



DÁIL ÉIREANN

AN BILLE UM CHEARTAS COIRIÚIL 2004 CRIMINAL JUSTICE BILL 2004

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM CHEARTAS COIRIÚIL 2004 —ROGHCHOISTE

CRIMINAL JUSTICE BILL 2004 —SELECT COMMITTEE

Leasuithe Amendments

**References to section numbers, indicated in amendments by an asterisk, are to sections inserted by other amendments in the list.*

SECTION 1

1. In page 5, subsection (2), line 34, after “Act” to insert “, other than *Parts 11** and *13**”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

2. In page 5, subsection (2), line 34, after “Act” to insert “, other than *Part 13**”.

—Aengus Ó Snodaigh.

3. In page 5, between lines 37 and 38, to insert the following subsections:

“(3) *Parts 11** and *13** come into operation on such day or days as the Minister may, after consulting with the Commissioner of the Garda Síochána, appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(4) The Firearms Acts 1925 to 2000, *Part 5** and *Schedule 1** may be cited together as the Firearms Acts 1925 to 2006 and shall be construed together as one.

(5) The Explosives Act 1875, *Part 6** and *Schedule 2** may be cited together as the Explosives Acts 1875 and 2006 and shall be construed together as one.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 3

1.

In subsection (3), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

4. In page 5, between lines 37 and 38, to insert the following subsection:

“(3) In commencing any part or provision of this Act, or the Act in its entirety, under *subsection (2)* of this section, the Minister shall not unduly delay the implementation of the provisions of this Act, and where any delay occurs, he shall be accountable to the Houses of the Oireachtas.”

—Jim O’Keeffe.

[SECTION 1]

5. In page 5, between lines 37 and 38, to insert the following subsection:

“(3) The coming into operation of *Part 13** shall require the approval of both houses of the Oireactas, Oireachtas approval shall be requested only after a review of the implementation of the Children Act 2001 has been completed and laid before both houses 10 years after all sections of the 2001 Act become fully operational.”.

—Aengus Ó Snodaigh.

SECTION 2

6. In page 5, subsection (1), line 38, after “Act” to insert “, unless the context otherwise requires”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

7. In page 5, subsection (1), between lines 38 and 39, to insert the following:

““Act of 1939” means the Offences Against the State Act 1939;”.

—Jim O’Keeffe.

8. In page 6, subsection (1), to delete line 5 and substitute the following:

““place” means a physical location and includes—

- (a) a dwelling, residence, building or abode,
- (b) a vehicle, whether mechanically propelled or not,
- (c) a vessel, whether sea-going or not,
- (d) an aircraft, whether capable of operation or not,
- (e) a hovercraft, or
- (f) any other place whatsoever.”.

—Jim O’Keeffe.

9. In page 6, lines 12 to 23, to delete subsection (3).

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 3

10. In page 6, before section 3, to insert the following new section:

“Regulations.

3.—(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed.

[SECTION 3]

(2) Every regulation under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 10

1.

In subsection (1), after “prescribed” where it secondly occurs to insert “ in doing so the Minister shall have regard to the provisions contained in *Schedule 1**, human rights standards and international evidence indicating the likely effectiveness and social and economic costs of all potential regulations”.

—Aengus O’Snodaigh.

2.

In subsection (2), to delete all words from and including “be” down to and including “thereunder” and substitute “ require the approval of both Houses of the Oireachtas”.

—Aengus O’Snodaigh.

3.

In subsection (2), to delete “it is made” and substitute “it has been made”.

Jim O’Keeffe.

SECTION 4

11. In page 6, subsection (1), line 29, to delete “the” and substitute “an”.

—Jim O’Keeffe.

12. In page 6, subsection (1)(ii), line 38, to delete “that was,” and substitute “that was”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

13. In page 7, subsection (2), line 3, to delete “the” and substitute “an”.

—Jim O’Keeffe.

14. In page 7, subsection (2), line 5, to delete “the” and substitute “an”.

—Jim O’Keeffe.

15. In page 7, subsection (3), line 8, to delete “the” where it firstly occurs and substitute “an”.

—Jim O’Keeffe.

[SECTION 4]

16. In page 7, subsection (3)(a)(ii), line 14, to delete “place” and substitute “place,”.
—Jim O’Keeffe.
17. In page 7, subsection (4), line 22, to delete “the” where it firstly occurs and substitute “an”.
—Jim O’Keeffe.
18. In page 7, subsection (4), line 22, to delete “the” where it secondly occurs and substitute “an”.
—Jim O’Keeffe.
19. In page 7, subsection (4), line 23, to delete “appropriate” and substitute “appropriate,”.
—Jim O’Keeffe.
20. In page 7, subsection (4)(j), line 43, to delete “and” and substitute “and/or”.
—Jim O’Keeffe.
21. In page 7, subsection (4), after line 44, to insert the following:
“(k) preventing any person from photographing or otherwise recording the crime scene and/or anything at the scene.”.
—Jim O’Keeffe.
22. In page 8, subsection (5), line 1, to delete “the” where it firstly occurs and substitute “an”.
—Jim O’Keeffe.
23. In page 8, subsection (8)(b), line 15, to delete “the” where it secondly occurs and substitute “an”.
—Jim O’Keeffe.
24. In page 8, subsection (9), line 23, to delete “the” where it firstly occurs and substitute “an”.
—Jim O’Keeffe.
25. In page 8, subsection (11), line 40, to delete “the” and substitute “an”.
—Jim O’Keeffe.

[SECTION 4]

26. In page 9, subsection (12), line 8, to delete “the” and substitute “an”.
—Jim O’Keeffe.

27. In page 9, between lines 25 and 26, to insert the following subsection:

“(15) A direction under *subsection (3)* shall be deemed to continue in force until the determination of an application under *subsection (9)* or *(11)* if—

- (a) the direction is in force when the application is made, and
(b) the direction would, but for this subsection, expire before the determination of the application by reason of the fact that, pursuant to *subsection (13)*, an opportunity is given to a person to be heard.”
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

28. In page 9, subsection (15), line 26, to delete “the” and substitute “an”.
—Jim O’Keeffe.

29. In page 9, subsection (16), line 32, to delete “the” and substitute “an”.
—Jim O’Keeffe.

30. In page 9, subsection (17)(b), line 37, to delete “the” where it firstly occurs and substitute “an”.
—Jim O’Keeffe.

SECTION 5

31. In page 10, between lines 13 and 14, to insert the following:

“(2) The Order of the District Judge issuing a search warrant under this section shall record in writing the grounds on which the power has been exercised.”
—Aengus Ó Snodaigh.

32. In page 10, to delete lines 14 to 39.
—Joe Costello.

33. In page 10, to delete lines 14 to 23.
—Aengus Ó Snodaigh.

34. In page 10, line 33, to delete “the need” and substitute “a need”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 5]

35. In page 10, between lines 39 and 40, to insert the following:

“(4) A schedule of warrants issued under subsection (2) of this section shall be furnished to the Police Ombudsman Commission, or such other body as the Minister may prescribe from time to time, at intervals not less frequently than once every six months, and the Police Ombudsman Commission shall, annually, compile and submit to the Minister, a report on each such warrant, stating the following:

- (a) the date and serial number of each warrant;
- (b) the place to which that warrant applied;
- (c) the Member of an Garda Síochána who issued the warrant;
- (d) the specific circumstances of the case;
- (e) the circumstances that gave rise to the issue of the warrant;
- (f) what reasonable grounds there were for suspecting that evidence of, or relating to, the commission of an arrestable offence was to be found at the place referred to in the warrant;
- (g) what evidence, if any was recovered; and
- (h) if, in the opinion of the Commission—
 - (i) the warrant was necessary for the proper investigation of the offence concerned,
 - (ii) the circumstances of urgency giving rise to the need for the immediate issue of the warrant would have rendered it impracticable to apply to a judge of the District Court under subsection (1) for the issue of a search warrant, and
 - (iii) such a warrant was justified by the specific circumstances of the case.”.

—Jim O’Keeffe.

36. In page 11, between lines 12 and 13, to insert the following:

“(5) All relevant documents, including the warrant itself, shall be endorsed with—

- (a) the time and date of issue of the warrant, and
- (b) the time and date on which the warrant expires,

but the absence of any such endorsement shall not, under any circumstances, affect the validity of the warrant.”.

—Jim O’Keeffe.

SECTION 6

37. In page 12, subsection (1), line 19, to delete “the” and substitute “an”.

—Jim O’Keeffe.

[SECTION 6]

38. In page 12, subsection (1), line 33, to delete “the” where it firstly occurs and substitute “an”.

—Jim O’Keeffe.

39. In page 12, subsection (2), line 35, to delete “the” and substitute “an”.

—Jim O’Keeffe.

40. In page 12, subsection (3), line 45, to delete “the” and substitute “an”.

—Jim O’Keeffe.

SECTION 7

41. In page 13, before section 7, to insert the following new section:

“Amendment of section 30 of the Act of 1939.

7.—(1) The Act of 1939 is amended in section 30 by the addition of following new subsection (7):

“(7) Where a court hearing, seeking the extension of the period of detention of an arrested person, is in session at the expiration of the period of detention, the detention period shall be deemed not to have expired until the court hearing is concluded.”.

—Jim O’Keeffe.

SECTION 8

42. In page 13, line 11, to delete “the” and substitute “an”.

—Jim O’Keeffe.

43. In page 13, line 13, to delete “or otherwise” and substitute “or elsewhere”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

44. In page 13, line 24, to delete “the” where it secondly occurs and substitute “an”.

—Jim O’Keeffe.

45. In page 13, line 26, to delete “arrest” and substitute “arrest,”.

—Jim O’Keeffe.

46. In page 13, line 27, to delete “arrested” and substitute “arrested,”.

—Jim O’Keeffe.

[SECTION 8]

47. In page 13, line 27, to delete “has” and substitute “has,”.
—Jim O’Keeffe.
48. In page 13, line 33, to delete “the” and substitute “an”.
—Jim O’Keeffe.
49. In page 13, line 38, to delete “section” and substitute “section,”.
—Jim O’Keeffe.
50. In page 13, line 39, to delete “the” and substitute “an”.
—Jim O’Keeffe.
51. In page 13, line 41, to delete “has” and substitute “has,”.
—Jim O’Keeffe.
52. In page 13, line 42, to delete “station” and substitute “station,”.
—Jim O’Keeffe.
53. In page 13, line 48, to delete “the” and substitute “an”.
—Jim O’Keeffe.
54. In page 14, line 1, after “detained” to insert the following:
“in a garda station which is equipped for video and audio recording of
interviews”.
—Joe Costello.

Section opposed.

—Aengus Ó Snodaigh.

SECTION 9

55. In page 14, line 16, to delete “the” and substitute “an”.
—Jim O’Keeffe.
56. In page 14, line 18, to delete “or otherwise” and substitute “or elsewhere”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 9]

57. In page 14, line 30, to delete “the” where it secondly occurs and substitute “an”.

—Jim O’Keeffe.

58. In page 14, line 45, to delete “the” and substitute “an”.

—Jim O’Keeffe.

59. In page 15, line 4, to delete “the” where it firstly occurs and substitute “an”.

—Jim O’Keeffe.

SECTION 10

60. In page 15, line 27, to delete “the” and substitute “an”.

—Jim O’Keeffe.

SECTION 11

61. In page 15, before section 11, to insert the following new section:

“Videorecording of evidence.

11.—Save with the leave of the court which may be given only if the exceptional circumstances of the case so require, a statement by a person during a formal interview in Garda custody shall not be admitted in any prosecution against that person unless the interview is videorecorded and such videorecording is produced at the trial.”

—Joe Costello.

62. In page 15, subsection (1), line 40, to delete “the” and substitute “an”.

—Jim O’Keeffe.

63. In page 15, subsection (2), line 48, to delete “the” where it secondly occurs and substitute “an”.

—Jim O’Keeffe.

64. In page 15, after line 49, to insert the following subsection:

“(3) An authority under *subsection (2)* may be given orally but, if it is given orally, it shall be confirmed in writing as soon as practicable.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 64

1.

After “orally” to insert “by a member of an Garda Síochána not below the rank of sergeant.”

—Jim O’Keeffe.

[SECTION 11]

2.

To delete “but,” and substitute “but”.

—Jim O’Keeffe.

65. In page 16, subsection (5), line 14, to delete “the” and substitute “an”.

—Jim O’Keeffe.

SECTION 12

66. In page 16, between lines 16 and 17, to insert the following:

“(a) in section 3, by the insertion of the following new definition:

“ “photograph” means any image (pixelated or otherwise), photographic negative, fingerprint or palm print, howsoever stored, whether in physical or digital form, from which a specific person can, in any way, be identified;”.”.

—Jim O’Keeffe.

67. In page 16, line 17, to delete paragraph (a) and substitute the following:

“(a) in section 6, by the deletion of subsection (4) and substitution with the following:

“(4) Any person who—

(a) obstructs,

(b) attempts to obstruct,

(c) fails or refuses to give his or her name and address when demanded,

(d) gives a name or address that is false or misleading, or

(e) fails to obey the reasonable demands of,

any member of an Garda Síochána or any other person acting under the powers conferred by subsection (1), shall be guilty of an offence and shall be liable, on summary conviction—

(i) to a fine not exceeding €3,000 or

(ii) to imprisonment for a term not exceeding 12 months or

(iii) to both.”.”.

—Jim O’Keeffe.

68. In page 16, paragraph (c), line 27, to delete “£1,000” and substitute “£1,500”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 13]

SECTION 13

69. In page 16, paragraph (a)(i), after line 44, to insert the following:

“(IV) in paragraph (e), by the deletion of “or mouth”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

70. In page 16, paragraph (a), after line 44, to insert the following:

“(ii) by the insertion of the following subsection after subsection (1):

“(1A) A reference in subsection (1) of this section to the mouth shall be read as including a reference to the inside of the mouth.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

71. In page 17, lines 16 to 22, to delete all words from and including “hair” in line 16 down to and including “testing.” in line 22 and substitute the following:

“hair is taken in accordance with this section—

(a) the sample may be taken by plucking hairs with their roots and, in so far as it is reasonably practicable, the hairs shall be plucked singly, and

(b) no more hairs shall be plucked than the person taking the sample reasonably considers to be necessary to constitute a sufficient sample for the purpose of forensic testing.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

72. In page 17, to delete lines 32 to 40 and substitute the following:

“(aa) make provision for the safeguards outlined in *Schedule 1** of the *Criminal Justice Act 2006*.”.

—Aengus Ó Snodaigh.

73. In page 17, line 37, to delete “the” where it secondly occurs and substitute “an”.

—Jim O’Keeffe.

74. In page 17, between lines 40 and 41, to insert the following:

“(d) in section 5(2) by the insertion of the following paragraph after paragraph (b):

“(c) In determining whether the carrying out of a forensic procedure without consent is justified in all the circumstances the superintendent or Garda of higher rank shall have regard to the following:

[SECTION 13]

- (i) the seriousness of the circumstances surrounding the commission of the relevant offence and the gravity of the relevant offence;
- (ii) the degree of the suspect's alleged participation in the commission of the relevant offence;
- (iii) the age, physical and mental health, cultural background and religious beliefs of the suspect, to the extent that they are known;
- (iv) whether there is a less intrusive but reasonably practicable way of obtaining evidence tending to confirm or disprove that the suspect committed the relevant offence; and
- (v) where the suspect gives reasons for refusing to consent, the reasons for refusing."."

—Aengus Ó Snodaigh.

SECTION 15

75. In page 18, subsection (1), line 15, after “statement” to insert the following:

“contained in the book of evidence served on that person”.

—Joe Costello.

76. In page 18, subsection (1), line 16, after “may” to insert “, by leave of the court,”.

—Joe Costello.

77. In page 18, subsection (2), lines 30 to 37, to delete paragraph (c) and substitute the following:

“(c) (i) the statement was given on oath or affirmation, or

(ii) the statement contains a statutory declaration by the witness to the effect that the statement is true to the best of his or her knowledge or belief and the court is satisfied that when the statement was made the witness understood the requirement to tell the truth.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 77

1.

In paragraph (c)(i), to delete “or” where it secondly occurs.

—Jim O’Keeffe.

2.

In paragraph (c)(ii), to delete “truth.” and substitute the following:

“truth, or

[SECTION 15]

- (iii) the court is otherwise satisfied that when the statement was made the witness understood the requirement to tell the truth.”

—Jim O’Keeffe.

- 78.** In page 19, subsection (3)(b), line 2, after “whether” to insert the following:

“by reason of the circumstances in which it was made,”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

- 79.** In page 19, subsection (4)(a), line 13, to delete “or exclusion”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Section opposed.

—Aengus Ó Snodaigh.

SECTION 16

- 80.** In page 19, subsection (2), line 31, to delete “the” and substitute “an”.

—Jim O’Keeffe.

SECTION 17

- 81.** In page 19, subsection (1), to delete lines 38 to 42 and substitute the following:

“ “competent person” means a person employed by a public authority and includes an immigration officer who is deemed to have been appointed as such an officer under section 3 of the Immigration Act 2004;”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

- 82.** In page 19, subsection (1), line 38, to delete “the” and substitute “an”.

—Jim O’Keeffe.

- 83.** In page 20, subsection (1), lines 1 and 2, to delete paragraph (b).

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

- 84.** In page 20, subsection (1), lines 6 to 9, to delete paragraphs (e) to (g) and substitute the following:

“(e) the Health Service Executive,”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Section opposed.

—Aengus Ó Snodaigh.

[SECTION 18]

SECTION 18

85. In page 20, between lines 26 and 27, to insert the following subsection:

“18.—(1) All statements of witnesses shall be video-recorded and the holding cells, interview rooms and corridors of Garda Stations shall be routinely video-recorded also.”.

—Aengus Ó Snodaigh.

86. In page 20, subsection (1), line 27, to delete “may” and substitute “shall”.

—Aengus Ó Snodaigh.

87. In page 20, subsection (1), line 29, to delete “the” and substitute “an”.

—Jim O’Keeffe.

88. In page 20, subsection (1)(b), line 33, after “retained” to insert the following:

“and

(c) sanctions for any breach of these provisions”.

—Aengus Ó Snodaigh.

89. In page 20, lines 34 to 40, to delete subsection (2).

—Aengus Ó Snodaigh.

90. In page 20, subsection (2), line 34, to delete “the” and substitute “an”.

—Jim O’Keeffe.

SECTION 20

91. In page 21, lines 23 to 32, to delete all words from and including “appropriate,” in line 23 down to and including “add.” in line 32 and substitute “appropriate.”.

—Joe Costello.

92. In page 21, line 42, to delete “with the leave of the Court,”.

—Joe Costello.

93. In page 22, line 14, to delete “during” and substitute “in connection with”.

—Joe Costello.

[SECTION 21]

SECTION 21

94. In page 23, before section 21, to insert the following new section:

“Transfer of
criminal appeal
jurisdiction to the
Supreme Court.

21.—The provisions of the Courts and Court Officers Act 1995 transferring the criminal jurisdiction of the Court of Criminal Appeal to the Supreme Court shall come into operation upon the passing of this Act.”

—Joe Costello.

95. In page 23, line 14, after “Court” to insert “or the Supreme Court”.

—Joe Costello.

96. In page 23, lines 30 to 39, to delete all words from and including “if” in line 30 down to and including “Court” in line 39.

—Joe Costello.

97. In page 23, line 149, to delete “with the leave of the Court,”.

—Joe Costello.

98. In page 24, line 20 to delete “during” and substitute “in connection with”.

—Joe Costello.

SECTION 22

Section opposed.

—Jim O’Keeffe.

SECTION 23

99. In page 25, subsection (1), line 14, to delete “tried on indictment” and substitute “who has been tried on indictment,”.

—Jim O’Keeffe.

100. In page 25, subsection (1), line 17, after “appeal” to insert “against”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 24

101. In page 25, before section 24, but in Part 4, to insert the following new section:

“PART 5

AMENDMENT OF FIREARMS ACTS

Definitions (*Part 5**).

24.—In this Part “Principal Act” means the Firearms Act 1925.”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

102. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 1 of Principal Act.

25.—Section 1 of the Principal Act is amended—

(a) by the insertion of the following definitions in subsection (1):

“the word “ammunition” includes restricted ammunition, unless the context otherwise requires;

the word “Commissioner” means the Commissioner of the Garda Síochána or a member of the Garda Síochána, or members of a particular rank in the Garda Síochána, not below the rank of superintendent appointed in writing by the Commissioner for the purpose of performing any of the Commissioner’s functions under this Act;

the word “firearm” includes a restricted firearm, unless otherwise provided or the context otherwise requires;

the expression “firearms training certificate” has the meaning given to it by section 2A of this Act;

the expression “issuing person”, in relation to the grant or renewal of a firearm certificate, authorisation or licence, means, as the case may be, the Minister, the Commissioner or the superintendent of the Garda Síochána of the district where an applicant for or holder of the firearm certificate, authorisation or licence is residing;

the word “place” includes premises and a dwelling;

the expression “muzzle energy”, in relation to a firearm, means the energy of a projectile discharged by it, measured at its muzzle in joules;

the expression “restricted ammunition” means ammunition which is declared under section 2B(b) of this Act to be restricted ammunition;

the expression “restricted firearm” means a firearm which is declared under section 2B(a) of this Act to be a restricted firearm;

the expression “working mechanism”, in relation to a firearm, includes the mechanism for loading, cocking and discharging it and ejecting spent ammunition;”

and

(b) by the substitution of the following definitions for the definitions of “firearm certificate” and “the Minister”:

[SECTION 24]

“the expression “firearm certificate” means a firearm certificate granted under this Act and, unless the context otherwise requires, includes a restricted firearm certificate, a firearms training certificate and a firearm certificate granted under the Firearms (Firearm Certificates for Non-Residents) Act 2000;”;

the expression “the Minister” means the Minister for Justice, Equality and Law Reform.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 102

1.

In paragraph (a), to delete “insertion of the following definitions in subsection (1)” and substitute the following:

“deletion of subsection (1) and substitution with the following:

“(1) In this Act—”

—Jim O’Keeffe.

2.

In paragraph (a), to delete the inserted definition of “ammunition” and substitute the following:

“ “ammunition” (except where used in relation to a prohibited weapon) means ammunition for a firearm but also includes—

(a) grenades, bombs, and other similar missiles whether the same are or are not capable of being used with a firearm,

(b) any ingredient or component part of any such ammunition or missile, and

(c) restricted ammunition, unless the context otherwise requires;”.

—Jim O’Keeffe.

3.

In paragraph (a), in the definition of “Commissioner”, to delete “the word”.

—Jim O’Keeffe.

4.

In paragraph (a), in the definition of “Commissioner” after “means the Commissioner of” to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

5.

In paragraph (a), in the definition of “Commissioner” after “or a member of” to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

[SECTION 24]

6.

In paragraph (a), in the definition of “Commissioner” after “a particular rank in” to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

7.

In paragraph (a), to delete the definition of “firearm” and substitute the following:

“ “firearm” means a lethal firearm or other lethal weapon of any description from which any shot, bullet, or other missile can be discharged, and includes a restricted firearm, unless otherwise provided or the context otherwise requires;

“firearm dealer” means a person who, by way of trade or business, manufactures, sells, lets on hire, repairs, tests, proves, purchases, or otherwise deals in firearms or ammunition;”.

—Jim O’Keeffe.

8.

In paragraph (a), in the definition of “firearms training certificate”, to delete “the expression”.

—Jim O’Keeffe.

9.

In paragraph (a), in the definition of “issuing person”, to delete “the expression”.

—Jim O’Keeffe.

10.

In paragraph (a), in the definition of “issuing person” to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

11.

In paragraph (a), in the definition of “issuing person”, to delete “or holder of” and substitute “, or holder of,”.

—Jim O’Keeffe.

12.

In paragraph (a), to delete the definition of “place” and substitute the following:

“ “Minister” means the Minister for Justice, Equality and Law Reform;”.

—Jim O’Keeffe.

13.

In paragraph (a), in the definition of “muzzle energy”, to delete “the expression”.

—Jim O’Keeffe.

[SECTION 24]

14.

In paragraph (a), after the definition of “muzzle energy” to insert the following:

“place” means a physical location and includes—

- (a) a dwelling, residence, building or abode,
- (b) a vehicle, whether mechanically propelled or not,
- (c) a vessel, whether sea-going or not,
- (d) an aircraft, whether capable of operation or not,
- (e) a hovercraft, or
- (f) any other place whatsoever;

“prescribed” means prescribed by regulations made under this Act;

“prohibited weapon” means and includes any weapon of whatever description, designed for the discharge of any noxious liquid, noxious gas, or other noxious thing, and also any ammunition (whether for any such weapon as aforesaid or for any other weapon) which contains or is designed or adapted to contain any noxious liquid, noxious gas, or other noxious thing;

“registered firearms dealer” means a firearms dealer who is for the time being registered in the register of firearms dealers established in pursuance of this Act;”.

—Jim O’Keeffe.

15.

In paragraph (a), in the definition of “restricted ammunition”, to delete “the expression”.

—Jim O’Keeffe.

16.

In paragraph (a), in the definition of “restricted firearm”, to delete “the expression”.

—Jim O’Keeffe.

17.

In paragraph (a), in the definition of “restricted firearm”, after “firearm;” to insert “and”.

—Jim O’Keeffe.

18.

In the inserted section 25, paragraph (a), in the definition of “working mechanism”, to delete “the expression”.

—Jim O’Keeffe.

19.

In paragraph (a), in the definition of “working mechanism”, to delete “ammunition;”, and” and substitute “ammunition.”.”.

—Jim O’Keeffe.

[SECTION 24]

20.

Delete paragraph (b).

—Jim O’Keeffe.

103. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 2 of Principal Act.

26.—Section 2 of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (2A):

“(2A) A person who is guilty of an offence under this section is liable

(a) in case the firearm is a restricted firearm or the ammunition is restricted ammunition—

(i) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, and

(ii) on conviction on indictment, to a fine not exceeding €20,000 or imprisonment for a term not exceeding 7 years or both, and

(b) in any other case—

(i) on summary conviction, to a fine not exceeding €2,500 or imprisonment for a term not exceeding 12 months or both, and

(ii) on conviction on indictment, to a fine not exceeding €10,000 or imprisonment for a term not exceeding 5 years or both.”,

(b) by the deletion of subsection (2B),

(c) in subsection (4)—

(i) by the deletion, in paragraph (c), of “this Act” and the insertion of “the Firearms Act 1964”,

(ii) by the substitution of the following paragraph for paragraph (d):

“(d) the possession, use or carriage of a firearm or ammunition during a competition or target practice at a club or shooting range that stands authorised under this section or section 4A of this Act”,

and

(iii) by the substitution of the following paragraphs for paragraph (j):

[SECTION 24]

“(j) the possession or carriage of a firearm or ammunition by a person, or the employee of a person, authorised under section 10(4A) of this Act,

(k) the possession, use or carriage of a firearm or ammunition for the purpose of bird control at an airport by an employee or agent of the airport authority who stands authorised in that behalf under this section.”,

(d) in subsection (5)(a), by the deletion of “or (h)” and the insertion of “, (h) or (j)”,

(e) in subsection (5)(c), by the deletion of “rifle or other gun”, and

(f) by the addition of the following subsection:

“(6) In subsections (3)(g) and (4) (other than paragraphs (d), (i) and (k)), references to a firearm or ammunition do not include references to a restricted firearm or restricted ammunition.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

104. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 2A in Principal Act.

