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**BILLE AN GHARDA SÍOCHÁNA (GEARÁIN), 1985**  
**GARDA SÍOCHÁNA (COMPLAINTS) BILL, 1985**

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

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**ARRANGEMENT OF SECTIONS**

**Section**

1. Interpretation.
2. Establishment day.
3. The Garda Síochána Complaints Board.
4. Complaints to Board.
5. Informal resolution of complaints.
6. Investigation of complaints.
7. Functions of Board on completion of investigation of complaints.
8. Tribunals.
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13. Reports of Board.
14. Membership of Houses of Oireachtas or Assembly of European Communities.
15. Restriction of application of Act and restriction of application and amendment of Regulations and Dublin Police Act, 1924.
16. Amendment of Criminal Justice Act, 1984.
17. Expenses.
18. Short title.



## FIRST SCHEDULE

### THE GARDA SÍOCHÁNA COMPLAINTS BOARD

## SECOND SCHEDULE

### TRIBUNALS

## THIRD SCHEDULE

### THE GARDA SÍOCHÁNA COMPLAINTS APPEAL BOARD

## FOURTH SCHEDULE

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### ACTS REFERRED TO

Civil Service Commissioners Act, 1956	1956, No. 45
Civil Service Regulation Acts, 1956 and 1958	
Criminal Justice Act, 1984	1984, No. 22
Dublin Police Act, 1924	1924, No. 31
European Assembly Elections Act, 1977	1977, No. 30
Police Forces Amalgamation Act, 1925	1925, No. 7





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BILLE AN GHARDA SÍOCHÁNA (GEARÁIN), 1985  
GARDA SÍOCHÁNA (COMPLAINTS) BILL, 1985

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# BILL

*entitled*

5 AN ACT TO PROVIDE FOR A SYSTEM OF INVESTIGATION  
AND ADJUDICATION OF COMPLAINTS MADE BY THE  
PUBLIC ABOUT THE CONDUCT OF MEMBERS OF THE  
GARDA SÍOCHÁNA (OTHER THAN THE COMMIS-  
10 SIONER OF THE GARDA SÍOCHÁNA), TO PROVIDE,  
FOR THOSE PURPOSES, FOR THE ESTABLISHMENT OF  
BOARDS TO BE KNOWN AS THE GARDA SÍOCHÁNA  
COMPLAINTS BOARD AND THE GARDA SÍOCHÁNA  
COMPLAINTS APPEAL BOARD AND THE APPOINT-  
15 MENT OF TRIBUNALS AND TO PROVIDE FOR CON-  
NECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, save where the context otherwise requires— Interpretation.

“the Act of 1925” means the Police Forces Amalgamation Act, 1925;

20 “admissible complaint” means a complaint to which *section 4 (3) (c)*  
of this Act applies and “admissible” shall be construed accordingly;

“the Appeal Board” means the Garda Síochána Complaints Appeal  
Board established by *section 10* of this Act;

“the Board” means the Garda Síochána Complaints Board established  
by *section 3* of this Act;

25 “breach of discipline” means conduct specified in the *Fourth Schedule*  
to this Act and includes, other than in a case where *paragraph (e) of*  
*section 7 (9)* of this Act applies, non-compliance with *paragraph (d)*  
of the said *section 7 (9)* and also conduct constituting an offence in  
30 respect of which, after the date on which a complaint relating to that  
conduct was made, there is a conviction by a court of the member  
concerned and “in breach of discipline” shall be construed  
accordingly;

“the chief executive” has the meaning assigned to it by *paragraph 4*  
(2) of the *First Schedule* to this Act;

35 “the Commissioner” means the Commissioner of the Garda Síochána;



"complainant" means a person who makes a complaint orally, or sends or gives a complaint in writing, to the Board or to a member of the Garda Síochána and, in the case of a complaint so made, sent or given by a person through his solicitor or a parent, guardian or other person includes, where the context so requires, the solicitor of the person or a parent, guardian or other person, as the case may be;

"complaint" means a complaint under *section 4 (1) (a)* of this Act;

"conduct" means conduct (whether consisting of the doing of an act or the making of an omission) on or after the establishment day;

"establishment day" means the day appointed under *section 2* of this Act to be the establishment day for the purposes of this Act;

"investigating officer" means a member of the Garda Síochána appointed under *section 6* of this Act to investigate an admissible complaint;

"legal representative" means a barrister or a solicitor; 15

"member" means a member of the Garda Síochána other than the Commissioner or a deputy commissioner, if and whenever he is exercising or performing any power or duty of the Commissioner during his absence or incapacity, pursuant to an authorisation of the Minister under *section 8 (2)* of the Act of 1925; 20

"member of the public" means a person other than a member of the Garda Síochána;

"the Minister" means the Minister for Justice;

"orally" does not include an oral communication transmitted by electronic means; 25

"tribunal" means a tribunal appointed under *section 8* of this Act.

(2) Functions of the Commissioner under this Act may be performed by any member of the Garda Síochána authorised in that behalf by the Commissioner and references in this Act to the Commissioner shall be construed accordingly. 30

Establishment day. 2.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.

The Garda Síochána Complaints Board. 3.—(1) There shall, by virtue of this section, be established on the establishment day a board, to be known as the Garda Síochána Complaints Board and in this Act referred to as the Board, to perform the functions assigned to it by this Act. 35

(2) The provisions of the *First Schedule* to this Act shall have effect in relation to the Board.

Complaints to Board. 4.—(1) (a) A member of the public who is directly affected by, or who witnesses, any conduct of a member and who wishes to have a complaint concerning that conduct considered by the Board shall himself or through his solicitor or, in the case of a person under the age of seventeen years, through a parent or guardian or, in the case of a person who is mentally handicapped or mentally ill, through a parent or guardian or some 40 45



other person interested in his welfare make a complaint in relation thereto orally, or send or give it in writing, to the Board at the office of the Board, to a member at a Garda Síochána station or to a member above the rank of chief superintendent at a place other than a Garda Síochána station within six months of the date of the conduct.

(b) A complainant who makes a complaint to a member under *paragraph (a)* of this subsection shall be presumed, for the purpose of that paragraph, to wish to have his complaint considered by the Board unless, at the time of the making of the complaint, he himself or the person through whom he makes the complaint requests otherwise in writing.

(2) (a) On receipt of a complaint by the Board, an officer of the Board shall record it forthwith, together with the date and time of its receipt, furnish an acknowledgment in writing of its receipt to the complainant and notify the Commissioner of the complaint (unless it appears to the officer that the notifications under *paragraph (b)* or *(c)* of *subsection (3)* of this section in relation to the complaint will have been effected within 24 hours of the receipt of the complaint).

(b) On receipt of a complaint by a member at a Garda Síochána station—

(i) he shall record it forthwith, together with the date and time of its receipt, and furnish an acknowledgment in writing of its receipt to the complainant, and

(ii) the member in charge of the station at the time the complaint was received there shall notify, or cause to be notified, the chief executive and the Commissioner of the complaint as soon as may be after such receipt and send to each of them a copy of the complaint or, if the complaint was not in writing, a copy of the record of it.

(c) On receipt of a complaint by a member of the Garda Síochána above the rank of chief superintendent at a place other than a Garda Síochána station, he shall—

(i) record it forthwith, together with the date and time of its receipt, and furnish an acknowledgment in writing of its receipt to the complainant, and

(ii) notify the chief executive of the complaint as soon as may be after such receipt and send to him a copy of the complaint or, if the complaint was not in writing, a copy of the record of it.

