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**AN BILLE UM CHEARTAS COIRIÚIL (ORD POIBLÍ), 1993.  
CRIMINAL JUSTICE (PUBLIC ORDER) BILL, 1993**

**EXPLANATORY MEMORANDUM**

*General*

1. The purpose of the Bill is to provide for
  - the updating of the law in relation to public order offences
  - an offence specifically aimed at racketeering
  - the implementation of certain recommendations made by the Committee on Public Safety and Crowd Control
2. The provisions of the Bill arise in part from recommendations made by the Law Reform Commission in two reports: Report on Offences under the Dublin Police Acts and Related Offences (LRC 14-1985) and Report on Vagrancy and Related Offences (LRC 11-1985).

*Section 1 (Short title, collective citation and commencement)*

This provides for citations and the coming into operation of the Bill.

*Section 2 (Interpretation general)*

The section deals with interpretation of the Bill.

*Section 3 (Interpretation — Part II)*

This section provides for certain necessary definitions.

*Section 4 (Intoxication in public place)*

*Subsection (1)* provides that it shall be an offence for any person to be present in any public place while intoxicated to such an extent as would give rise to a reasonable apprehension that he might either be a danger to himself or any other person in the vicinity. *Subsection (3)* also gives power to a Garda to confiscate intoxicating substances where he suspects with reasonable cause that an offence is being committed. A person guilty of an offence under the section will be liable (on summary conviction) to a fine not exceeding £500 (*subsection (2)*).

*Section 5 (Disorderly conduct in public place)*

*Subsection (1)* provides that it shall be an offence for any person to engage in shouting, singing or boisterous conduct in a public place



between the hours of 12 o'clock midnight and 7 a.m., or at any other time having been requested by a member of the Garda Síochána to desist, in circumstances likely to give reasonable cause for annoyance to others. A person guilty of an offence under the section will be liable (on summary conviction) to a fine not exceeding £500 (*subsection (2)*).

*Section 6 (Threatening, abusive or insulting behaviour in a public place)*

*Subsection (1)* provides for the more serious offence of engaging in threatening, abusive or insulting words or behaviour in a public place with intent to provoke a breach of the peace or whereby a breach of the peace may be caused. A person guilty of an offence under the section will be liable (on summary conviction) to a fine not exceeding £500 or to imprisonment for a term not exceeding 6 months or to both (*subsection (2)*).

*Section 7 (Distribution or display in public place of material which is threatening, abusive, insulting or obscene)*

*Subsection (1)* makes it an offence to distribute any writing, sign or visible representation which is threatening, abusive, insulting or obscene with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned. A person guilty of an offence under this section will be liable to the same penalties provided for in *Section 6 (subsection (2))*.

*Section 8 (Disorderly conduct at public meeting)*

*Subsection (1)* provides that it shall be an offence for any person to act in a disorderly manner at a public meeting for the purposes of preventing the transaction of the business of that meeting or to incite another person to act in that way. A person guilty of an offence under the section will be liable (on summary conviction) to a fine not exceeding £500 or to imprisonment for a term not exceeding 3 months or to both (*subsection (2)*).

*Section 9 (Failure to comply with direction of member of Garda Síochána)*

*Subsection (1)* gives the Gardai power to direct a person who is acting in a manner contrary to the provisions of *sections 4, 5 or 6* or is loitering in circumstances that give rise to a reasonable apprehension for the safety of persons or property or for the maintenance of the public peace to "move on". Failure to do so will be an offence (*subsection (2)*). A person guilty of an offence under the section will be liable (on summary conviction) to a fine not exceeding £500 or to imprisonment for a term not exceeding 6 months or to both (*subsection (3)*).

*Section 10 (Wilful obstruction)*

This section increases to a maximum fine of £200 the penalty for wilful obstruction of the free passage of others in any public place.

*Section 11 (Increase of penalty for common assault, etc.)*

This section updates the penalties in relation to common assault or battery. It provides for a fine not exceeding £1,000 or imprisonment for a term not exceeding 12 months (or both).