27.—The following section is inserted after section 2 of the Principal Act:

“Firearms training certificate.

2A.—(1) The Commissioner, on application and payment of the prescribed fee (if any), may issue to a person over 14 years of age a certificate (in this Act referred to as a “firearms training certificate”) authorising the person to possess a firearm and ammunition (except a restricted firearm and restricted ammunition) only while—

(a) carrying and using the firearm for hunting or target shooting—

(i) under the supervision of a specified person over 18 years of age who holds a firearm certificate in respect of it, and

(ii) where the firearm is used for target shooting, on the premises of an authorised rifle or pistol club or at an authorised shooting range,

and

(b) complying with such other conditions (if any) as the Commissioner may impose in the interests of public safety and security.

(2) Where the applicant is under 16 years of age, the application for a firearms training certificate shall be accompanied by the written consent of the applicant’s parent or guardian.

(3) The firearms training certificate shall be in the prescribed form.

[SECTION 24]

(4) Where such an application is refused, the Minister shall inform the applicant in writing and give the reasons for the refusal.

(5) A firearms training certificate shall continue in force for a period of 3 years from the date on which it was granted, unless revoked.

(6) The Commissioner may revoke a firearms training certificate if of opinion that the holder is not complying, or has not complied, with the conditions subject to which the certificate was granted.

(7) A holder of a firearms training certificate who, without reasonable excuse, does not comply with the conditions subject to which the certificate was granted is guilty of an offence and liable on summary conviction—

(a) for a first offence, to a fine not exceeding €500, and

(b) for any subsequent offence, to a fine not exceeding €1,000.

(8) It is an offence under this Act for the holder of a firearm certificate in respect of the firearm to which the firearms training certificate relates to permit, without reasonable excuse, the holder of that certificate to carry or use the firearm while not under his or her supervision.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 104

1.

In the inserted section 2A(1), to delete “over 14 years of age” and substitute “, aged not less than 16 years,”.

—Jim O’Keeffe.

2.

In the inserted section 2A(1)(a)(i), to delete “over 18 years of age” and substitute “, aged not less than 21 years,”.

—Jim O’Keeffe.

3.

In the inserted section 2A(2), to delete “Where the applicant is under 16 years of age, the” and substitute “In the case of a person aged less than 18 years, an”.

—Jim O’Keeffe.

4.

In the inserted section 2A(5), to delete “3 years” and substitute “2 years”.

—Jim O’Keeffe.

5.

In the inserted section 2A(6), after “if” to insert “he or she is”.

—Jim O’Keeffe.

[SECTION 24]

6.

In the inserted section 2A(6), after “of” to insert “the”.

—Jim O’Keeffe.

7.

In the inserted section 2A(7), to delete “granted” and substitute “granted,”.

—Jim O’Keeffe.

8.

In the inserted section 2A(8), to delete “relates” and substitute “relates,”.

—Jim O’Keeffe.

105. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 2B in Principal Act.

28.—The following section is inserted after section 2A of the Principal Act:

“Restricted firearms and ammunition.

2B.—The Minister may, in the interests of public safety and security, by order—

(a) declare specified firearms to be restricted firearms for the purposes of this Act by reference to one or more than one of the following criteria:

- (i) category;
- (ii) calibre;
- (iii) working mechanism;
- (iv) muzzle energy;
- (v) description;

and

(b) declare specified ammunition to be restricted ammunition for the purposes of this Act by reference to one or more than one of the following criteria:

- (i) category;
- (ii) calibre;
- (iii) weight;
- (iv) kinetic energy;
- (v) ballistic co-efficient;
- (vi) design;
- (vii) composition;

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(viii) description.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

106. In page 25, before section 24, but in Part 4 to insert the following new section:

“Substitution of section 3 of Principal Act.

29.—The following section is substituted for section 3 of the Principal Act:

“Applications for, and form and effect of, firearm certificates.

3.—(1) Application for a firearm certificate (other than a restricted firearm certificate) shall be made to the superintendent of the Garda Síochána of the district in which the applicant resides.

(2) Application for a restricted firearm certificate shall be made to the Commissioner.

(3) The application shall be in the prescribed form and be accompanied by—

(a) the prescribed fee (if any), and

(b) if the applicant intends to use the firearm to hunt and kill exempted wild mammals within the meaning of the Wildlife Act 1976 (other than hares), a current licence to do so under section 29(1) of that Act.

(4) The applicant shall supply in writing any further information that the superintendent or the Commissioner may require in the performance of his or her functions under this section.

(5) A firearm certificate shall be in the prescribed form and, subject to subsection (6) of this section, shall authorise the person to whom it is granted—

(a) to possess, use and carry the firearm specified in the certificate,

(b) to purchase ammunition for use in the firearm, and

(c) at any one time to possess or carry not more than the amount of ammunition specified in the certificate.

(6) Where the firearm is a shot-gun, the firearm certificate may, subject to subsection (11) of this section, authorise it to be used only for killing animals or birds other than protected wild animals or protected wild birds within the meaning of the Wildlife Act 1976 by the holder of the certificate either (as may be expressed in the certificate)—

(a) on land occupied by the holder, or

(b) on land occupied by another person.

[SECTION 24]

(7) A firearm certificate which is in force shall continue in force for a period of 3 years from the date on which it was granted, unless revoked, and for any further such period for which it may be renewed.

(8) The holder of a firearm certificate may apply for renewal of the certificate within one month before it ceases to be in force.

(9) A decision on an application for a firearm certificate or its renewal shall be given within 3 months from the date on which the applicant submitted a completed application form.

(10) Where the application is refused, the applicant shall be informed in writing of the refusal and the reason for it.

(11) The following provisions have effect in relation to a certificate in the form referred to in subsection (6) of this section (in this subsection referred to as a "limited certificate"):

- (a) a limited certificate relating to land occupied by a person other than the applicant for the certificate shall not be granted unless the occupier of the land has given the applicant a nomination in writing for holding the certificate;
- (b) a limited certificate relating to any land shall not be granted in respect of any period if there is a limited certificate relating to the land already in force in respect of that period;
- (c) a limited certificate shall not be granted unless the whole of the land to which it would relate is occupied by one person;
- (d) where a nomination referred to in paragraph (a) of this subsection is revoked, the limited certificate to which it related, if then in force, shall not be capable of being renewed.

(12) A firearm in respect of which a firearm certificate is granted shall be marked in the prescribed manner with a number or other prescribed identifying mark, and the number or mark shall be entered on the certificate.

(13) A person who—

- (a) knowingly gives false or misleading information to an issuing person in relation to an application for a firearm certificate or for its renewal,
- (b) forges a document purporting to be a firearm certificate or uses or knowingly possesses it, or
- (c) with intent to deceive, uses or alters a firearm certificate or uses a firearm certificate so altered,

is guilty of an offence and liable—

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(i) on summary conviction, to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both, or

(ii) on conviction on indictment, to a fine not exceeding €20,000 or imprisonment for a term not exceeding 5 years or both.

(14) Subsection (13) of this section is without prejudice to Part 4 of the Criminal Justice (Theft and Fraud Offences) Act 2001.

(15) Section 12 (limited use of shot-gun) of the Firearms Act 1964 is repealed.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 106

1.

In the inserted section 3(1), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In the inserted section 3(6), to delete “wild birds” and substitute “wild birds,”.

—Jim O’Keeffe.

3.

In the inserted section 3(6), to delete “1976” and substitute “1976,”.

—Jim O’Keeffe.

4.

In the inserted section 3(6)(b), after “person” to insert “, where the permission of that person has been obtained”.

—Jim O’Keeffe.

107. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 3A in Principal Act.

30.—The following section is inserted after section 3 of the Principal Act:

“Issue of guidelines etc. by Commissioner.

3A.—(1) The Commissioner may, with the consent of the Minister, from time to time issue guidelines in relation to the practical application and operation of any provision of the *Firearms Acts 1925 to 2006*.

(2) In particular, the Commissioner may issue such guidelines in relation to applications for firearm certificates and authorisations under this Act and to the conditions which may be attached to those certificates and authorisations.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

108. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 4 of Principal Act.

31.—The following section is substituted for section 4 of the Principal Act:

“Conditions of grant of firearm certificate. 4.—(1) An issuing person shall not grant a firearm certificate unless he or she is satisfied that the applicant complies with the conditions referred to in subsection (2) and will continue to comply with them during the currency of the certificate.

(2) The conditions subject to which a firearm certificate may be granted are that, in the opinion of the issuing person, the applicant

- (a) has a good reason for requiring the firearm in respect of which the certificate is applied for,
- (b) can be permitted to possess, use and carry the firearm and ammunition without danger to the public safety or security or the peace,
- (c) is not a person declared by this Act to be disentitled to hold a firearm certificate,
- (d) has provided secure accommodation for the firearm and ammunition at the place where it is to be kept,
- (e) where the firearm is to be used for target shooting, is a member of an authorised rifle or pistol club,
- (f) has complied with subsection (3),
- (g) complies with such other conditions (if any) specified in the firearm certificate, including any such conditions to be complied with before a specified date as the issuing person considers necessary in the interests of public safety or security, and
- (h) in case the application is for a restricted firearm certificate—
 - (i) has a good and sufficient reason for requiring such a firearm, and
 - (ii) has demonstrated that the firearm is the only type of weapon that is appropriate for the purpose for which it is required.

(3) An applicant for a firearm certificate shall supply to the issuing person the information requested in the application form and such further information as the issuing person may require in the performance of the person’s functions under this Act, including, in particular—

- (a) proof of identity,
- (b) proof of competence in the use of the firearm concerned,

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(c) written consent for any enquiries in relation to the applicant's medical history that may be made from a health professional by or on behalf of the issuing person, and

(d) names and addresses of two referees who may be contacted to attest to the applicant's character.

(4) A member of the Garda Síochána may inspect the accommodation for a firearm provided by an applicant for a firearm certificate or require the applicant to provide proof of its existence.

(5) The Minister, in consultation with the Commissioner, may by regulations provide for minimum standards to be complied with by holders of firearm certificates in relation to the provision of secure accommodation for their firearms.

(6) In this section "health professional" means a person who is a doctor, psychiatrist, dentist, optician, chemist or nurse and registered under any enactments governing the profession concerned or a clinical psychologist.".

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 108

1.

In the inserted section 4(2), after paragraph (e), to insert the following:

"(f) is of sound mental and psychiatric health,

(g) has sufficient capacity to possess and operate a firearm responsibly and safely,".

—Jim O'Keeffe.

2.

In the inserted section 4(2), to delete "(f)" and substitute "(h)".

—Jim O'Keeffe.

3.

In the inserted section 4(2), to delete "(g)" and substitute "(i)".

—Jim O'Keeffe.

4.

In the inserted section 4(2), to delete "(h)" and substitute "(j)".

—Jim O'Keeffe.

5.

In the inserted section 4(4), to delete "the Garda Síochána" and substitute "an Garda Síochána".

—Jim O'Keeffe.

6.

[SECTION 24]

In the inserted section 4(5), to delete “regulations” and substitute “regulations,”.
—Jim O’Keeffe.

7.

In the inserted section 4(6), to delete “doctor,” and substitute “medical doctor or”.
—Jim O’Keeffe.

8.

In the inserted section 4 (6), to delete “, dentist, optician, chemist or nurse”.
—Jim O’Keeffe.

9.

In the inserted section 4(6), to delete “concerned” and substitute “concerned,”.
—Jim O’Keeffe.

109. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 4A of Principal Act.

32.—The following section is inserted after section 4 of the Principal Act:

“Authorisation of rifle or pistol clubs or shooting ranges.

4A.—(1) A rifle or pistol club or the owner or operator of a rifle or pistol shooting range shall not allow any firearm or ammunition to be used or stored on the premises of or at the club or shooting range in connection with target shooting unless an authorisation under this section to do so is in force.

(2) An application for such an authorisation shall be made to the Commissioner in the prescribed form by an officer of the club authorised in that behalf or by the owner or operator of the shooting range.

(3) The application shall be accompanied by—

(a) the prescribed fee, and

(b) in the case of a shooting range, a firearms range certificate which is in force.

(4) The application form shall contain a copy of any regulations under subsection (13) or of the material part of them.

(5) The applicant shall supply in writing any further information that the Commissioner may need in the performance of his or her functions under this Act.

(6) The Commissioner shall grant an authorisation to the applicant for the use and storage of rifles, pistols and ammunition on the premises of the club or shooting range concerned, or on a specified part of those premises, for the purpose of target shooting only if satisfied—

[SECTION 24]

- (a) that their use or storage will not endanger public safety or security or the peace,
- (b) that the club or shooting range is responsibly managed, and
- (c) in the case of a shooting range, that a firearms range certificate in respect of it is in force.

(7) A decision on the application shall be given within 3 months from the date on which a completed application form was submitted.

(8) The Commissioner may at any time by notice in writing—

- (a) attach to the authorisation such conditions as he or she thinks necessary for the purpose of securing that the operation of the club or shooting range and the use and storage of rifles, pistols and ammunition on the premises of or at the club or range concerned does not endanger public safety or security or the peace,
- (b) at any time for that purpose vary any of those conditions, and
- (c) require that some or all of them be complied with before a specified date.

(9) An authorisation which is in force shall continue in force for a period of 5 years from the date on which it was granted, unless revoked, and for any further such period or periods for which it may be renewed.

(10) A renewal of an authorisation may be applied for within 3 months before the authorisation ceases to be in force.

(11) The Commissioner may, if no longer satisfied in relation to any of the matters mentioned in paragraphs (a) to (c) of subsection (6), revoke the authorisation of the club or shooting range concerned by notice in writing addressed to the applicant or the person or persons for the time being responsible for its management.

(12) On receipt of such a notice the person or persons so notified shall forthwith surrender to the superintendent of the district in which the club or range is situated the authorisation and any rifles, pistols or ammunition stored on its premises.

(13) The Minister, in consultation with the Commissioner, may by regulations specify minimum standards to be complied with by a rifle or pistol club or shooting range before an authorisation under this section may be granted in respect of it.

(14) The minimum standards shall be determined—

- (a) in the case of a club, by reference to any or all of the following matters:

[SECTION 24]

- (i) security of its premises;
 - (ii) membership;
 - (iii) management,
- (b) in the case of a shooting range, by reference to any or all of the following matters:
- (i) security of the range;
 - (ii) membership;
 - (iii) management;
 - (iv) design, construction and maintenance;
 - (v) types of firearms and ammunition to be used;
 - (vi) level of competence of persons using the range.

(15) For the purpose of ascertaining whether conditions attached to an authorisation under this section are being complied with, a member of the Garda Síochána authorised in that behalf may, on production if required of the authorisation or a copy of it, enter any premises occupied or used by the club or shooting range concerned and inspect the premises and anything in them.

(16) Any person who by act or omission impedes or obstructs a member of the Garda Síochána in the exercise of the member's functions under subsection (15) of this section is guilty of an offence and liable on summary conviction to a fine of €1,000 and imprisonment for a term of 3 months or both.

(17) The Commissioner shall cause a register of clubs and shooting ranges for the time being authorised under this section to be established and maintained.

(18) It is an offence—

- (a) for a club or the owner or operator of a shooting range—
 - (i) to contravene subsection (1) of this section, or
 - (ii) without reasonable excuse, not to comply with any conditions attached to an authorisation under this section,
- (b) for a person not to comply with subsection (12) of this section, or
- (c) for a person, without reasonable excuse, to participate in the activities of such a club or shooting range for which an authorisation under this section is not in force.

(19) In proceedings against a person for an offence under subsection (18)(a)(i) of this section it is a defence to prove that the defendant took reasonable precautions and exercised due diligence to avoid committing the offence.

[SECTION 24]

(20) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both, and

(b) on conviction on indictment, to a fine not exceeding €20,000 or imprisonment for a term not exceeding 7 years or both.

(21) In this section—

“firearms range certificate” means a certificate issued under section 4B(3)(a) of this Act;

“rifle or pistol club” means a club established for the purpose of promoting skill in the use of rifles and pistols for target shooting;

“shooting range” does not include a range or shooting gallery referred to in section 2(4)(e) of this Act.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 109

1.

In the inserted section 4A(1), to delete “shooting unless an authorisation under this section to do so” and substitute “shooting, unless an authorisation to do so, under this section,”.

—Jim O’Keeffe.

2.

In the inserted section 4A(2), to delete “Commissioner” and substitute “Commissioner,”.

—Jim O’Keeffe.

3.

In the inserted section 4A(2), to delete “form” and substitute “form,”.

—Jim O’Keeffe.

4.

In the inserted section 4A(5), to delete “supply” and substitute “supply,”.

—Jim O’Keeffe.

5.

In the inserted section 4A(5), to delete “writing” and substitute “writing,”.

—Jim O’Keeffe.

6.

In the inserted section 4A(5), to delete “need” and substitute “deem necessary”.

—Jim O’Keeffe.

7.

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In the inserted section 4A(8), to delete “time” and substitute “time,”.

—Jim O’Keeffe.

8.

In the inserted section 4A(8)(c), to delete “with” and substitute “with,”.

—Jim O’Keeffe.

9.

In the inserted section 4A(9), to delete “authorisation” and substitute “authorisation,”.

—Jim O’Keeffe.

10.

In the inserted section 4A(9), to delete “force” where it firstly occurs and substitute “force,”.

—Jim O’Keeffe.

11.

In the inserted section 4A(12), to delete “district” and substitute “district,”.

—Jim O’Keeffe.

12.

In the inserted section 4A(12), to delete “situated” and substitute “situated,”.

—Jim O’Keeffe.

13.

In the inserted section 4A(15), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

14.

In the inserted section 4A(16), after “omission” to insert “knowingly”.

—Jim O’Keeffe.

15.

In the inserted section 4A(16), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

16.

In the inserted section 4A(18)(a), to delete “club” and substitute “club,”.

—Jim O’Keeffe.

17.

In the inserted section 4A(21), in the definition of “rifle or pistol club” after “established” to insert “, *inter alia*,”.

—Jim O’Keeffe.

[SECTION 24]

110. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 4B in Principal Act.

33.—The following section is inserted in the Principal Act after section 4:

“Firearms range inspectors. 4B.—(1) The Minister may by warrant appoint such and so many persons as he or she thinks necessary to be firearms range inspectors and may revoke any such appointment.

(2) It shall be the duty of a firearms range inspector—

(a) to examine applications for the authorisation of rifle and pistol shooting ranges, and

(b) to inspect rifle and pistol shooting ranges for the purpose of ensuring their compliance with the minimum standards provided for in regulations under section 4A (13) of this Act.

(3) After inspecting a rifle or pistol shooting range, an inspector may—

(a) if satisfied that the range complies with those minimum standards, issue a firearms range certificate in respect of it, and

(b) if not so satisfied, refuse to issue such a certificate or revoke any such certificate that is in force.

(4) An inspector who suspects, with reasonable cause, that any place is being used for rifle or pistol target shooting may enter and inspect it.

(5) The Minister shall issue to each inspector the warrant of appointment, or a copy of it, for production, on request, when an inspector is exercising any power conferred by this section.

(6) The terms and conditions of appointment of firearms range inspectors shall be determined by the Minister, with the consent of the Minister for Finance.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 110

1.

In the inserted section 4B(1), to delete “may” where it firstly occurs and substitute “may,”.

—Jim O’Keeffe.

2.

In the inserted section 4B(1), to delete “warrant” and substitute “warrant,”.

—Jim O’Keeffe.

3.

In the inserted section 4B(1), after “appointment” to insert the following:

[SECTION 24]

“, at any time, by giving notice in writing to the firearms range inspector in question”.

—Jim O’Keeffe.

4.

In the inserted section 4B(2)(b), after “ranges” to insert “, on a regular and on-going basis”.

—Jim O’Keeffe.

5.

In the inserted section 4B(4), after “it” to insert “, at any time and without prior notice”.

—Jim O’Keeffe.

111. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 5 of Principal Act.

34.—The following section is substituted for section 5 of the Principal Act:

“Revocation of firearm certificates.

5.—(1) An issuing person may at any time revoke a firearm certificate granted by the person if satisfied that the holder of the certificate—

- (a) has not a good reason for requiring the firearm to which the certificate relates,
- (b) is a person who cannot, without danger to the public safety or security or the peace, be permitted to possess a firearm,
- (c) is a person who is declared by this Act to be disqualified to hold a firearm certificate,
- (d) where the firearm certificate limits the purposes for which the firearm to which it relates may be used, is using the firearm for purposes not authorised by the certificate,
- (e) has not complied with a condition attached to the grant of the certificate, or
- (f) where the firearm is authorised to be carried or used by a holder of a firearms training certificate, has, without reasonable excuse, permitted the holder of that certificate to carry or use the firearm while not under his or her supervision.

(2) The reason for revoking a firearm certificate shall be communicated in writing by the issuing person to the holder of the certificate.

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(3) Where a firearm certificate is revoked or otherwise ceases to be in force, the issuing person may direct in writing that the holder surrender the firearm or ammunition concerned or both to the custody of the superintendent of the district where the holder resides or to a member of the Garda Síochána acting on the superintendent's behalf.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 111

1.

In the inserted section 5(1)(a), to delete “has not” and substitute “does not have”.

—Jim O’Keeffe.

2.

In the inserted section 5(1)(b), to delete “security or” and substitute “security, or to”.

—Jim O’Keeffe.

3.

In the inserted section 5(1)(f), to delete “where the firearm” and substitute “in the case of a firearm that”.

—Jim O’Keeffe.

4.

In the inserted section 5(3), to delete “resides” and substitute “resides,”.

—Jim O’Keeffe.

5.

In the inserted section 5(3), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

112. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 6 of Principal Act.

35.—Section 6 of the Principal Act is amended—

(a) by the deletion of “When a Superintendent revokes a firearm certificate” and the insertion of “When a firearm certificate is revoked”, and

(b) in paragraph (a), by the insertion of “of the district in which the person resides” after “Superintendent”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

113. In page 25, before section 24, but in Part 4, to insert the following new section:

[SECTION 24]

“Amendment of section 8 of Principal Act.

36.—Section 8 of the Principal Act is amended in subsection (1) by the deletion of paragraphs (d) and (e) and the insertion of the following paragraph:

“(d) any person who has been sentenced to imprisonment for—

(i) an offence under the *Firearms Acts 1925 to 2006*, the Offences Against the State Acts 1939 to 1998 or the Criminal Justice (Terrorist Offences) Act 2005, or

(ii) an offence under the law of another state involving the production or use of a firearm,

and the sentence has not expired or it expired within the previous 5 years, and”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 113

1.

In the inserted paragraph (d), to delete subparagraph (i) and substitute the following:

“(i) a serious offence under any one of the following Acts:

(I) the Offences Against the Person Act 1828;

(II) the Malicious Damage Act 1861;

(III) the Offences Against the Person Act 1861;

(IV) the *Explosives Acts 1875 to 2006*;

(V) the *Firearms Acts 1925 to 2006*;

(VI) the Offences Against the State Acts 1939 to 1998;

(VII) the Misuse of Drugs Act 1977;

(VIII) the Criminal Law (Rape) Act 1981;

(IX) the Misuse of Drugs Act 1984;

(X) the Prohibition of Incitement to Hatred Act 1989;

(XI) the Criminal Law (Rape) (Amendment) Act 1990;

(XII) the Criminal Damage Act 1991;

(XIII) the Criminal Justice (Drug Trafficking) Act 1996;

(XIV) the Non-Fatal Offences Against the Person Act 1997; or

(XV) the Criminal Justice (Terrorist Offences) Act 2005,

(ii) an offence under any one of the following Acts:

(I) the *Firearms Acts 1925 to 2006*;

(II) the Offences Against the State Acts 1939 to 1998; or

[SECTION 24]

- (III) the Criminal Justice (Terrorist Offences) Act 2005,
(iii) any violent crime, or”.

—Jim O’Keeffe.

2.

In the inserted paragraph (d), to delete “(ii)” and substitute “(iv)”.

—Jim O’Keeffe.

114. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of
section 9 of
Principal Act.

37.—Section 9 of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (4):

“(4) The registration of a person in the register of firearms dealers shall continue in force for a period of 3 years from the date of the registration, unless previously revoked and, if renewed, for a further period of 3 years from the expiration of that period or, as the case may be, of any subsequent such period for which the registration was renewed.”,

and

(b) by the insertion of the following subsections after subsection (9):

“(10) The Minister, after consultation with the Commissioner, may by regulations specify minimum standards to be complied with in relation to premises in which a firearms dealer carries on business or proposes to do so.

(11) The minimum standards shall be determined by reference to—

- (a) the security of the premises,
(b) their safety, and
(c) their standard of construction,

and having regard to their use for, as the case may be, the manufacture, repair, testing, proving or sale of firearms or ammunition.

(12) Applicants for renewal of registration shall satisfy the Minister that their premises comply with the minimum standards specified in any regulations under subsection (10) of this section.

(13) Without prejudice to subsection (3) of this section, the following persons are declared to be disentitled to be registered in the register of firearms dealers:

- (a) a person under the age of 18 years;

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- (b) a person of unsound mind;
- (c) a person who has been sentenced to imprisonment for an offence under the *Firearms Acts 1925 to 2006*, the *Offences Against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*;
- (d) a person who is bound by a recognisance to keep the peace or be of good behaviour, a condition of which is that the person shall not possess, use or carry a firearm or ammunition.”.”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 114

1.

In paragraph (b), in the inserted subsection (10), to delete “may” and substitute “may,”.

—Jim O’Keeffe.

2.

In paragraph (b), in the inserted subsection (10), to delete “regulations” and substitute “regulations,”.

—Jim O’Keeffe.

3.

In paragraph (b), in the inserted subsection (11), after “and” and substitute “by”.

—Jim O’Keeffe.

4.

In paragraph (b), in the inserted subsection (12), to delete “Applicants” and substitute “An applicant”.

—Jim O’Keeffe.

5.

In paragraph (b), in the inserted subsection (12), to delete “their” and substitute “his or her”.

—Jim O’Keeffe.

6.

In paragraph (b), in the inserted subsection (13)(a), to delete “18” and substitute “21”.

—Jim O’Keeffe.

7.

In paragraph (b), in the inserted subsection (13) to delete paragraph (c) and substitute the following:

“(c) a person who has been sentenced to imprisonment for—

(i) a serious offence under any one of the following Acts:

(I) the *Offences Against the Person Act 1828*;

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- (II) the Malicious Damage Act 1861;
 - (III) the Offences Against the Person Act 1861;
 - (IV) the *Explosives Acts 1875 to 2006*;
 - (V) the *Firearms Acts 1925 to 2006*;
 - (VI) the Offences Against the State Acts 1939 to 1998;
 - (VII) the Misuse of Drugs Act 1977;
 - (VIII) the Criminal Law (Rape) Act 1981;
 - (IX) the Misuse of Drugs Act 1984;
 - (X) the Prohibition of Incitement to Hatred Act 1989;
 - (XI) the Criminal Law (Rape) (Amendment) Act 1990;
 - (XII) the Criminal Damage Act 1991;
 - (XIII) the Criminal Justice (Drug Trafficking) Act 1996;
 - (XIV) the Non-Fatal Offences Against the Person Act 1997; or
 - (XV) the Criminal Justice (Terrorist Offences) Act 2005,
- (ii) an offence under any one of the following Acts:
- (I) the *Firearms Acts 1925 to 2006*;
 - (II) the Offences Against the State Acts 1939 to 1998; or
 - (III) the Criminal Justice (Terrorist Offences) Act 2005,
- (iii) any violent crime, or
- (iv) an offence under the law of another state involving the production or use of a firearm,
- and the sentence has not expired or it expired within the previous 5 years;”.

