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AN BILLE UM CHEARTAS COIRIÚIL, 1983  
CRIMINAL JUSTICE BILL, 1983

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*Mar a ritheadh ag Dáil Éireann  
As passed by Dáil Éireann*

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ACTS REFERRED TO

Children Act, 1908	1908, c. 67
Criminal Justice Act, 1951	1951, No. 2
Criminal Justice (Evidence) Act, 1924	1924, No. 37
Criminal Law Act, 1976	1976, No. 32
Criminal Law (Jurisdiction) Act, 1976	1976, No. 14
Criminal Procedure Act, 1865	1865, c. 18
Criminal Procedure Act, 1967	1967, No. 12
Explosive Substances Act, 1883	1883, c. 3
Firearms Act, 1925	1925, No. 17
Firearms Act, 1964	1964, No. 1
Firearms Acts, 1925 to 1971	
Misuse of Drugs Act, 1977	1977, No. 12
Offences against the State Act, 1939	1939, No. 13
Probation of Offenders Act, 1907	1907, c. 17





AN BILLE UM CHEARTAS COIRIÚIL, 1983  
CRIMINAL JUSTICE BILL, 1983

# BILL

*entitled*

5 AN ACT TO AMEND CRIMINAL LAW AND PROCEDURE.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) This Act shall come into operation on such day or days as  
may be fixed therefor by order or orders of the Minister for Justice  
either generally or with reference to any particular purpose or pro-  
10 vision and different days may be so fixed for different purposes and  
different provisions of this Act.

*Commencement.*

(2) *Sections 12 and 14* shall not apply in relation to offences  
committed before the commencement of the section concerned.

2.—Each of the following sections, namely, *sections 4 to 6, 8 to 10,*  
15 *15, 16, 18 and 19* shall cease to be in operation at the expiry of four  
years from the commencement of that section unless a resolution has  
been passed by each House of the Oireachtas resolving that that  
section should continue in operation.

*Duration of certain  
sections.*

3.—(1) In this Act, except where the context otherwise requires—  
20 “the Act of 1939” means the Offences against the State Act, 1939;

*Interpretation.*

“imprisonment” includes penal servitude and detention in Saint  
Patrick’s Institution;

“place” includes any building or part of a building, vehicle, vessel,  
aircraft or hovercraft and any other place whatsoever.

25 (2) Any reference in this Act to any other enactment shall, except  
so far as the context otherwise requires, be construed as a reference  
to that enactment as amended by or under any other enactment,  
including this Act.

30 (3) In this Act, a reference to a section is to a section of this Act  
and a reference to a subsection or paragraph is to the subsection or  
paragraph of the provision in which the reference occurs, unless it is  
indicated that reference to some other enactment or provision, as may  
be appropriate, is intended.



*Detention of Arrested Persons in Garda Síochána Custody in Certain Circumstances*

Detention after  
arrest.

4.—(1) This section applies to any offence for which a person of full age and capacity and not previously convicted may, under or by virtue of any enactment, be punished by imprisonment for a term of five years or by a more severe penalty and to an attempt to commit any such offence. 5

(2) Where a member of the Garda Síochána arrests without warrant a person whom he, with reasonable cause, suspects of having committed an offence to which this section applies, that person may be taken to and detained in a Garda Síochána station for such period as is authorised by this section if the member of the Garda Síochána in charge of the station to which he is taken on arrest has at the time of that person's arrival at the station reasonable grounds for believing that his detention is necessary for the proper investigation of the offence. 10 15

(3) (a) The period for which a person so arrested may be detained shall, subject to the provisions of this section, not exceed six hours from the time of his arrest.

(b) An officer of the Garda Síochána not below the rank of superintendent may direct that a person detained pursuant to subsection (2) be detained for a further period not exceeding six hours if he has reasonable grounds for believing that such further detention is necessary for the proper investigation of the offence. 20 25

(c) A direction under paragraph (b) may be given orally or in writing and if given orally shall be recorded in writing as soon as practicable.

(4) If at any time during the detention of a person pursuant to this section there are no longer reasonable grounds for suspecting that he has committed an offence to which this section applies, he shall be released from custody forthwith unless his detention is authorised apart from this Act. 30

(5) Where a member of the Garda Síochána has enough evidence to prefer a charge for an offence against a person detained in a Garda Síochána station pursuant to this section, he shall without delay charge that person or cause him to be charged unless that person is, with reasonable cause, suspected of another offence to which this section applies and the member of the Garda Síochána then in charge of the station has reasonable grounds for believing that the continuance of his detention pursuant to this section is necessary for the proper investigation of that offence. 35 40

(6) (a) If a person is being detained pursuant to this section in a Garda Síochána station between midnight and 8 a.m. and the member in charge of the station is of opinion that any questioning of that person for the purpose of the investigation should be suspended in order to afford him reasonable time to rest, and that person consents in writing to such suspension, the member may give him a notice in writing (which shall specify the time at which it is given) that the investigation (so far as it involves questioning of him) is suspended until such time as is specified in the notice and shall ask him to sign the notice as an acknowledgement that he has received it; and, if the notice is 45 50



given, the period between the giving thereof and the time specified therein (not being a time later than 8 a.m.) shall be excluded in reckoning a period of detention permitted by this section and the powers conferred by *section 6* shall not be exercised during the period so excluded:

Provided that not more than one notice under this paragraph shall be given to a person during any period between midnight and 8 a.m.