(3) (a) On receipt by the Board of a complaint or of a notification under *subsection (2)* of this section, the chief executive shall consider whether the complaint is admissible and the complaint shall be admissible if the following conditions are satisfied—

(i) the complainant was a member of the public,



- (ii) the complainant was directly affected by or witnessed the conduct alleged in the complaint,
- (iii) the said conduct would constitute an offence or be conduct specified in the *Fourth Schedule* to this Act,
- (iv) the date on which the said conduct was alleged to have occurred was on or after the establishment day and within six months before the date on which the complaint was made, 5
- (v) the application of this Act to the said conduct did not, by virtue of *section 15* of this Act, stand excluded on the date on which the complaint was made, and 10
- (vi) the complaint is not frivolous or vexatious.

(b) If the chief executive is of opinion that a complaint is not admissible, he shall so notify in writing the complainant and the Commissioner and shall indicate in the notification the condition specified in *paragraph (a)* of this subsection that, in his opinion, is not satisfied as respects the complaint and shall, subject to *paragraph (c)* of this subsection, take no further action in the matter. 15

(c) If the chief executive is of opinion that a complaint is admissible, or the Board decides that a complaint to which *paragraph (b)* of this subsection applies is admissible, the chief executive shall, as soon as may be, so notify in writing the complainant and the Commissioner and, if the complaint was made, sent or given to the Board, send to the Commissioner a copy of the complaint, or, if the complaint was not in writing, a copy of the record of it. 20 25

(4) On receipt by the Commissioner of a notification under *subsection (3) (c)* of this section, he shall, as soon as may be, notify in writing the member concerned that a complaint (the nature of which shall be specified in the notification) has been made against him by a specified person. 30

(5) It shall be the duty of the Commissioner and of any member (whether authorised under *section 1 (2)* of this Act or not), on becoming aware of a complaint, to take any lawful measures that appear to him to be necessary or expedient for the purpose of obtaining or preserving evidence of or relating to the conduct complained of and, in a case where the Commissioner proposes to take any such measures, he may postpone notification of the complaint to the member concerned under *subsection (4)* of this section until the measures have been taken. 35 40

(6) Nothing in this Act shall preclude the charging of a member with an offence notwithstanding that the conduct to which the offence relates could be the subject of a complaint; however, where a complaint has been made, sent or given under *subsection (1)* of this section in relation to the conduct of a member, the member shall not be charged with an offence relating to such conduct except by or with the consent of the Director of Public Prosecutions. 45

Informal resolution  
of complaints.

5.—(1) On receipt by the Commissioner of a notification under *section 4 (3) (c)* of this Act, he shall, subject to the provisions of this Act— 50



- (a) having made such inquiries (if any) as appear to him to be necessary, consider whether the complaint is suitable for informal resolution, and
- 5 (b) if he considers that the complaint is suitable for informal resolution, so inform the Board and undertake the resolution of the complaint in accordance with the provisions of this section.

(2) Where a complaint is resolved under this section a record shall be kept of the resolution arrived at and of the manner of such resolution and a copy thereof shall be sent to the Board.

(3) A complaint shall not be resolved under this section if—

15 (a) the conduct alleged in the complaint constitutes an offence and either the member concerned has been charged with it or, if he has not been so charged, it is one which would, if there was sufficient evidence of the commission of it by the member, be likely, in the opinion of the Commissioner, to lead to the member being charged with it, or

20 (b) the complainant or the member concerned does not consent in writing to the resolution of the complaint under this section.

(4) The Board may prescribe procedures to be observed in the resolution of complaints under this section.

25 (5) Where before, during or after the resolution of a complaint under this section, the Board is of opinion that the complaint is or was not suitable for such resolution, it shall, as soon as may be, request the Commissioner in writing to have the complaint investigated under section 6 of this Act and that section shall thereupon apply and have effect accordingly in relation to the complaint and, if the complaint has been resolved under this section, it shall be deemed for the purposes of this Act not to have been so resolved; and the Board shall, as soon as may be, notify in writing the complainant and the member concerned of such a request.

35 (6) (a) Subject to paragraph (b) of this subsection, a statement made by the complainant or the member concerned in connection with or for the purpose of the resolution of a complaint under this section shall not be admissible in evidence in any proceedings whatsoever.

40 (b) A statement which consists of or includes an admission relating to any matter other than the complaint which falls to be resolved under this section is not rendered inadmissible by paragraph (a) of this subsection.

6.—(1) (a) The Commissioner shall appoint a member of the Garda Síochána (in this Act referred to as an investigating officer)—

Investigation of complaints.

45 (i) not below the rank of superintendent, or

(ii) if he considers that the circumstances so warrant, of the rank of inspector,

50 to investigate an admissible complaint (other than a complaint resolved under section 5 of this Act) and a person so appointed shall carry out the investigation



either, as he thinks fit, alone or with the assistance of such other members as he may determine.

- (b) Where it appears to an investigating officer that the conduct alleged in a complaint may constitute an offence, the law and practice applicable to the investigation of offences shall, subject to *section 4 (6)* of this Act, apply in relation to the investigation.
  - (c) The Board may prescribe general principles to be observed in the appointment of investigating officers under *paragraph (a)* of this subsection.
- (2) (a) An investigating officer shall complete an investigation under this section as soon as may be and, if he is unable to do so within the period of 30 days from the date of his appointment, he shall—
- (i) as soon as may be after the expiration of that period, furnish an interim report in writing thereon to the chief executive, and
  - (ii) as soon as may be after the receipt by him of a request from the chief executive therefor, furnish, until the completion of the investigation, such further interim reports in writing thereon to the chief executive as the chief executive may request.
- (b) An investigating officer shall, as soon as may be after the completion of an investigation by him under this section, furnish a report in writing thereon to the chief executive and, whenever so requested by the chief executive, shall, as soon as may be after the making of such request, furnish a supplementary report in writing thereon to the chief executive.
- (c) The investigating officer shall, when furnishing a report or reports as aforesaid to the chief executive, send a copy thereof to the Commissioner.
- (3) (a) The Board shall supervise generally the investigation of complaints under this section and, subject to *subsection (7) (a)* of this section, may give such directions to an investigating officer in relation to an investigation by him under this section as appear to it to be necessary or expedient.
- (b) The Board may delegate to the chief executive its functions under *paragraph (a)* of this subsection.
- (c) An investigating officer shall comply with any directions given to him under this subsection.
- (4) The chief executive shall, as soon as may be, submit to the Board every interim report of the investigation furnished to him under *paragraph (a)* of *subsection (2)* of this section and the report or reports of the investigation made to him under *paragraph (b)* of the said *subsection (2)* together with his comments in writing thereon and a recommendation in writing by him of the action (if any) that might appropriately be taken by the Board in relation to the complaint concerned.
- (5) (a) Notwithstanding anything in this Act, the Board may, at



5 any time, request the chief executive to investigate, or cause to be investigated, a complaint if the Board considers that the public interest requires that the complaint should be so investigated or that the investigation of the complaint under this Act has not been or is not being properly carried out and, where such a request is made, any investigation under any other provision of this Act of the complaint concerned shall thereupon cease.

10 (b) *Subsection (1) (b)* of this section shall apply to an investigation under this subsection as if the reference in the said *subsection (1) (b)* to an investigating officer was a reference to the chief executive and any person caused by him to investigate the complaint concerned.

15 (c) The chief executive shall submit a report in writing to the Board on the result of any investigation carried out in pursuance of a request under *paragraph (a)* of this subsection.

20 (6) (a) Where civil proceedings or criminal proceedings are instituted and have not been finally determined and the Board considers that in those proceedings it is likely that the court will determine an issue relevant to or concerning the conduct alleged in a complaint, the Board may postpone the taking of any action or further action under this Act in relation to the complaint until the civil proceedings or criminal proceedings, as the case may be, have been finally determined.