—Jim O’Keeffe.

115. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 10 of Principal Act.

38.—Section 10 is amended by the insertion of the following subsections after subsection (4):

“(4A) It is an offence for—

- (a) a registered firearms dealer (notwithstanding subsection (1) of this section),

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(b) a person engaged in the business of carrying or warehousing goods for reward, or

(c) an auctioneer who stands authorised under section 13 of the Firearms Act 1964,

to possess, use, carry, sell or expose for sale a restricted firearm in the ordinary course of business, unless authorised to do so by an authorisation under this section which is in force.

(4B) Application for such an authorisation shall be made to the Minister in the prescribed form by a person mentioned in subsection (4A) and be accompanied by the prescribed fee (if any).

(4C) The applicant shall supply in writing any further information that the Minister may require in the performance of his or her functions under this section.

(4D) An application for renewal of an authorisation may be made within 3 months before it ceases to be in force.

(4E) An application for an authorisation or its renewal shall be refused if granting it would, in the opinion of the Minister, prejudice public safety or security.

(4F) A decision on an application for an authorisation or its renewal shall be given within 3 months from the date on which the applicant submitted a completed application form.

(4G) An authorisation under this section which is in force shall, unless earlier revoked, continue in force for a period of 3 years from the date on which it was granted and, if renewed, for a further period of 3 years from the expiration of that period or, as the case may be, of any subsequent such period for which the authorisation was renewed.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

116. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 10A in Principal Act.

39.—The following section is inserted after section 10 of the Principal Act:

“Reloading of ammunition. 10A.—(1) A person (except a registered firearms dealer or the holder of a licence under this section) who reloads ammunition is guilty of an offence.

(2) An application for a licence under this section shall be in the prescribed form, be accompanied by the prescribed fee (if any) and be made to the superintendent of the Garda Síochána of the district in which the applicant resides.

(3) A superintendent shall not grant a licence under this section unless satisfied that the following conditions are complied with:

(a) the applicant holds a firearm certificate;

[SECTION 24]

- (b) the reloading of ammunition will not, in the particular circumstances, endanger public safety or security or the peace;
 - (c) the person has a special need which, in the opinion of the superintendent, is sufficient to justify granting the licence;
 - (d) the applicant is competent to reload ammunition;
 - (e) the premises where the reloading is to take place are sufficiently safe and secure for that purpose.
- (4) The superintendent may at any time—
- (a) attach to the licence such further conditions as he or she considers necessary for the purpose of preventing danger to members of the public or the peace or for ensuring that ammunition is reloaded only to satisfy the special need of the applicant, and
 - (b) for that purpose vary any of those conditions.
- (5) The licence—
- (a) shall be in the prescribed form,
 - (b) shall be granted for a specified period not exceeding 3 years, and
 - (c) may be revoked by the superintendent if he or she is no longer satisfied that any condition mentioned in subsection (3) of this section is being or will be complied with.
- (6) A person who, without reasonable excuse, does not comply with a condition mentioned in subsection (3) or (4) of this section is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding one year or both, or
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.
- (7) The Minister may by order specify the maximum quantity and type of component parts of ammunition that may be purchased, sold, stored or used to reload ammunition by an individual who holds a licence under this section or a registered firearms dealer.
- (8) In this section “reloading ammunition” means making ammunition from spent ammunition, and cognate expressions shall be construed accordingly.”.”
- An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 116

[SECTION 24]

I.

In the inserted section 10A(2), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

117. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 11 of Principal Act.

40.—Section 11 of the Principal Act is amended—

(a) in subsection (2), by the substitution of the following paragraph for paragraph (d):

“(d) has become a person who is declared under section 9(13) of this Act to be disqualified to be registered in the register of firearms dealers,”,

and

(b) by the substitution of the following subsections for subsection (3):

“(3) A person whose name is removed under this section from the register of firearms dealers shall, on such removal, forthwith deliver up to the Minister—

(a) the person’s certificate of registration or renewal, and

(b) the register kept by the person under subsection (1) of section 12 of this Act.

(4) A person who contravenes subsection (3) of this section is guilty of an offence and on summary conviction is liable to a fine not exceeding €1,000.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

118. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 15 of Principal Act.

41.—The following section is substituted for section 15 of the Principal Act:

“Possession of firearms with intent to endanger life.

15.—(1) Any person who possesses or controls any firearm or ammunition—

(a) with intent to endanger life or cause serious injury to property, or

(b) with intent to enable any other person by means of the firearm or ammunition to endanger life or cause serious injury to property,

[SECTION 24]

shall, whether any injury to person or property has or has not been caused thereby, be guilty of an offence.

(2) A person guilty of an offence under this section is liable on conviction on indictment—

(a) to imprisonment for life or such shorter term as the court may, subject to subsections (4) to (6) of this section, determine, and

(b) at the court's discretion, to a fine of such amount as the court considers appropriate,

and the firearm or ammunition concerned shall be forfeited.

(3) The court, in imposing sentence on a person for an offence under this section, may, in particular, have regard to whether the person has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the Offences against the State Acts 1939 to 1998 or the Criminal Justice (Terrorist Offences) Act 2005.

(4) Where a person (except a person under the age of 18 years) is convicted of an offence under this section, the court shall, in imposing sentence, specify a term of imprisonment of not less than 10 years as the minimum term of imprisonment to be served by the person.

(5) Subsection (4) of this section does not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or the person convicted of it, which would make a sentence of imprisonment of not less than 10 years unjust in all the circumstances, and for this purpose the court may have regard to any matters it considers appropriate, including—

(a) whether the person pleaded guilty to the offence and, if so—

(i) the stage at which the intention to plead guilty was indicated,

(ii) the circumstances in which the indication was given,

and

(b) whether the person materially assisted in the investigation of the offence.

(6) The court, in considering for the purposes of subsection (5) of this section whether a sentence of not less than 10 years imprisonment is unjust in all the circumstances, may have regard, in particular, to—

(a) whether the person convicted of the offence has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the Offences Against the State Acts 1939 to 1998 or the Criminal Justice (Terrorist Offences) Act 2005, and

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(b) whether the public interest in preventing the unlawful possession or use of firearms would be served by the imposition of a lesser sentence.

(7) Section 27C of the Firearms Act 1964 applies in relation to proceedings for an offence under this section and to any minimum term of imprisonment imposed in those proceedings.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment

1.

In the inserted section 15, to delete subsection (4).

—Aengus O’Snodaigh.

2.

In the inserted section 15, subsection (6)(b), after “sentence” to insert the following:

“and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

—Aengus O’Snodaigh.

119. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 15A in Principal Act.

42.—The following section is inserted after section 15 of the Principal Act:

“Appeal to District Court. 15A.—(1) An appeal may be made to the District Court by a person aggrieved by any of the following decisions made by an issuing person:

(a) to refuse to grant a firearms training certificate under section 2A of this Act;

(b) to refuse to grant or renew a firearm certificate under section 3 of this Act;

(c) to refuse to grant or renew an authorisation for a rifle or pistol club or shooting range under section 4A of this Act;

(d) to revoke a firearm certificate under section 5 of this Act;

(e) to refuse to register a person, or to renew a registration, in the register of firearms dealers under section 9 of this Act;

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- (f) to grant or renew an authorisation under section 10 of this Act;
- (g) to remove the name of a person from the register of firearms dealers under section 11 of this Act;
- (h) to refuse to grant a licence under section 10A of this Act;
- (i) to refuse to grant an authorisation under section 16(1) of this Act;
- (j) to refuse to grant a licence for the import of firearms or ammunition or a prohibited weapon under section 17 of this Act or to vary such a licence or conditions named in it;
- (k) to refuse to renew a firearm certificate under section 9 of the Firearms Act 1964; or
- (l) to refuse to grant a firearm certificate, or to revoke such a certificate, under section 2 of the Firearms (Firearm Certificate for Non-Residents) Act 2000.

(2) An appeal shall be made within 30 days of receipt of notice of the decision concerned.

(3) On the appeal the Court may—

- (a) confirm the decision,
- (b) adjourn the proceedings and direct the issuing person to reconsider the decision in the light of the appeal proceedings, or
- (c) allow the appeal.

(4) Where the appeal is allowed, the issuing person shall give effect to the Court's decision.

(5) The jurisdiction conferred on the District Court by this section shall be exercised by the judge of that Court assigned to the district in which the appellant resides or carries on business.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

120. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 17 of Principal Act.

43.—Section 17 of the Principal Act is amended by the insertion of the following subsections after subsection (4):

“(4A) Notwithstanding subsections (1) to (4) of this section, a licence for importing a firearm, ammunition or prohibited weapon may not be granted unless—

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- (a) the applicant has a good reason for importing it,
- (b) granting the licence would not prejudice public safety or security, and
- (c) if the application relates to a restricted firearm or restricted ammunition, the applicant—
 - (i) if a registered firearms dealer, possesses an authorisation under section 10 of this Act, or
 - (ii) in any other case, is the holder of a restricted firearm certificate in respect of the firearm or ammunition concerned,which is in force.

(4B) An applicant for a licence under this section shall supply in writing any further information that the Minister may require in the performance of his or her functions under this section.

(4C) The reason for refusing an application for a licence under this section or for its renewal shall be communicated in writing to the applicant.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

121. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 25 of Principal Act.

44.—The following section is substituted for section 25 of the Principal Act:

“Punishments. 25.—Any person who commits an offence under this Act in respect of which no other punishment is provided is liable in respect of each such offence—

(a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €20,000 or imprisonment for a term not exceeding 5 years or both.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

122. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 25A of Principal Act.

45.—The following section is inserted after section 25 of the Principal Act:

“Surrender of firearms and offensive weapons. 25A.—(1) The Minister may by order appoint a specified period during which a person may surrender at any Garda station any of the following weapons:

(a) a firearm;

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- (b) a flick-knife;
- (c) a weapon of offence.

(2) When surrendering a weapon during the specified period, the person—

- (a) shall give his or her name and address to a member of the Garda Síochána at the Garda Síochána station concerned, and
- (b) shall be informed by the member that the weapon and any thing in which it was surrendered may be forensically examined or tested.

(3) Proceedings for an offence shall not be instituted against any person who surrenders a weapon under this section if—

- (a) in the case of a firearm, the offence consists only in the possession, carrying and use (other than in the commission of another offence) of the firearm without being the holder of a firearm certificate, in contravention of section 2 of this Act, or
- (b) in the case of a flick-knife or other weapon of offence, the offence is an offence under section 9(4) or 10(1)(b) of the Firearms and Offensive Weapons Act 1990.

(4) Any surrendered weapon or any substance or thing found on or in it or on or in any thing in which it was surrendered may be subjected to forensic examination or testing for the purpose of—

- (a) determining whether any such weapon, substance or thing is in a safe and stable condition, or
- (b) discovering information concerning an offence other than an offence referred to in subsection (3) of this section.

(5) In any proceedings, a surrendered weapon and any substance or thing referred to in subsection (4) of this section is admissible in evidence.

(6) A surrendered weapon may be disposed of in a manner deemed appropriate by the Commissioner.

(7) In this section—

“firearm” includes ammunition;

“flick-knife” has the meaning given to it in section 9(9) of the Firearms and Offensive Weapons Act 1990;

“weapon of offence” has the meaning given to it in section 10(2) of the said Act of 1990.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

1.

In the inserted section 25A(2)(a), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

123. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 25B.
in Principal Act.

46.—The following section is inserted in the Principal Act after section 25A:

“Surrender of firearm for ballistic testing. 25B.—(1) The Commissioner may by notice in writing require any person lawfully possessing a firearm to produce it at such time and place as may be specified in the notice for the purpose of having ballistic or other tests carried out on it and of establishing and recording its distinctive characteristics.

(2) A person who, without reasonable excuse, does not comply with such a notice is guilty of an offence under this Act.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

124. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 25C
in Principal Act.

47.—The following section is inserted after section 25B of the Principal Act:

“25C.—The Commissioner may appoint in writing a member of the Garda Síochána, or members of a particular rank in the Garda Síochána, not below the rank of superintendent to perform any of the Commissioner’s functions under this Act.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 124

1.

In the inserted section 25C, to delete “the Garda Síochána” where it firstly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In the inserted section 25C, to delete “the Garda Síochána” where it secondly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

125. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 25D
in Principal Act.

48.—The following section is inserted in the Principal Act after section 25C:

[SECTION 24]

“Liability of officers of bodies corporate.

25D.—(1) Where—

- (a) an offence under this Act is committed by a body corporate, and
- (b) it is proved to have been committed with the consent, connivance or approval of, or to have been attributable to any neglect on the part of, a person who—
 - (i) was a director, manager, secretary or other officer of the body corporate, or
 - (ii) was a person purporting to act in any such capacity,

that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if the person were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) of this section applies in relation to the acts and defaults of a member in connection with the member’s functions of management as if the member were a director or manager of the body corporate.

(3) The foregoing provisions apply, with the necessary modifications, where the offence was committed by an unincorporated body.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

126. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 27 of Principal Act.

49.—The following section is substituted for section 27 of the Principal Act:

“Regulations.

27.—(1) The Minister may make regulations prescribing any matter referred to in this Act as prescribed or to be prescribed or to be the subject of regulations or for the purpose of enabling any of its provisions to have full effect.

(2) The regulations may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations.

(3) Regulations prescribing fees shall be made with the consent of the Minister for Finance.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

127. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 27A in Principal Act.

50.—The following section is inserted after section 27 of the Principal Act:

[SECTION 24]

“Laying of orders or regulations before Houses of Oireachtas.

27A.—An order or regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling it is passed by either such House within the next 21 days on which that House has sat after it has been laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

128. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of Firearms Act 1964

Amendment of section 1 of Firearms Act 1964.

51.—Section 1 of the Firearms Act 1964 is amended—

(a) by the substitution of the following definition for the definitions of “the Commissioner” and “the Minister”:

““the Commissioner” means the Commissioner of the Garda Síochána or a member of the Garda Síochána, or members of a particular rank in the Garda Síochána, not below the rank of superintendent appointed in writing by the Commissioner for the purpose of performing any of the Commissioner’s functions under this Act;

“the Minister” means the Minister for Justice, Equality and Law Reform;”,

(b) by inserting the following definition after that of “the Commissioner”:

““firearm” includes a restricted firearm, unless otherwise provided or the context otherwise requires;”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 128

1.

In paragraph (a), in the inserted definition of “the Commissioner” to delete “the Garda Síochána” where it firstly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In paragraph (a), in the inserted definition of “the Commissioner” to delete “the Garda Síochána” where it secondly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

3.

In paragraph (a), in the inserted definition of “the Commissioner” to delete “the Garda Síochána” where it thirdly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

[SECTION 24]

129. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 9 of Firearms Act 1964.

52.—The following section is substituted for section 9 of the Firearms Act of 1964:

“Renewal of firearm certificate.

9.—(1) The Commissioner may from time to time renew a firearm certificate granted by him or her.

(2) The superintendent of the district where the holder of such a certificate resides may from time to time renew such a certificate.

(3) The superintendent of a district where the holder of a firearm certificate resides may from time to time renew a firearm certificate which has been granted by a superintendent.

(4) An inspector or sergeant of the Garda Síochána in the district where the holder of a firearm certificate issued by a superintendent resides may from time to time renew the certificate.

(5) A superintendent, or other member of the Garda Síochána, who is authorised under this section to renew a firearm certificate (“an authorised member”) may refuse to renew it, or vary any conditions to which it is subject under section 4(2)(g) of the Principal Act, only if prior sanction to do so in the particular case has been given by the Commissioner or superintendent, as the case may be.

(6) An application for renewal of a firearm certificate—

(a) shall be in the prescribed form,

(b) shall be accompanied by the prescribed fee (if any), and

(c) may be made within one month before the expiration of the certificate.

(7) A renewal of a firearm certificate shall be in the prescribed form.

(8) Before renewing a firearm certificate, an authorised member shall be of opinion that the conditions to which it is subject have been complied with and will continue to be complied with during the period for which the certificate is renewed.

(9) On the renewal of a firearm certificate, an authorised member may, subject to subsection (6) of this section, vary any conditions to which the certificate is subject under section 4(2)(g) of the Principal Act, if of opinion that such a variation is necessary in the interests of public safety or security.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 129

1.

In the inserted section 9(4), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

[SECTION 24]

—Jim O’Keeffe.

2.

In the inserted section 9(5), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

130. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 11 of Firearms Act 1964.

53.—Section 11 of the Firearms Act 1964 is amended—

(a) in subsection (1), by the deletion of “Minister may substitute for the description of a firearm in a firearm certificate granted by him” and the insertion of “Minister or the Commissioner may substitute for the description of a firearm in a firearm certificate granted by him or her”, and

(b) in subsection (2), by the insertion of—

(i) “(other than a restricted firearm)” after “firearm”, where it first occurs, and

(ii) “such” after “another”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

131. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 13 of Firearms Act 1964.

54.—Section 13 of the Firearms Act 1964 is amended by the insertion of the following subsections after subsection (6):

“(7) In this section, references to a firearm and ammunition do not include references to a restricted firearm or restricted ammunition.

(8) This section is without prejudice to subsections (4A) to (4G) of section 10 of the Principal Act.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

132. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 21 of Firearms Act 1964.

55.—Section 21 of the Firearms Act 1964 is amended—

(a) in subsection (1), by the insertion of “or ammunition” after “firearms” and “firearm”, and

(b) by the insertion of the following subsection after subsection (2):

“(3) In this section, “ammunition” does not include—

[SECTION 24]

- (a) component parts of ammunition, or
 - (b) grenades, bombs and other similar missiles or their component parts.”.”.
- An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

133. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 26 of Firearms Act 1964.

56.—The following section is substituted for section 26 of the Firearms Act 1964:

“Possession of firearm while taking vehicle without authority.

26.—(1) A person who contravenes subsection (1) of section 112 of the Road Traffic Act 1961 and who at the time of the contravention has with him a firearm or imitation firearm is guilty of an offence.

(2) A person guilty of an offence under this section is liable on conviction on indictment—

- (a) to imprisonment for a term not exceeding 14 years or such shorter term as the court may, subject to subsections (4) to (6) of this section, determine, and
- (b) at the court’s discretion, to a fine of such amount as the court considers appropriate.

(3) The court, in imposing sentence on a person for an offence under this section, may, in particular, have regard to whether the person has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*.

(4) Where a person (other than a person under the age of 18 years) is convicted of an offence under this section, the court shall, in imposing sentence, specify a term of imprisonment of not less than 5 years as the minimum term of imprisonment to be served by the person.

(5) Subsection (4) of this section does not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or to the person convicted of it, which would make the minimum term unjust in all the circumstances, and for this purpose the court may have regard to any matters it considers appropriate, including—

- (a) whether the person pleaded guilty to the offence and, if so—
 - (i) the stage at which the intention to plead guilty was indicated, and
 - (ii) the circumstances in which the indication was given,
- and

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(b) whether the person materially assisted in the investigation of the offence.

(6) The court, in considering for the purposes of subsection (5) of this section whether a sentence of not less than 5 years imprisonment is unjust in all the circumstances, may have regard, in particular, to—

(a) whether the person convicted of the offence has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences Against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*, and

(b) whether the public interest in preventing the unlawful possession or use of firearms would be served by the imposition of a lesser sentence.

(7) In proceedings for an offence under this section it is a good defence for the defendant to show that he or she had the firearm or imitation firearm for a lawful purpose when doing the act alleged to constitute the offence under subsection (1) of the said section 112.

(8) Section 27C of this Act applies in relation to proceedings for an offence under this section and any minimum term of imprisonment imposed in those proceedings.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment

1.

In the inserted section 26, to delete subsection (4).

—Aengus O’Snodaigh.

2.

In the inserted section 26, subsection (6)(b), after “sentence” to insert the following:

“and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

—Aengus O’Snodaigh.

134. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 27 of Firearms Act 1964.

57.—The following section is substituted for section 27 of the Firearms Act 1964:

[SECTION 24]

“Prohibition of use of firearms to assist or aid escape.

27.—(1) A person shall not use or produce a firearm or imitation firearm—

- (a) for the purpose of or while resisting the arrest of the person or of another person by a member of the Garda Síochána, or
- (b) for the purpose of aiding, or in the course of, the escape or rescue of the person or of another person from lawful custody.

(2) A person who contravenes subsection (1) of this section is guilty of an offence and liable on conviction on indictment—

- (a) to imprisonment for life or such shorter term as the court may, subject to subsections (4) to (6) of this section, determine, and
- (b) at the court’s discretion, to a fine of such amount as the court considers appropriate.

(3) The court, in imposing sentence on a person for an offence under this section, may, in particular, have regard to whether the person has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*.

(4) Where a person (other than a person under the age of 18 years) is convicted of an offence under this section, the court shall, in imposing sentence, specify a term of imprisonment of not less than 10 years as the minimum term of imprisonment to be served by the person.

(5) Subsection (4) of this section does not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or to the person convicted of it, which would make the minimum term unjust in all the circumstances, and for this purpose the court may have regard to any matters it considers appropriate, including—

- (a) whether the person pleaded guilty to the offence and, if so—
 - (i) the stage at which the intention to plead guilty was indicated, and
 - (ii) the circumstances in which the indication was given,and
- (b) whether the person materially assisted in the investigation of the offence.

(6) The court, in considering for the purposes of subsection (5) of this section whether a sentence of not less than 10 years imprisonment is unjust in all the circumstances, may have regard, in particular, to—

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(a) whether the person convicted of the offence has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences Against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*, and

(b) whether the public interest in preventing the unlawful possession or use of firearms would be served by the imposition of a lesser sentence.

(7) Section 27C of this Act applies in relation to proceedings for an offence under this section and any minimum term of imprisonment imposed in those proceedings.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 134

1.

In the inserted section 27(1)(a), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In the inserted section 27, to delete subsection (4).

—Aengus O’Snodaigh.

3.

In the inserted section 27, subsection (6)(b), after “sentence” to insert the following:

“and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

—Aengus O’Snodaigh.

135. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 27A of Firearms Act 1964.

58.—The following section is substituted for section 27A of the Firearms Act 1964:

“Possession of firearm or ammunition in suspicious circumstances.

27A.—(1) It is an offence for a person to possess or control a firearm in circumstances that give rise to a reasonable inference that the person does not possess or control it for a lawful purpose, unless the person possesses or controls it for such a purpose.

(2) A person guilty of an offence under this section is liable on conviction on indictment—

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- (a) to imprisonment for a term not exceeding 14 years or such shorter term as the court may, subject to subsections (4) to (6) of this section, determine, and
- (b) at the court's discretion, to a fine of such amount as the court considers appropriate.

(3) The court, in imposing sentence on a person for an offence under this section, may, in particular, have regard to whether the person has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the Offences Against the State Acts 1939 to 1998 or the Criminal Justice (Terrorist Offences) Act 2005.

(4) Where a person (other than a person under the age of 18 years) is convicted of an offence under this section, the court shall, in imposing sentence, specify a term of imprisonment of not less than 5 years as the minimum term of imprisonment to be served by the person.

(5) Subsection (4) of this section does not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or the person convicted of it, which would make the minimum term unjust in all the circumstances, and for this purpose the court may have regard to any matters it considers appropriate, including—

- (a) whether the person pleaded guilty to the offence and, if so—
 - (i) the stage at which the intention to plead guilty was indicated, and
 - (ii) the circumstances in which the indication was given, and
- (b) whether the person materially assisted in the investigation of the offence.

(6) The court, in considering for the purposes of subsection (5) of this section whether a sentence of not less than 5 years imprisonment is unjust in all the circumstances, may have regard, in particular, to—

- (a) whether the person convicted of the offence has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the Offences Against the State Acts 1939 to 1998 or the Criminal Justice (Terrorist Offences) Act 2005, and
- (b) whether the public interest in preventing the unlawful possession or use of firearms would be served by the imposition of a lesser sentence.

(7) Section 27C of this Act applies in relation to proceedings for an offence under this section and any minimum term of imprisonment imposed in those proceedings.

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(8) In the application of section 2 of the Criminal Law (Jurisdiction) Act 1976 to this section, it shall be presumed, unless the contrary is shown, that a purpose that is unlawful in the State is unlawful in Northern Ireland.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment

1.

In the inserted section 27A to delete subsection (4).

—Aengus O’Snodaigh.

2.

In the inserted section 27A, subsection(6)(b), after “sentence” to insert the following:

“and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

—Aengus O’Snodaigh.

136. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 27B of Firearms Act 1964.

59.—The following section is substituted for section 27B of the Firearms Act 1964:

“Carrying firearm with criminal intent.

27B.—(1) It is an offence for a person to have with him or her a firearm or an imitation firearm with intent—

(a) to commit an indictable offence, or

(b) to resist or prevent the arrest of the person or another person,

in either case while the person has the firearm or imitation firearm with him or her.

(2) A person guilty of an offence under this section is liable on conviction on indictment—

(a) to imprisonment for a term not exceeding 14 years or such shorter term as the court may, subject to subsections (4) to (6) of this section, determine, and

(b) at the court’s discretion, to a fine of such amount as the court considers appropriate.

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(3) The court, in imposing sentence on a person for an offence under this section, may, in particular, have regard to whether the person has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the Offences against the State Acts 1939 to 1998 or the Criminal Justice (Terrorist Offences) Act 2005.

(4) Where a person (other than a person under the age of 18 years) is convicted of an offence under this section, the court shall, in imposing sentence, specify a term of imprisonment of not less than 5 years as the minimum term of imprisonment to be served by the person.

(5) Subsection (4) of this section does not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or the person convicted of it, which would make the minimum term unjust in all the circumstances, and for this purpose the court may have regard to any matters it considers appropriate, including—

- (a) whether the person pleaded guilty to the offence and, if so—
 - (i) the stage at which the intention to plead guilty was indicated, and
 - (ii) the circumstances in which the indication was given,
- and
- (b) whether the person materially assisted in the investigation of the offence.

(6) The court, in considering for the purposes of subsection (5) of this section whether a sentence of not less than 5 years imprisonment is unjust in all the circumstances, may also have regard, in particular, to—

- (a) whether the person convicted of the offence has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the Offences Against the State Acts 1939 to 1998 or the Criminal Justice (Terrorist Offences) Act 2005, and
- (b) whether the public interest in preventing the unlawful possession or use of firearms would be served by the imposition of a lesser sentence.

(7) In proceedings for an offence under this section proof that the accused had a firearm or imitation firearm with him or her and intended to commit an indictable offence or to resist or prevent arrest is evidence that the accused intended to have it with him or her while doing so.

(8) Section 27C of this Act applies in relation to proceedings for an offence under this section and any minimum term of imprisonment imposed in those proceedings.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

Amendments to Amendment No. 136

1.

In the inserted section 27B, to delete subsection (4).

