequent appearance or while the accused is in prison awaiting trial.

(4) Where an application for bail is refused, or where the applicant is dissatisfied with the amount of bail fixed, he may appeal to the High Court.

(5) Where a person has been convicted of an offence committed while he was on bail, information regarding that offence may be given by the prosecutor as a ground for refusing bail but the judge or justice concerned shall not try the case subsequently.

(6) (a) No person shall publish any such information or cause it to be published.

(b) If any person publishes or causes to be published any such information given in the High Court he shall be guilty of contempt of that Court.

(c) If any person publishes or causes to be published any such information given in the District Court the offence shall be dealt with in the manner provided for by section 16 (2) (b) which shall accordingly have effect as if the reference therein to a contravention included reference to a contravention of this subsection.

(7) Whenever any person charged with any indictable offence has been bailed, it shall be lawful for the District Court, if the Court sees fit, upon the application of the surety or of any of the sureties of such person, and upon information being made in writing and on oath by such surety, or by some person on his behalf, that the person so bailed is about to abscond for the purpose of evading justice, to issue a warrant for the arrest of such person so bailed, and afterwards, upon being satisfied that the ends of justice would otherwise be defeated, to commit such person, when so arrested, to prison until his trial or until he shall produce another sufficient surety or other sufficient sureties, as the case may be, in like manner as before.

(8) When a justice or a peace commissioner grants bail to an accused person who is in custody that person shall be released if he is in custody for no other cause than the offence in respect of which bail is granted.

27.—(1) This section applies to each of the following offences—

(a) treason,

(b) an offence under section 2 or 3 of the Treason Act, 1939,

- (c) an offence under section 6, 7 or 8 of the Offences Against the State Act, 1939, 1939, No. 13.
- (d) a grave breach such as is referred to in section 3 (1) (i) of the Geneva Conventions Act, 1962, 1962, No. 11.
- 5 (e) an offence under section 9 of the Official Secrets Act, 1963, or an offence under Part II of that Act committed in a manner prejudicial to the safety or preservation of the State, 1963, No. 1.
- 10 (f) murder, attempt to murder, conspiracy to murder or piracy, including an accessory before or after the fact.

(2) A person charged with an offence to which this section applies shall not be admitted to bail except by order of the High Court.

15 (3) If in the course of proceedings, including proceedings on appeal, in relation to the grant of bail to a person charged with an offence under paragraph (a), (b), (c) or (e) of subsection (1), application is made by the prosecution, on the ground that the publication of any evidence or statement to be given or made during any part of the hearing would be prejudicial to the safety or preservation of the State, that that part of the proceedings should be *in camera*, the Court shall make an order to that effect, but the decision of the Court shall be announced in public.

25 28.—(1) A justice of the District Court or a peace commissioner on issuing a warrant for the arrest of any person may, if he thinks fit, by endorsement on the warrant, direct that the person named in the warrant be on arrest released on his entering into such a recognisance, with or without sureties, for his appearance as may be specified in the endorsement, and the endorsement shall fix the amounts in which that person and his sureties (if any) are to be bound.

Endorsement on warrants as to release on bail.

35 (2) Where such an endorsement is made, the sergeant or other member of the Garda Síochána in charge of any station to which on arrest the person named in the warrant is brought shall discharge him upon his entering into a recognisance, with or without sureties approved by that member, in accordance with the endorsement.

40 29.—(1) Whenever a person is brought in custody to a Garda Síochána station by a member of the Garda Síochána, the sergeant or other member in charge of the station may, if he considers it prudent to do so and no warrant directing the detention of that person is in force, release him on bail and for that purpose take from him a recognisance, with or without sureties, for his due appearance before the District Court at the appropriate time and place.

Release on bail in certain cases by members of Garda Síochána.

[1951, s. 14]

45 (2) The recognisance may be estreated in the like manner as a recognisance entered into before a justice is estreated.

50 (3) Where the person in custody is of no fixed abode or is not resident in the State, a sum of money equivalent to the amount of bail may be accepted in lieu of a surety or sureties. The money shall be deposited by the member of the Garda Síochána receiving it with the district court clerk for the district court area in which the Garda Síochána station is situate.

(4) This section does not apply to a person arrested under section 251 of the Defence Act, 1954, on suspicion of being a deserter or an absentee without leave from the Defence Forces.

## SCHEDULE

Section 3.

### ENACTMENTS REPEALED

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Session and Chapter or Number and Year	Short title	Extent of repeal
12 & 13 Vict. c. 69.	Indictable Offences (Ireland) Act, 1849.	Sections 17 to 19, 21 to 25 and 27.
14 & 15 Vict. c. 93.	Petty Sessions (Ireland) Act, 1851.	Sections 9 (2), 14, 15, 16, 17 and 19.
4 & 5 Geo. 5 c. 58.	Criminal Justice Administration Act, 1914.	Sections 19, 20, 21 and 43 (1) (d).
No. 48 of 1936	Courts of Justice Act, 1936.	Section 62.
No. 2 of 1951	Criminal Justice Act, 1951.	Section 3.  In section 4, the words "or for an indictable offence dealt with under section 3 of this Act".  Sections 9 and 14.  Section 20 (1) (2).

BILL

BILL

(with explanatory clauses)

of the year

An Act to amend the law relating to

the trade of the said islands and

the said islands and the

the said islands and the

Order of the said islands

Order of the said islands

Enacted by the said

Enacted by the said

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**BILLE**

*(mar a tugadh isteach)*

*dá ngairtear*

**Acht do leasú an dlí choiriúil agus riaradh an dlí choiriúil.**

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**BILL**

*(as introduced)*

*entitled*

**An Act to amend criminal law and administration.**

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*Aa tAire Dlí agus Cirt a thug isteach*

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*Introduced by the Minister for Justice*

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*Ordáíodh ag Dáil Éireann a chlóbhuail, 14 Iúil, 1965*

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*Ordered by Dáil Éireann to be printed, 14th July, 1965*

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BAILE ÁTHA CLIATH :  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR.

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais An Stúara, Árd-Oifig an Phoist, Baile Átha Cliath, nó trí aon díoltóir leabhar.

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[*Luach : Scilling is Sé Phingin Glan*]

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