30 (b) If the Board considers that the conduct alleged in a complaint has been investigated by a court in civil proceedings and a determination of the issues which are, in substance, the issues involved in the complaint has been made by the court in those proceedings, when finally determined, in favour of the member concerned, no action or further action shall be taken by the Board under this Act in relation to the complaint.

35 (c) Proceedings shall not be regarded as finally determined for the purposes of *paragraph (a)* or *(b)* of this subsection until any appeal (including an appeal by way of case stated), rehearing or retrial in relation to those proceedings has been determined.

40 (7) Where the conduct alleged in a complaint constitutes an offence—

45 (a) if the complaint is being investigated under *subsection (1) (a)* of this section, a direction shall not be given under *subsection (3) (a)* of this section in relation to the investigation without the consent of the Director of Public Prosecutions, and

50 (b) if the complaint is being investigated under *subsection (5)* of this section, the chief executive shall consult with the Director of Public Prosecutions in relation to the manner in which the investigation is carried out.

(8) (a) Subject to *paragraph (d)* of this subsection, if in the course of an investigation under this section the investigating officer is of opinion that the disclosure in any report of information that would otherwise be appropriate for



inclusion in that report would be liable to affect the security of the State or to constitute a serious and unjustifiable infringement of the rights of some other person, he shall refer the matter to the Commissioner.

- (b) Subject to *paragraph (d)* of this subsection, where a matter is referred to the Commissioner under *paragraph (a)* of this subsection, if the Commissioner, having made such inquiries (if any) as he considers necessary, agrees with the opinion of the investigating officer in regard to the information in question or any portion of it, he shall report the matter to the Minister and, if or in so far as the Minister agrees with that opinion and so directs, the relevant information shall not be included in any report of the investigating officer.
- (c) Where a direction has been given by the Minister under *paragraph (b)* of this subsection, the fact that such a direction has been given shall be stated in the report of the investigating officer, together with such information (if any) about the matter as the Minister may have authorised to be given for the assistance of the Board in its consideration of the complaint.
- (d) Nothing in this subsection shall prevent the making of arrangements between the Board and the Commissioner whereby, in a particular case or more generally, a matter referred to in *paragraph (a)* of this subsection may be dealt with by some other procedure.
- (e) References in this subsection to an investigating officer include, in the case of an investigation under *subsection (5)* of this section, references to the chief executive and any person caused by him to investigate the complaint concerned.

Functions of Board on completion of investigation of complaints.

7.—(1) If, after consideration of—

- (a) a report or reports of an investigating officer submitted to the Board under *section 6* of this Act and the relevant comments and recommendation of the chief executive so submitted to the Board, or
- (b) the report of the chief executive on the result of an investigation under *subsection (5)* of that section,

the Board is of opinion that the complaint concerned is admissible and that the conduct alleged in the complaint may constitute an offence committed by the member concerned, it shall refer the matter to the Director of Public Prosecutions.

(2) If after consideration of such a report or reports of an investigation as aforesaid and (where appropriate) of such comments and recommendation as aforesaid, the Board is of opinion that the matter is not one to which *subsection (1)* of this section applies, the Board shall, subject to *section 6 (6)* of this Act, deal with the matter in accordance with the subsequent provisions of this section.

(3) If the Board is of opinion that neither an offence nor a breach of discipline on the part of the member concerned is disclosed or that the complaint is otherwise not admissible, it shall, as soon as may be,



notify the Commissioner, the complainant and the member concerned of its opinion and shall take no further action in the matter.

5 (4) (a) Subject to *subsection (7)* of this section, if the Board is of opinion that a breach of discipline on the part of the member concerned may be disclosed but that any such breach is of a minor nature appropriate to be dealt with informally by the Commissioner by way of advice, admonition or warning, it shall refer the matter to the Commissioner.

10 (b) A reference under *paragraph (a)* of this subsection shall not be made unless the member concerned has been given an opportunity to make representations to the Board in relation to the proposed reference and any representations so made have been considered by the Board.

15 (5) Subject to *subsection (7)* of this section, if the Board is of opinion that a breach of discipline on the part of the member concerned (other than a breach referred to in *subsection (4)* of this section) may be disclosed, it shall refer the matter to a tribunal.

(6) The Board shall, as soon as may be—

20 (a) notify the complainant and the member concerned of any action of the Board under *subsection (4)* or *(5)* of this section, and

(b) notify the Commissioner of any action of the Board under the said *subsection (5)*.

25 (7) (a) Where a member has been convicted or acquitted of an offence, a breach of discipline shall not be referred to the Commissioner or a tribunal if the breach is in substance the same as the offence of which he has been convicted or acquitted.

30 (b) (i) *Paragraph (a)* of this subsection shall not be construed as applying in relation to a breach of discipline which consists of conduct constituting an offence in respect of which there has been a conviction by a court.

35 (ii) The reference in the said *paragraph (a)* to a member who has been acquitted of an offence shall, as respects an offence dealt with summarily, be construed as a reference to a member who has had a complaint or charge against him dismissed on the merits.

40 (8) Subject to *section 6 (6)* of this Act, where the Director of Public Prosecutions has decided whether proceedings for an offence should or should not be instituted in respect of a complaint referred to him under *subsection (1)* of this section, the Board may either, if it thinks it proper to do so, deal with the matter under *subsection (4)* or *(5)* of this section or decide to take no further action in the matter.

45 (9) (a) Where—

(i) the Board has considered a report or reports submitted to it under *section 6* of this Act and (where appropriate) the relevant comments and recommendation so submitted to it, and

50 (ii) (I) the Board has referred the matter to the Director of Public Prosecutions and he has decided that



proceedings for an offence should not be instituted in respect of the complaint concerned, or

(II) the Board is of opinion that the conduct under consideration (being conduct alleged in the complaint) does not constitute an offence committed by the member concerned, and 5

(iii) in the course of the investigation the member has refused to answer a question, furnish information, or produce a document or thing, relevant to the investigation of the complaint concerned, 10

the Board may, before dealing with the matter in accordance with *subsections* (3) to (8) of this section, give a direction to an investigating officer to investigate the complaint further in accordance with this subsection.

(b) A direction shall not be given under this subsection unless the conduct alleged in the complaint concerned arose in connection with the performance or exercise, or the purported performance or exercise, by the member concerned of functions or powers conferred on him as such member. 15 20

(c) Where a direction under this subsection for an investigation is given, the investigating officer concerned may, for the purposes of the investigation, require a member (other than a member who is the spouse of the member concerned) to answer a question, furnish information, or produce a document or thing, relevant to the further investigation of the complaint concerned. 25

(d) It shall be the duty of a member to comply with a requirement of an investigating officer under *paragraph* (c) of this subsection, but the answer given, the information furnished, or the document or thing produced, in pursuance of the requirement shall not be admissible in evidence against the member or his spouse in any proceedings whatsoever other than proceedings against the member for or in relation to a breach of discipline. 30 35

(e) Non-compliance by a member with *paragraph* (d) of this subsection shall not be a breach of discipline unless the investigating officer concerned, when making the requirement concerned under *paragraph* (c) of this subsection, informs him in writing that he is acting in accordance with a direction under this subsection and brings the substance of *paragraphs* (c) and (d) to the notice of the member. 40

(f) If, in the course of a further investigation pursuant to a direction under this subsection—

(i) an investigating officer finds it necessary to question a member (other than the member against whom the complaint concerned is being made or a member who is the spouse of that member), 45

(ii) the member being questioned refuses to answer a question, furnish information, or produce a document or thing, relevant to the further investigation of the complaint concerned, and 50

(iii) it appears to the investigating officer that there is a



possibility that the member being questioned may have committed an offence,

the investigating officer may, if the Director of Public Prosecutions has been consulted in relation to the matter and has decided that proceedings against the member being questioned for an offence should not be instituted, require the member, in pursuance of *paragraph (c)* of this subsection, to answer the question, furnish the information or produce the document or thing.

