



**AN BILLE UM OMBUDSMAN NEAMHSPLEÁCH AN
GHARDA, 2001
INDEPENDENT GARDA OMBUDSMAN BILL, 2001**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The Bill is designed to redress the fundamental defects of the existing Garda complaints procedures. Those defects are in-built design flaws in the Garda Síochána (Complaints) Act, 1986 (the Act of 1986). They include a failure to allow independent investigation, excessive power remaining with the Garda Commissioner and insufficient procedural rights for the complainant. In order to promote confidence in the complaints mechanism the Bill proposes to repeal the Act of 1986, dissolve the existing Complaints Board and Appeal Board, and set up a new body to be called the Independent Garda Ombudsman.

The Bill draws on the Report of the Independent Commission on Policing (the Patten Report) and Part VI of the Police (Northern Ireland) Act, 1998, as amended by Part VIII of the Police (Northern Ireland) Act, 2000.

Provisions of Bill

Section 1 provides definitions.

Section 2 establishes the new post of Ombudsman.

Section 3 sets out his or her functions including investigating the Garda Síochána independently of any complaints received.

Section 4 sets out the procedure for complaints which will give enhanced rights to the complainant and will end the system of the Garda Síochána being investigated by members of the Garda Síochána itself.

Section 5 replaces the previous procedure for appeal to an Appeal Board where the complainant was not a party with all of the usual rights of a party. It will now allow either the complainant or the member to appeal to the High Court.

Sections 6 to 8 are standard provisions relating to reports, staff and membership of parliamentary bodies.

Section 9 dissolves the existing Complaints Board and Appeal Board.

Sections 10 to 13 are consequential.

Sections 14 to 21 are standard provisions.

Section 22 repeals the Act of 1986.

Section 23 provides penalties for offences under the Bill.

Section 24 provides the short title.

*An Teachta Breandán Ó Húilín,
Deireadh Fómhair, 2001.*