## *Section 12 (Entering building, etc. with intent to commit an offence)*

*Subsection (1)* provides for an offence of entering a building etc. as a trespasser with intent to commit an offence. *Subsection (2)* provides that any person who is found present at a building etc. in such circumstances that it is reasonable to conclude that the person was so present as a trespasser with intent to commit an offence it shall be presumed until the contrary is shown that he was so present with the intent to commit an offence. A person guilty of an offence under this section will be liable (on summary conviction) to a fine not exceeding £500 or to imprisonment for a term not exceeding 6 months or to both (*subsection (3)*).

## *Section 13 (Amendment of Vagrancy Act, 1824)*

This section provides for an amendment of section 4 of the Vagrancy Act, 1824 and is consequential on other provisions of this Bill relating to trespass.

## *Section 14 (Trespass on dwelling etc.)*

*Subsection (1)* provides that it shall be an offence for a person to trespass on any dwelling or curtilage in such a manner as causes or is likely to cause fear in another person. A person guilty of an offence under the section will be liable to a fine not exceeding £500 or to imprisonment for a term not exceeding 6 months or to both (*subsection (2)*).

## *Section 15 (Riot)*

This section updates and revises the law in relation to riot. *Subsection (1)* provides that when 12 or more persons who are present together at any place (whether that place is a public place or a private place or both) use or threaten to use unlawful violence for a common purpose, and the conduct of those persons, taken together, is such as would cause persons of reasonable firmness present at that place to fear for his or another person's safety then each of the persons using unlawful violence for the common purposes shall commit the offence of riot. (*Subsection (2)*) provides that it shall be immaterial whether or not the 12 or more persons use or threaten to use unlawful violence simultaneously at any place; the common purpose may be inferred from conduct; no person of reasonable firmness need actually be, or be likely to be, present at that place. A person guilty of an offence of riot will be liable (on indictment) to an unlimited fine or is imprisonment for a term not exceeding 10 years or both (*subsection (3)*). *Subsection (4)* provides for the abolition of the common law offence of riot.

## *Section 16 (Violent disorder)*

*Subsection (1)* provides that when three or more persons who are present together at any place (whether that place is a public place or a private place or both) use or threaten to use unlawful violence and the conduct of those persons, taken together, is such as would cause a person of reasonable firmness present at that place to fear for his or another person's safety, then each of the persons using or threatening unlawful violence shall commit the offence of violent disorder. *Subsection (2)* provides that it shall be immaterial whether or not the three or more persons use or threaten to use unlawful violence



simultaneously; and no person of reasonable firmness need actually be, or be likely to be, present at that place. *Subsection (3)* provides that a person will be guilty of the offence of violent disorder only if the person intends to use or threaten the use of violence or is aware that his conduct may be violent or threaten violence. A person guilty of an offence under this section will be liable (on indictment) to an unlimited fine or to imprisonment for a term not exceeding 5 years or to both (*subsection (4)*). *Subsection 5* provides for the construction of references in other acts to the common law offences or riot and of riot and to tumult. *Subsection (6)* provides for the abolition of the common law offences of rout and unlawful assembly.

#### Section 17 (*Affray*)

*Subsection (1)* provides that where two or more persons at any place (whether that place is a public place or a private place or both) use or threaten to use violence towards each other; the violence so used or threatened by one of those persons is unlawful and the conduct of those persons is such as would cause a person of reasonable firmness to fear for his or another person's safety; then each such person who uses or threatens to use unlawful violence shall commit the offence of affray. *Subsection (2)* provides that a threat cannot be made by words alone and no person of reasonable firmness need actually be, or be likely to be, present at the place where the use or threat of violence occurred. A person guilty of an offence under this section is liable (on indictment) to an unlimited fine or to imprisonment for a term not exceeding 5 years or to both (*subsection (3)*). *Subsection (4)* abolishes the common law offence of affray.