(g) *Section 6* of this Act shall, with any necessary modifications, apply in relation to an investigation pursuant to a direction under this subsection and the Board, after consideration of the report or reports of that investigation submitted to it under that section and the relevant comments and recommendation so submitted to it, together with the relevant document or documents submitted to it under that section in relation to the original investigation of the complaint concerned, shall deal with the matter in accordance with *subsections (3) to (8)* of this section.

(h) References in this subsection to an investigating officer shall, in a case where the complaint concerned was investigated, or caused to be investigated, by the chief executive, include references to the chief executive or, as the case may be, to the person whom he caused to investigate the complaint.

8.—(1) (a) The Board shall from time to time appoint a tribunal to consider such matter or matters as may be referred to it by the Board under *section 7 (5)* of this Act during such period as may be specified by the Board at the time of the appointment.

Tribunals.

(b) More than one tribunal may be appointed under *paragraph (a)* of this subsection in respect of the same period.

(2) The provisions of the *Second Schedule* to this Act shall have effect in relation to a tribunal.

9.—(1) Where a matter is referred to a tribunal under *section 7 (5)* of this Act—

Reference of complaints to tribunals and disciplinary action.

(a) the chief executive shall determine the particular breach or breaches of discipline to be alleged against the member concerned before the tribunal,

(b) the chief executive shall notify each member of the tribunal of the breach or breaches of discipline aforesaid and the names and addresses of the witnesses whom he wishes to attend before the tribunal, and

(c) the tribunal shall hold an inquiry into the matter unless the conduct alleged in the complaint concerned, or conduct which is in substance the same, is admitted by the member concerned.

(2) It shall be the function of a tribunal to decide in relation to a matter referred to it as aforesaid—



- (a) that the member concerned has not been in breach of discipline, or
- (b) that such member has been in breach of discipline as alleged, or
- (c) that the facts established constitute another breach of discipline: 5

Provided that a decision under *paragraph (c)* of this subsection shall not be made unless the tribunal is satisfied that the other breach concerned is less serious than the breach alleged (that is, that it is one which in the circumstances of the particular case merits disciplinary 10 action of a less serious nature than that warranted by the breach alleged) and that such a decision would not be unfair to the member concerned having regard to the fact that the other breach concerned is not the breach that was alleged.

(3) Where a breach of discipline is admitted by a member or a 15 member is found by a tribunal to be in breach of discipline, the tribunal shall decide whether disciplinary action should be taken against the member and, if it decides that disciplinary action should be so taken, shall decide which of the disciplinary actions specified in *subsection (4)* of this section should be so taken. 20

(4) The disciplinary actions, in relation to a member, referred to in *subsection (3)* of this section are—

- (a) dismissal from the Garda Síochána,
- (b) requirement to retire or resign from the Garda Síochána as an alternative to dismissal therefrom, 25
- (c) reduction to such other rank in the Garda Síochána as the tribunal may determine,
- (d) reduction in pay of such amount and for such period as the tribunal may determine,
- (e) reprimand, 30
- (f) caution.

(5) A reduction in pay under *subsection (4)* of this section shall not exceed in amount four weeks' pay and there shall not be deducted, in respect of any such reduction, from any payment to a member in respect of pay more than 10 per cent. of the amount of such payment. 35

(6) (a) A decision of a tribunal under *subsection (3)* of this section that a member above the rank of inspector should be dismissed from the Garda Síochána shall be communicated by the tribunal to the Minister and by him to the Government and shall also be communicated by the tribunal to 40 the Commissioner.

(b) A decision of a tribunal under the said *subsection (3)* that a member not above the rank of inspector should be dismissed from the Garda Síochána or that any other disciplinary action should be taken against a member of any rank shall 45 be communicated by the tribunal to the Commissioner.

(7) The Commissioner shall have power to implement decisions referred to in *paragraph (b)* of *subsection (6)* of this section and those



5 decisions shall be implemented in accordance with their terms under the power aforesaid and decisions referred to in *paragraph (a)* of the said *subsection (6)* shall be implemented in accordance with their terms under section 7 (2) or 10 (4), as may be appropriate, of the Act of 1925.

10.—(1) There shall, by virtue of this section, be established a board, to be known as the Garda Síochána Complaints Appeal Board and in this Act referred to as the Appeal Board, to hear and decide appeals under *section 11* of this Act.

The Garda  
Síochána  
Complaints Appeal  
Board.

10 (2) The provisions of the *Third Schedule* to this Act shall have effect in relation to the Appeal Board.

(3) This section and *section 11* of this Act shall come into operation on such day as the Minister may by order appoint.

15 11.—(1) A member may appeal to the Appeal Board from a decision of a tribunal finding him to be in breach of discipline or a decision of a tribunal that disciplinary action should be taken against him or from both.

Appeals to Appeal  
Board.

(2) The Appeal Board may—

20 (a) affirm or set aside a decision of a tribunal finding a member to be in breach of discipline or set aside such a decision and find that the member concerned was in breach of discipline otherwise than as found by the tribunal,

25 (b) if a member has appealed from a decision of a tribunal finding him to be in breach of discipline but has not appealed from a decision of the tribunal in relation to the same matter that specified disciplinary action should be taken against him, set aside the latter decision, and decide that any disciplinary action specified in *section 9 (4)* of this Act other than that specified in the decision of the tribunal should be taken against the member,

30 (c) in relation to an appeal by a member from a decision of a tribunal that specified disciplinary action should be taken against him, affirm or set aside the decision or set aside the decision and decide that any disciplinary action specified in *section 9 (4)* of this Act other than that specified in the opinion of the tribunal should be taken against the member,

35 (d) affirm a decision of a tribunal that disciplinary action should not be taken against a member or decide in any such case that any disciplinary action specified in the said *section 9 (4)* should be taken against a member.

40 (3) (a) A decision of the Appeal Board under *subsection (2)* of this section (whether affirming a decision of a tribunal or otherwise) that a member above the rank of inspector should be dismissed from the Garda Síochána shall be communicated by the Appeal Board to the Minister and by him to the Government and shall also be communicated by the Appeal Board to the Commissioner.

(b) A decision of the Appeal Board under the said *subsection*



(2) (whether affirming a decision of a tribunal or otherwise) that a member not above the rank of inspector should be dismissed from the Garda Síochána or that any other disciplinary action should be taken against a member of any rank shall be communicated by the Appeal Board 5 to the Commissioner.

(4) The Commissioner shall have power to implement decisions referred to in *paragraph (b)* of *subsection (3)* of this section and those decisions shall be implemented in accordance with their terms under the power aforesaid and decisions referred to in *paragraph (a)* of the said *subsection (3)* shall be implemented in accordance with their terms under section 7 (2) or 10 (4), as may be appropriate, of the Act of 1925. 10

Prohibition on unauthorised disclosure of information.

12.—(1) A person shall not disclose confidential information obtained by him while performing functions as a member of the Board, a tribunal or the Appeal Board, or as a member of the staff of the Board, unless he is duly authorised to do so. 15

(2) In this section—

“confidential” means that which is expressed to be confidential either as regards particular information or as regards information of a particular class or description; 20

“duly authorised” means, in the case of a member of the Appeal Board, authorised by the Appeal Board and, in any other case, authorised by the Board.

(3) A person who contravenes *subsection (1)* of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £700 or to imprisonment for a term not exceeding six months or to both. 25

Reports of Board.