(b) A notice under *paragraph (a)* may, for serious reasons, be withdrawn by a subsequent notice given in like manner, and in that event any time subsequent to the giving of the second notice shall not be excluded under that paragraph.

(c) A member of the Garda Síochána when giving a notice to any person under *paragraph (a)* or *(b)* shall explain to him orally the effect of the notice.

(d) The following particulars shall be entered in the records of the Garda Síochána station without delay—

(i) the time of the giving of a notice under *paragraph (a)* and the time specified therein as the time up to which the questioning is being suspended,

(ii) whether the person being detained acknowledged that he received the notice, and

(iii) the time of the giving of any notice under *paragraph (b)*.

(e) Records kept in pursuance of *paragraph (d)* shall be preserved for at least twelve months and, if any proceedings are taken against the person in question for the offence in respect of which he was detained, until the conclusion of the proceedings (including any appeal or retrial).

(7) (a) Subject to *paragraph (b)*, *subsection (2)* shall not apply to a person below the age of twelve years.

(b) If the member in charge of the Garda Síochána station in which a person is detained has reasonable grounds for believing that the person is not below the age of twelve years the subsection shall apply to him as if he were of that age, provided that, where such member ascertains or has reasonable grounds for believing that the person is below that age, he shall be released from custody forthwith unless his detention is authorised apart from this Act.

(8) Where it appears to a member of the Garda Síochána that a person arrested in the circumstances mentioned in *subsection (2)* is in need of medical attention, or where during his detention it comes to notice that he is in need of such attention, and he is taken for that purpose to a hospital or other suitable place, the time before his arrival at the station or the time during which he is absent from the station, as the case may be, shall be excluded in reckoning a period of detention permitted by this section.

(9) To avoid doubt, it is hereby declared that a person who is being detained pursuant to *subsection (2)* in connection with an offence shall in no case be held in detention (whether for the investigation of that or any other offence) for longer than twelve hours from the time



of his arrest, not including any period which is to be excluded under subsection (6) or (8) in reckoning a period of detention.

(10) Nothing in this section shall affect the operation of section 30 of the Act of 1939.

(11) The powers conferred by this section are without prejudice to any powers exercisable by a member of the Garda Síochána in relation to offences other than offences to which this section applies.

Access to solicitor  
and notification of  
detention.

5.—(1) Where a person not below the age of seventeen years is detained in a Garda Síochána station pursuant to section 4, the member of the Garda Síochána in charge of the station shall inform him or cause him to be informed without delay that he is entitled to consult a solicitor and to have notification of his detention and of the station where he is being detained sent to one other person reasonably named by him and shall, on request, cause the solicitor and the named person to be notified accordingly as soon as practicable.

(2) Where a person under the age of seventeen years is detained in a Garda Síochána station pursuant to section 4, the member of the Garda Síochána in charge of the station shall—

(a) inform him or cause him to be informed without delay that he is entitled to consult a solicitor, and

(b) as soon as practicable, inform or cause to be informed a parent or guardian of that person of his detention, of the place where he is being detained and of his entitlement to consult a solicitor,

and shall, on request, cause the solicitor to be notified accordingly as soon as practicable:

Provided that—

(i) if the person detained is married, this subsection shall have effect with the substitution of references to his spouse for the references to a parent or guardian;

(ii) if the member of the Garda Síochána in charge of the station is unable to communicate with a parent or guardian of the person detained or with that person's spouse, as the case may be, the provisions of subsection (1) shall apply as if the person detained had attained the age of seventeen years.

(3) If and for so long as the member of the Garda Síochána in charge of a Garda Síochána station in which a person is detained pursuant to section 4 has reasonable grounds for believing that the person is not below the age of seventeen years, the provisions of subsection (1) shall apply as if he were of that age.

Powers of Garda  
Síochána in relation  
to detained person.

6.—(1) Where a person is detained pursuant to section 4, a member of the Garda Síochána may—

(a) demand of him his name and address;

(b) search him or cause him to be searched;



(c) photograph him or cause him to be photographed;

(d) take, or cause to be taken, his fingerprints and palm prints;

5 (e) make or cause to be made any test designed for the purpose of ascertaining whether he has been in contact with any firearm (within the meaning of the Firearms Acts, 1925 to 1971) or with any explosive substance (within the meaning of the Explosive Substances Act, 1883) and for that purpose take swabs from his skin or samples of his hair;

10 (f) seize and retain for testing anything that he has in his possession.

(2) The powers conferred by *subsection (1) (c)* and *(1) (d)* shall not be exercised except on the authority of a member of the Garda Síochána not below the rank of superintendent.