—Aengus O’Snodaigh.

2.

In the inserted section 27B, subsection (6)(b), after “sentence” to insert the following:

“and

- (c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

—Aengus O’Snodaigh.

137. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 27C in Firearms Act 1964.

60.—The following section is inserted in the Firearms Act 1964 after section 27B:

“Provisions relating to minimum sentences under *Firearms Acts 1925 to 2006*.
27C.—(1) In this section, “minimum term of imprisonment” means a term specified by a court under—
(a) section 15(4) of the Principal Act,
(b) section 26(4), 27(4), 27A(4) or 27B(4) of this Act, and
(c) section 12A(9) of the Firearms and Offensive Weapons Act 1990,

less any reduction in the period of imprisonment under subsection (3) of this section.

(2) The power to commute or remit punishment conferred by section 23 of the Criminal Justice Act 1951 does not apply in relation to a minimum term of imprisonment.

(3) The rules or practice whereby prisoners generally may earn remission of sentence by industry and good conduct apply in relation to a person serving such a minimum term.

(4) Any powers conferred by rules made under section 2 of the Criminal Justice Act 1960, as applied by section 4 of the Prisons Act 1970, to release temporarily a person serving a sentence of imprisonment shall not be exercised during a minimum term of imprisonment, unless for grave reason of a humanitarian nature, and any release so granted shall be only of such limited duration as is justified by that reason.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

Amendments to Amendment No. 138

1.

In the inserted section 27C, to delete subsection (2).

—Aengus O’Snodaigh.

2.

In the inserted section 27C, to delete subsection (4).

—Aengus O’Snodaigh.

138. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of Criminal Justice Act 1984

Amendment of section 15 of Criminal Justice Act 1984.

61.—Section 15 of the Criminal Justice Act 1984 is amended by the substitution of “€2,500” for “£1,000”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

139. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of Firearms and Offensive Weapons Act 1990

Amendment of section 4 of Firearms and Offensive Weapons Act 1990.

62.—Section 4 of the Firearms and Offensive Weapons Act 1990 is amended in subsection (1)—

(a) by the substitution of the following paragraph for paragraph (b):

“(b) an air gun (including an air rifle and air pistol) with a muzzle energy greater than one joule and any other weapon incorporating a barrel from which any projectile can be discharged with such a muzzle energy;”

(b) in paragraph (g)—

(i) by the deletion of “for the purposes of this definition” and the insertion of “without prejudice to the generality of the foregoing”,

(ii) by the deletion of “(e).” in subparagraph (ii) and the insertion of “(e), and”, and

(iii) the insertion of the following subparagraph:

“(iii) any object—

(I) manufactured for use as a component in connection with the operation of a firearm, and

(II) without which it could not function as originally designed;”

[SECTION 24]

and

(c) by the insertion after paragraph (g) of the following paragraph:

“(h) a device which enables a firearm to be used as a starting gun or blank firing gun.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

140. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 8A of Firearms and Offensive Weapons Act 1990.

63.—The following section is inserted after section 8 of the Firearms and Offensive Weapons Act 1990:

“Other amendments to Firearms Acts.

8A.—Each provision of the *Firearms Acts 1925 to 2006* specified in *Schedule 1** to the *Criminal Justice Act 2006* is amended in the manner specified in the third and fourth columns opposite the mention of that provision in the first column of that Schedule.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

141. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 12A in Firearms and Offensive Weapons Act 1990.

64.—The following section is inserted after section 12 of the Firearms and Offensive Weapons Act 1990:

“Shortening barrel of shot-gun or rifle.

12A.—(1) Subject to subsection (2), a person who shortens the barrel of—

(a) a shot-gun to a length of less than 61 centimetres, or

(b) a rifle to a length of less than 50 centimetres,

is guilty of an offence.

(2) It is not an offence under subsection (1) for a registered firearms dealer to shorten the barrel of a shot-gun or rifle to a length of less than 61 or 50 centimetres respectively if the sole purpose of doing so is to replace a defective part of the barrel with a barrel of not less than 61 or 50 centimetres, as the case may be.

(3) It is an offence for a person to convert into a firearm anything which resembles a firearm but is not capable of discharging a projectile.

(4) Subject to subsection (5), it is an offence to modify a firearm so as to render its reloading mechanism fully automatic or to increase its calibre, irrespective of whether the firearm, as so modified, is a restricted firearm.

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(5) Subsection (4) does not apply to a firearm designed and manufactured so as to enable barrels of different calibres to be attached to it.

(6) It is an offence for a person (except a registered firearms dealer) to possess without lawful authority or reasonable excuse—

- (a) a shot-gun the barrel of which is less than 61 centimetres in length,
- (b) a rifle the barrel of which is less than 50 centimetres in length,
- (c) a converted firearm mentioned in subsection (3), or
- (d) a firearm which has been modified as described in subsection (4).

(7) A person who is guilty of an offence under this section is liable on conviction on indictment—

- (a) to imprisonment for a term not exceeding 10 years or such shorter term as the court may, subject to subsections (9) to (11), determine, and
- (b) at the court's discretion, to a fine of such amount as the court considers appropriate.

(8) The court, in imposing sentence on a person for an offence under this section, may, in particular, have regard to whether the person has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*.

(9) Where a person (other than a person under the age of 18 years) is convicted of an offence under this section, the court shall, in imposing sentence, specify a term of imprisonment of not less than 5 years (in this section referred to as the “minimum term of imprisonment”) as the minimum term of imprisonment to be served by the person.

(10) Subsection (9) does not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or to the person convicted of it, which would make the minimum term of imprisonment unjust in all the circumstances, and for this purpose the court may have regard to any matters it considers appropriate, including—

- (a) whether the person pleaded guilty to the offence and, if so—
 - (i) the stage at which the intention to plead guilty was indicated, and
 - (ii) the circumstances in which the indication was given,
- and

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(b) whether the person materially assisted in the investigation of the offence.

(11) The court, in considering for the purposes of subsection (10) of this section whether a sentence of not less than 5 years imprisonment is unjust in all the circumstances, may have regard, in particular, to—

(a) whether the person convicted of the offence has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences Against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*, and

(b) whether the public interest in preventing the unlawful possession or use of firearms would be served by the imposition of a lesser sentence.

(12) Section 27C of the *Firearms Act 1964* applies in relation to proceedings for an offence under this section and any minimum term of imprisonment imposed in those proceedings.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 141

1.

In the inserted section 12A, to delete subsection (9).

—Aengus O’Snodaigh.

2.

In the inserted section 12A, subsection (11)(b), after “sentence” to insert the following:

“and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

—Aengus O’Snodaigh.

142. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 1 of *Firearms (Firearm Certificates for Non-Residents) Act 2000*.

65.—Section 1 of the *Firearms (Firearm Certificates for Non-Residents) Act 2000* is amended—

(a) by the insertion of the following definition after the definition of “the Act”—

“ “Commissioner” means the Commissioner of the Garda Síochána or a member of the Garda Síochána, or members of a particular rank in the

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Garda Síochána, not below the rank of superintendent appointed in writing by the Commissioner for the purpose of performing any of the Commissioner's functions under this Act;”,

and

(b) by the insertion of the following definition after the definition of “the Principal Act”:

““restricted firearm” means a firearm which is declared under section 2B (a) of the Principal Act to be a restricted firearm;”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 142

1.

In paragraph (a), in the inserted definition of “Commissioner” after “means the Commissioner of” to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In paragraph (a), in the inserted definition of “Commissioner” after “or a member of” to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

3.

In paragraph (a), in the inserted definition of “Commissioner” after “a particular rank in” to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

143. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 2 of Firearms (Firearm Certificates for Non-Residents) Act 2000.

66.—Section 2 of the Firearms (Firearm Certificates for Non-Residents) Act 2000 is amended—

(a) in subsection (1), by the insertion of “, Commissioner” after “Minister” on both occasions where it occurs,

(b) in subsection (2), by the insertion of the following paragraph after paragraph (a):

“(aa) in case the firearm is a restricted firearm and is intended only for the purposes mentioned in paragraph (a), to the Minister or Commissioner,”

(c) in subsection (4), by the insertion of “or (aa)” after “paragraph (a)”, and

(d) in subsection (5), by the insertion of “, Commissioner” after “Minister”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

144. In page 25, before section 24, but in Part 4, to insert the following new section:

“PART 6

AMENDMENT OF EXPLOSIVES ACT 1875

Substitution of section 80 of Explosives Act 1875.

67.—The following section is substituted for section 80 of the Explosives Act 1875:

“80.—(1) Any person who in any place—

- (a) ignites a firework or causes it to be ignited, or
- (b) throws, directs or propels an ignited firework at or towards a person or property,

is guilty of an offence.

(2) Any person—

- (a) who possesses a firework with intent to sell or otherwise to supply it to another, and
- (b) who does not hold a licence under this Act to import it,

is guilty of an offence.

(3) In any proceedings for an offence under subsection (2) it is not necessary for the prosecution to negative by evidence the existence of a licence to import the firework concerned, and accordingly the onus of proving the existence of any such licence is on the defendant.

(4) A member of the Garda Síochána who, with reasonable cause, suspects that a person possesses a firework in contravention of subsection (2) may—

- (a) request that the person give his or her name and address and that the information given by the person in response to the request be verified,
- (b) if not satisfied that the information so given is correct, request that the person accompany the member to a Garda Síochána station for the purpose of verifying the information,
- (c) without warrant—
 - (i) search the person and, if the member considers it necessary for that purpose, detain the person for such time as is reasonably necessary to make the search,
 - (ii) enter and search any vehicle, vessel or aircraft in which the member suspects that a firework may be found, and
 - (iii) seize and detain anything found in the course of the search which the member reasonably believes to be evidence of, or relating to, an offence under this section.

[SECTION 24]

(5) This section is without prejudice to any power to detain or search a person or to seize or detain property which may be exercised by a member of the Garda Síochána under any other enactment.

(6) A member of the Garda Síochána who suspects, with reasonable cause, that a person has committed an offence under this section may arrest the person without warrant.

(7) If a judge of the District Court is satisfied by information on oath of a member of the Garda Síochána not below the rank of sergeant that there are reasonable grounds for suspecting that evidence of, or relating to, the commission of an offence under this section is to be found in any place, the judge may issue a warrant for the search of that place and any persons found at that place.

(8) The search warrant shall be expressed, and shall operate, to authorise a named member of the Garda Síochána, accompanied by such other members of the Garda Síochána or other persons as the member thinks necessary—

- (a) to enter the place named in the warrant at any time or times within one week of the date of issue of the warrant, on production if so requested of the warrant and if necessary by the use of reasonable force,
- (b) to search it and any persons found at the place, and
- (c) to seize anything found at the place, or anything found in the possession of any person present there at the time of the search that that member reasonably believes to be evidence of, or relating to, the commission of an offence under this section.

(9) A member of the Garda Síochána acting under the authority of a search warrant under this section may—

- (a) require any person present at the place where the search is being carried out to give to the member his or her name and address, and
- (b) arrest without warrant any person who—
 - (i) obstructs or attempts to obstruct the member in the carrying out of his or her duties,
 - (ii) fails to comply with a requirement under paragraph (a), or
 - (iii) gives a name or address which the member has reasonable cause for believing is false or misleading.

(10) A person who—

- (a) does not give his or her name and address when requested to do so under subsection (4)(a) of this section or gives a name and address that is false or misleading, or
- (b) does not comply with a request under subsection (4)(b) of this section,

is guilty of an offence and liable on summary conviction to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both.

[SECTION 24]

(11) A person who—

- (a) obstructs or attempts to obstruct a member of the Garda Síochána acting under the authority of a search warrant under this section,
- (b) does not comply with a requirement under subsection (9)(a) of this section, or
- (c) gives a false or misleading name or address to such a member,

is guilty of an offence and liable on summary conviction to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both.

(12) A person guilty of an offence under this section (except subsection (10) or (11)) is liable—

- (a) on summary conviction, to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €10,000 or imprisonment for a term not exceeding 5 years or both.

(13) A court by which a person is convicted of an offence under subsection (1) or (2) may order anything shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court thinks fit.

(14) In this section—

“banger” means a non-metallic case containing black powder, the principal purpose of which is to make a noise when ignited or initiated;

“black powder” means a powder consisting of a mixture of charcoal and sodium nitrate or potassium nitrate, with or without sulphur;

“firework”—

- (a) means a device containing pyrotechnic material which, when functioning, burns or explodes to produce a visual or aural effect or movement or a gas, either separately or in any combination, as a direct form of entertainment, but
- (b) does not include—
 - (i) a low hazard firework (except a banger), or
 - (ii) a firework imported under licence in accordance with section 40(9) of this Act;

“low hazard firework” means a firework which presents a low hazard and is designed for indoor use;

“place” includes a dwelling and a vehicle, ship or aircraft;

“pyrotechnic material” means a substance or mixture of substances designed, when ignited, to produce an aural or visual effect or a gas either separately or in any combination.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

Amendments to Amendment No. 144

1.

In the inserted section 80(4), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In the inserted section 80(5), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

3.

In the inserted section 80(6), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

4.

In the inserted section 80(7), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

5.

In the inserted section 80(8), to delete “the Garda Síochána” where it firstly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

6.

In the inserted section 80(8), to delete “the Garda Síochána” where it secondly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

7.

In the inserted section 80(9), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

8.

In the inserted section 80(11)(a), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

145. In page 25, before section 24, but in Part 4, to insert the following new section:

[SECTION 24]

“Other amendments of Explosives Act 1875.

68.—Each provision of the Explosives Act 1875 specified in *Schedule 2** to the *Criminal Justice Act 2006* is amended in the manner specified in the third and fourth columns opposite the mention of that provision in the first column of that Schedule.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

146. In page 25, before section 24, but in Part 4, to insert the following new section:

“PART 7

ORGANISED CRIME

Interpretation (*Part 7**).

69.—(1) In this Part—

“act” includes omission and a reference to the commission or doing of an act includes a reference to the making of an omission;

“criminal organisation” means a structured group, however organised, that—

- (a) is composed of 3 or more persons acting in concert,
- (b) is established over a period of time,
- (c) has as its main purpose or main activity the commission or facilitation of one or more serious offences in order to obtain, directly or indirectly, a financial or other material benefit;

“Irish ship” has the meaning it has in section 9 of the Mercantile Marine Act 1955;

“serious offence” means an offence for which a person may be punished by imprisonment for a term of 4 years or more;

“structured group” means a group that—

- (a) is not randomly formed for the immediate commission of a single offence, and
- (b) does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

(2) For the purposes of this section facilitation of an offence does not require knowledge of a particular offence the commission of which is facilitated, or that an offence actually be committed.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

147. In page 25, before section 24, but in Part 4, to insert the following new section:

“Offence of conspiracy.

70.—(1) Subject to *subsections (2) and (3)*, a person who conspires, whether in the State or elsewhere, with one or more persons to do an act—

- (a) in the State that constitutes a serious offence, or

[SECTION 24]

- (b) in a place outside the State that constitutes a serious offence under the law of that place and which would, if done in the State, constitute a serious offence,

is guilty of an offence irrespective of whether such act actually takes place or not.

(2) *Subsection (1)* applies to a conspiracy committed outside the State if—

- (a) the offence, the subject of the conspiracy, was committed, or was intended to be committed, in the State or against a citizen of Ireland,
- (b) the conspiracy is committed on board an Irish ship,
- (c) the conspiracy is committed on an aircraft registered in the State, or
- (d) the conspiracy is committed by an Irish citizen or a stateless person habitually resident in the State.

(3) *Subsection (1)* shall also apply to a conspiracy committed outside the State in circumstances other than those referred to in *subsection (2)*, but in that case the Director of Public Prosecutions may not take, or consent to the taking of, proceedings for an offence under *subsection (1)* except in accordance with *section 73(3)**.

(4) A person charged with an offence under this section is liable to be indicted, tried and punished as a principal offender.

(5) A stateless person who has his or her principal residence in the State for the 12 months immediately preceding the commission of a conspiracy is, for the purposes of *subsection (2)*, considered to be habitually resident in the State on the date of the commission of the conspiracy.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

148. In page 25, before section 24, but in Part 4, to insert the following new section:

“Organised crime. 71.—(1) A person who, for the purpose of enhancing the ability of a criminal organisation to commit or facilitate—

- (a) a serious offence in the State, or
- (b) in a place outside the State, a serious offence under the law of that place where the act constituting the offence would, if done in the State, constitute a serious offence,

knowingly, by act—

- (i) in a case to which *paragraph (a)* applies, whether done in or outside the State, and
- (ii) in a case to which *paragraph (b)* applies, done in the State, on board an Irish ship or on an aircraft registered in the State,

participates in or contributes to any activity of the organisation is guilty of an offence.

[SECTION 24]

(2) In proceedings for an offence under *subsection (1)*, it shall not be necessary for the prosecution to prove that—

- (a) the criminal organisation concerned actually committed a serious offence in the State or a serious offence under the law of a place outside the State where the act constituting the offence would, if done in the State, constitute a serious offence, as the case may be,
- (b) the participation or contribution of the person concerned actually enhanced the ability of the criminal organisation concerned to commit or facilitate the offence concerned, or
- (c) the person concerned knew the specific nature of any offence that may have been committed or facilitated by the criminal organisation concerned.

(3) In determining whether a person participates in or contributes to any activity of a criminal organisation, the court may consider, *inter alia*, whether the person—

- (a) uses a name, word, symbol or other representation that identifies, or is associated with, the organisation, or
- (b) receives any benefit from the organisation.

(4) For the purposes of this section, facilitation of an offence does not require knowledge of a particular offence the commission of which is facilitated, or that an offence actually be committed.

(5) A person guilty of an offence under this section shall be liable on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years or both.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

149. In page 25, before section 24, but in Part 4, to insert the following new section:

“Commission of offence for criminal organisation.

72.—(1) A person who commits a serious offence for the benefit of, at the direction of, or in association with, a criminal organisation is guilty of an offence.

(2) In proceedings for an offence under *subsection (1)*, it shall not be necessary for the prosecution to prove that the person concerned knew any of the persons who constitute the criminal organisation concerned.

(3) A person guilty of an offence under this section shall be liable on conviction on indictment to a fine or imprisonment for a term not exceeding 10 years or both.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

150. In page 25, before section 24, but in Part 4, to insert the following new section:

“Proceedings relating to offences committed outside State.

73.—(1) Proceedings for an offence under *section 70** or *71** in relation to an act committed outside the State may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.

[SECTION 24]

(2) Where a person is charged with an offence referred to in *subsection (1)*, no further proceedings in the matter (other than any remand in custody or on bail) may be taken except by or with the consent of the Director of Public Prosecutions.

(3) The Director of Public Prosecutions may take, or consent to the taking of, further proceedings against a person for an offence in respect of an act to which *subsection (1)* of *section 70** applies and that is committed outside the State in the circumstances referred to in *subsection (3)* of that section if satisfied—

(a) that—

- (i) a request for a person's surrender for the purpose of trying him or her for an offence in respect of that act has been made under Part II of the Extradition Act 1965 by any country, and
- (ii) the request has been finally refused (whether as a result of a decision of the court or otherwise),

or

(b) that—

- (i) a European arrest warrant has been received from an issuing state for the purpose of bringing proceedings against the person for an offence in respect of that act, and
- (ii) a final determination has been made that the European arrest warrant should not be endorsed for execution in the State under the European Arrest Warrant Act 2003 or that the person should not be surrendered to the issuing state concerned,

or

(c) that, because of the special circumstances (including, but not limited to, the likelihood of a refusal referred to in *paragraph (a)(ii)* or a determination referred to in *paragraph (b)(ii)*), it is expedient that proceedings be taken against the person for an offence under the law of the State in respect of the act.

(4) In this section “European arrest warrant” and “issuing state” have the meanings they have in section 2(1) of the European Arrest Warrant Act 2003.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

151. In page 25, before section 24, but in Part 4, to insert the following new section:

“Evidence in proceedings under this Part.

74.—(1) In any proceedings for an offence under *section 70**—

- (a) a certificate that is signed by an officer of the Department of Foreign Affairs and states that—
 - (i) a passport was issued by that Department of State to a person on a specified date, and
 - (ii) to the best of the officer's knowledge and belief, the person has not ceased to be an Irish citizen,

[SECTION 24]

is evidence that the person was an Irish citizen on the date on which the offence concerned is alleged to have been committed, unless the contrary is shown, and

(b) a certificate that is signed by the Director of Public Prosecutions or by a person authorised by him or her and that states that any of the matters specified in *paragraph (a), (b) or (c) of section 73(3)** is evidence of the facts stated in the certificate, unless the contrary is shown.

(2) A document purporting to be a certificate under *subsection (1)* is deemed, unless the contrary is shown—

(a) to be such a certificate,

(b) to have been signed by the person purporting to have signed it, and

(c) in the case of a certificate signed with the authority of the Minister for Foreign Affairs or the Director of Public Prosecutions, to have been signed in accordance with the authorisation.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

152. In page 25, before section 24, but in Part 4, to insert the following new section:

“Liability for offences by bodies corporate.

75.—(1) Where an offence under this Part is committed by a body corporate and is proved to have been committed with the consent, connivance or approval of, or to have been attributable to any wilful neglect on the part of, any person, being a director, manager, secretary or any other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

153. In page 25, before section 24, but in Part 4, to insert the following new section:

“Double jeopardy.

76.—A person who is acquitted or convicted of an offence in a place outside the State shall not be proceeded against for an offence under—

(a) *section 70** consisting of the act, or the conspiracy to do an act, that constituted the offence, or

(b) *section 71** consisting of the act that constituted the offence,

of which the person was so acquitted or convicted.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

154. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of Act of 1967.

77.—The Act of 1967 is amended—

- (a) in section 13(1), by the insertion of “or an offence under *section 70**, *71** or *72** of the *Criminal Justice Act 2006*” after “the offence of murder under section 6 or 11 of the Criminal Justice (Terrorist Offences) Act 2005 or an attempt to commit such offence”, and
- (b) in section 29(1), by the insertion of the following paragraph after paragraph (k):

“(l) an offence under *section 70**, *71** or *72** of the *Criminal Justice Act 2006*.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

155. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of Schedule to Bail Act 1997.

78.—The Schedule to the Bail Act 1997 is amended by the insertion of the following after paragraph 28:

“Organised Crime

28A.—An offence under *section 70**, *71** or *72** of the *Criminal Justice Act 2006*.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

156. In page 25, before section 24, but in Part 4, to insert the following new section:

“PART 8

MISUSE OF DRUGS

Definition.

79.—In this Part “Act of 1977” means Misuse of Drugs Act 1977.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

157. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 15A of Act of 1977.

80.—(1) Section 15A of the Act of 1977 is amended by the insertion of the following subsection after subsection (3):

“(3A) In any proceedings for an offence under this section, it shall not be necessary for the prosecutor to prove that a person knew that at any time while the controlled drug or drugs concerned were in the person’s possession that the market value of that drug or the aggregate of the market values of those drugs, as the case may be, amounted to €13,000 or more or that he or she was reckless in that regard.”.

[SECTION 24]

(2) This section shall not have effect in relation to proceedings for an offence under section 15A of the Act of 1977 instituted before the commencement of this section.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 157

1.

To delete the inserted subsection (3A) and substitute the following:

“(3A) In any proceeding for an offence under this section, the prosecution shall prove that the accused person would reasonably have known that the controlled drug or drugs in their possession were worth €13,000 or more.”.

—Aengus O’Snodaigh.

158. In page 25, before section 24, but in Part 4, to insert the following new section:

“Importation of controlled drugs in excess of certain value.

81.—The Act of 1977 is amended by the insertion of the following section after section 15A:

“Importation of controlled drugs in excess of certain value.

15B.—(1) A person shall be guilty of an offence where—

- (a) the person imports one or more controlled drugs in contravention of regulations under section 5 of this Act, and
- (b) at the time the drug or drugs are imported the market value of the controlled drug or the aggregate of the market values of the controlled drugs, as the case may be, amounts to €13,000 or more.

(2) If the court is satisfied that a member of the Garda Síochána or an officer of customs and excise has knowledge of the unlawful sale or supply of controlled drugs, that member or officer, as the case may be, shall be entitled in any proceedings for an offence under this section to be heard and to give evidence as to—

- (a) the market value of the controlled drug concerned, or
- (b) the aggregate of the market values of the controlled drugs concerned.

(3) In any proceedings for an offence under this section, it shall not be necessary for the prosecutor to prove that a person knew that at the time the person imported the controlled drug or drugs concerned that the market value of that drug or the aggregate of the market values of those drugs, as the case may be, amounted to €13,000 or more or that he or she was reckless in that regard.

(4) No proceedings may be instituted under this section except by or with the consent of the Director of Public Prosecutions.

[SECTION 24]

(5) In this section ‘market value’ and ‘an officer of customs and excise’ have the meanings they have in section 15A of this Act.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 158

1.

In the inserted section 15B(2), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In the inserted section 15B, after subsection (2), to insert the following new subsection:

“(3) An objective expert witness shall also be called to give his or her opinion on the valuation of the drugs before the Court.”.

—Aengus O’Snodaigh.

3.

In the inserted section 15B, to delete subsection (3) and substitute the following new subsection:

“(3) In any proceeding for an offence under this section, the prosecution shall prove that the accused person would reasonably have known that the controlled drug or drugs in their possession were worth €13,000 or more.”.

—Aengus O’Snodaigh.

159. In page 25, before section 24, but in Part 4, to insert the following new section:

“Supply of controlled drugs into prisons and places of detention.

82.—The Act of 1977 is amended by the insertion of the following section after section 15B (inserted by *section 81** of this Act):

“Supply of controlled drugs into prisons and places of detention.

15C.—(1) A person shall be guilty of an offence where—

- (a) the person, other than in accordance with regulations made under section 4 of this Act, conveys a controlled drug into a prison, children detention school or remand centre or to a person in the prison, school or centre,
- (b) the person, other than in accordance with regulations made under section 4 of this Act, places a controlled drug in any place inside or outside a prison, children detention school or remand centre with intent that it shall come into the possession of a person in the prison, school or centre,
- (c) the person throws or projects a controlled drug into a prison, children detention school or remand centre, or

[SECTION 24]

(d) the person, while in the vicinity of a prison, children detention school or remand centre, has in his or her possession a controlled drug with intent to commit an act referred to in paragraph (a), (b) or (c) of this subsection.

(2) A person may be guilty of an offence under subsection (1) of this section irrespective of the quantity of the controlled drug concerned.

(3) Subject to section 29(3) of this Act, in any proceedings for an offence under subsection (1)(d) of this section, where—

(a) it is proved that a person was in possession of a controlled drug in the vicinity of a prison, children detention school or remand centre, as the case may be, and

(b) the court (or the jury, as the case may be), having regard to all the circumstances including the person's proximity to the prison, school or centre, as the case may be, the packaging (if any) of the controlled drug and the time of the day or night concerned, is satisfied that it is reasonable to assume that the controlled drug was not intended for his or her immediate personal use,

he or she shall be presumed, until the court (or the jury, as the case may be) is satisfied to the contrary, to have been in possession of the controlled drug with intent to commit an act referred to in paragraph (a) or (b) or, as the case may be, (c) of subsection (1) of this section.