13.—(1) The Board shall, not later than six months after the end of each year, make a report to the Minister of its activities during that year and may include in the report information and comment in relation to any matters coming to its notice under this Act to which it considers that his attention should be drawn. 30

(2) The Board shall, at the request of the Minister, report to him on such general matters relating to its functions as the Minister may specify. 35

(3) The Board shall keep under review the working of the system of investigation and adjudication of complaints and shall make a report thereon to the Minister not later than three years after the establishment day, and at least once in every subsequent period of three years. 40

(4) The Minister shall cause a copy of every report received by him under this section to be laid before each House of the Oireachtas.

Membership of Houses of Oireachtas or Assembly of European Communities.

14.—(1) Where a member of the Board or the Appeal Board is nominated as a member of Seanad Éireann or as a candidate for election to either House of the Oireachtas or to the Assembly of the European Communities or is regarded, pursuant to section 15 of the European Assembly Elections Act, 1977, as having been elected to 45



such Assembly to fill a vacancy, he shall thereupon cease to be a member of the Board or the Appeal Board.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the Assembly of the European Communities shall, while he is so entitled or is such a member, be disqualified for becoming a member of the Board or the Appeal Board.

10 15.—(1) (a) This Act shall not apply in relation to conduct alleged in a complaint if, before the date on which the complaint is received—

Restriction of application of Act and restriction of application and amendment of Regulations and Dublin Police Act, 1924.

(i) the Commissioner had appointed a member or members of the Garda Síochána to hold an inquiry under the Regulations into the conduct, or

15 (ii) a person had been nominated by the Minister under section 12 of the Dublin Police Act, 1924, to hold an inquiry into the conduct.

20 (b) (i) The Commissioner may dismiss a member not above the rank of inspector in accordance with the Regulations notwithstanding that an admissible complaint has been made against the member and for this purpose the relevant provisions of the Regulations shall apply with any necessary modifications; and in any such case this Act shall not apply or, as the case may be, shall cease to apply in relation to the conduct alleged in the complaint.

(ii) Nothing in this Act shall affect—

30 (I) the power of the Commissioner under the Regulations to suspend from duty for a specified period; or

35 (II) the power of the Government under section 7 (2) or 10 (4) of the Act of 1925 in relation to removal from office or, as the case may be, dismissal or reduction in rank and, where the Government exercise such a power, this Act, shall not apply or, as the case may be, shall cease to apply in relation to the conduct alleged in the complaint notwithstanding that an admissible complaint has been made against the member concerned.

(2) Where—

(a) conduct of a member is being or has been investigated under the Regulations,

45 (b) the Commissioner has not appointed a member or members of the Garda Síochána to hold an inquiry under the Regulations into the conduct, and

(c) a complaint is made in relation to the conduct,

the complaint shall be investigated under this Act and the investigation



under the Regulations, and any statement made in connection therewith, shall be deemed to have been made under and for the purposes of this Act.

(3) Neither the Regulations nor the said section 12 shall apply in relation to conduct alleged in an admissible complaint if, before the date on which the complaint was made, a person had not been appointed under the Regulations or nominated under the said section 12, as the case may be, to hold an inquiry into the conduct. 5

(4) The said section 12 is hereby amended—

(a) in subsection (1), by the deletion of “for the Commissioner or for any other member of the Dublin Metropolitan Police not being of lower rank than Inspector nominated for that purpose by the Commissioner, or”, and 10

(b) in subsection (2), by the substitution of “a fine not exceeding £700 or to imprisonment for a term not exceeding six months or to both” for “a fine not exceeding twenty pounds or to imprisonment with or without hard labour for a period not exceeding three months”. 15

(5) The Regulations may provide that a person who is duly notified that he is required to attend at an inquiry being or to be held under the Regulations in relation to an alleged breach of discipline by a member and who neglects or refuses to attend at such inquiry or, in the case of a person other than the member aforesaid or his spouse, refuses to give evidence thereat shall be liable on summary conviction to a fine not exceeding £700 or to imprisonment for a term not exceeding six months or to both. 20 25

(6) References in the preceding subsections of this section to the said section 12 are references to that section as adapted by section 18 of the Act of 1925.

(7) In this section “the Regulations” means any regulations under section 14 of the Act of 1925 in relation to discipline for the time being in force. 30

Amendment of  
Criminal Justice  
Act, 1984.

16.—The Criminal Justice Act, 1984, is hereby amended by the substitution, in section 1 (2), of “members (within the meaning of the *Garda Síochána (Complaints) Act, 1986*)” for “members of the Garda Síochána not above the rank of chief superintendent”. 35

Expenses.

17.—The expenses incurred by the Minister 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.

Short title.

18.—This Act may be cited as the *Garda Síochána (Complaints) Act, 1986*. 40

Section 3.

## FIRST SCHEDULE

### THE GARDA SÍOCHÁNA COMPLAINTS BOARD

1. (1) The Board shall be a body corporate with perpetual succession and power to sue and be sued in its own name and, with the 45



consent of the Minister, to acquire, hold and dispose of land or an interest in or rights over or in respect of land.

(2) The Board shall be independent in the exercise of its functions.

2. (1) The Board shall consist of a chairman and eight ordinary  
5 members.

(2) The members of the Board shall be appointed from time to time as occasion requires by the Government and, subject to the provisions of this Schedule, shall hold office upon such terms and conditions as the Government may determine.

10 (3) The term of office of a member of the Board shall be five years and, subject to the provisions of this Schedule, a member of the Board shall be eligible for re-appointment as such member.

15 (4) (a) At least three persons each of whom is a practising barrister, or a practising solicitor, of not less than ten years' standing shall be appointed to be ordinary members of the Board and if such a member ceases during his term of office as such member to be a practising barrister or a practising solicitor, as the case may be, he shall thereupon cease to be a member of the Board.

20 (b) (i) The Commissioner or such other officer of the Garda Síochána not below the rank of assistant commissioner as the Commissioner may nominate shall be appointed an ordinary member of the Board.

25 (ii) If the member of the Board who is the Commissioner or other officer of the Garda Síochána not below the rank of assistant commissioner nominated in that behalf by the Commissioner ceases during his term of office as such member to be the Commissioner or to hold a rank in the Garda Síochána not below that of assistant commissioner, as the case may be, he  
30 shall thereupon cease to be a member of the Board.

(c) The membership of the Board shall not include any person who is or has been a member of the Garda Síochána other than the member of the Garda Síochána appointed under  
35 *clause (b)* of this subparagraph to be an ordinary member of the Board.

(d) If a complaint concerns the conduct of a deputy commissioner or an assistant commissioner—

40 (i) the Commissioner shall act on the Board in relation to any business concerned with the complaint in the place of any deputy commissioner or assistant commissioner who is a member of the Board and, notwithstanding anything in this Act, the Commissioner shall be deemed for that purpose to be a member of the  
45 Board, and

(ii) if, arising out of the complaint, a matter is referred by the Board to a tribunal pursuant to *section 7 (5)* of this Act, the Commissioner shall, notwithstanding  
50 *paragraph 1 (c)* of the *Second Schedule* to this Act be a member of the tribunal.

(5) A member of the Board may at any time resign his office as



such member by letter addressed to the Secretary to the Government and the resignation shall take effect on and from the date of receipt of the letter.

(6) Where a casual vacancy occurs among the members of the Board, the Government shall, as soon as may be, take such steps as are necessary to fill the vacancy and the person appointed to fill the vacancy shall hold office for the remainder of the term of office for which his predecessor was appointed. 5

(7) Members of the Board (other than a member who is the holder of a judicial office) shall be paid such remuneration (if any), and members of the Board shall be paid such allowances for expenses, as the Minister, with the consent of the Minister for the Public Service, may from time to time determine. 10

(8) The Government may remove from office any member of the Board who, in the opinion of the Government, has become incapable through ill-health of effectively performing his functions or has committed stated misbehaviour. 15

3. (1) The Government shall from time to time as occasion requires appoint a member of the Board to be chairman thereof.