15 (3) *Subsection (1) (b)* does not empower a member of the Garda Síochána to require a person to remove his underclothing, except where such member, with reasonable cause, suspects that he has concealed on his person a controlled drug (within the meaning of section 2 of the Misuse of Drugs Act, 1977) or an explosive substance and a member of the Garda Síochána not below the rank of superintendent so authorises.

20 (4) Any person who obstructs or attempts to obstruct any member of the Garda Síochána or any other person acting under the powers conferred by *subsection (1)* or who fails or refuses to give his name and address when demanded, or gives a name or address which is  
25 false or misleading, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or to both.

30 (5) Section 7 (2) of the Criminal Law Act, 1976, is hereby amended by the substitution in paragraph (a), for "£500", of "£1,000" and by the deletion of paragraph (b).

7.—(1) The Minister shall make regulations providing for the treatment of persons in custody in Garda Síochána stations.

Regulations  
regarding treatment  
of persons in  
custody.

35 (2) The regulations shall include provision for the assignment to the member of the Garda Síochána in charge of a Garda Síochána station, or to some other member, of responsibility for overseeing the application of the regulations at that station, without prejudice to the responsibilities and duties of any other member of the Garda Síochána.

45 (3) A failure on the part of any member of the Garda Síochána to observe any provision of the regulations shall not of itself render that person liable to any criminal or civil proceedings or of itself affect the lawfulness of the custody of the detained person or the admissibility in evidence of any statement made by him.

50 (4) A failure on the part of any member of the Garda Síochána to observe any provision of the regulations shall render him liable to disciplinary proceedings.

55 (5) A draft of every regulation proposed to be made under this section shall be laid before each House of the Oireachtas and the regulation shall not be made until a resolution approving the draft has been passed by each such House.



Destruction of records.

8.—(1) Every photograph (including a negative), fingerprint and palm print of a person taken in pursuance of the powers conferred by *section 6* and every copy and record thereof shall, if not previously destroyed, be destroyed as this section directs.

(2) Where proceedings for an offence to which *section 4* applies are not instituted against the person within the period of six months from the date of the taking of the photograph or print and the failure to institute such proceedings within that period is not due to the fact that he has absconded or cannot be found, the destruction shall be carried out on the expiration of that period.

(3) Where proceedings have been so instituted and the person is acquitted or discharged or the proceedings are discontinued, the destruction shall be carried out on the acquittal, discharge or discontinuance.

(4) (a) Where a person is the subject of an order under subsection (1) or (2) of *section 1* of the Probation of Offenders Act, 1907, the destruction shall be carried out at the expiration of three years from the making of the order provided that he has not been charged with an offence during that period.

(b) *Paragraph (a)* shall not apply to an order under *section 1* (2) of that Act discharged on the appeal of a person against conviction if on appeal his conviction is affirmed.

(5) The person concerned, his solicitor or some other person authorised by him in writing to act on his behalf shall be entitled, on request, to witness the destruction.

(6) Where civil proceedings are instituted before a particular photograph or print is required to be destroyed under this section and a party to the proceedings serves notice on the Commissioner of the Garda Síochána that it may be required in connection with the proceedings, then, notwithstanding anything in this section, the photograph or print shall be preserved until six months from the conclusion of the proceedings or until the conclusion of any proceedings on appeal, whichever is the later.

(7) Notwithstanding anything in the foregoing provisions of this section, a justice of the District Court may, on the application of the Director of Public Prosecutions, authorise the preservation of a photograph or print for a period not exceeding six months on being satisfied that it may be required for the purpose of further proceedings in relation to the offence.

Application to persons in custody under *section 30* of Offences against the State Act, 1939.

9.—*Sections 4* (8), 5, 6 (2) and 6 (3) shall apply, with the necessary modifications, in relation to persons in custody under *section 30* of the Act of 1939 and to the powers conferred by *section 7* of the Criminal Law Act, 1976, as they apply to persons detained pursuant to *section 4* of this Act.

Rearrest.

10.—(1) Where a person arrested on suspicion of having committed an offence is detained pursuant to *section 4* and is released without any charge having been made against him, he shall not—

(a) be arrested again for the same offence, or



(b) be arrested for any other offence of which, at the time of the first arrest, the member of the Garda Síochána by whom he was arrested suspected him or ought reasonably to have suspected him,

5 except on the authority of a justice of the District Court who is satisfied on information supplied on oath by a member of the Garda Síochána not below the rank of superintendent that further information has come to the knowledge of the Garda Síochána since the person's release as to his suspected participation in the offence for  
10 which his arrest is sought. A person arrested under that authority shall be dealt with pursuant to *section 4*.

(2) Notwithstanding anything in *subsection (1)*, a person to whom that subsection relates may be arrested for any offence for the purpose of charging him with that offence forthwith.

15 (3) Where a person who has been arrested under section 30 of the Act of 1939 in connection with an offence is released without any charge having been made against him, he shall not be detained pursuant to *section 4*—

(a) in connection with the first-mentioned offence, or

20 (b) in connection with any other offence of which, at the time of his arrest for the first-mentioned offence, the member of the Garda Síochána by whom he was arrested suspected him or ought reasonably to have suspected him.