(4) In any proceedings for an offence under subsection (1) of this section, it shall not be necessary for the prosecutor to prove that the controlled drug concerned was intended to come into the possession of any particular person in the prison, children detention school or remand centre, as the case may be.

(5) If a prison officer or an authorised member of the staff of a children detention school or remand centre reasonably suspects that a person has committed or is committing an offence under this section, he or she may, for the purpose of detecting the commission of such an offence, search the person at any time while he or she is in the prison, school or centre, as the case may be.

(6) A prison officer or an authorised member of the staff of a children detention school or remand centre may, for the purpose of performing his or her functions under subsection (5) of this section, have a controlled drug in his or her possession.

(7) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both, or

[SECTION 24]

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 7 years or both.

(8) In this section—

‘an authorised member of the staff’—

(a) in relation to a children detention school, means a member of the staff of the school who is authorised in writing for the purposes of this section by the Director (within the meaning of section 157 of the Children Act 2001) of the school, and

(b) in relation to a remand centre, means a member of the staff of the centre who is authorised in writing for the purposes of this section by the owners or, as the case may be, the managers of the centre;

‘children detention school’ and ‘remand centre’ have the meanings they have in section 3(1) of the Children Act 2001;

‘prison’ means a place of custody administered by the Minister for Justice, Equality and Law Reform and includes Saint Patrick’s Institution, and ‘prison officer’, in relation to a prison, shall be construed accordingly.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 159

1.

In the inserted section 15C, subsection (1), to delete paragraph (d).

—Aengus O’Snodaigh.

2.

In the inserted section 15C, to delete subsection (4).

—Aengus O’Snodaigh.

3.

In the inserted section 15C(7)(b), to delete “7 years” and substitute “10 years”.

—Joe Costello.

160. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 27 of Act of 1977.

83.—Section 27 of the Act of 1977 is amended—

(a) in subsection (3A)—

(i) by the substitution of “an offence under section 15A or 15B of this Act” for “an offence under section 15A”, and

(ii) in paragraph (a), by the substitution of “subsections (3B) to (3CC) of this section” for “subsections (3B) and (3C) of this section”,

[SECTION 24]

(b) by the insertion of the following subsection after subsection (3A):

“(3AA) The court, in imposing sentence on a person for an offence under section 15A or 15B of this Act, may, in particular, have regard to whether the person has a previous conviction for a drug trafficking offence.”,

(c) in subsection (3B), by the substitution of “an offence under section 15A or 15B of this Act” for “an offence under section 15A”,

(d) by the insertion of the following subsection after subsection (3C):

“(3CC) The court, in considering for the purposes of subsection (3C) of this section whether a sentence of not less than 10 years imprisonment is unjust in all the circumstances, may have regard, in particular, to—

(a) whether the person convicted of the offence concerned was previously convicted in respect of a drug trafficking offence, and

(b) whether the public interest in preventing drug trafficking would be served by the imposition of a lesser sentence.”,

(e) in subsection (3I), by the substitution of “an offence under section 15A or 15B of this Act” for “an offence under section 15A of this Act” and the substitution of “each of those offences” for “that offence”, and

(f) by the insertion of the following subsection after subsection (3J):

“(3K) In subsections (3AA) and (3CC) of this section ‘drug trafficking offence’ has the meaning it has in section 3(1) of the Criminal Justice Act 1994.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment

1.

In the inserted subsection (3CC)(b), after “sentence” to insert the following:

“and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

—Aengus O’Snodaigh.

161. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 29 of Act of 1977. 84.—Section 29 of the Act of 1977 is amended by the substitution of the following subsection for subsection (3):

[SECTION 24]

“(3) In any proceedings for an offence under section 15 or 15A, or subsection (1)(d) of section 15C, of this Act, a defendant may rebut the presumption raised by subsection (2) of the said section 15 or 15A or subsection (3) of the said section 15C, as the case may be, by showing that at the time of the alleged offence, he or she was by virtue of regulations made under section 4 of this Act lawfully in possession of the controlled drug or drugs to which the proceedings relate.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

162. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 3(1) of Criminal Justice Act 1994.

85.—Section 3(1) of the Criminal Justice Act 1994 is amended in the definition of “drug trafficking offence” by the insertion of the following paragraph after paragraph (bb):

“(bbb) an offence under section 15B (importation of controlled drugs in excess of certain value) of that Act.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

163. In page 25, before section 24, but in Part 4, to insert the following new section:

“PART 9

OBLIGATIONS OF DRUG TRAFFICKING OFFENDERS TO NOTIFY CERTAIN INFORMATION

Definitions (Part 9*).

86.—In this Part, unless the context otherwise requires—

“court” means any court exercising criminal jurisdiction and includes a court-martial;

“imprisonment” includes detention in Saint Patrick’s Institution, and “prison” shall be construed accordingly;

“prescribed” means prescribed by regulations made by the Minister under this Act;

“relevant date” means the date of conviction for the drug trafficking offence concerned;

“remission from the sentence” means, in relation to the sentence imposed on a person, the remission which the person may earn from the sentence under the rules or practice whereby prisoners generally may earn remission of sentence by industry and good conduct;

“sentence” includes a sentence of imprisonment and an order postponing sentence.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

164. In page 25, before section 24, but in Part 4, to insert the following new section:

“Drug trafficking offences for purposes of this Part.

87.—In this Part “drug trafficking offence” has the meaning it has in section 3(1) (as amended by *section 85**) of the Criminal Justice Act 1994 but does not include such an offence unless the person convicted of it has, in respect thereof, been sentenced to imprisonment for a period of more than one year.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

165. In page 25, before section 24, but in Part 4, to insert the following new section:

“Persons subject to the requirements of this Part.

88.—(1) Without prejudice to *subsection (2)* and *section 94**, a person is subject to the requirements of this Part if he or she is convicted on indictment of a drug trafficking offence after the commencement of this Part.

(2) A person is also subject to the requirements of this Part if he or she has been convicted on indictment of a drug trafficking offence before the commencement of this Part and, at that commencement, either—

(a) the sentence to be imposed on the person in respect of the offence has yet to be determined, or

(b) a sentence has been imposed on the person in respect of the offence and—

(i) the person is serving the sentence in prison,

(ii) the person is temporarily released under section 2 of the Criminal Justice Act 1960, or

(iii) the sentence is otherwise still in force or current.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

166. In page 25, before section 24, but in Part 4, to insert the following new section:

“Period for which person is subject to requirements of this Part and related matters.

89.—(1) A person who, by reason of *section 88**, is subject to the requirements of this Part shall be so subject for the period referred to in *subsection (3)* or, in the case of a person referred to in *section 88(2)**, so much (if any) of that period as falls after the commencement of this Part.

(2) *Subsection (1)* is subject to *section 92**.

(3) The period mentioned in *subsection (1)* is the period, beginning with the relevant date, of —

(a) 12 years if the sentence imposed on the person in respect of the offence concerned is one of imprisonment for life,

(b) 7 years if the sentence imposed on the person in respect of the offence concerned is one of imprisonment for a term of more than 10 years but not one of imprisonment for life,

[SECTION 24]

- (c) 5 years if the sentence imposed on the person in respect of the offence concerned is one of imprisonment for a term of more than 5 years but not more than 10 years,
- (d) 3 years if the sentence imposed on the person in respect of the offence concerned is one of imprisonment for a term of more than one year but not more than 5 years,
- (e) one year if the sentence imposed on the person in respect of the offence concerned is one of imprisonment for any term, the operation of the whole of which is suspended (but, if the operation of that term is revived by the court, whichever of the preceding paragraphs is appropriate shall apply instead of this paragraph).

(4) If—

- (a) a sentence is imposed on a person in respect of a drug trafficking offence, and
- (b) at the time of sentencing the person is aged under 18 years,

subsection (3) shall have effect in relation to that person as if for the references to 12 years, 7 years, 5 years, 3 years and one year in that subsection there were substituted references to 6 years, 3½ years, 2½ years, 1½ years and 6 months, respectively.

(5) If a sentence of imprisonment for any term is imposed on the person referred to in *subsection (1)* in respect of the offence concerned and the operation of a part of that term is suspended—

- (a) the part of that term the operation of which is not suspended shall be regarded as the term of imprisonment imposed on that person for the purposes of *subsection (3)* (but, if the operation of the first-mentioned part of that term is revived by the court, whichever of *paragraphs (a), (b), (c) and (d)* of *subsection (3)* is appropriate shall apply without regard to this paragraph),
- (b) *paragraph (a)* extends to a case in which that suspension is provided for subsequent to the imposition of the sentence.

(6) If a person is or has been sentenced in respect of 2 or more drug trafficking offences and the sentences imposed are consecutive or partly concurrent then *subsection (3)* shall have effect as if—

- (a) in the case of consecutive sentences, the sentence imposed in respect of each of the offences were or had been a sentence equal to the aggregate of those sentences,
- (b) in the case of partly concurrent sentences, the sentence imposed in respect of each of the offences were or had been a sentence equal to the aggregate of those sentences after making such deduction as is necessary to ensure that no period of time is counted more than once.

(7) Without prejudice to *section 92**, a person shall cease to be subject to the requirements of this Part if the conviction in respect of the offence concerned is quashed on appeal or otherwise.

[SECTION 24]

(8) A reference in this section to a sentence imposed on a person shall, if the sentence is varied on appeal, be construed as a reference to the sentence as so varied and, accordingly, the period for which a person is subject to the requirements of this Part, by reason of this section, shall stand reduced or increased, as the case may be, in the event that such a variation is made which results in the sentence falling under a different paragraph of *subsection (3)* than it did before the variation.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

167. In page 25, before section 24, but in Part 4, to insert the following new section:

“Supply of information to facilitate compliance with this Part.

90.—The person for the time being in charge of the place where a person subject to the requirements of this Part is ordered to be imprisoned in respect of an offence (whether or not the offence that gave rise to the person’s being subject to those requirements) shall notify in writing—

(a) before the date on which the sentence of imprisonment imposed on the person in respect of the first-mentioned offence expires or, as the case may be, the person’s remission from the sentence begins (“the date of release”), the person that he or she is subject to the requirements of this Part, and

(b) at least 10 days before the date of release, the Commissioner of the Garda Síochána of the fact that that expiry or remission will occur in relation to the person.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 167

1.

In paragraph (a), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

168. In page 25, before section 24, but in Part 4, to insert the following new section:

“Notification requirements.

91.—(1) A person who is subject to the requirements of this Part shall, before the end of the period of 7 days beginning with the relevant date, or, if that date is prior to the commencement of this Part, that commencement, notify to the Garda Síochána—

(a) his or her name and, where he or she also uses one or more other names, each of those names, and

(b) his or her home address.

(2) A person who is subject to those requirements shall also, before the end of the period of 7 days beginning with—

[SECTION 24]

- (a) the person's using a name which is not the name, or one of the names, last previously notified by him or her to the Garda Síochána under this section,
- (b) any change of his or her home address,
- (c) the person's having resided or stayed, for a qualifying period, at any place in the State, the address of which has not been notified to the Garda Síochána under this section as being his or her current home address, or
- (d) the person's returning to an address in the State, having, immediately prior to such return, been outside the State for a continuous period of 7 days or more,

notify that name, the effect of that change, the address of that place or, as the case may be, the fact of that return to the Garda Síochána.

(3) If a person who is subject to the requirements of this Part intends to leave the State for a continuous period of 7 days or more he or she shall notify the Garda Síochána of that intention and, if known, the address of the place outside the State he or she intends to reside or stay at.

(4) If a person who is subject to the requirements of this Part is outside the State for a continuous period of 7 days or more and did not intend, on leaving the State, to be outside the State for such a continuous period, the person shall, subject to *subsection (5)*, notify the Garda Síochána, before the expiry of a further period of 7 days, reckoned from the 7th day that he or she is so outside the State, of that fact and the address of the place at which he or she is residing or staying outside the State.

(5) *Subsection (4)* shall not apply if the person concerned has returned to the State before the expiry of the further period of 7 days mentioned in that subsection.

(6) A notification given to the Garda Síochána by any person shall not be regarded as complying with *subsection (1), (2), (3) or (4)* unless it also states the person's—

- (a) date of birth,
- (b) name on the relevant date and, where he or she used one or more other names on that date, each of those names, and
- (c) home address on the relevant date.

(7) For the purpose of determining any period for the purposes of *subsection (1), (2), (3) or (4)*, there shall be disregarded any time when the person concerned is—

- (a) remanded in custody,
- (b) serving a sentence in prison, or
- (c) temporarily released under section 2 of the Criminal Justice Act 1960.

(8) A person may give a notification under this section—

- (a) by attending in person at any Garda Síochána station which is a divisional or district headquarters and notifying orally a member of the Garda Síochána at the station of the matters concerned,

[SECTION 24]

(b) by sending, by post, a written notification of the matters concerned to any Garda Síochána station which is such a headquarters, or

(c) by such other means as may be prescribed.

(9) The onus of proof of the sending by post of such a notification shall, in any proceedings for an offence under *section 93(1)(a)**, lie on the defendant.

(10) A notification under this section shall be acknowledged in writing and that acknowledgement shall be in such form as may be prescribed.

(11) In this section—

“home address”, in relation to any person, means the address of his or her sole or main residence or, if he or she has no such residence, his or her most usual place of abode or, if he or she has no such abode, the place which he or she regularly visits;

“qualifying period” means—

(a) a period of 7 days, or

(b) 2 or more periods, in any period of 12 months, which (taken together) amount to 7 days.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 168

1.

In subsection (2)(a), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In subsection (2)(c), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

3.

In subsection (2), to delete “the Garda Síochána” where it lastly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

4.

In subsection (3), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

5.

In subsection (4), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

[SECTION 24]

6.

In subsection (6), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

7.

In subsection (8)(a), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

169. In page 25, before section 24, but in Part 4, to insert the following new section:

“Discharge from obligation to comply with requirements of this Part.

92.—(1) A person who, by reason of *sections 88** and *89**, is subject to the requirements of this Part for a period of 12 years or 6 years (in the case of a person to whom *section 89(4)** applies) may apply to the court for an order discharging the person from the obligation to comply with those requirements on the ground that the interests of the common good are no longer served by his or her continuing to be subject to them.

(2) An application under this section shall not be made before the expiration of the period of 8 years, or 4 years in the case of a person to whom *section 89(4)** applies, from the date of the applicant’s release from prison.

(3) The applicant shall, not later than the beginning of such period before the making of the application as may be prescribed, notify the superintendent of the Garda Síochána of the district in which he or she ordinarily resides or has his or her most usual place of abode of his or her intention to make an application under this section.

(4) That superintendent or any other member of the Garda Síochána shall be entitled to appear and be heard at the hearing of that application.

(5) On the hearing of an application under this section, the court shall, if it considers that it is appropriate to do so in all the circumstances of the case, make an order discharging the applicant from the obligation to comply with the requirements of this Part.

(6) In considering an application under this section, the court may have regard to any matter that appears to it to be relevant and may, in particular, have regard to the character of the applicant, his or her conduct after conviction for the offence concerned and the offence concerned.

(7) If the court makes an order discharging the applicant from the obligation to comply with the requirements of this Part, the court shall cause the Garda Síochána to be notified, in writing, of that discharge.

(8) The jurisdiction of the court in respect of an application under this section may be exercised by the judge of the circuit where the applicant ordinarily resides or has his or her most usual place of abode.

(9) Proceedings under this section shall be heard otherwise than in public.

(10) In this section—

[SECTION 24]

“applicant” means the person referred to in *subsection (1)*;

“court” means the Circuit Court;

“date of the applicant’s release from prison” means the date on which the applicant’s sentence of imprisonment for the purposes of *section 89(3)** expires or, as the case may be, his or her remission from the sentence begins.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 169

1.

In subsection (3), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In subsection (4), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

3.

In subsection (7), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

170. In page 25, before section 24, but in Part 4, to insert the following new section:

“Offences in connection with notification requirements.

93.—(1) A person who—

(a) fails, without reasonable excuse, to comply with *subsection (1), (2), (3) or (4) of section 91**, or

(b) notifies to the Garda Síochána, in purported compliance with that *subsection (1), (2), (3) or (4)*, any information which he or she knows to be false or misleading in any respect,

shall be guilty of an offence.

(2) A person is guilty of an offence under *subsection (1)(a)* on the day on which he or she first fails, without reasonable excuse, to comply with *subsection (1), (2), (3) or (4)*, as the case may be, of *section 91** and continues to be guilty of it throughout any period during which the failure continues; but a person shall not be prosecuted under that provision more than once in respect of the same failure.

(3) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both.

[SECTION 24]

(4) In proceedings for an offence under *subsection (1)(a)* a statement on oath by a member of the Garda Síochána referred to in *subsection (5)* that no notification of the matters concerned was given by the defendant to the Garda Síochána by any of the means referred to in *section 91(8)** shall, until the contrary is shown, be evidence that no such notification was given by the defendant.

(5) The member of the Garda Síochána referred to in *subsection (4)* is a member not below the rank of sergeant who, from his or her evidence to the court, the court is satisfied—

(a) is familiar with the systems operated by the Garda Síochána for recording the fact that particular information has been received by them, and

(b) has made all proper inquiries in ascertaining whether a notification by the defendant of the matters concerned was received by the Garda Síochána.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 170

1.

In subsection (1)(b), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In subsection (4), to delete “the Garda Síochána” where it firstly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

3.

In subsection (4), to delete “the Garda Síochána” where it secondly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

4.

In subsection (5), to delete “the Garda Síochána” where it firstly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

5.

In subsection (5)(a), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

6.

In subsection (5)(b), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

[SECTION 24]

171. In page 25, before section 24, but in Part 4, to insert the following new section:

“Application of this Part to persons convicted outside State.

94.—(1) If—

- (a) a person has been convicted, in a place other than the State, of an offence,
- (b) the act constituting the offence concerned would, if done in the State, constitute a drug trafficking offence (within the meaning of this Part) under the law of the State, and either—
 - (i) the person would, accordingly, be subject to the requirements of this Part by reason of *subsection (1) or (2) of section 88**, or
 - (ii) at the commencement of this Part, the person, as a person who has been convicted of the first-mentioned offence in *paragraph (a)*, is required, under the law of the first-mentioned place in that paragraph (however that requirement is described in that law), to notify to the police in that place information of a similar nature to that required to be notified by a person otherwise subject to the requirements of this Part,

and

- (c) the person is, at the time of the conviction, or thereafter becomes, resident in the State,

that person shall be deemed to be subject to the requirements of this Part and this Part shall, subject to *subsection (2)*, apply accordingly.

(2) For the purposes of such application, *section 91** shall have effect as if for *subsection (1)* thereof there was substituted the following subsection:

“(1) A person who is subject to the requirements of this Part shall, before the end of the period of 7 days beginning with—

- (a) in case the person is already resident in the State upon his or her so first returning and *paragraph (c)* does not apply, the date on which the person first returns to the State after being convicted of the offence concerned,
- (b) in case the person is not so resident and *paragraph (c)* does not apply, the date on which the person first becomes resident in the State after being convicted of the offence concerned, or
- (c) in case the date on which the person so first returns to, or becomes resident in, the State is prior to the commencement of this Part, the commencement of this Part,

notify to the Garda Síochána—

- (i) his or her name and, where he or she also uses one or more other names, each of those names, and
- (ii) his or her home address.”.

[SECTION 24]

(3) For the purposes of this section, a person shall be deemed to be resident in the State if he or she is ordinarily resident, or has his or her principal residence, in the State, or is in the State for a qualifying period.

(4) Where a person to whom this section applies is charged with an offence under *section 93**, he or she shall, whether or not he or she would be treated for the purposes of *section 93** as having a reasonable excuse apart from this subsection, be treated for those purposes as having a reasonable excuse if he or she believed that the act constituting the offence referred to in *subsection (1)* would not, if done in the State, constitute any drug trafficking offence (within the meaning of this Part) under the law of the State.

(5) For the purposes of *subsection (4)*, it is immaterial whether a belief is justified or not if it is honestly held.

(6) In this section—

“police” means, in relation to the first-mentioned place in *subsection (1)*, any police force in that place, or a member thereof, whether that force is organised at a national, regional or local level;

“qualifying period” has the same meaning as it has in *section 91**.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 171

1.

In subsection (2), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

172. In page 25, before section 24, but in Part 4, to insert the following new section:

“Certificate as evidence of person’s being subject to requirements of this Part.

95.—(1) If the conviction, after the commencement of this Part, of a person for an offence gives rise or may give rise to his or her becoming subject to the requirements of this Part, the court before which he or she is convicted of the offence shall forthwith, after the conviction, issue to each of the persons referred to in *subsection (5)* a certificate stating—

- (a) that the person has been convicted of the offence,
- (b) the sentence, if any, imposed on the person in respect of the offence, and
- (c) that the person has become or, as may be appropriate, may become subject to the requirements of this Part.

(2) If a sentence is imposed on a person in respect of the offence referred to in *subsection (1)* after a certificate relating to that offence has been issued under that subsection, the court which imposed the sentence shall forthwith, after the imposition of the sentence, issue to each of the persons referred to in *subsection (5)* a certificate stating the sentence that has been imposed on the person.

(3) If—

[SECTION 24]

- (a) the conviction referred to in *subsection (1)* is quashed on appeal or otherwise, or
- (b) the sentence imposed on foot of that conviction is varied on appeal or otherwise,

the court which quashes the conviction or varies the sentence shall forthwith, after the quashing of the conviction or the variation of the sentence, issue to each of the persons referred to in *subsection (5)* a certificate stating that the conviction has been quashed or stating the variation that has been made in the sentence.

(4) A certificate purporting to be issued under *subsection (1), (2) or (3)* shall, in any proceedings, be evidence of the matters stated in it without proof of the signature of the officer of the court purporting to sign it or that that person was authorised to sign it.

(5) The persons referred to in *subsections (1), (2) and (3)* are—

- (a) the Garda Síochána,
- (b) the person convicted of the offence concerned, and
- (c) where appropriate, the person for the time being in charge of the place where the convicted person is ordered to be imprisoned.

(6) The mode of proving a conviction or sentence authorised by *subsection (4)* shall be in addition to, and not in substitution for, any other authorised mode of proving such conviction or sentence.

(7) Rules of court may make provision in relation to the form of certificates under this section and the manner in which they may be issued.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 172

1.

In *subsection (5)(a)*, to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

173. In page 25, before section 24, but in Part 4, to insert the following new section:

“Proof of foreign conviction in certain cases.

96.—(1) In proceedings against a person for an offence under *section 93** (where the person is a person referred to in *section 94(1)**), the production to the court of a document that satisfies the condition referred to in *subsection (2)* and which purports to contain either or both—

- (a) particulars of the conviction in a state, other than the State, of that person for an offence and of the act constituting the offence,
- (b) a statement that, on a specified date, that person was subject to the first-mentioned requirement in *section 94(1)(b)(ii)**,

[SECTION 24]

shall, without further proof, be evidence, until the contrary is shown, of the matters stated in it.

(2) The condition mentioned in *subsection (1)* is that the document concerned purports to be signed or certified by a judge, magistrate or officer of the state referred to in that subsection and to be authenticated by the oath of some witness or by being sealed with the official seal of a minister of state of that state (judicial notice of which shall be taken by the court).

(3) That condition shall be regarded as being satisfied without proof of the signature or certification, and the authentication of it, that appears in or on the document.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

174. In page 25, before section 24, but in Part 4, to insert the following new section:

“PART 10

SENTENCING

Definitions (*Part 10**).

97.—In this Part, unless the context otherwise requires—

“authorised person” means a person who is appointed in writing by the Minister, or a person who is one of a class of persons which is prescribed, to be an authorised person for the purposes of this Part;

“a direction” means a direction given by the Minister under section 2 of the Criminal Justice Act 1960 authorising the release of a person from prison (within the meaning of that section) for a temporary period;

“offender” means a person in respect of whom a restriction on movement order is, or may be, made under *section 100**;

“probation and welfare officer” means a person appointed by the Minister to be—

- (a) a probation officer,
- (b) a welfare officer, or
- (c) a probation and welfare officer;

“restriction on movement order” means an order made by a court under *section 100**.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

175. In page 25, before section 24, but in Part 4, to insert the following new section:

[SECTION 24]

“Power to suspend sentence.

98.—(1) Where a person is sentenced to a term of imprisonment (other than a mandatory term of imprisonment) by a court in respect of an offence, that court may make an order suspending the execution of the sentence in whole or in part, subject to the person entering into a recognisance to comply with the conditions of, or imposed in relation to, the order.

(2) It shall be a condition of an order under *subsection (1)* that the person in respect of whom the order is made keep the peace and be of good behaviour during

(a) the period of suspension of the sentence concerned, or

(b) in the case of an order that suspends the sentence in part only, the period of imprisonment and the period of suspension of the sentence concerned,

and that condition shall be specified in the order concerned.

(3) The court may, when making an order under *subsection (1)*, impose such conditions in relation to the order as the court considers—

(a) appropriate having regard to the nature of the offence, and

(b) will reduce the likelihood of the person in respect of whom the order is made committing any other offence,

and any condition imposed in accordance with this subsection shall be specified in that order.

(4) In addition to any condition imposed under *subsection (3)*, the court may, when making an order under *subsection (1)* consisting of the suspension in part of a sentence of imprisonment or upon an application under *subsection (6)*, impose any one or more of the following conditions in relation to that order or the order referred to in the said *subsection (6)*, as the case may be:

(a) that the person cooperate with the probation and welfare service to the extent specified by the court for the purpose of his or her rehabilitation and the protection of the public,

(b) that the person undergo such—

(i) treatment for drug, alcohol or other substance addiction,

(ii) course of education, training or therapy,

(iii) psychological counselling or other treatment,

as may be approved by the court,

(c) that the person be subject to the supervision of the probation and welfare service.

(5) A condition (other than a condition imposed, upon an application under *subsection (6)*, after the making of the order concerned) imposed under *subsection (4)* shall be specified in the order concerned.

(6) A probation and welfare officer may, at any time before the expiration of a sentence of a court to which an order under *subsection (1)* consisting of the suspension of a sentence in part applies, apply to the court for the imposition of any of the conditions referred to in *subsection (4)* in relation to the order.

[SECTION 24]

(7) Where a court makes an order under this section, it shall cause a copy of the order to be given to—

- (a) the Garda Síochána, or
- (b) in the case of an order consisting of the suspension of a sentence in part only, the governor of the prison to which the person is committed and the Garda Síochána.

(8) Where a court has made an order under *subsection (1)* and imposes conditions under *subsection (4)* upon an application under *subsection (6)*, it shall cause a copy of the order and conditions to be given to—

- (a) the probation and welfare service, and
- (b) (i) the Garda Síochána, or
- (ii) in the case of an order consisting of the suspension of a sentence in part only, the governor of the prison to which the person is committed and the Garda Síochána.

(9) Where a person to whom an order under *subsection (1)* applies is, during the period of suspension of the sentence concerned, convicted of an offence, the court before which proceedings for the offence were brought shall, after imposing sentence for that offence, remand the person in custody or on bail to the next sitting of the court that made the said order.