(2) The chairman of the Board shall be a practising barrister, or a practising solicitor, of not less than ten years standing and, if he ceases to be a practising barrister or a practising solicitor during his term of office as such chairman, he shall thereupon cease to be such chairman and to be a member of the Board. 20

(3) Where the chairman of the Board ceases during his term of office as such chairman to be a member of the Board, he shall thereupon also cease to be chairman of the Board. 25

(4) The chairman of the Board shall, unless he sooner dies, resigns or otherwise ceases to be chairman, hold office as such chairman until the expiration of his term of office as a member of the Board but, if he is re-appointed as a member of the Board, he shall be eligible for re-appointment as chairman of the Board. 30

4. (1) The Board may appoint such and so many persons to be officers and servants of the Board as may be approved of from time to time by the Minister with the consent of the Minister for the Public Service. 35

(2) (a) There shall be a chief executive officer of the Board (who is referred to in this Act as the chief executive).

(b) The chief executive shall be appointed on the recommendation of the Civil Service Commission. 40

(c) The chief executive shall perform the functions conferred on him by this Act and such other functions (if any) as may be assigned to him by the Board.

(d) Specified functions of the chief executive under this Act may, with the consent of the Board, be performed by such officer of the Board as may be authorised in that behalf by the chief executive. 45

(e) The functions of the chief executive under this Act may be performed during his temporary absence by such officer



of the Board as may be designated for that purpose by the Board.

(3) (a) Officers and servants of the Board shall be civil servants in the Civil Service of the State.

5 (b) The appropriate authority (within the meaning of the Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 and 1958) in relation to officers and servants of the Board shall, for the purposes of those Acts, be the Minister.

10 (c) The Minister may delegate to the Board the powers exercisable by him under section 5 of the Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 and 1958, as the appropriate authority in relation to officers and servants of the Board and, if he does so, then,  
15 so long as the delegation remains in force—

(i) those powers shall, in lieu of being exercisable by the Minister, be exercisable by the Board, and

(ii) The Board shall, in lieu of the Minister, be, for the purposes of the said section 5 and the said Acts, the appropriate authority in relation to officers and  
20 servants of the Board.

(d) The Minister may revoke a delegation made by him under this paragraph but such revocation shall not affect anything done by virtue of the delegation under the said section 5  
25 or the said Acts and anything so done shall continue in force and shall, for the purposes of the said section 5 and the said Acts, have effect as if done by the Minister.

5. (1) The Board shall hold such meetings as may be necessary for the due fulfilment of its functions.

30 (2) The quorum for a meeting of the Board shall be three or such other number (being not less than three) as may be determined from time to time by the Board.

(3) At a meeting of the Board—

35 (a) the chairman of the Board shall, if present, be chairman of the meeting,

(b) if and so long as the chairman of the Board is not present or if the office of chairman is vacant, the members of the Board who are present shall choose one of their number to be chairman of the meeting.

40 (4) Every question at a meeting of the Board shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.

(5) The Board may act notwithstanding one or more than one  
45 vacancy among its members.

(6) Subject to the provisions of this Act, the Board shall determine, by standing orders or otherwise, the procedure and business of the Board.



6. (1) There may be paid to the Board in each financial year of the Board, out of moneys provided by the Oireachtas, a grant or grants of such amount or amounts as the Minister, with the approval of the Minister for Finance, may determine.

(2) The Board shall, in relation to each financial year of the Board, 5 prepare and send to the Minister (on a date not later than a date specified by the Minister) an estimate in such form as the Minister may specify of its expenditure for that year.

7. (1) The Board shall keep, in such form as may be approved of by the Minister, all proper and usual accounts of all moneys received 10 or expended by it and all such special accounts (if any) as the Minister may direct.

(2) Accounts kept in pursuance of this paragraph shall be submitted annually (on a date not later than a date specified by the Minister) by the Board to the Comptroller and Auditor General for audit and, 15 as soon as may be after the audit, a copy of such of those accounts, or of such extracts from such accounts, as the Minister may specify and a copy of the Comptroller and Auditor General's report on the accounts shall be presented by the Board to the Minister who shall cause copies of the documents presented to him to be laid before each 20 House of the Oireachtas.

8. (1) The Board shall, as soon as may be after the establishment day, provide itself with a seal.

(2) The seal of the Board shall be authenticated by the chairman of the Board or some other member of the Board authorised by the 25 Board to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Board and every document purporting to be an instrument made by the Board and to be sealed with the seal (purporting to be authenticated in accordance with *subparagraph* (2) of this paragraph) of the Board shall be received 30 in evidence and be deemed to be such instrument without proof, unless the contrary is shown.

9. (1) A member of the Board who is either directly or indirectly interested in any contract which the Board proposes to make—

(a) shall disclose to the Board the fact and the nature of such 35 interest at the meeting of the Board at which the question of entering into such a contract is first considered or, if he has no such interest at that time, as soon as may be after he has acquired such interest,

(b) shall take no part in any deliberations of the Board relating 40 to such a contract save to such extent as the chairman of the Board may permit,

(c) shall not vote on a decision relating to such a contract, and

(d) shall not be counted in the quorum present at any meeting 45 while such a contract is being considered.

(2) A disclosure under this paragraph shall be recorded in the minutes of the Board.

(3) Where the Minister is satisfied that a member of the Board has failed to comply with a requirement of *subparagraph* (1) of this paragraph, the Government may, on the recommendation of the 50



Minister, remove that member from office, and, if a person is removed from office pursuant to this subparagraph, he shall thenceforth be disqualified for membership of the Board.

10. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorised by the Board in that behalf.

## SECOND SCHEDULE

Section 8.

10

### TRIBUNALS

1. (a) A tribunal shall consist of three persons.

- 15 (b) Two of the members of the tribunal shall be members of the Board (other than the member of the Garda Síochána who is a member of the Board) who have not been concerned with the matter referred to the tribunal and one, at least, of them shall be a practising barrister, or a practising solicitor, of not less than ten years' standing.

- 20 (c) The third member of the tribunal shall, subject to *paragraph 2 (4) (d)* of the *First Schedule* to this Act, be a member of the Garda Síochána (other than the member of the Garda Síochána who is a member of the Board) who—

(i) is not below the rank of chief superintendent,

(ii) has not been involved in the investigation of the matter referred to the tribunal, and

- 25 (iii) is nominated in that behalf by the Commissioner.

2. The chairman of a tribunal shall be such member of the tribunal as a majority of the members thereof may determine.

- 30 3. (a) The Board may appoint a member of the Board (other than the member of the Garda Síochána who is a member of the Board) who has not been concerned with the matter referred to the tribunal to be a member of a tribunal during the temporary absence of a member of the tribunal (other than the member nominated by the Commissioner under *paragraph 1* of this Schedule).

- 35 (b) The Board may appoint a member of the Garda Síochána (other than the member of the Garda Síochána who is a member of the Board) who—

(i) is not below the rank of chief superintendent,

- 40 (ii) has not been involved in the investigation of the matter referred to the tribunal, and

(iii) is nominated in that behalf by the Commissioner,

to be a member of a tribunal during the temporary absence of the member of the tribunal nominated by the Commissioner under *paragraph 1* of this Schedule.



4. (1) A tribunal shall hold sittings and at the sittings may take evidence and may receive submissions by or on behalf of the persons concerned (including the chief executive).

(2) Sittings of a tribunal shall be held in private.

5. Where a matter is referred to a tribunal under *subsection 7 (5)* 5 of this Act, the chief executive shall present the case against the member concerned to the tribunal.