#### *Offences Committed while on Bail and other Offences*

25 11.—(1) Any sentence of imprisonment passed on a person for an offence committed after the commencement of this section while he was on bail shall be consecutive on any sentence passed on him for a previous offence or, if he is sentenced in respect of two or more previous offences, on the sentence last due to expire, so however that,  
30 where two or more consecutive sentences as required by this section are passed by the District Court, the aggregate term of imprisonment in respect of those consecutive sentences shall not exceed two years.

Offences committed while on bail: consecutive sentences.

(2) *Subsection (1)* shall not apply where any such sentence is one of imprisonment for life or is a sentence of detention under section 103  
35 of the Children Act, 1908.

(3) *Subsection (1)* shall apply notwithstanding anything contained in section 5 of the Criminal Justice Act, 1951.

12.—(1) Section 5 of the Criminal Justice Act, 1951 (which provides that, where two or more sentences passed by the District Court are  
40 ordered to run consecutively, the aggregate term of imprisonment shall not exceed twelve months) is hereby amended by the substitution, for "twelve months", of "two years". In that section "imprisonment" shall include detention in Saint Patrick's Institution.

Increase of aggregate term of imprisonment in certain cases.

(2) Section 13 (1) of the Criminal Law Act, 1976 (which provides  
45 for consecutive sentences in the case of an offence committed by a person while he is serving a sentence) is hereby amended by the substitution, for "twelve months", of "two years".

13.—(1) If a person who has been released on bail in criminal proceedings fails to appear before a court in accordance with his  
50 recognisance, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding twelve months or to both.

Failure to surrender to bail.



(2) It shall be a defence in any proceedings for an offence under *subsection (1)* for the accused to show that he had a reasonable excuse for not so appearing.

(3) For the purpose of *section 11* an offence under this section shall be treated as an offence committed while on bail.

(4) Where a person has failed to appear before a Court in answer to his bail and the Court has directed that a warrant be issued for the arrest of that person by reason of his failure to answer his bail, a member of the Garda Síochána may arrest such a person notwithstanding that he does not have the warrant in his possession at the time of the arrest.

(5) Where a person is arrested pursuant to *subsection (4)* the member arresting him shall as soon as practicable produce and serve on the said person the said warrant.

Increase of penalties  
for certain firearms  
offences.

14.—(1) Section 15 of the Firearms Act, 1925, as amended by section 21 (4) of the Criminal Law (Jurisdiction) Act, 1976 (possessing firearm or ammunition with intent to endanger life or cause serious injury to property) is hereby amended by the substitution, for “imprisonment for a term not exceeding fourteen years”, of “imprisonment for life”.

(2) Section 26 (1) of the Firearms Act, 1964, as amended by section 21 (6) (b) of the Criminal Law (Jurisdiction) Act, 1976 (possession of firearm while taking vehicle without authority) is hereby amended by the substitution, for “seven years”, of “fourteen years”.

(3) Section 27 (2) of the Firearms Act, 1964, as amended by section 21 (6) (c) of the Criminal Law (Jurisdiction) Act, 1976 (use of firearm to resist arrest or aid escape) is hereby amended by the substitution, for “imprisonment for a term not exceeding fourteen years”, of “imprisonment for life”.

(4) Section 27A (1) of the Firearms Act, 1964, inserted by section 8 of the Criminal Law (Jurisdiction) Act, 1976 (possession of firearm or ammunition in suspicious circumstances) is hereby amended by the substitution, for “five years”, of “ten years”.

(5) Section 27B (1) of the Firearms Act, 1964, inserted by section 9 of the Criminal Law (Jurisdiction) Act, 1976 (carrying firearm with criminal intent) is hereby amended by the substitution, for “ten years”, of “fourteen years”.

Withholding  
information  
regarding firearms  
or ammunition.

15.—(1) Where a member of the Garda Síochána—

- (a) finds a person in possession of any firearm or ammunition,
- (b) has reasonable grounds for believing that the person is in possession of the firearm or ammunition in contravention of the criminal law, and
- (c) informs that person of his belief,

he may require that person to give him any information which is in his possession, or which he can obtain by taking reasonable steps, as to how he came by the firearm or ammunition and as to any previous dealings with it, whether by himself or by any other person.

(2) If that person fails or refuses, without reasonable excuse, to give the information or gives information that he knows to be false or misleading, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding twelve months or to both.



(3) *Subsection (2)* shall not have effect unless the accused when required to give the information was told in ordinary language by the member of the Garda Síochána what the effect of his failure or refusal might be.

- 5 (4) Any information given by a person in compliance with a requirement under *subsection (1)* shall not be admissible in evidence against that person or his spouse in any proceedings, civil or criminal, other than proceedings for an offence under *subsection (2)*.

16.—(1) Where a member of the Garda Síochána—

Withholding information regarding stolen property, etc.