(10) A court to which a person has been remanded under *subsection (9)* shall revoke the order under *subsection (1)* unless it considers that the revocation of that order would be unjust in all the circumstances of the case, and where the court revokes that order, the person shall be required to serve the entire of the sentence of imprisonment originally imposed by the court, or such part of the sentence as the court considers just having regard to all of the circumstances of the case, less any period of that sentence already served in prison and any period spent in custody (other than a period during which the person was serving a sentence of imprisonment in respect of an offence referred to in *subsection (9)*) pending the revocation of the said order.

(11) (a) A sentence (other than a sentence consisting of imprisonment for life) imposed—

- (i) in respect of an offence committed by a person to whom an order under *subsection (1)* applies, and
- (ii) during the period of suspension of sentence to which that order applies,

shall not commence until the expiration of any period of imprisonment that the person is required to serve of the sentence referred to in *paragraph (b)* either by virtue of the order under *subsection (1)* or a revocation under *subsection (10)*.

(b) This subsection shall not affect the operation of section 5 of the Criminal Justice Act 1951.

[SECTION 24]

(12) Where an order under *subsection (1)* is revoked in accordance with this section, the person to whom the order applied may appeal against the revocation to such court as would have jurisdiction to hear an appeal against any conviction of, or sentence imposed on, a person for an offence by the court that revoked that order.

(13) Where a member of the Garda Síochána or, as the case may be, the governor of the prison to which a person was committed has reasonable grounds for believing that a person to whom an order under this section applies has contravened the condition referred to in *subsection (2)* he or she may apply to the court to fix a date for the hearing of an application for an order revoking the order under *subsection (1)*.

(14) A probation and welfare officer may, if he or she has reasonable grounds for believing that a person to whom an order under *subsection (1)* applies has contravened a condition imposed under *subsection (3)* or *(4)*, apply to the court to fix a date for the hearing of an application for an order revoking the order under *subsection (1)*.

(15) Where the court fixes a date for the hearing of an application referred to in *subsection (13)* or *(14)*, it shall, by notice in writing, so inform the person in respect of whom the application will be made, or where that person is in prison, the governor of the prison, and such notice shall require the person to appear before it, or require the said governor to produce the person before it, on the date so fixed and at such time as is specified in the notice.

(16) If a person who is not in prison fails to appear before the court in accordance with a requirement contained in a notice under *subsection (15)*, the court may issue a warrant for the arrest of the person.

(17) A court shall, where it is satisfied that a person to whom an order under *subsection (1)* applies has contravened a condition of the order, revoke the order unless it considers that in all of the circumstances of the case it would be unjust to so do, and where the court revokes that order, the person shall be required to serve the entire of the sentence originally imposed by the court, or such part of the sentence as the court considers just having regard to all of the circumstances of the case, less any period of that sentence already served in prison and any period spent in custody pending the revocation of the said order.

(18) A notice under *subsection (15)* shall be addressed to the person concerned by name, and may be given to the person in one of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.

(19) This section shall not affect the operation of section 2 (inserted by section 1 of the Criminal Justice (Temporary Release of Prisoners) Act 2003) of the Criminal Justice Act 1960 or Rule 38 of the Rules for the Government of Prisons 1947 (S.R. & O. No. 320 of 1947).

(20) In this section—

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“governor” includes, in relation to a prisoner, a person for the time being performing the functions of governor;

“imprisonment” includes—

(a) detention in Saint Patrick’s Institution, and

(b) detention in a place provided under section 2 of the Prisons Act 1970,

and “sentence of imprisonment” shall be construed accordingly;

“mandatory term of imprisonment” includes, in relation to an offence, a term of imprisonment imposed by a court under an enactment that provides that a person who is guilty of the offence concerned shall be liable to a term of imprisonment of not less than such term as is specified in the enactment;

“probation and welfare service” means those officers of the Minister assigned to perform functions in the part of the Department of State for which the Minister is responsible commonly known by that name.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 175

1.

In subsection (7)(a), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In subsection (7)(b), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

3.

In subsection (8)(b)(i), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

4.

In subsection (8)(b)(ii), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

5.

In subsection (13), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

176. In page 25, before section 24, but in Part 4, to insert the following new section:

[SECTION 24]

“Imposition of fine and deferral of sentence.

99.—(1) Where a person is convicted of an offence and is liable to both a term of imprisonment and a fine in respect of that offence, the court by which he or she was convicted may, subject to *subsection (2)*—

- (a) impose a fine on that person in respect of the offence, and
- (b) make an order—
 - (i) deferring the passing of a sentence of imprisonment for the offence, and
 - (ii) specifying the term of imprisonment that it would propose to impose on the person in respect of that offence should he or she fail or refuse to comply with the conditions specified in the order.

(2) A court shall not perform functions under *subsection (1)* unless it is satisfied that—

- (a) the person concerned consents to the sentence of imprisonment being deferred,
- (b) the person gives an undertaking to comply with any conditions specified in an order made under *subsection (1)(b)*, and
- (c) having regard to the nature of the offence concerned and all of the circumstances of the case, it would be in the interests of justice to so do.

(3) An order under *subsection (1)(b)* shall specify—

- (a) the date (in this section referred to as the “specified date”) on which it proposes to pass sentence should the person contravene a condition of the order, being a date that falls not later than 6 months after the making of the order, and
- (b) the conditions with which the person concerned is to comply during the period between the making of the order and the specified date, including a condition that the person be of good behaviour and keep the peace.

(4) Where a court makes an order under *subsection (1)(b)*, it shall cause a copy of the order to be given to the person in respect of whom it is made and the Garda Síochána.

(5) A court that has made an order under *subsection (1)(b)* shall not later than one month before the specified date require the person in respect of whom the order was made, by notice, to attend a sitting of the court on that date and at such time as is specified in the notice.

(6) If a person fails to comply with a requirement in a notice under *subsection (5)*, the court may issue a warrant for the arrest of that person.

(7) Where a member of the Garda Síochána has reasonable grounds for believing that a person to whom an order under *subsection (1)(b)* applies has contravened a condition of the order, he or she may apply to the court to fix a date for the hearing of an application for an order imposing the term of imprisonment specified in the order in accordance with *subsection (1)(b)(ii)*.

[SECTION 24]

(8) Where the court fixes a date for the hearing of an application referred to in *subsection (7)*, it shall, by notice in writing, so inform the person in respect of whom the application will be made, and such notice shall require the person to appear before it on the date so fixed and at such time as is specified in the notice.

(9) If a person fails to appear before the court in accordance with a requirement contained in a notice under *subsection (8)*, the court may issue a warrant for the arrest of the person.

(10) Upon an application by a member of the Garda Síochána for an order imposing the term of imprisonment specified in accordance with *paragraph (b)(ii)* of *subsection (1)*, a court may, if it is satisfied that the person in respect of whom the application was made has contravened a condition specified in the order under that subsection, impose the term of imprisonment that it proposed to impose at the time of the making of the order under that subsection (or such lesser term as it considers just in all of the circumstances of the case), unless it considers that it would in all the circumstances be unjust to so do.

(11) On the specified date the court shall, if it is satisfied that the person in respect of whom the order under *subsection (1)* was made has complied with the conditions specified in the order, not impose the sentence that it proposed to impose when making that order and shall discharge the person forthwith.

(12) On the specified date the court may, if it is satisfied that the person in respect of whom the order under *subsection (1)* was made has contravened a condition specified in the order, impose the term of imprisonment that it proposed to impose at the time of the making of the order (or such lesser term as it considers just in all of the circumstances of the case) unless it considers that in all of the circumstances of the case it would be unjust to so do, and where it considers that it would be unjust to impose a term of imprisonment it shall discharge the person forthwith.

(13) A notice under *subsection (5)* or *(8)* shall be addressed to the person concerned by name, and may be given to the person in one of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 176

1.

In subsection (4), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In subsection (7), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

[SECTION 24]

3.

In subsection (10), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

4.

In subsection (13), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

177. In page 25, before section 24, but in Part 4, to insert the following new section:

“Restriction on movement order.

100.—(1) Where a person aged 18 years or more is convicted summarily of an offence specified in *Schedule 3** and the court which convicts him or her of the offence considers that it is appropriate to impose a sentence of imprisonment for a term of 3 months or more on the person in respect of the offence, it may, as an alternative to such a sentence, make an order under this section (“a restriction on movement order”) in respect of the person.

(2) A restriction on movement order may restrict the offender’s movements to such extent as the court thinks fit and, without prejudice to the generality of the foregoing, may include provision—

(a) requiring the offender to be in such place or places as may be specified for such period or periods in each day or week as may be specified, or

(b) requiring the offender not to be in such place or places, or such class or classes of place or places, at such time or during such periods, as may be specified,

or both, but the court may not, under *paragraph (a)*, require the offender to be in any place or places for a period or periods of more than 12 hours in any one day.

(3) A restriction on movement order may be made for any period of not more than 6 months and, during that period, the offender shall keep the peace and be of good behaviour.

(4) A restriction on movement order may specify such conditions as the court considers necessary for the purposes of ensuring that while the order is in force the offender will keep the peace and be of good behaviour and will not commit any further offences.

(5) A restriction on movement order shall specify the restrictions that are to apply to the offender’s movements and, in particular, it shall specify—

(a) the period during which it is in force,

(b) the period or periods in each day or week during which the offender shall be in any specified place or places,

(c) the time at which, or the periods during which, the offender shall not be in any specified place or places or any class or classes of place or places.

[SECTION 24]

(6) In determining for the purposes of *subsection (2)(a)* the period or periods during which the offender shall be in a specified place or places, the court shall have regard to the nature and circumstances of the offence of which the offender has been found guilty and any educational course, training, employment or other activity in which the offender is participating, and it shall ensure, as far as practicable, that that period or those periods do not conflict with the practice by the offender of his or her religion.

(7) In determining for the purpose of *subsection (2)(b)* the place or places, or class or classes of place or places, the time or the periods to be specified in a restriction on movement order, the court shall have regard to the nature and circumstances of the offence of which the offender has been found guilty, the time that the offender committed the offence, the place where the offence was committed and the likelihood of the offender committing another offence in the same or similar place or places or class or classes of place or places.

(8) A court shall not make a restriction on movement order in respect of an offender unless it considers, having regard to the offender and his or her circumstances, that he or she is a suitable person in respect of whom such an order may be made and, for that purpose, the court may request a probation and welfare officer to prepare a report in writing in relation to the offender.

(9) A restriction on movement order which restricts the movements of an offender in accordance with *subsection (2)(a)* shall not be made without the consent of the owner of, or any adult person habitually residing at, the place or places concerned or, as the case may be, the person in charge of the place or places concerned.

(10) A court making a restriction on movement order may include in the order a requirement that the restrictions on the offender's movements be monitored electronically in accordance with *section 101**, but it shall not include such a requirement unless it considers, having regard to the offender and his or her circumstances, that he or she is a suitable person in respect of whom such a requirement may be made and, for that purpose, the court may request an authorised person to prepare a report in writing in relation to the offender.

(11) Before making a restriction on movement order, the court shall explain to the offender in ordinary language—

- (a) the effect of the order, including any requirement which is to be included in the order under *section 101**,
- (b) the consequences which may follow any failure by the offender to comply with the requirements of the order, and
- (c) that the court has power under *section 102** to vary the order on the application of any person referred to in that section,

and the court shall not make the order unless the offender agrees to comply with its requirements.

(12) The court shall cause certified copies of a restriction on movement order to be sent to—

- (a) the offender,
- (b) the member in charge of the Garda Síochána station for the area where the offender resides or, where appropriate, the area where he or she is to reside while the order is in force,

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(c) where appropriate, an authorised person who is responsible under *section 101** for monitoring the offender's compliance with the order.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 177

1.

In subsection (1), to delete “summarily”.

—Joe Costello.

2.

In subsection (3), to delete “6 months” and substitute “the maximum term of imprisonment for the offence concerned, or 6 months, whichever is greater”.

—Joe Costello.

3.

In subsection (12)(b), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

178. In page 25, before section 24, but in Part 4, to insert the following new section:

“Electronic monitoring of restriction on movement order.

101.—Where the restrictions on an offender’s movements in a restriction on movement order are to be monitored electronically, the order shall include—

(a) a provision making an authorised person responsible for monitoring the offender’s compliance with it, and

(b) a requirement that the offender shall, either continuously or for such periods as may be specified, have an electronic monitoring device attached to his or her person for the purpose of enabling the monitoring of his or her compliance with the order to be carried out.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

179. In page 25, before section 24, but in Part 4, to insert the following new section:

“Variation of restriction on movement order.

102.—(1) Where a restriction on movement order is in force, the court may, if it so thinks proper, on written application by—

(a) the offender,

(b) where appropriate, the owner of, or an adult person habitually residing at, the place or places or, as the case may be, the person in charge of the place or places, specified in the order,

(c) a member of an Garda Síochána, or

[SECTION 24]

(d) where appropriate, an authorised person who is responsible under *section 101** for monitoring the offender's compliance with the order,

vary the order by substituting another period or time or another place for any period, time or place specified in the order.

(2) An application under *subsection (1)* shall be made on notice to such of the other parties specified in *subsection (1)* as is appropriate.

(3) Where any party specified in *subsection (1)* objects to the variation of a restriction on movement order, the court shall not vary the order without hearing from that party.

(4) The court shall cause certified copies of a restriction on movement order varied under this section to be sent to—

(a) the offender,

(b) where appropriate, the owner of, or an adult person habitually residing at, the place or places or, as the case may be, the person in charge of the place or places, specified in the order,

(c) the member in charge of the Garda Síochána station for the area where the offender resides or, where appropriate, the area where he or she is to reside while the order is in force, and

(d) where appropriate, an authorised person who is responsible under *section 101** for monitoring the offender's compliance with the order.

(5) The jurisdiction vested in the court under this section shall be exercised by a judge of the District Court for the time being assigned to the district court district in which the offender resides or is to reside while the restriction on movement order is in force.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 179

1.

In subsection (1)(c), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In subsection (4)(c), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

180. In page 25, before section 24, but in Part 4, to insert the following new section:

“Provisions regarding more than one restriction on movement order.

103.—(1) Where more than one restriction on movement order is in force in respect of an offender at any time, the period during which the offender is required to be in a specified place or places shall, notwithstanding *subsections (2) and (3)*, not be for a period of more than 6 months.

[SECTION 24]

(2) Where a court makes restriction on movement orders in respect of 2 or more offences of which the offender has been found guilty, it may direct that the period for which the offender is required by any of those orders to be in a specified place or places shall be concurrent with or additional to that specified in any other of those orders.

(3) Where a court makes a restriction on movement order and at the time of the making of the order there is in force in respect of the offender another such order (whether made by the same or a different court), the court making the later order may direct in that order that the period for which the offender is required by that order to be in a specified place or places shall be concurrent with or additional to that specified in the earlier order.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 180

1.

In subsection (1), to delete paragraph (a).

—Aengus O’Snodaigh.

181. In page 25, before section 24, but in Part 4, to insert the following new section:

“Non-compliance with restriction on movement order.

104.—(1) Where a restriction on movement order is in force and it appears to a court, on application by a member of an Garda Síochána or, where appropriate, an authorised person who is responsible under *section 101** for monitoring the offender’s compliance with the order, that the offender has failed, without reasonable cause, to comply with the order or any condition to which it is subject, the court may—

(a) if the order was made by a court in the district court district in which the offender resides or is to reside while the order is in force—

(i) direct the offender to comply with the order or any such condition in so far as it has not been complied with,

(ii) revoke the order and make another restriction on movement order in respect of the offender, or

(iii) revoke the order and deal with the case in any other way in which it could have been dealt with before the order was made,

or

(b) if the order was made by a court in another district court district, remand the offender on bail to a sitting of that court to be dealt with, and for that purpose, *paragraph (a)* shall apply in relation to that court, with the necessary modifications.

(2) The matters to be taken into account by the court in arriving at a decision pursuant to *subsection (1)* shall include the extent to which, and the period during which, the offender has complied with the order concerned or any condition to which it is subject.

[SECTION 24]

(3) Where the court proposes to exercise its powers under *subsection (1)*, it shall summon the offender to appear before it and, if the offender does not appear in answer to the summons, it may issue a warrant for his or her arrest.

(4) The jurisdiction vested in the court under this section shall be exercised by a judge of the District Court for the time being assigned to the district court district in which the offender resides or is to reside while the restriction on movement order is in force.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

182. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 5 of Criminal Justice Act 1951.

105.—Where 2 or more sentences, one of which is a restriction on movement order, are passed on an offender by the District Court and are ordered to run consecutively, the aggregate of the period during which the order in respect of the offender is in force and the period of any term or terms of imprisonment imposed on him or her shall not exceed the maximum period of the aggregate term of imprisonment specified in section 5 of the Criminal Justice Act 1951.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

183. In page 25, before section 24, but in Part 4, to insert the following new section:

“Documentary evidence.

106.—(1) Evidence of the presence or absence of the offender in or from a particular place at a particular time may, subject to the provisions of this section, be given by the production of a document or documents being—

- (a) a statement automatically produced by a device, prescribed by regulations under *section 110**, by which the offender’s whereabouts were electronically monitored, and
- (b) a certificate signed by an authorised person who is responsible under *section 101** for monitoring the offender’s compliance with the order that the statement relates to the whereabouts of the offender at the dates and times shown in the statement.

(2) The statement and certificate mentioned in *subsection (1)* shall, when produced at a hearing, be evidence, until the contrary is shown, of the facts set out in them.

(3) Neither the statement nor the certificate mentioned in *subsection (1)* shall be admissible in evidence unless a copy of both has been served on the offender prior to the hearing.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

184. In page 25, before section 24, but in Part 4, to insert the following new section:

“Temporary release of prisoners.

107.—(1) A direction in respect of a person aged 18 years or more may be subject to a condition restricting the person’s movements to such extent as the Minister thinks fit and specifies in the direction and those restrictions may be monitored electronically in accordance with *subsection (4)*.

(2) Without prejudice to the generality of *subsection (1)*, a direction may include provision—

- (a) requiring the person to be in such place or places as may be specified for such period or periods in each day or week as may be specified, or
- (b) requiring the person not to be in such place or places, or such class or classes of place or places, at such time or during such periods, as may be specified,

or both, but the Minister may not, under *paragraph (a)*, require the person to be in any place or places for a period or periods of more than 12 hours in any one day.

(3) A direction shall not be subject to a condition which restricts the movements of a person in accordance with *subsection (2)(a)* without the consent of the owner of, or any adult person habitually residing at, the place or places concerned or, as the case may be, the person in charge of the place or places concerned.

(4) Where the restrictions on a person’s movements imposed by a condition in a direction are to be monitored electronically, the direction shall include—

- (a) a provision making an authorised person responsible for monitoring the person’s compliance with the condition and the condition referred to in *paragraph (b)*, and
- (b) a condition that the person shall, either continuously or for such periods of not more than 6 months as may be specified have an electronic monitoring device attached to his or her person for the purpose of enabling the monitoring of his or her compliance with the condition restricting his or her movements to be carried out.

(5) A condition shall not be imposed under *subsection (1)* or *(4)(b)* unless the person concerned agrees to comply with it, but the absence of such agreement shall not confer an entitlement on that person to be released pursuant to a direction.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 184

1.

In subsection (1) to delete all words form and including “and” where it secondly occurs down to and including “*subsection (4)*”.

—Aengus O’Snodaigh.

2.

To delete subsection (4).

—Aengus O’Snodaigh.

[SECTION 24]

3.

To delete subsection (5).

—Joe Costello.

185. In page 25, before section 24, but in Part 4, to insert the following new section:

“Documentary evidence.

108.—(1) In any proceedings for an offence under section 6(2) of the Criminal Justice Act 1960 evidence of the presence or absence of the person in or from a particular place at a particular time may, subject to the provisions of this section, be given by the production of a document or documents being—

(a) a statement automatically produced by a device, prescribed by regulations made under *section 110**, by which the person’s whereabouts were electronically monitored, and

(b) a certificate signed by an authorised person who is responsible under *section 107(4)** for monitoring the offender’s compliance with the condition in the direction that the statement relates to the whereabouts of the person at the dates and times shown in the statement.

(2) The statement and certificate mentioned in *subsection (1)* shall, when produced at a hearing, be evidence, until the contrary is shown, of the facts set out in them.

(3) Neither the statement nor the certificate mentioned in *subsection (1)* shall be admissible in evidence unless a copy of both has been served on the person prior to the hearing.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment

1.

In subsection (1), to delete paragraph (a).

—Aengus O’Snodaigh.

186. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 2(1) of Criminal Justice Act 1960.

109.—Section 2(1) of the Criminal Justice Act 1960 is amended by the insertion of “(including, if appropriate, any condition under *section 107** of the *Criminal Justice Act 2006*)” after “subject to such conditions, as may be specified in the direction”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

187. In page 25, before section 24, but in Part 4, to insert the following new section:

“Regulations regarding electronic monitoring devices.

110.—The Minister may prescribe by regulations the types of electronic monitoring device that may be used for the purpose of monitoring—

(a) the compliance of offenders with a requirement under *section 101**, and

(b) the compliance of persons with *section 107(4)**.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

188. In page 25, before section 24, but in Part 4, to insert the following new section:

“Electronic monitoring.

111.—The Minister may make such arrangements, including contractual arrangements, as he or she considers appropriate with such persons as he or she thinks fit for the monitoring of—

(a) the compliance of offenders with restriction on movement orders, or

(b) the compliance of persons with a condition imposed under *section 107(4)** in directions in respect of such persons,

or both.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

189. In page 25, before section 24, but in Part 4, to insert the following new section:

“PART 11*

CIVIL PROCEEDINGS IN RELATION TO ANTI-SOCIAL BEHAVIOUR

Interpretation and application of this Part.

112.—(1) In this Part—

“behaviour warning” has the meaning assigned to it under *section 113**;

“civil order” means an order described in *section 114 (1)**;

“senior member of the Garda Síochána” means a member of the Garda Síochána not below the rank of a superintendent.

(2) For the purposes of this Part, a person behaves in an anti-social manner if the person causes or, in the circumstances, is likely to cause, to one or more persons who are not of the same household as the person—

(a) harassment,

(b) significant or persistent alarm, distress, fear or intimidation, or

(c) significant or persistent impairment of their use or enjoyment of their property.

[SECTION 24]

(3) This Part does not apply—

- (a) in respect of behaviour of a person who is under the age of 18 years at the time the behaviour takes place,
- (b) to any behaviour of a person that takes place before this section comes into force, or
- (c) to any act or omission of a person in respect of which criminal proceedings have been instituted against that person.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 189

1.

In subsection (1), to delete “the Garda Síochána” where it firstly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In subsection (1), to delete “the Garda Síochána” where it secondly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

190. In page 25, before section 24, but in Part 4, to insert the following new section:

“Behaviour warnings.

113.—(1) Subject to *subsection (5)*, a member of the Garda Síochána may issue a behaviour warning to a person who has behaved in an anti-social manner.

(2) The behaviour warning may be issued orally or in writing and, if it is issued orally, it shall be recorded in writing as soon as reasonably practicable and a written record of the behaviour warning shall be served on the person personally or by post.

(3) The behaviour warning or, if it is given orally, the written record of it shall—

- (a) include a statement that the person has behaved in an anti-social manner,
- (b) demand that the person cease the behaviour or otherwise address the behaviour in the manner specified in the warning, and
- (c) include notice that—
 - (i) failure to comply with a demand under *paragraph (b)*, or
 - (ii) issuance of a subsequent behaviour warning,

may result in an application being made for a civil order.

(4) The member of the Garda Síochána referred to in *subsection (1)* may require the person to give his or her name and address to the member for purposes of the behaviour warning or the written record of it.

(5) A behaviour warning may not be issued more than one month after the time that—

[SECTION 24]

- (a) the behaviour took place, or
- (b) in the case of persistent behaviour, the most recent known instance of that behaviour took place.

(6) The person to whom a behaviour warning is issued shall comply with the demands of the warning.

(7) Subject to *subsection (8)*, a behaviour warning remains in force against the person to whom it is issued for 3 months from the date that it is issued.

(8) If an application is made under *section 114** in respect of the person, the behaviour warning remains in force against the person until the application is heard or otherwise determined by the District Court.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 190

1.

In subsection (1), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In subsection (4), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

191. In page 25, before section 24, but in Part 4, to insert the following new section:

“Civil orders.

114.—(1) On application made in accordance with this section, the District Court may make an order (a “civil order”) prohibiting the respondent from doing anything specified in the order if the court is satisfied that—

- (a) the respondent has behaved in an anti-social manner,
- (b) the order is necessary to prevent the respondent from continuing to behave in that manner, and
- (c) having regard to the effect or likely effect of that behaviour on other persons, the order is reasonable and proportionate in the circumstances.

(2) The court may impose terms or conditions in the civil order that the court considers appropriate.

(3) An application for a civil order may only be made by a senior member of the Garda Síochána and shall be made—

- (a) on notice to the respondent, and
- (b) in the district court district in which the respondent resides at the time.

[SECTION 24]

(4) Before making the application, the senior member of the Garda Síochána must be satisfied that either or both of the following conditions have been met:

- (a) the respondent has been issued a behaviour warning and has not complied with one or more of the demands of that warning;
- (b) the respondent has been issued 3 or more behaviour warnings in less than 6 consecutive months.

(5) The respondent in an application under *subsection (1)* may not at any time be charged with, prosecuted or punished for an offence if the act or omission that constitutes the offence is the same behaviour that is the subject of the application and is to be determined by the court under *subsection (1)(a)*.

(6) Unless discharged under *subsection (7)*, a civil order remains in force for no more than the lesser of the following:

- (a) two years from the date the order is made;
- (b) the period specified in the order.

(7) The court may vary or discharge a civil order on the application of the person subject to that order or a senior member of the Garda Síochána.

(8) An applicant under *subsection (7)* shall give notice of the application—

- (a) if the applicant is the person subject to the civil order, to a senior member of the Garda Síochána in the Garda Síochána district in which the applicant resides, or
- (b) if the applicant is a senior member of the Garda Síochána, to the person who is the subject of the civil order.

(9) The standard of proof in proceedings under this section is that applicable to civil proceedings.

(10) The jurisdiction conferred on the District Court by this section may be exercised as follows:

- (a) in respect of *subsections (1) and (2)*, by a judge of the District Court for the time being assigned to the district court district in which the respondent resides at the time the application is made;
- (b) in respect of *subsection (7)*, by a judge of the District Court for the time being assigned to the district court district in which the person subject to the civil order resides at the time the application is made.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 191

1.

In subsection (1), to delete “(a “civil order”)” and substitute “(an “anti-social behaviour order”)”.

—Joe Costello.

2.

In subsection (3), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

[SECTION 24]

3.

In subsection (4), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

4.

In subsection (7), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

5.

In subsection (8)(a), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

6.

In subsection (8)(b), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

192. In page 25, before section 24, but in Part 4, to insert the following new section:

“Appeals against a civil order.

115.—(1) A person against whom a civil order has been made may, within 21 days from the date that the order is made, appeal the making of the order to the Circuit Court.

(2) An appellant under *subsection (1)* shall give notice of the appeal to a senior member of the Garda Síochána in the Garda Síochána district in which the appellant resides.

(3) Notwithstanding the appeal, the civil order shall remain in force unless the court that made the order or the appeal court places a stay on it.

(4) An appeal under this section shall be in the nature of a rehearing of the application under *section 114** and, for this purpose, *subsections (1), (2) and (5)* of that section apply in respect of the matter.