6. A witness whose evidence has been or is being or is to be given before a tribunal shall be entitled to the same privileges and immunities as a witness in a court. 10

7. A decision of a tribunal may be that of a majority of its members.

8. The chairman of a tribunal may—

(a) direct in writing the member concerned to attend before the tribunal on a date and at a time and place specified in the direction, 15

(b) direct in writing any other person whose evidence is required by the tribunal to attend before the tribunal on a date and at a time and place specified in the direction and there to give evidence and to produce any document or thing in his possession or power specified in the direction, 20

(c) direct that other person to produce to the tribunal any specified document or thing in his possession or power,

(d) give any other directions for the purpose of the proceedings that appear to him reasonable and just.

9. The reasonable expenses of witnesses directed under *paragraph 8* 25 of this Schedule to attend before a tribunal shall be paid out of moneys provided by the Oireachtas.

10. A person who—

(a) having been directed under the said *paragraph 8* to attend before a tribunal and, in the case of a person (other than a member of the Garda Síochána) so directed under *subparagraph (b)* of that paragraph, having had tendered to him any sum in respect of the expenses of his attendance which a witness summoned to attend before the District Court would be entitled to have tendered to him, without just cause or excuse disobeys the direction, 35

(b) being in attendance before a tribunal pursuant to a direction under the said *subparagraph (b)*, refuses to take the oath on being required by the tribunal to do so or refuses to answer any question to which the tribunal may legally require an answer, 40

(c) without just cause or excuse disobeys a direction under *subparagraph (b)* of the said *paragraph 8* in relation to the giving of evidence or the production of a document or thing or a direction under *subparagraph (c)* or *(d)* of the said *paragraph 8*, or 45

(d) does any other thing in relation to the proceedings before a



tribunal which, if done in relation to proceedings before a court by a witness in the court, would be contempt of that court,

5 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £700 or to imprisonment for a term not exceeding six months or to both.

11. If a person gives false evidence before a tribunal in such circumstances that, if he had given the evidence before a court, he would be guilty of perjury, he shall be guilty of that offence.

10 12. The procedure of a tribunal shall, subject to the provisions of this Act, be such as shall be determined by the Board by rules made by it with the consent of the Minister and the rules shall, without prejudice to the generality of the foregoing, make provision for—

15 (a) notifying the complainant, the member concerned and the chief executive of the date, time and place of the relevant sitting of the tribunal,

20 (b) giving the member concerned a statement of the breach or breaches of discipline alleged, the names of the witnesses whom it is proposed to call to give evidence before the tribunal relating to the complaint, a copy of each statement intended to be used at the tribunal and an indication in writing of the nature and source of any information relating to the matter which has come to notice in the course of the investigation of the complaint, which may be favourable to the member concerned and of which he may be unaware,

25 (c) enabling the member concerned and the complainant to be present at the relevant sitting of the tribunal and enabling the member concerned to present his case to the tribunal in person or through another member or a legal representative,

30 (d) enabling written statements to be admissible as evidence by the tribunal with the consent of the member concerned,

35 (e) enabling any signature appearing on a document produced before the tribunal to be taken, in the absence of evidence to the contrary, to be that of the person whose signature it purports to be,

(f) the examination (on oath or otherwise as the tribunal may determine) of witnesses before the tribunal by the tribunal,

40 (g) the examination and cross-examination (on oath or otherwise as the tribunal may determine) of witnesses before the tribunal by or on behalf of the chief executive and the member concerned,

45 (h) the determination by the tribunal whether evidence at the tribunal should be given on oath,

(i) the administration by the chairman of the tribunal of the oath to witnesses before the tribunal,

50 (j) the announcement at a sitting of the tribunal of the decision or decisions of the tribunal in relation to a matter referred to it, and



- (k) the making of a sufficient record of the proceedings of the tribunal.

Section 10.

THIRD SCHEDULE

THE GARDA SÍOCHÁNA COMPLAINTS APPEAL BOARD

1. (1) The Appeal Board shall consist of a chairman and two 5  
ordinary members.

(2) The members of the Appeal Board shall be appointed from  
time to time as occasion requires by the Government and, subject to  
the provisions of this Schedule, shall hold office upon such terms and  
conditions as the Government may determine. 10

(3) The term of office of a member of the Appeal Board shall be  
five years and, subject to the provisions of this Schedule, a member  
of the Appeal Board shall be eligible for re-appointment as such  
member.

(4) (a) The chairman of the Appeal Board shall be a judge of the 15  
Circuit Court and at least one of the ordinary members of  
the Appeal Board shall be a practising barrister, or a  
practising solicitor, of at least ten years' standing.

(b) If the chairman of the Appeal Board ceases during his term  
of office as such chairman to be a judge of the Circuit 20  
Court or if an ordinary member of the Appeal Board who  
is a practising barrister or a practising solicitor at the time  
of his appointment ceases during his term of office as such  
member to be a practising barrister or a practising solicitor,  
he shall thereupon cease, in the case of such chairman, to 25  
be such chairman and to be a member of the Appeal  
Board and, in the case of such ordinary member, to be a  
member of the Appeal Board.

(c) The membership of the Appeal Board shall not include  
any person who is or has been a member of the Garda 30  
Síochána.

(5) A member of the Appeal Board may at any time resign his office  
as such member by letter sent to the Secretary to the Government and  
the resignation shall take effect on and from the date of receipt of the  
letter. 35

(6) Where the chairman of the Appeal Board ceases during his  
term of office as such chairman to be a member of the Appeal Board,  
he shall also cease to be chairman of the Appeal Board.

(7) The chairman of the Appeal Board shall, unless he sooner  
dies, resigns or otherwise ceases to be chairman, hold office as such 40  
chairman until the expiration of his term of office as a member of the  
Appeal Board.

(8) Where a casual vacancy occurs among the members of the  
Appeal Board, the Government shall, as soon as may be, take such  
steps as are necessary to fill the vacancy and the person appointed to 45  
fill the vacancy shall hold office for the remainder of the term of office  
for which his predecessor was appointed.

(9) Members of the Appeal Board (other than the chairman) shall  
be paid such remuneration (if any), and members of the Appeal



Board shall be paid such allowances for expenses, as the Minister, with the consent of the Minister for the Public Service, may from time to time determine.

- (10) The Government may remove from office any member of the  
5 Appeal Board who, in the opinion of the Government, has become incapable through ill-health of effectively performing his functions or who has committed stated misbehaviour,

2. (1) The Appeal Board shall hold sittings and at the sittings may receive submissions by or on behalf of the persons concerned  
10 (including the chief executive) and such evidence (if any) as it thinks fit.

- (2) Sittings of the Appeal Board shall be held in private.

3. (1) A member proposing to appeal from a decision of a tribunal shall, within twenty-one days of the date upon which the decision was  
15 announced, notify in writing the Appeal Board of his intention to appeal from the decision and shall specify in the notification the decision to which the appeal relates.

- (2) The Appeal Board shall cause a copy of the record made pursuant to *paragraph 12 (k) of the Second Schedule* to this Act of  
20 the proceedings of a tribunal from whose decision an appeal is brought by a member to be furnished to the member concerned not less than 21 days before the commencement of the hearing of the appeal.

- (3) An appeal to the Appeal Board shall be grounded on the record aforesaid of the proceedings of the tribunal to whose decision the  
25 appeal relates, on such evidence (if any), other than evidence to which the record aforesaid relates, as the Appeal Board thinks fit and on any observations of the said tribunal which relate to any matter arising on the record aforesaid and which the Appeal Board requests the tribunal to furnish.

- 30 (4) A member may at any time before the commencement of the hearing of an appeal brought by him withdraw the appeal in whole or in part by notifying the Appeal Board in writing of his intention to do so and shall specify in the notification the decision or decisions to which the withdrawal relates.