- 10 (a) has reasonable grounds for believing that an offence consisting of the stealing, fraudulent conversion, embezzlement or unlawful obtaining or receiving of money or other property has been committed,

(b) finds any person in possession of any property,

- 15 (c) has reasonable grounds for believing that the property referred to in *paragraph (b)* includes, or may include, the property referred to in *paragraph (a)* or part of it, or the whole or any part of the proceeds (direct or indirect) of that property or part, and

- 20 (d) informs that person of his belief,

he may require that person to give him an account of how he came by the property.

- (2) If that person fails or refuses, without reasonable excuse, to give such account or gives information that he knows to be false or  
25 misleading, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding twelve months or to both.

- (3) *Subsection (2)* shall not have effect unless the accused when required to give the account was told in ordinary language by the  
30 member of the Garda Síochána what the effect of the failure or refusal might be.

- (4) Any information given by a person in compliance with a requirement under *subsection (1)* shall not be admissible in evidence against  
35 that person or his spouse in any proceedings, civil or criminal, other than proceedings for an offence under *subsection (2)*.

- 17.—Section 4 (1) of the Criminal Justice Act, 1951, and section 13 (3) (a) of the Criminal Procedure Act, 1967 (each of which provides for a maximum fine of £100 on summary conviction of certain indictable offences) are hereby amended by the substitution, in each of  
40 those provisions, of “£1,000” for “£100”.

Maximum fine on summary conviction of certain indictable offences.

*Inferences from Accused's Failure to Account for Certain Matters*

18.—(1) Where—

Inferences from failure, refusal to account for objects, marks, etc.

- (a) a person is arrested without warrant by a member of the Garda Síochána, and there is—



- (i) on his person, or
- (ii) in or on his clothing or footwear, or
- (iii) otherwise in his possession, or
- (iv) in any place in which he is at the time of his arrest

any object, substance or mark, or there is any mark on 5  
any such object, and the member reasonably believes that  
the presence of the object, substance or mark may be  
attributable to the participation of the person arrested in  
the commission of the offence in respect of which he was  
arrested, and 10

(b) the member informs the person arrested that he so believes,  
and requests him to account for the presence of the object,  
substance or mark, and

(c) the person fails or refuses to do so,

then if, in any proceedings against the person for the offence, evidence 15  
of the said matters is given, the court, in determining whether to send  
forward the accused for trial or whether there is a case to answer and  
the court (or, subject to the judge's directions, the jury) in determining  
whether the accused is guilty of the offence charged (or of any other  
offence of which he could lawfully be convicted on that charge) may 20  
draw such inferences from the failure or refusal as appear proper; and  
the failure or refusal may, on the basis of such inferences, be treated  
as, or as capable of amounting to, corroboration of any other evidence  
in relation to which the failure or refusal is material, but a person  
shall not be convicted of an offence solely on an inference drawn from 25  
such failure or refusal.

(2) References in *subsection (1)* to evidence shall, in relation to the  
preliminary examination of a charge, be taken to include a statement  
of the evidence to be given by a witness at the trial.

(3) *Subsection (1)* shall apply to the condition of clothing or foot- 30  
wear as it applies to a substance or mark thereon.

(4) *Subsection (1)* shall not have effect unless the accused was told  
in ordinary language by the member of the Garda Síochána when  
making the request mentioned in *subsection (1) (b)* what the effect of  
the failure or refusal might be. 35

(5) Nothing in this section shall be taken to preclude the drawing  
of any inference from a failure or refusal to account for the presence  
of an object, substance or mark or from the condition of clothing or  
footwear which could properly be drawn apart from this section.

(6) This section shall not apply in relation to a failure or refusal if 40  
the failure or refusal occurred before the commencement of this  
section.

Inferences from  
accused's presence  
at a particular place.

#### 19.—(1) Where—

- (a) a person arrested without warrant by a member of the Garda  
Síochána was found by him at a particular place at or 45  
about the time the offence in respect of which he was  
arrested is alleged to have been committed, and



- (b) the member reasonably believes that the presence of the person at that place and at that time may be attributable to his participation in the commission of the offence, and
- (c) the member informs the person that he so believes, and requests him to account for such presence, and

(d) the person fails or refuses to do so,

then if, in any proceedings against the person for the offence, evidence of the said matters is given, the court, in determining whether to send forward the accused for trial or whether there is a case to answer and the court (or, subject to the judge's directions, the jury) in determining whether the accused is guilty of the offence charged (or of any other offence of which he could lawfully be convicted on that charge) may draw such inferences from the failure or refusal as appear proper; and the failure or refusal may, on the basis of such inferences, be treated as, or as capable of amounting to, corroboration of any evidence in relation to which the failure or refusal is material, but a person shall not be convicted of an offence solely on an inference drawn from such failure or refusal.

(2) References in *subsection (1)* to evidence shall, in relation to the preliminary examination of a charge, be taken to include a statement of the evidence to be given by a witness at the trial.