(5) If on appeal under this section, the appeal court makes a civil order, the provisions of *section 114(6)* to (8)* apply in respect of the matter.

(6) Notwithstanding the appeal period described in *subsection (1)*, the Circuit Court may, on application by the person subject to the civil order, extend the appeal period if satisfied that exceptional circumstances exist which warrant the extension.

(7) The standard of proof in proceedings under this section is that applicable to civil proceedings.

(8) The jurisdiction conferred on the Circuit Court by this section may be exercised as follows:

[SECTION 24]

- (a) in respect of *section 114(1)** and (2) as those provisions apply to the Circuit Court under *subsection (4)* of this section, by a judge of the Circuit Court for the time being assigned to the circuit in which the appellant under this section resides at the time the appeal is commenced;
- (b) in respect of *section 114(7)** as it applies to the Circuit Court under *subsection (5)* of this section, by a judge of the Circuit Court for the time being assigned to the circuit in which the person subject to the civil order resides at the time the application is made;
- (c) in respect of *subsection (6)* of this section, by a judge of the Circuit Court for the time being assigned to the circuit in which the person subject to the civil order resides at the time the application is made.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 192

1.

In subsection (2), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

193. In page 25, before section 24, but in Part 4, to insert the following new section:

“Offences.

116.—(1) A person commits an offence who—

- (a) fails to give a name and address when required to do so under *section 113 (4)** or gives a name or address that is false or misleading in response to that requirement, or
- (b) without reasonable excuse, does not comply with a civil order to which the person is subject.

(2) A member of the Garda Síochána may arrest a person without warrant if the member has reasonable grounds to believe that the person has committed an offence under *subsection (1)(b)*.

(3) A person who commits an offence under *subsection (1)* is liable, on summary conviction, to the following:

- (a) for an offence under *subsection (1)(a)*, a fine not exceeding €500;
- (b) for an offence under *subsection (1)(b)*, a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 193

1.

In subsection (2), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

194. In page 25, before section 24, but in Part 4, to insert the following new section:

“Legal aid.

117.—(1) Subject to *subsection (2)*, a person who is the subject of an application for a civil order may be granted a certificate for free legal aid (in this Part referred to as a “legal aid (civil order) certificate”) in preparation for and representation at the hearing of—

- (a) the application,
- (b) an application by the person to vary or discharge a civil order,
- (c) any appeal by the person against the making of the civil order, and
- (d) any proceedings in the High Court or Supreme Court arising out of the making of the application, the appeal or any subsequent proceedings.

(2) A legal aid (civil order) certificate may not be granted under *subsection (1)* unless it appears to the court hearing the application for the certificate that—

- (a) the means of the person concerned are insufficient to enable that person to obtain legal aid, and
- (b) by reason of the gravity of the behaviour alleged to be anti-social or of exceptional circumstances, it is essential in the interests of justice that the person should have legal aid in preparation for and representation at the hearing concerned.

(3) A person who is granted a legal aid (civil order) certificate is entitled—

- (a) to free legal aid in preparation for and representation at the hearing of the application for a civil order and any proceedings referred to in *subsection (1)(b), (c) and (d)*, and
- (b) to have, in such manner as may be prescribed,
 - (i) a solicitor assigned to the person in relation to the application for the civil order or any application to vary or discharge it,
 - (ii) a solicitor assigned to the person in relation to any other such proceedings, and
 - (iii) if the court granting the certificate considers it appropriate, a counsel assigned to the person in relation to proceedings referred to in *subparagraph (ii)*.

(4) If a legal aid (civil order) certificate is granted, any fees, costs or other expenses properly incurred in preparation for and representation at the proceedings concerned shall, subject to regulations under *section 118**, be paid out of moneys provided by the Oireachtas.

(5) A person applying for a legal aid (civil order) certificate may be required by the court granting the certificate to furnish a written statement of the person’s means.

[SECTION 24]

(6) A person who, for the purpose of obtaining free legal aid under this section, whether for himself or herself or for some other person, knowingly makes a false or misleading statement or representation either orally or in writing, or knowingly conceals any material fact, commits an offence and is liable on summary conviction to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both.

(7) On conviction of a person for an offence under this section, the court by which the person is convicted may, if in the circumstances of the case it thinks fit, order the person to pay to the Minister the whole or part of any sum paid under *subsection (4)* in respect of the free legal aid in relation to which the offence was committed, and any sum so paid to the Minister shall be paid into and disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

195. In page 25, before section 24, but in Part 4, to insert the following new section:

“Regulations (legal aid). 118.—(1) The Minister may make regulations for carrying *section 117** into effect.

(2) The regulations may, in particular, prescribe any of the following:

- (a) the form of certificates granted under that section;
- (b) the rates or scales of payment of any fees, costs or other expenses payable out of moneys provided by the Oireachtas under those certificates;
- (c) the manner in which solicitors and counsel are to be assigned under those certificates.

(3) Regulations under *subsection (2)(b)* shall not be made without the consent of the Minister for Finance.

(4) Pending the making of regulations under this section, the regulations under section 10 of the Criminal Justice (Legal Aid) Act 1962 apply and have effect, with the necessary modifications, in relation to certificates for free legal aid granted under *section 117** of this Act as if they were certificates for free legal aid granted under the Criminal Justice (Legal Aid) Act 1962.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

196. In page 25, before section 24, but in Part 4, to insert the following new section:

“PART 12

AMENDMENT OF CHILDREN ACT 2001

Interpretation (*Part 12**) 119.—In this Part—

“Act of 1908” means the Children Act 1908;

[SECTION 24]

“Act of 1970” means the Prisons Act 1970;

“Act of 1991” means the Child Care Act 1991;

“Act of 2001” means the Children Act 2001;”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

197. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 2 of Act of 2001.

120.—Section 2 of the Act of 2001 is amended in subsection (2)—

(a) by the insertion of the following paragraph after paragraph (a):

“(aa) Part 5 shall come into operation 3 months after the passing of the *Criminal Justice Act 2006*.”,

(b) by the deletion of paragraph (c),

(c) in paragraph (d), by the deletion of “for Education and Science”, and

(d) by the insertion of the following paragraph after paragraph (e):

“(f) The amendments made to Part 11 in *sections 152** and *153** of, and *paragraph 30* of *Schedule 4** to, the *Criminal Justice Act 2006* shall come into operation on such day or days as the Minister for Health and Children, with the agreement of the Minister for Justice, Equality and Law Reform, may by order or orders appoint.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

198. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 3 of Act of 2001.

121.—Section 3 of the Act of 2001 is amended—

(a) in *subsection (1)*—

(i) by the insertion of the following definition:

“anti-social behaviour” is to be construed in accordance with section 257A(1);”,

(ii) in the definition of “children detention school”, by the substitution of “Minister” for “Minister for Education and Science”,

(iii) in the definition of “detention”, by the deletion of “or a children detention centre designated as such by the Minister under section 150”,

(iv) by the deletion of the definition of “junior remand centre”,

(v) in the definition of Minister, by the substitution of “Parts 3 and 11” for “Parts 3, 10 and 11”,

[SECTION 24]

(vi) in the definition of “prescribed”, by the deletion of
“, the Minister for Education and Science”,

(vii) in the definition of “victim” to insert, after “property”, “and, in relation to anti-social behaviour by a child, means a person who suffers physical or emotional harm as a consequence of that behaviour”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

199. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 18 of Act of 2001.

122.—The following section is substituted for section 18 of the Act of 2001:

“Principle.

18.—Unless the interests of society otherwise require and subject to this Part, any child who—

(a) has committed an offence, or

(b) has behaved anti-socially,

and who accepts responsibility for his or her criminal or anti-social behaviour shall be considered for admission to a diversion programme (in this Part referred to as the Programme) having the objective set out in section 19.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

200. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 19 of Act of 2001.

123.—Section 19 of the Act of 2001 is amended by the substitution of the following subsection for subsection (1):

“(1) The objective of the Programme is to divert any child who accepts responsibility for his or her criminal or anti-social behaviour from committing further offences or engaging in further anti-social behaviour.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

201. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 23 of Act of 2001.

124.—Section 23 of the Act of 2001 is amended—

(a) in subsection (1), by the substitution of “Subject to subsection (6), a child” for “A child”,

(b) in subsections (1)(a), (4) and (5), the insertion of “or anti-social” after “criminal”,

[SECTION 24]

(c) in subsection (1)(c), by the substitution of “is 10 years of age or over that age” for “is of or over the age of criminal responsibility”, and

(d) by the addition of the following subsection:

“(6) Notwithstanding subsection (1), a child aged 10 or 11 years shall be admitted to the Programme if—

(a) he or she accepts responsibility for his or her criminal behaviour, having had a reasonable opportunity to consult with his or her parents or guardian and obtained any legal advice sought by or on behalf of him or her, and

(b) subsections (2) to (5) apply in relation to the child.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

202. In page 25, before section 24, but in Part 4, to insert the following new section:

“Inadmissibility of certain evidence.

125.—The following section is substituted for section 48 of the Act of 2001:

“Substitution of section 48 of Act of 2001. 48.—(1) Subject to subsection (2), no evidence shall be admissible in any court in respect of—

(a) any acceptance by a child of responsibility for criminal or anti-social behaviour in respect of which the child has been admitted to the Programme,

(b) that behaviour, or

(c) the child’s involvement in the Programme.

(2) Where a court is considering the sentence (if any) to be imposed in respect of an offence committed by a child after the child’s admission to the Programme, the prosecution may inform it of any of the matters referred to in subsection (1).

(3) Subsection (2) applies, with the necessary modifications, in relation to a child who has attained the age of 18 years.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

203. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 49 of Act of 2001.

126.—The following section is substituted for section 49 of the Act of 2001:

“Bar to proceedings. 49.—(1) A child shall not be prosecuted for the criminal behaviour, or any related behaviour, in respect of which he or she has been admitted to the Programme.

[SECTION 24]

(2) A child who has been admitted to the Programme in respect of anti-social behaviour shall not be the subject of an application for an order under section 257D in relation to any such behaviour which occurred prior to such admission.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

204. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of Title to Part 5 of Act of 2001. 127.—The title to Part 5 of the Act of 2001 is amended by the substitution of “RESTRICTION ON CRIMINAL PROCEEDINGS AGAINST CERTAIN CHILDREN” for “CRIMINAL RESPONSIBILITY”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

205. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 52 of Act of 2001. 128.—The following section is substituted for section 52 of the Act of 2001:

“Restriction on criminal proceedings against children. 52.—(1) Subject to subsection (2), a child under 12 years of age shall not be charged with an offence.

(2) Subsection (1) does not apply to a child aged 10 or 11 years who is charged with murder, manslaughter, rape, rape under section 4 of the Criminal Law (Rape) (Amendment) Act 1990 or aggravated sexual assault.

(3) The rebuttable presumption under any rule of law, namely, that a child who is not less than 7 but under 14 years of age is incapable of committing an offence because the child did not have the capacity to know that the act or omission concerned was wrong, is abolished.

(4) Where a child under 14 years of age is charged with an offence, no further proceedings in the matter (other than any remand in custody or on bail) shall be taken except by or with the consent of the Director of Public Prosecutions.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment

1.

To delete all words from and including “of” where it firstly occurs down to and including “abolished” and substitute the following:

“(1) of the Act of 2001:

“52.—(1) A child under 12 years shall not be charged with an offence and it shall be conclusively presumed that no child under the age of 12 years is capable of committing an offence.

[SECTION 24]

(2) Where a child under 14 years of age is charged with an offence, no further proceedings in the matter (other than any remand in custody or on bail) shall be taken except by or with the consent of the Director of Public Prosecutions and the DPP shall have a duty to uphold the best interests of the child.”.”.

—Aengus O’Snodaigh.

206. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 53 of Act of 2001. 129.—Section 53 of the Act of 2001 is amended by the substitution of the following subsection for subsection (1):

“(1) Subject to subsections (2) and (3), where a member of the Garda Síochána has reasonable grounds for believing that a child under 12 years of age has committed an offence (except murder, manslaughter, rape, rape under section 4 of the Criminal Law (Rape) (Amendment) Act 1990 or aggravated sexual assault), the member shall endeavour to take the child to the child’s parent or guardian or arrange for another such member to do so.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 206

1.

In the inserted subsection (1), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

207. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 59 of Act of 2001. 130.—Section 59 of the Act of 2001 is amended by the substitution of the following subsection for subsection (4):

“(4) The Minister, with the agreement of the Minister for Health and Children, may issue guidelines in relation to the practical operation of this section.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

208. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 76A in Act of 2001. 131.—The following section is inserted in the Act of 2001 after section 76, but in Part 8:

76A.—(1) In any criminal proceedings against a child the Court may exercise any of the following powers conferred on it by this Part, namely, power—

[SECTION 24]

“Powers of Court in criminal proceedings against child.

- (a) under section 76B, to request the attendance of a representative of the Health Service Executive,
- (b) under section 77, to direct the Health Service Executive to convene a family welfare conference in respect of the child and, pending its outcome, to make an emergency care order or a supervision order under the Act of 1991 in respect of the child; or
- (c) under section 78, to direct the probation and welfare service to arrange for the convening of a family conference in respect of the child.

(2) Subsection (1) is without prejudice to the power of the Court to deal with the case in any other way if it is satisfied that to do so would be in the interests of justice.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 208

1.

In the inserted section 76A, subsection (2), after “justice” to insert the “and in the child’s best interests”.

—Aengus O’Snodaigh.

209. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 76B in Act of 2001.

132.—The following section is inserted in the Act of 2001 after section 76A:

“Assistance to Court by Health Service Executive.

76B.—(1) Where—

- (a) a child who is charged with an offence is remanded on bail, and
- (b) it appears to the Court that the Health Service Executive may be of assistance to it in dealing with the case,

the Court may request the Executive to be represented in the proceedings.

(2) The request shall be made at least one week before the date of the resumption of the proceedings concerned.

(3) If, having heard the Health Service Executive’s representative, the Court dismisses the case against the child on its merits, the Health Service Executive shall, where appropriate, exercise its powers under the Act of 1991 in relation to the child.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

210. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 88 of Act of 2001.

133.—The following section is substituted for section 88 of the Act of 2001:

“Remand in custody.

88.—(1) Where the Court decides to remand in custody a child—

- (a) who is charged with or found guilty of one or more offences,
- (b) who is being sent forward for trial, or
- (c) in respect of whom the court has postponed a decision,

the following provisions of this section shall apply in relation to the child.

(2) The child shall be remanded to a place designated under this section as a remand centre.

(3) The Court shall explain the reasons for its decision in open court in language that is appropriate to the child’s age and level of understanding.

(4) The Minister may by order designate as a remand centre any place, including part of a children detention school, which in the Minister’s opinion is suitable for the custody of children who are remanded in custody under this section.

(5) The designation shall specify the sex and age of children who may be remanded to the remand centre concerned at any time.

(6) The Minister shall cause a copy of any order under this section to be sent to the President of the High Court, the President of the Circuit Court and the President of the District Court.

(7) A place may be designated as a remand centre only with the consent of its owners or, as the case may be, its managers.

(8) Where a remand centre is part of a children detention school, children remanded in custody to the centre shall, as far as practicable and where it is in the interests of the child, be kept separate from and not be allowed to associate with children in respect of whom a period of detention has been imposed.

(9) Where a remand centre is not part of a children detention school, the Minister shall appoint a board of management appointed to a children detention school under section 164 to manage the remand centre also in accordance with criteria laid down from time to time by the Minister.

(10) The Court shall not remand a child in custody under this section if the only reason for doing so is that the child is in need of care or protection.

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(11) Such matters as may be necessary or expedient for enabling remand centres to operate and be administered in accordance with this Act may be prescribed by the Minister.

(12) Notwithstanding the provisions of this section, males aged 16 or 17 years mentioned in subsection (1) may be remanded to Saint Patrick's Institution until places in a remand centre are available for males in that age group.

(13) A child remanded in custody to Saint Patrick's Institution may be transferred by the Minister to a remand centre.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 210

1.

In the inserted section 88, to delete subsection (12).

—Aengus O'Snodaigh.

211. In page 25, before section 24, but in Part 4, to insert the following new section:

“Change in title of principal probation and welfare officer.

134.—The Act of 2001 is amended by the substitution of “Director of the Probation and Welfare Service” for “principal probation and welfare officer” in sections 79, 87, 106(5), 118(3), 118(4), 124(4), 125(4), 126(4), 126(5), 141(2)(b), 207(1), 207(7), 208(1), 208(4), 209, 230(3)(e), 262(1), 262(2) and 262(3).”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

212. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 91 of Act of 2001.

135.—Section 91 of the Act of 2001 is amended—

(a) in subsection (1)—

(i) by the deletion of “or” in paragraph (b),

(ii) by the substitution of “subject, or” for “subject.” in paragraph (c), and

(iii) by the insertion of the following paragraph after paragraph (c):

“(d) under section 257D.”,

and

(b) in subsection (4), by the insertion of “or under section 257D” after “charged”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

213. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 93 of Act of 2001.

136.—The following section is substituted for section 93 of the Act of 2001:

“Restriction on reports of proceedings where children concerned.

93.—(1) In relation to proceedings before any court concerning a child—

(a) no report which reveals the name, address or school of any child concerned in the proceedings or includes any particulars likely to lead to the identification of any such child shall be published or included in a broadcast or any other form of communication, and

(b) no still or moving picture of or including any such child or which is likely to lead to his or her identification shall be so published or included.

(2) A court may dispense, in whole or in part, with the requirements of this section in relation to a child if satisfied that to do so is necessary—

(a) to avoid injustice to the child,

(b) where the child is unlawfully at large, for the purpose of apprehending the child,

(c) in the public interest, or

(d) where the child is the subject of an order under section 257D, to ensure that the order is complied with.

(3) Where a court dispenses with any requirements of this section, it shall explain in open court the reasons for its decision.

(4) Subsections (3) to (6) of section 51 of this Act shall apply, with the necessary modifications, to matters published or included in a broadcast or other form of communication in contravention of subsection (1).

(5) This section shall apply in relation to proceedings on appeal from a court, including proceedings by way of case stated.

(6) This section shall not affect the provisions of any enactment concerning the anonymity of an accused or the law relating to contempt of court.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 214

1.

In the inserted section 93, subsection (2), to delete paragraphs (c) and (d).

—Aengus O’Snodaigh.

2.

In the inserted section 93, to delete subsection (3).

—Aengus O’Snodaigh.

[SECTION 24]

214. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 136 of Act of 2001.

137.—Section 136 of the Act of 2001 is amended—

(a) by the substitution of the following subsections for subsection (1):

“(1) A member of the Garda Síochána who finds a child in breach of an order under section 133 or of any condition to which it is subject may arrest the child without warrant.

(1A) Where it appears to a court that a child has failed, without reasonable cause, to comply with such an order or any condition to which it is subject, it may—

(a) if the order was made by a court in the district of residence—

(i) direct the child to comply with the order or any such condition in so far as it has not been complied with,

(ii) revoke the order and substitute another order under section 133 or another community sanction, or

(iii) revoke the order and deal with the case in any other way in which it could have been dealt with before the order was made,

or

(b) if the order was made by another court, remand the child on bail to a sitting of that court to be dealt with, and for that purpose paragraph (a) shall apply in relation to that court, with the necessary modifications.”, and

(b) by the deletion of *subsection (3)*.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 214

1.

In the inserted subsection (1), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

215. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 149 of Act of 2001.

138.—The following section is substituted for section 149 of the Act of 2001:

[SECTION 24]

“Period of detention in children detention school.

149.—(1) Where a child is found guilty of an offence in the Children Court, any term of detention in a children detention school imposed for the offence shall not be for a period longer than the term of detention or imprisonment which the court could impose on an adult who commits such an offence.

(2) When considering the appropriate period for which a child found guilty of an offence should be detained, a court shall have regard to the child’s educational needs.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 215

1.

In the inserted section 149, subsection (2), after “needs” to insert “and wellbeing”.

—Aengus O’Snodaigh.

216. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 155 of Act of 2001.

139.—Section 155 of the Act of 2001 is amended—

(a) by the substitution of the following subsections for subsections (1) to (3):

“(1) Where—

(a) a child is convicted on indictment of an offence and sentenced to detention in a children detention school,

(b) the period of detention is served initially in such a school,

(c) the child has attained the age of 18 years before the period of detention has expired,

the person shall be transferred to a place of detention provided under section 2 of the Act of 1970 or a prison to serve the remainder of the period of detention.

(2) If, on attaining the age of 18 years, the person—

(a) is engaged in a particular course of education or in training which is not available in such a place of detention or in a prison, or

(b) is nearing the end of his or her period of detention in the school,

the person may continue to be detained in the school beyond that age for a period not exceeding 6 months.

(3) Notwithstanding any provision in any enactment, no child shall be transferred from a children detention school to a place of detention provided under section 2 of the Act of 1970 or a prison.”,

(b) by the deletion of subsections (4) and (5), and

[SECTION 24]

(c) in subsection (6), by the deletion of “in a children detention centre.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

217. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 156A in Act of 2001. 140.—The following section is inserted in the Act of 2001 after section 156, but in Part 9:

“Transitional provision. 156A.—(1) Notwithstanding anything in Part 9, males aged 16 and 17 years sentenced to detention may be detained in Saint Patrick’s Institution or a place of detention until—

(a) places suitable for the admission of children of those ages become available for designation as children detention schools under section 160, or

(b) they have completed their period of detention.

(2) Subject to subsection (3), on or after the making of any such designation, any child serving a period of detention in Saint Patrick’s Institution or a place of detention may be transferred to such a designated children detention school.

(3) A male aged 16 or 17 years may be transferred from Saint Patrick’s Institution or a place of detention to a children detention school before such a designation is made and may later be transferred back to the Institution or place.

(4) A child who is serving a period of detention in St. Patrick’s Institution or place of detention shall not have his or her period of detention varied by reason only of a transfer under subsection (2) or (3).

(5) In this section, “place of detention” means a place of detention provided under section 2 of the Act of 1970.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

218. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 156B in Act of 2001. 141.—The following section is inserted in the Act of 2001 after section 156A:

“Application of Prisons Acts, etc. rules to children detention schools. 156B.—Pending the making of rules under section 179 for the management of children detention schools, the Prisons Acts 1826 to 1980 and any other enactments relating to or applying to St. Patrick’s Institution or to persons serving sentences therein shall, except where they may be inconsistent with this Act, apply and have effect, with any necessary modifications, in relation to a children detention school and to persons detained therein as if the school were that Institution.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

219. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 157 of the Act of 2001.

142.—Section 157 of the Act of 2001 is amended—

(a) by the insertion of the following definitions:

“ ‘authorised person’ means a person authorised by the Minister under section 185;

‘staff’ does not include teaching staff;”,

and

(b) by the deletion of the definitions of “Inspector” and “Minister”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

220. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 159 of Act of 2001.

143.—The following section is substituted for section 159 of the Act of 2001:

“Certified schools under Act of 1908.

159.—(1) Subject to subsection (2), a certified reformatory school or industrial school under Part IV of the Act of 1908 shall, with the agreement of the Minister and the Minister for Education and Science, become a children detention school on the commencement of this section in relation to it.

(2) A certified industrial school under that Part shall, with the agreement of the Minister for Education and Science and the Minister for Health and Children and on the commencement of this section in relation to it, become premises provided and maintained by the Health Service Executive under section 38(2) of the Act of 1991 for the provision of residential care for children in care.

(3) On the commencement of this section in relation to a certified reformatory school or industrial school the functions relating to which stood vested in the Minister for Education and Science (other than the function of providing education and training and related programmes for children detained in it) such schools immediately before the commencement shall—

(a) if the school becomes a children detention school, be vested in the Minister, or

(b) in the case referred to in subsection (2), be vested in the Health Service Executive.

(4) The lawfulness of the detention, and the period of detention, of a child who is detained in a certified reformatory or industrial school is not affected by the commencement of this section in relation to it.

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(5) Any reference in any enactment to a reformatory school or an industrial school shall, on the commencement of this section in relation to it, be construed as a reference to a children detention school or, as the case may be, premises provided and maintained by the Health Service Executive under section 38(2) of the Act of 1991.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment

1.

In the inserted section 159, subsection (3)(a), after “Minister” to insert “for Health and Children”.

—Aengus O’Snodaigh.

2.

In the inserted section 159, subsection (3)(b), to delete “Health Service Executive” and substitute “Minister for Health and Children”.

—Aengus O’Snodaigh.

221. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 159A in Act of 2001.

144.—The following section is inserted in the Act of 2001 after section 159:

“Education of children in children detention school, residential centres, etc.

159A.—(1) In this section—

“board of management”, “Inspector” and “recognised school” have the meanings given to them in section 2 of the Education Act 1998;

“transferred premises” means a certified reformatory or an industrial school under Part IV of the Act of 1908 which, on the commencement of section 159 in relation to it, becomes a children detention school or premises provided and maintained by the Health Service Executive under section 38(2) of that Act;

“vocational education committee” means a committee established by section 7 of the Vocational Education Act 1930.

(2) Any recognised school forming part of transferred premises is dissolved.

(3) A vocational education committee in whose functional area transferred premises are situated shall provide for the education of children in those premises.

(4) Without prejudice to the generality of subsection (3), each vocational education committee shall, in respect of any such premises—

(a) plan, coordinate and review the provision of education and services ancillary thereto,

[SECTION 24]

- (b) ensure that the education provided therein meets the requirements of education policy as determined from time to time by the Minister for Education and Science,
- (c) ensure that students have access to appropriate guidance to assist them in their educational and career choices,
- (d) promote the moral, spiritual, social and personal development of the children concerned, and
- (e) ensure that the needs of personnel involved in management functions and those in relation to staff development generally are identified and provided for.

(5) The functions of an Inspector within the meaning of the Education Act 1998 apply, with any necessary modifications, in relation to education facilities provided in respect of any transferred premises.

(6) A person who, immediately before the dissolution under this section of a recognised school, is a member of its teaching staff shall, on such commencement, become an employee of the vocational education committee in whose functional area the recognised school is situated; and the rights and entitlements enjoyed by the person as such employee in respect of tenure, remuneration, fees, allowances, expenses and superannuation shall not, by virtue of the operation of this Act, be any less beneficial than the rights and entitlements enjoyed by that person immediately before the dissolution.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

222. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 161 of Act of 2001.

145.—Section 161 of the Act of 2001 is amended—

(a) by the substitution of the following subsections for subsection (1):

“(1) The Minister may enter into arrangements with any person or body for the provision by that person or body on behalf of the Minister of a place where children found guilty of offences can be detained.

(1A) Before entering into any such arrangements, the Minister shall be satisfied that the place provides treatment or other facilities not available in children detention schools.

(1B) The Minister may enter into arrangements under subsection (1) with more than one such person or body.

(1C) A child detained in a children detention school may be transferred to a place provided under subsection (1) with the agreement of the Minister and the person or body providing the place and, with such agreement, may be transferred back to that school”, and

(b) by the insertion of the following subsection:

[SECTION 24]

“(7) In this section, “place” includes part of a building.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 222

1.

In the inserted subsection (1A), after “satisfied” to insert the following:

“that the place is not a prison or part of a prison under the remit of the Irish Prisons Service and”.

—Aengus O’Snoadaigh.

223. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 165 of Act of 2001.