- 35 (5) On receipt by it of a notification under *subparagraph (1) or (4)* of this paragraph, the Appeal Board shall, as soon as may be, inform the Commissioner, the complainant and the Board of the notification and of the decision or decisions to which it relates and, where the decision is that a member above the rank of inspector should be  
40 dismissed from the Garda Síochána, shall also inform the Minister who shall cause the Government to be informed of the notification and the decision to which it relates.

4. A witness whose evidence has been or is being or is to be given before the Appeal Board shall be entitled to the same privileges and  
45 immunities as a witness in a court.

5. A decision of the Appeal Board may be that of a majority of its members.

6. The chairman of the Appeal Board may—

- 50 (a) direct in writing the member concerned to attend before the Appeal Board on a date and at a time and place specified in the direction,



- (b) direct in writing any other person whose evidence is required by the Appeal Board to attend before the Appeal Board on a date and at a time and place specified in the direction and there to give evidence and to produce any document or thing in his possession or power specified in the direction, 5
- (c) direct that other person to produce to the Appeal Board any specified document or thing in his possession or power,
- (d) give any other directions for the purpose of the proceedings that appear to him reasonable and just.

7. The reasonable expenses of witnesses directed under *paragraph* 10 6 of this Schedule to attend before the Appeal Board shall be paid out of moneys provided by the Oireachtas.

8. A person who—

- (a) having been directed under the said *paragraph* 6 to attend before the Appeal Board and, in the case of a person 15 (other than a member of the Garda Síochána) so directed under *subparagraph* (b) of that paragraph, having had tendered to him any sum in respect of the expenses of his attendance which a witness summoned to attend before the District Court would be entitled to have tendered to him, without just cause or excuse disobeys the direction, 20
- (b) being in attendance before the Appeal Board pursuant to a direction under the said *subparagraph* (b), refuses to take the oath on being required by the Appeal Board to do so, or refuses to answer any question to which the Appeal 25 Board may legally require an answer,
- (c) without just cause or excuse disobeys a direction under *subparagraph* (b) of the said *paragraph* 6 in relation to the giving of evidence or the production of a document or thing or a direction under *subparagraph* (c) or (d) of the said 30 *paragraph* 6, or
- (d) does any other thing in relation to the proceedings before the Appeal Board which, if done in relation to proceedings before a court by a witness in the court, would be contempt 35 of that court,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £700 or to imprisonment for a term not exceeding six months or to both.

9. If a person gives false evidence before the Appeal Board in such circumstances that, if he had given the evidence before a court, he 40 would be guilty of perjury, he shall be guilty of that offence.

10. The procedure of the Appeal Board shall, subject to the provisions of this Act, be such as shall be determined by the Appeal Board, by rules made by it with the consent of the Minister, and the rules shall, without prejudice to the generality of the foregoing, make 45 provision for—

- (a) notifying the complainant, the member concerned and the chief executive of the date, time and place of the relevant sitting of the Appeal Board,
- (b) enabling the member concerned and the complainant to be 50



present at the relevant sitting of the Appeal Board and enabling the member concerned to present his case to the Appeal Board in person or through another member or a legal representative,

- 5 (c) giving to the Appeal Board, if it should so request, within the period specified in the request, a summary in writing of the submissions proposed to be made to the Appeal Board by or on behalf of the chief executive and the member concerned,
- 10 (d) the examination (on oath or otherwise as the Appeal Board may determine) of witnesses before the Appeal Board by the Appeal Board,
- (e) the examination and cross-examination (on oath or otherwise as the Appeal Board may determine) of witnesses before  
15 the Appeal Board by or on behalf of the chief executive and the member concerned,
- (f) the determination by the Appeal Board whether evidence before the Appeal Board should be given on oath,
- 20 (g) the administration by the chairman of the Appeal Board of the oath to witnesses before the Appeal Board,
- (h) the announcement at a sitting of the Appeal Board of the decision or decisions of the Appeal Board in relation to an appeal, and
- 25 (i) the making of a sufficient record of the proceedings of the Appeal Board.

#### FOURTH SCHEDULE

Section 1.

1. Discourtesy, that is to say, failing to behave with due courtesy towards a member of the public.

2. Neglect of duty, that is to say, without good and sufficient  
30 cause—

(a) failing or neglecting—

(i) properly to account for any money or property received by him in his capacity as a member, or

35 (ii) promptly to do any thing which it is his duty as a member to do,

or

(b) doing any such thing as is mentioned in *subparagraph (a) (ii)* of this paragraph in a negligent manner.

3. Falsehood or prevarication, that is to say, in his capacity as a  
40 member—

(a) making or procuring the making of—

(i) any oral or written statement, or

(ii) any entry in an official document or record,



which is, to the member's knowledge, false or misleading, or

- (b) with a view to deceiving, destroying or mutilating any official document or record or altering or erasing or adding to any entry therein.

4. Abuse of authority, that is to say, oppressive conduct towards 5  
a member of the public, including—

- (a) without good and sufficient cause, making an arrest, or
- (b) using unnecessary violence towards any person with whom the member is brought into contact in the execution, or 10  
purported execution, of his duty.

5. Corrupt or improper practice, that is to say—

- (a) soliciting or receiving as a member and without the consent of the Commissioner any gratuity, present, subscription or testimonial (other than customary collections for such purposes as presentations to members on the occasion of 15  
transfer, marriage or retirement),
- (b) placing himself as a member under a pecuniary obligation to any person in a manner that might affect his ability to discharge his duty as a member,
- (c) improperly using (or attempting to use) his position as a 20  
member for his private advantage, or
- (d) failing wilfully and without good and sufficient cause to pay any lawful debt in such circumstances as to be liable to affect his ability to discharge his duty as a member or as 25  
to be liable to compromise other members.

6. Misuse of money or property in the custody of the Garda Síochána belonging to a member of the public, that is to say, misappropriating, or wilfully or carelessly misusing, losing or damaging, any such money or property.

7. Intoxication, that is to say, owing to the effects of intoxicating 30  
liquor or drugs or a combination thereof, being unfit for duty either while on duty or while not on duty but wearing a uniform in a public place.

8. Discreditable conduct, that is to say, conducting himself in a manner which the member knows, or ought to know, would be 35  
reasonably likely to bring discredit on the Garda Síochána.

9. Accessory to conduct specified in this Schedule, that is to say, conniving at or knowingly being an accessory to such conduct.



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BILLE AN GHARDA SÍOCHÁNA  
(GEARÁIN), 1985

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BILLE

*dá ngairtear*

Acht do dhéanamh socrú le haghaidh córais chun gearáin ón bpobal faoi iompar comhaltaí den Gharda Síochána (seachas Coimisinéir an Gharda Síochána) a imscrúdú agus a bhreithniú, do dhéanamh socrú, chun na gríocha sin, le haghaidh boird a bhunú ar a dtabharfar an Bord um Ghearáin i gcoinne an Gharda Síochána agus an Bord Achomhairc um Ghearáin i gcoinne an Gharda Síochána agus le haghaidh binsí a cheapadh agus do dhéanamh socrú i dtaobh nithe comhghaolmhara.

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*An tAire Dlí agus Cirt a thíolaic*

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*Ritheadh ag Dáil Éireann,  
4 Meitheamh, 1986*

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BAILE ÁTHA CLIATH:  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,  
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GARDA SÍOCHÁNA (COMPLAINTS)  
BILL, 1985

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BILL

*entitled*

An Act to provide for a system of investigation and adjudication of complaints made by the public about the conduct of members of the Garda Síochána (other than the Commissioner of the Garda Síochána), to provide, for those purposes, for the establishment of boards to be known as the Garda Síochána Complaints Board and the Garda Síochána Complaints Appeal Board and the appointment of tribunals and to provide for connected matters.

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*Presented by the Minister for Justice*

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*Passed by Dáil Éireann,  
4th June, 1986*

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