(3) *Subsection (1)* shall not have effect unless the accused was told in ordinary language by the member of the Garda Síochána when making the request mentioned in *subsection (1) (c)* what the effect of the failure or refusal might be.

(4) Nothing in this section shall be taken to preclude the drawing of any inference from the failure or refusal of a person to account for his presence which could properly be drawn apart from this section.

(5) This section shall not apply in relation to a failure or refusal if the failure or refusal occurred before the commencement of this section.

### *Trial Procedure*

20.—(1) On a trial on indictment for an offence committed after the commencement of this section the accused shall not without the leave of the court adduce evidence in support of an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi.

Notice of alibi in trials on indictment.

(2) Without prejudice to *subsection (1)*, on any such trial the accused shall not without the leave of the court call any other person (in this section referred to as the witness) to give such evidence unless—

(a) the notice under that subsection includes the name and address of the witness or, if the name or address is not known to the accused at the time he gives the notice, any information in his possession which might be of material assistance in finding the witness,

(b) if the name or the address is not included in that notice, the court is satisfied that the accused, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or address would be ascertained,



- (c) if the name or the address is not included in that notice, but the accused subsequently discovers the name or address or receives other information which might be of material assistance in finding the witness, he gives notice forthwith of the name, address or other information, as the case may be, and 5
- (d) if the accused is notified by or on behalf of the prosecution that the witness has not been traced by the name or at the address given, he gives notice forthwith of any such information which is then in his possession or, on subsequently receiving any such information, gives notice of it forthwith. 10
- (3) The court shall not refuse leave under this section if it appears to the court that the accused was not informed of the requirements of this section— 15
- (a) by the District Court when he was sent forward for trial, or
- (b) by the trial court when, on being sent forward by the District Court for sentence, he changed his plea to one of not guilty, or
- (c) where he was brought before a Special Criminal Court for trial under section 47 of the Act of 1939, by the Court when it fixed the date of trial. 20
- (4) Any evidence tendered to disprove an alibi may, subject to any directions by the court as to the time it is to be given, be given before or after evidence is given in support of the alibi. 25
- (5) Any notice purporting to be given under this section on behalf of the accused by his solicitor shall, unless the contrary is proved, be deemed to be given with the authority of the accused.
- (6) A notice under *subsection (1)* shall either be given in court during, or at the end of, the preliminary examination of the offence concerned or be given in writing to the solicitor for the prosecution, and a notice under *paragraph (c) or (d) of subsection (2)* shall be given in writing to that solicitor. 30
- (7) A notice required by this section to be given to the solicitor for the prosecution may be given by delivering it to him or by leaving it at his office or by sending it to him by registered post at his office. 35
- (8) In this section—
- “evidence in support of an alibi” means evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission; 40
- “the prescribed period” means—
- (a) the period of fourteen days from the end of the preliminary examination referred to in *subsection (6)*, or 45
- (b) Where the accused waives a preliminary examination, the period of fourteen days from the date of the waiver, or



- (c) where the accused, on being sent forward for sentence, changes his plea to one of not guilty, the period of fourteen days from the date on which he does so, or
- 5 (d) where the accused is brought before a Special Criminal Court for trial under section 47 of the Act of 1939, such period as is fixed by the Court when the Court fixes the date of trial.

21.—(1) In any proceedings against a person for an offence, other than the preliminary examination of an indictable offence, a written statement by any person shall, if such of the conditions mentioned in subsection (2) as are applicable are satisfied, be admissible as evidence to the like extent as oral evidence to the like effect by that person. Proof by written statement.

(2) The said conditions are:

- 15 (a) the statement purports to be signed by the person who made it;
- (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he stated in it anything which he knew to be false or did not believe to be true;
- 20 (c) a copy of the statement is served, by or on behalf of the party proposing to tender it in evidence, on each of the other parties to the proceedings; and
- 25 (d) none of the other parties or their solicitors, within twenty-one days from the service of the copy of the statement, serves on the party so proposing a notice objecting to the statement being tendered in evidence under this section.

(3) The conditions mentioned in paragraphs (c) and (d) of subsection 30 (2) shall not apply if the parties agree at the hearing or the parties or their solicitors agree before the hearing that the statement shall be so tendered.

(4) The following provisions shall also have effect in relation to any written statement tendered in evidence under this section:

- 35 (a) if the statement is made by a person under the age of twenty-one years, it shall give his age;
- (b) if it is made by a person who cannot read it, it shall be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read; and
- 40 (c) if it refers to any other document as an exhibit, the copy served on any other party to the proceedings under subsection (2) (c) shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party on whom it is served to inspect that document or a copy thereof.
- 45

(5) Notwithstanding that a written statement made by any person may be admissible as evidence by virtue of this section—