#### Section 18 (*Blackmail, extortion and demanding money with menaces*)

This section creates an offence specifically aimed at the problem of racketeering. While existing law (mainly section 30 of the Larceny Act, 1916 and section 3 of the Criminal Damage Act, 1991) can be used in relation to this type of behaviour, present offences are not specifically tailored to deal with the problem. The section provides that it shall be an offence for any person who, with a view to gain for himself or another or with intent to cause loss to another, make any unwarranted demand with menaces. A person found guilty of an offence under this section will be liable (on indictment) to an unlimited fine or imprisonment for a term not exceeding 14 years or to both (*subsection (3)*).

#### Section 19 (*Assault with intent to cause bodily harm or commit indictable offence*)

*Subsection (1)* provides that it shall be an offence to assault a person with intent to cause bodily harm or commit an indictable offence. A person guilty of an offence under this section will be liable (on indictment) to an unlimited fine or to a term of imprisonment not exceeding 5 years or to both (*subsection (2)*).

#### Section 20 (*Assault or obstruction of peace officer*)

*Subsection (1)* provides that it shall be an offence for any person to assault a peace officer acting in the execution of his duty or assault any other person acting in the aid of a peace officer or assault any other person with intent to resist or prevent the lawful apprehension



or detention of himself or of any other person for any offence. A person guilty of an offence under *subsection (1)* will be liable (on indictment) to an unlimited fine or to imprisonment for a term not exceeding 5 years or to both (*subsection (2)*). *Subsection (3)* provides for an offence in relation to resisting or wilfully obstructing a peace officer or a person assisting a peace officer. A person guilty of an offence under *subsection (3)* will be liable (on summary conviction) to a fine not exceeding £500 or the imprisonment for a term not exceeding 6 months or to both. *Subsection (5)* provides that the provisions of this section are in addition to other legislative provisions. *Subsection (6)* defines a peace officer as a member of the Garda Síochána, a prison officer, a member of the Defence Forces, a sheriff or a traffic warden.

#### *Section 21 (Amendment of Criminal Justice Act, 1951)*

This section amends the Criminal Justice Act, 1951 to the effect that a person accused of the offence provided for in the previous section would no longer have an automatic entitlement to opt for a trial by jury (rather than have the case dealt with by the District Court). It will remain the case that a Judge of the District Court may rule that an offence is not a minor one and should be dealt with by the Circuit Court.

#### *Sections 22, 23 and 24 (Interpretation; Control of access to certain events, etc.; surrender and seizure of intoxicating liquor, etc.)*

These sections are along the lines of recommendations made by the Committee on Public Safety and Crowd Control in relation to giving the Gardai power to control access to certain events and to allow for the surrender and seizure of intoxicating liquor etc. *Section 22* provides for definitions for this part of the Act. *Section 23* provides for the erection by Gardai of barriers on any road, street, lane or alley not more than one mile from where an event is taking place. A garda will be given the power to divert persons and where possession of a ticket is required for entrance to the event to prohibit people who have no tickets from passing the barrier. *Section 24* provides the Gardai with power to search a person going to an event for — and seize — intoxicating liquor or any disposable container or any other article which could be used to cause injury.

#### *Section 25 (Arrest without warrant)*

This section deals with the power of the Gardai to arrest without warrant people committing offences under the Bill. Between the provisions of *subsections (1) and (5)* the Gardai will have the power to arrest without warrant people committing offences under *sections 4, 5, 6, 7, 8, 9, 12, 14, 15, 16, 17, 18, 19 or 20*. *Subsection (2)* allows a member of the Garda Síochána demand the name and address of persons suspected of committing certain offences and a power of arrest without warrant when a person fails to give his name or address.

#### *Section 26 (Continuance of existing powers of Garda Síochána)*

This section continues in force existing powers of the Garda Síochána.



## Section 27 (Repeals)

This section provides for the repeal of provisions specified in the schedule to the Bill.

Department of Justice,  
June, 1993.



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