- (a) the party by whom or on whose behalf a copy of the statement was served may call that person to give evidence, and
- (b) the court may, of its own motion or on the application of any party to the proceedings, require that person to attend before the court and give evidence. 5
- (6) An application under *subsection (5) (b)* may be made before the hearing in a case in which the proceedings are in the Central Criminal Court, the Circuit Court or the Special Criminal Court and, for this purpose, the powers of the Central Criminal Court shall be exercisable by any judge of the High Court and the powers of the 10 Circuit Court shall be exercisable by any judge of that court.
- (7) So much of any statement as is admitted as evidence by virtue of this section shall, unless the court otherwise directs, be read aloud at the hearing.
- (8) Any document or object referred to as an exhibit and identified 15 in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.
- (9) A document required by this section to be served on any person may, subject to *subsection (10)*, be served— 20
- (a) by delivering it to him or to his solicitor,
- (b) by addressing it to him and leaving it at his usual or last known residence or place of business or by addressing it to his solicitor and leaving it at the solicitor's office,
- (c) by sending it by registered post to him at his usual or last 25 known residence or place of business or to his solicitor at the solicitor's office, or
- (d) in the case of a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office or sending it by registered post to the secretary or 30 clerk of that body at that office.
- (10) A document required by this section to be served on an accused shall, if the accused is not represented by a solicitor, be served personally on the accused.
- (11) Where— 35
- (a) a statement is tendered in evidence by virtue of this section, and
- (b) the person by whom the statement was made has stated in it anything which he knew to be false or did not believe to be true, 40
- he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding twelve months or to both, or on conviction on indictment to a fine not exceeding £2,000 or to imprisonment for a 45 term not exceeding five years or to both.
- (12) This section shall also apply to a written statement made outside the State with the omission from *subsection (2) (b)* of the



words from "and that he made the statement" to the end of the paragraph, and the omission of *subsection (11)*.

22.—(1) Subject to the provisions of this section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by or on behalf of the prosecution or the accused, and the admission by any party of any such fact under this section shall as against that party be conclusive evidence in those proceedings of the fact admitted.

Proof by formal admission.

(2) An admission under this section—

- 10 (a) may be made before or at the hearing,
- (b) if made otherwise than in court, shall be in writing,
- (c) if made in writing by an individual, shall be signed by the person making it and, if so made by a body corporate, shall be signed by a director or manager, or the secretary or clerk or some other similar officer of the body corporate,
- 15 (d) if made on behalf of an accused who is an individual, shall be made by his counsel or solicitor,
- (e) if made at any stage before the hearing by an accused who is an individual, must be approved by his counsel or solicitor either at the time it was made or subsequently,
- 20

and any signature referred to in *paragraph (c)* shall be taken to be that of the person whose signature it appears to be unless the contrary is shown.

25 (3) An admission under this section for the purpose of proceedings relating to any matter shall be treated as an admission for the purpose of any subsequent criminal proceedings relating to that matter (including any appeal or retrial).

30 (4) An admission under this section may with the leave of the court be withdrawn in the proceedings for the purpose of which it is made or any subsequent criminal proceedings relating to the same matter.

23.—(1) In any proceedings against a person for an offence the accused shall not be entitled to make a statement without being sworn and, accordingly, if he gives evidence, he shall do so on oath and be liable to cross-examination, but this shall not—

Abolition of right of accused to make unsworn statement.

- 40 (a) affect the right of the accused, if not represented by counsel or a solicitor, to address the court or jury otherwise than on oath on any matter on which, if he were so represented, his counsel or solicitor could address the court or jury on his behalf,
- (b) affect any trial, or the preliminary examination of any indictable offence, commenced before the commencement of this section.

45 (2) Nothing in *subsection (1)* shall prevent the accused from making a statement without being sworn—

- (a) if it is one which he is required by law to make personally, or



(b) if he makes it by way of mitigation before the court passes sentence upon him.

(3) The following provisions are hereby repealed:

(a) paragraph (h) of the proviso to section 1 of the Criminal Justice (Evidence) Act, 1924, and 5

(b) section 7 (4) of the Criminal Procedure Act, 1967, and, in section 8 (2) of that Act, the words from "proceed in accordance with" to "paragraph (a),".

Order of closing speeches.

24.—(1) Notwithstanding any rule of law or practice, and notwithstanding anything contained in section 2 of the Criminal Procedure Act, 1865, the procedure at a trial on indictment as to the closing speeches for the prosecution and for the defence shall be as follows: 10

(a) the prosecution shall have the right to a closing speech in all cases except where the accused is not represented by counsel or a solicitor and does not call any witness (other than a witness to character only), and the defence shall have the right to a closing speech in all cases, and 15

(b) the closing speech for the defence shall be made after that for the prosecution.

(2) Section 3 of the Criminal Justice (Evidence) Act, 1924, is hereby repealed. 20

Majority verdicts.

25.—(1) The verdict of a jury in criminal proceedings need not be unanimous in a case where there are not fewer than eleven jurors if ten of them agree on the verdict.

(2) The court shall not accept a verdict of guilty unless the foreman of the jury has stated in open court whether the verdict is unanimous or is by a majority in accordance with *subsection (1)* and, in the latter event, the number of jurors who agreed to the verdict. 25

(3) The court shall not accept a verdict by virtue of *subsection (1)* unless it appears to the court that the jury have had such period of time for deliberation as the court thinks reasonable having regard to the nature and complexity of the case; and the court shall not in any event accept such a verdict unless it appears to the court that the jury have had at least two hours for deliberation. 30

(4) The court shall cause the verdict of the jury to be taken in such a way that, where the verdict is one of not guilty, it shall not be indicated whether the verdict was unanimous or by a majority. 35

(5) This section shall not affect the trial of any offence for which the court is required, upon the conviction of the accused, to sentence him to death or any trial commenced before the commencement of this section. 40

#### Miscellaneous

Proceedings after arrest.

26.—The following section shall be substituted for section 15 of the Criminal Justice Act, 1951:



5       “15.—(1) A person arrested pursuant to a warrant shall on arrest be brought before a justice of the District Court having jurisdiction to deal with the offence concerned or, if a justice is not immediately available, before a peace commissioner in the district of such a justice as soon as practicable.

10       (2) A person arrested without warrant shall, on being charged with an offence, be brought before a justice of the District Court having jurisdiction to deal with the offence or, if a justice is not immediately available, before a peace commissioner in the district of such a justice as soon as practicable.

15       (3) Where a person is arrested pursuant to a warrant later than the hour of 10 o'clock on any evening or, having been arrested without warrant, is charged after that hour and a justice is due to sit in the District Court district in which the person was arrested not later than noon on the following day, it shall be sufficient compliance with *subsection (1) or (2)*, as the case may be, if he is brought before a justice at the commencement of the sitting.

20       (4) If the person is brought before a peace commissioner, the commissioner, having heard the evidence offered, shall remand him, either in custody or on such bail as the commissioner thinks fit, and remit the case for hearing before a justice of the District Court having jurisdiction to deal with it.

      (5) If the accused is remanded on bail and there and then finds bail, the case shall be remitted to the next sitting of the court.

25       (6) In any other event, the case shall be remitted to a sitting of the court at a named place to be held within eight days after the arrest.

30       (7) This section is without prejudice to the provisions of any enactment relating to proceedings after arrest or charge in particular cases.”.

27.—(1) The Minister for Justice may by regulations provide for the recording by electronic or other similar means of the questioning of persons by members of the Garda Síochána at Garda Síochána stations or elsewhere in connection with the investigation of offences.

Electronic recording of questioning.

35       (2) The regulations may be made so as to apply generally or to questioning at such places, to such extent, in relation to such offences or in such circumstances, as may be prescribed therein.

40       (3) The regulations shall include provision for the preservation, for such time and in such manner as may be prescribed therein, of every recording made in accordance with the regulations.

45       (4) Any failure to comply with a provision of the regulations shall not by itself render a person liable to civil or criminal proceedings, and (without prejudice to the power of the court to exclude evidence at its discretion) shall not by itself render inadmissible in evidence anything said during such questioning.

28.—(1) Where a person, on being prosecuted for an indictable offence, is the subject of an order under subsection (1) or (2) of section 1 of the Probation of Offenders Act, 1907, or is convicted and otherwise dealt with, his fingerprints may be taken by a member of

Taking of fingerprints of person dealt with under Probation of Offenders Act, 1907, or convicted.



the Garda Síochána either within the precincts of the court or at any other convenient place.

(2) The power to take a person's fingerprints pursuant to this section shall cease on the expiration of one week beginning on the date on which he is dealt with under the Probation of Offenders Act, 1907, or convicted, unless he has made it impracticable for his fingerprints to be taken pursuant to this section in that period. 5

(3) The provisions of *section 8* shall apply to the fingerprints taken pursuant to this section of a person who is the subject of an order under subsection (1) or (2) of section 1 of the Probation of Offenders Act, 1907, as they apply to fingerprints taken in pursuance of the powers conferred by *section 6*. 10

(4) Any person who refuses to allow his fingerprints to be taken pursuant to this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding twelve months or to both. 15

Application of Act to courts-martial.

29.—The provisions of this Act relating to criminal proceedings shall not apply in relation to a trial by court-martial except so far as any such provision is so applied by regulations made by the Minister for Defence, with such modifications, if any, as may be prescribed by the regulations. 20

Laying of regulations before Houses of Oireachtas.

30.—Every regulation made under this Act (other than a regulation under *section 7*) shall be laid before each House of the Oireachtas as soon as may be after such regulation 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 that House has sat after such regulation has been laid before it, such regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under such regulation. 25

Expenses.

31.—The expenses incurred by the Minister for Justice in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 30

Short title.

32.—This Act may be cited as the Criminal Justice Act, 1984.







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## BILLE

*dá ngairtear*

Acht do leasú an dlí choiriúil agus an nós imeachta choiriúil.

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## BILL

*entitled*

An Act to amend criminal law and procedure.

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*An tAire Dlí agus Cirt a thólaic*

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*Presented by the Minister for Justice*

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*Ritheadh ag Dáil Éireann,  
5 Iúil, 1984*

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*Passed by Dáil Éireann,  
5th July, 1984*

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BAILE ÁTHA CLIATH:  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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