146.—Section 165 of the Act of 2001 is amended—

(a) in subsection (1)(b), by the substitution of “risk, and” for “risk,”, and

(b) by the deletion of paragraph (c) of subsection (1).”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

224. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 185 of Act of 2001.

147.—The following section is substituted for section 185 of the Act of 2001:

“Inspection of children detention schools.

185.—(1) The Minister shall cause each children detention school to be inspected.

(2) An inspection shall be conducted by a person authorised in that behalf by the Minister.

(3) The person so authorised shall have expertise in relation to the inspection of children’s residential accommodation.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

225. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 186 of Act of 2001.

148.—The following section is substituted for section 186 of the Act of 2001:

“Functions of authorised person.

186.—(1) A person authorised under section 185 shall carry out inspections at least once every 12 months of each children detention school.

(2) Without prejudice to the generality of subsection (1), an authorised person shall, in carrying out an inspection of any such school, have particular regard to—

[SECTION 24]

- (a) the conditions in which the children are detained and the facilities available to them,
 - (b) their health, safety and well-being,
 - (c) policies and practice concerning the preservation and development of relationships between them and their families,
 - (d) policies and practice concerning their discipline, care and protection, and
 - (e) policies and practice in relation to the normal routine of the school.
- (3) In carrying out an inspection the authorised person may hear complaints by children and for that and any other purpose—
- (a) may interview them and any member of the staff in the school concerned, and
 - (b) shall have access to records, whether in legible or non-legible form, relating to the administration of the school and the children detained therein.
- (4) The authorised person shall submit a report to the Minister in relation to any inspection carried out under this section and publish the report at the same time as it is so submitted.”.”.
- An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

226. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 186A in Act of 2001.

149.—The following section is inserted in the Act of 2001 after section 186:

“Investigation of matters arising in relation to children detention schools, etc.

186A.—(1) Where—

- (a) matters of concern in relation to a children detention school or place provided under section 161 are raised in a report of a person authorised under section 186 or otherwise, and
- (b) the Minister is satisfied that it would be desirable to investigate those matters,

the Minister shall appoint a person (in this section referred to as an “Inspector”) to investigate and report to him or her thereon.

(2) The Inspector shall carry out an investigation into the matters referred to in subsection (1) and such other matters relevant to them as he or she considers necessary for the purposes of the investigation.

(3) For those purposes, the Inspector may—

[SECTION 24]

- (a) enter any children detention school or place provided under section 161,
- (b) examine the records, whether in legible or non-legible form, of the school or place, and
- (c) interview members of the staff of the school, including the Director, and members of its board of management or, as the case may be, members of the staff and managers of the place.

(4) The Inspector shall submit a report to the Minister in relation to the investigation.

(5) Each such report shall, where appropriate, contain recommendations which in the Inspector's opinion require to be implemented.

(6) A copy of each such report shall be laid by the Minister before each House of the Oireachtas.

(7) Before laying a report before each House of the Oireachtas pursuant to subsection (3), the Minister may omit material from it where the omission is necessary to avoid the identification of any person.

(8) An appointment of an Inspector shall be for a specified investigation, but the Minister may appoint the same person to carry out a further investigation or investigations as the Minister considers appropriate.

(9) The appointment of an Inspector shall be on such terms and conditions as may be determined by the Minister with, in the case of any terms and conditions relating to remuneration, the consent of the Minister for Finance.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

227. In page 25, before section 24, but in Part 4, to insert the following new section:

“Substitution of section 198 of Act of 2001.

150.—The following section is substituted for section 198 of the Act of 2001:

“Transfer between schools.

198.—(1) The Minister may direct the transfer of a child detained in a children detention school to another such school to serve the whole or any part of the remainder of the child's period of detention if—

- (a) the school to which the child is transferred caters, in accordance with the provisions of this Part, for that class of child, or
- (b) the Minister considers that the transfer is necessary in the interests of the good governance of children detention schools,

[SECTION 24]

and, in either case, the school to which the child is transferred provides the conditions and facilities necessary for it to achieve its principal object in the case of the child.

(2) Before giving a direction under this section, the Minister shall consult the Directors of the children detention schools from and to which it is desired to transfer the child so as to ascertain whether the transfer would be in the child's interests or whether another course should be adopted in respect of the child.

(3) A direction under subsection (1) may be given at the request of the Director of a children detention school and, if so given, this section shall apply in relation to the direction with the necessary modifications.”.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

228. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 215 of Act of 2001.

151.—Section 215 of the Act of 2001 is amended—

(a) by the substitution of the following subsection for subsection (2):

“(2) A child found guilty in the Children Court of an offence under subsection (1) may be sentenced to detention for a period not exceeding 3 months.”,

and

(b) by the deletion of subsection (3).”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

229. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 227 of Act of 2001.

152.—Section 227(1) of the Act of 2001 is amended—

(a) by the substitution of “and to” for “and ensure”,

(b) in paragraph (a), by the substitution of “advise on the coordination of” for “coordinate”,

(c) in paragraph (b), by the substitution of “advise on” for “ensure”,

(d) by the substitution of the following paragraph for paragraph (c):

“(c) in consultation with the Health Service Executive, prepare and publish criteria for the admission to and discharge from special care units of children subject to special care and interim special care orders,”,

and

[SECTION 24]

(e) by the deletion of paragraph (d).”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

230. In page 25, before section 24, but in Part 4, to insert the following new section:

“Amendment of section 230 of Act of 2001.

153.—Section 230 of the Act of 2001 is amended—

(a) in subsection (1), by the substitution of “11” for “12”, and

(b) by the substitution of the following subsection for subsection (3):

“(3) The members of the Board shall include—

(a) three persons nominated by the Minister for Justice, Equality and Law Reform,

(b) three persons, two of whom shall be representatives of the Health Service Executive,

(c) three experts in child care, and

(d) three persons with relevant experience in dealing with issues of educational disadvantage or exclusion, nominated by the Minister for Education and Science.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

231. In page 25, before section 24, but in Part 4, to insert the following new section:

“Minor and consequential amendments of Act of 2001.

154.—Each provision of the Act of 2001 specified in *Schedule 4** to the *Criminal Justice Act 2006* is amended in the manner specified in the third column opposite the mention of that provision in the second column of that Schedule.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

232. In page 25, before section 24, but in Part 4, to insert the following new section:

“PART 13

ANTI-SOCIAL BEHAVIOUR BY CHILDREN

New section 257A in Act of 2001.

155.—The following title and section is inserted in the Act of 2001 after section 257:

“PART 12A

ANTI-SOCIAL BEHAVIOUR BY CHILDREN

- Interpretation
(Part 12A).
- 257A.—(1) In this Part—
- “behaviour order” means an order under section 257D;
- “behaviour warning” shall be construed in accordance with section 257B;
- “child” means a child who is at least 12 years of age and under the age of 18 years;
- “good behaviour contract” has the meaning given to it in section 257C;
- “Programme” means the diversion programme referred to in section 18.
- (2) For the purposes of this Part, a child behaves in an anti-social manner if the child causes or, in the circumstances, is likely to cause, to one or more persons who are not of the same household as the child—
- (a) harassment,
 - (b) significant or persistent alarm, distress, fear or intimidation, or
 - (c) significant or persistent impairment of their use or enjoyment of their property.
- (3) This Part does not apply—
- (a) to any behaviour of a child that takes place before this section comes into force, or
 - (b) to any act or omission of a child in respect of which criminal proceedings have been instituted against the child.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

233. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 257B
in Act of 2001.

156.—The following section is inserted in the Act of 2001 after section 257A:

- “Behaviour
warning to
child.
- 257B.—(1) Subject to subsection (5), a member of the Garda Síochána may issue a behaviour warning to a child who has behaved in an anti-social manner.

[SECTION 24]

(2) The behaviour warning may be issued orally or in writing and, if it is issued orally, shall be recorded in writing as soon as reasonably practicable and a written record of the behaviour warning shall be served on the child and his or her parents or guardian personally or by post.

(3) The behaviour warning or, if it is given orally, the written record of it shall—

- (a) include a statement that the child has behaved in an anti-social manner,
- (b) demand that the child cease the behaviour or otherwise address the behaviour in the manner specified in the warning, and
- (c) include notice that—
 - (i) failure to comply with a demand under paragraph (b), or
 - (ii) issuance of a subsequent behaviour warning,may result in an application being made for a behaviour order.

(4) The member of the Garda Síochána referred to in subsection (1) may require the child to give his or her name and address to the member for the purposes of the behaviour warning or the written record of it.

(5) A behaviour warning may not be issued more than one month after the time that—

- (a) the behaviour took place, or
- (b) in the case of persistent behaviour, the most recent known instance of that behaviour took place.

(6) The child to whom a behaviour warning is issued shall comply with the demands of the warning.

(7) Subject to subsection (8), a behaviour warning remains in force against the child to whom it is issued for 3 months from the date that it is issued.

(8) If an application is made under section 257D in respect of the child, the behaviour warning remains in force against the child until the application is determined by the Children Court.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 233

1.

In the inserted section 257B(1), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

[SECTION 24]

2.

In the inserted section 257B(4), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

234. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 257C
in Act of 2001.

157.—The following section is inserted in the Act of 2001 after section 257B:

“Meeting to
discuss anti-
social behaviour
by child.

257C.—(1) The superintendent in charge of a district, on receipt of a report from a member of the Garda Síochána in that district concerning the behaviour of a child, shall convene a meeting to discuss the child’s behaviour if satisfied that—

(a) the child has behaved in an anti-social manner and is likely to continue doing so, and

(b) the child has previously behaved in an anti-social manner, but—

(i) has not received a warning in respect of previous anti-social behaviour, or

(ii) holding such a meeting would help to prevent further such behaviour by the child.

(2) A report under subsection (1) shall be prepared only after a behaviour warning has been given to the child by a member of the Garda Síochána in relation to the child’s anti-social behaviour.

(3) The report shall include details of the behaviour warning.

(4) The following persons shall be asked to attend a meeting convened under subsection (1):

(a) the child;

(b) his or her parents or guardian;

(c) the member of the Garda Síochána who warned the child in relation to his or her anti-social behaviour;

(d) if the child is already participating in the Programme, a juvenile liaison officer.

(5) The superintendent may request the attendance at the meeting of such other person or persons as he or she considers would be of assistance to the child or the parents or guardian, including a member of the local policing forum (within the meaning of the Garda Síochána Act 2005).

(6) The meeting shall discuss the child’s behaviour.

(7) At the meeting—

[SECTION 24]

- (a) the superintendent shall explain in simple language to the child and the parents or guardian what the offending behaviour is and the effect it is having on any other person or persons,
- (b) the child shall be asked to acknowledge that the behaviour has occurred and to undertake to stop it,
- (c) the parents or guardian shall be asked to acknowledge the child's behaviour and to undertake to take steps to prevent a recurrence,
- (d) if the child and the parents or guardian agree to give those undertakings, a document (in this section referred to as a "good behaviour contract") incorporating the undertakings shall be prepared and, where practicable, be signed by the child and the parents or guardian.

(8) A good behaviour contract shall expire at the end of a period not exceeding 6 months from the date of the meeting but may be renewed by the child and the parents or guardian for a further period of not more than 3 months.

(9) The superintendent may from time to time review the child's behaviour in the light of the undertaking given by him or her in the good behaviour contract.

(10) If the child—

- (a) has behaved, or continues to behave, in breach of the undertaking, or
- (b) in the opinion of the superintendent or the parent or guardian, is likely to so behave,

the superintendent may reconvene the meeting referred to in subsection (1) and renew the contract if the child and the parents so agree.

(11) A renewal of the contract under subsection (10) shall be for a period not exceeding—

- (a) 6 months from the date of the original contract, or
- (b) 9 months from the date of the original contract,

whichever is the shorter.

(12) Nothing in this section prevents a child being the subject of a further good behaviour contract if the child and the parents or guardian so agree.

(13) This subsection applies—

- (a) where a superintendent, having considered a report referred to at subsection (1), does not consider that convening a meeting under this section would help to prevent anti-social behaviour by the child concerned, or

[SECTION 24]

(b) where such a meeting has been convened and—

(i) a good behaviour contract was not prepared because the child or the parents or guardian refused to give the necessary undertaking, or

(ii) the child is in breach of an undertaking given by him or her in such a contract.

(14) Where subsection (13) applies, either—

(a) the child shall be admitted to the Programme, in which case Part 4 shall apply accordingly, with any necessary modifications, in relation to him or her, or

(b) the superintendent, if satisfied that the child's participation in the Programme would not be appropriate in the circumstances, shall apply to the Children Court for a behaviour order in respect of the child."."

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 234

1.

In the inserted section 257C(1), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In the inserted section 257C(2), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

3.

In the inserted section 257C(4)(c), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

235. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 257D in Act of 2001.

158.—The following section is inserted in the Act of 2001 after section 257C:

“Behaviour order for children over 12.

257D.—(1) The Children Court may, on the application of a member of the Garda Síochána not below the rank of superintendent, make an order (in this Part referred to as a “behaviour order”) prohibiting a child of or above the age of 12 years from doing anything specified in the order if the court is satisfied that—

[SECTION 24]

- (a) the child, notwithstanding his or her participation in the procedures provided for in section 257C, has continued and is likely to continue to behave in an anti-social manner,
- (b) the order is necessary to prevent the child from continuing to behave in that manner,
- (c) having regard to the effect or likely effect of that behaviour on other persons, the order is reasonable and proportionate in the circumstances.

(2) The application shall indicate the extent of the child's participation in the procedures under section 257C.

(3) The Court may impose terms or conditions in the behaviour order that it considers appropriate.

(4) An order under this section may, for the purpose of protecting a person or persons from further anti-social behaviour by a child—

- (a) prohibit a child from behaving in a specified manner, and, where appropriate, from so behaving at or in the vicinity of a specified place,
- (b) require the child to comply with specified requirements, including requirements relating to—
 - (i) school attendance, and
 - (ii) reporting to a member of the Garda Síochána, a teacher or other person in authority in a school,and
- (c) provide for the supervision of the child by a parent or guardian or any other specified person or authority with an interest in the child's welfare.

(5) The respondent child in an application under this section may not at any time be charged with, prosecuted or punished for an offence if the act or omission that constitutes the offence is the same behaviour that is the subject of the application and is to be determined by the court under subsection (1).

(6) Unless discharged under subsection (7), a behaviour order remains in force for no more than the lesser of the following:

- (a) 2 years from the date of the order;
- (b) the period specified in the order.

(7) The Court may vary or discharge a behaviour order on the application of the child concerned or his or her parents or guardian or of a member of the Garda Síochána not below the rank of superintendent.

[SECTION 24]

(8) An applicant under subsection (1) or (7) shall give notice of the application—

- (a) where the applicant under either subsection is a member of the Garda Síochána, to the child and his or her parents or guardian, or
- (b) where the applicant under subsection (7) is the child, to the applicant under subsection (1) and the child's parents or guardian, and
- (c) where the applicant under subsection (7) is the child's parent or guardian, to the child and the applicant under subsection (1).

(9) The standard of proof in proceedings under this section is that applicable to civil proceedings.

(10) The jurisdiction conferred on the Court by this section may be exercised as follows:

- (a) in respect of subsections (1), (3) and (4), by a judge of the District Court for the time being assigned to the district court district in which the child resides at the time the application is made;
- (b) in respect of subsection (7), by a judge of the District Court for the time being assigned to the district court district in which the child subject to the behaviour order resides at the time the application is made.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 235

1.

In the inserted section 257D(1), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

2.

In the inserted section 257D(4)(b)(ii), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

3.

In the inserted section 257D(7), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

4.

In the inserted section 257D(8)(a), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

[SECTION 24]

236. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 257E in Act of 2001.

159.—The following section is inserted in the Act of 2001 after section 257D:

“Appeal against behaviour order. 257E.—(1) A child against whom a behaviour order has been made may, within 21 days from the date that the order is made, appeal the making of the order to the Circuit Court.

(2) An appellant under subsection (1) shall give notice of the appeal to the superintendent in charge of the Garda Síochána district in which the appellant resides.

(3) Notwithstanding the appeal, the behaviour order shall remain in force unless the court that made the order or the appeal court places a stay on it.

(4) An appeal under this section shall be in the nature of a rehearing of the application under section 257D and, for this purpose, subsections (1), (3) and (4) of that section apply in respect of the matter.

(5) If on appeal under this section, the appeal court makes a behaviour order, the provisions of section 257D(6) to (8) apply in respect of the matter.

(6) Notwithstanding the appeal period described in subsection (1), the Circuit Court may, on application by the child subject to the behaviour order or the child’s parent or guardian, extend the appeal period if satisfied that exceptional circumstances exist which warrant the extension.

(7) The standard of proof in proceedings by this section is that applicable to civil proceedings.

(8) The jurisdiction conferred on the Circuit Court under this section may be exercised as follows:

(a) in respect of section 257D(1), (3) and (4) as those provisions apply to the Circuit Court under subsection (4) of this section, by a judge of the Circuit Court for the time being assigned to the circuit in which the appellant under this section resides at the time the appeal is commenced;

(b) in respect of section 257D(7) as it applies to the Circuit Court under subsection (5) of this section, by a judge of the Circuit Court for the time being assigned to the circuit in which the child subject to the behaviour order resides at the time the application is made;

(c) in respect of subsection (6) of this section, by a judge of the Circuit Court for the time being assigned to the circuit in which the child subject to the behaviour order resides at the time the application is made.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

237. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 257F
in Act of 2001.

160.—The following section is inserted in the Act of 2001 after section 257E:

“Offences.

257F.—(1) A child commits an offence who—

(a) fails to give a name and address when required to do so under section 257B(4) or gives a name or address that is false or misleading in response to that requirement, or

(b) without reasonable excuse, does not comply with a behaviour order to which the child is subject.

(2) A member of the Garda Síochána may arrest a child without warrant if the member has reasonable grounds to believe that the child has committed an offence under subsection (1)(b).

(3) If a fine is imposed under section 98(b)—

(a) for an offence under subsection (1)(a) of this section, it shall not exceed €200, and

(b) for an offence under subsection (1)(b) of this section, it shall not exceed €800 and, if the child is also ordered to pay costs, the aggregate of the fine and costs shall not exceed €1,500.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 237

I.

In the inserted section 257F(2), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

238. In page 24, before section 25, but in Part 4, to insert the following new section:

“New section 257G
in Act of 2001.

161.—The following section is inserted in the Act of 2001 after section 257F:

“Legal aid.

257G.—(1) Subject to subsection (2), a child who is the subject of an application for a behaviour order may be granted a certificate for free legal aid (in this Part referred to as a “legal aid (behaviour order) certificate”) in preparation for and representation at the hearing of—

(a) the application,

(b) any application by the child or his or her parents or guardian to vary or discharge a behaviour order,

[SECTION 24]

(c) any appeal by the child against the making of the behaviour order, or

(d) any proceedings in the High Court or Supreme Court arising out of the making of the application, the appeal or any subsequent proceedings.

(2) A legal aid (behaviour order) certificate may not be granted under subsection (1) unless it appears to the court hearing the application for the certificate—

(a) that the means of the child concerned or of his or her parents or guardian are insufficient to enable him or her to obtain legal aid, and

(b) that, by reason of the gravity of the alleged anti-social behaviour or of exceptional circumstances, it is essential in the interests of justice that the child should have legal aid in preparation for and representation at the hearing concerned.

(3) A child who is granted a legal aid (behaviour order) certificate is entitled—

(a) to free legal aid in preparation for and representation at the hearing of the application for a behaviour order and any proceedings referred to in subsection (1)(b), (c) and (d), and

(b) to have, in such manner as may be prescribed—

(i) a solicitor assigned to the child in relation to the application for the behaviour order or any application to vary or discharge it,

(ii) a solicitor assigned to the child in relation to any other such proceedings, and

(iii) if the court granting the certificate considers it appropriate, a counsel assigned to the child in relation to any other proceedings referred to in subparagraph (ii).

(4) Where a legal aid (behaviour order) certificate is granted, any fees, costs or other expenses properly incurred in preparation for and representation at the proceedings concerned shall, subject to regulations under section 257H, be paid out of moneys provided by the Oireachtas.

(5) A child applying for a legal aid (behaviour order) certificate may be required by the court granting the certificate to furnish a written statement of his or her means and the means of his or her parents or guardian.

[SECTION 24]

(6) A person who, for the purpose of obtaining free legal aid under this section, whether for himself or herself or for some other person, knowingly makes a false or misleading statement or representation either orally or in writing, or knowingly conceals any material fact, is guilty of an offence and liable on summary conviction to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both.

(7) On conviction of a person for an offence under this section, the court by which the person is convicted may, if in the circumstances of the case it thinks fit, order the person to pay to the Minister the whole or part of any sum paid under subsection (4) in respect of the free legal aid in relation to which the offence was committed, and any sum so paid to the Minister shall be paid into and disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

239. In page 25, before section 24, but in Part 4, to insert the following new section:

“New section 257H
in Act of 2001.

162.—The following section is inserted in the Act of 2001 after section 257G:

“Regulations
(legal aid). 257H.—(1) The Minister may make regulations for carrying section 257G into effect.

(2) The regulations may, in particular, prescribe—

(a) the form of certificates granted under that section,

(b) the rates or scales of payment of any fees, costs or other expenses payable out of moneys provided by the Oireachtas pursuant to those certificates, and

(c) the manner in which solicitors and counsel are to be assigned pursuant to those certificates.

(3) Regulations in subsection (2)(b) shall not be made without the consent of the Minister for Finance.

(4) Pending the making of regulations under this section, the regulations under section 10 of the Criminal Justice (Legal Aid) Act 1962 shall apply and have effect, with the necessary modifications, in relation to certificates for free legal aid granted under section 257F of this Act as if they were certificates for free legal aid granted under the Criminal Justice (Legal Aid) Act 1962.””.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

240. In page 25, before section 24, but in Part 4, to insert the following new section:

“PART 14

CRIMINAL LAW CODIFICATION ADVISORY COMMITTEE

Criminal Law
Codification
Advisory
Committee.

163.—There stands established a body, which shall be known as the Criminal Law Codification Advisory Committee and is in this Part referred to as the “Committee”, to perform the functions assigned to it by this Act.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 240

1.

After “known as” to insert “Coiste un Códú an Dlí Choiriúil or in the English language as”.

—Joe Costello.

241. In page 25, before section 24, but in Part 4, to insert the following new section:

“Functions of
Committee.

164.—(1) The function of the Committee shall be to oversee the development of a programme for the codification of the criminal law.

(2) Without prejudice to the generality of *subsection (1)*, the Committee shall—

- (a) monitor and review the implementation of a programme for the development of a criminal code (“the code”),
- (b) advise and assist the Minister on consolidation of areas of criminal law for inclusion in the code,
- (c) advise and assist the Minister in relation to the amendment and future maintenance of the code,
- (d) undertake or commission, or collaborate or assist in, research projects relating to the codification of criminal law,
- (e) consult, on any particular matter which the Committee considers relevant, persons qualified to give opinions thereon,
- (f) monitor, review and advise and assist the Minister on international developments in the codification of criminal law in so far as they may be relevant to the development of the code,
- (g) advise and assist the Minister on any other related issues, including issues submitted by the Minister to the Committee for consideration.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

242. In page 25, before section 24, but in Part 4, to insert the following new section:

“Membership of Committee.

165.—(1) The Committee shall consist of the following members, that is to say, a chairperson and such and so many ordinary members as may be appointed from time to time as occasion requires by the Minister.

(2) The members of the Committee shall be appointed by the Minister from among persons who in the opinion of the Minister have experience of, and expertise in relation to, matters connected with the functions of the Committee.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to amendment No. 242

1.

In subsection (2), after “expertise” to insert “including Human Rights expertise”.

Aengus O’Snodaigh.

243. In page 25, before section 24, but in Part 4, to insert the following new section:

“Conditions of office of members of Committee.

166.—(1) The Minister may at any time, for stated reasons, terminate a person’s membership of the Committee.

(2) A member of the Committee may resign his or her membership of the Committee by notice in writing given to the Minister, and the resignation shall take effect on the day on which the Minister receives the notice.

(3) A member of the Committee shall, subject to the provisions of this Part, hold office upon such terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) as the Minister, with the consent of the Minister for Finance, may from time to time determine.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

244. In page 25, before section 24, but in Part 4, to insert the following new section:

“Vacancies among members of Committee.

167.—If a member of the Committee dies, resigns, or ceases to be a member of the Committee, the Minister may appoint a person to be a member of the Committee to fill the vacancy so occasioned in the same manner as the member of the Committee who occasioned the vacancy was appointed.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 24]

245. In page 25, before section 24, but in Part 4, to insert the following new section:

“Meetings and procedure.

168.—(1) The Committee shall hold such and so many meetings as may be necessary for the performance of its functions and the achievement of its programme of work and may make such arrangements for the conduct of its meetings and business (including the establishment of subcommittees and the fixing of a quorum for a meeting) as it considers appropriate.

(2) The Committee may act notwithstanding one or more vacancies among its members.

(3) Subject to the provisions of this Part, the Committee shall regulate its own procedure by rules or otherwise.

(4) At a meeting of the Committee—

(a) the chairperson of the Committee shall, if present, be the chairperson of the meeting, or

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

(5) A member of the Committee, other than the chairperson, who is unable to attend a meeting of the Committee, may nominate a deputy to attend in his or her place.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

246. In page 25, before section 24, but in Part 4, to insert the following new section:

“Programme of Work of Committee.

169.—(1) The Minister shall, as soon as may be after the commencement of this Part and thereafter, at least once in every 2 years, after consultation with the Committee, determine a programme of work to be undertaken by the Committee over the ensuing specified period.

(2) Notwithstanding *subsection (1)*, the Minister may, from time to time, amend the programme of work, including the period to which the programme relates.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

247. In page 25, before section 24, but in Part 4, to insert the following new section:

“Report of Committee.

170.—(1) The Committee shall, not later than 3 months after the end of each calendar year, prepare and submit to the Minister a report on the performance of its functions and activities during the preceding year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas within a period of 2 months from the receipt of the report.

[SECTION 24]

(2) A report under *subsection (1)* shall be in such form as the Minister may approve and shall include information in such form and regarding such matters as the Minister may from time to time direct.

(3) The Committee shall supply to the Minister such information regarding the performance of its functions as the Minister may from time to time require.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

248. In page 25, subsection (1), to delete lines 34 to 37 and substitute the following:

“(b) an offence that is triable—

(i) at the election of the prosecution, either on indictment or summarily, or

(ii) either on indictment or, subject to certain conditions including the consent of the prosecution, summarily.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

249. In page 25, between lines 37 and 38, to insert the following subsection:

“(2) A complaint in relation to an offence being prosecuted summarily, to which section 10(4) of the Petty Sessions (Ireland) Act 1851 does not apply shall be made within 12 months from the date of the offence, save where otherwise provided by law.”

—Joe Costello.

SECTION 25

250. In page 26, line 41, after “have” to insert “had”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 26

251. In page 27, line 52, after “have” to insert “had”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 27

252. In page 28, lines 24 to 26, to delete subsection (4) and substitute the following:

“(4) An appeal from a refusal or grant of an application for an order under this section shall lie—

(a) in relation to proceedings before the District Court, to a judge of the Circuit Court,

[SECTION 27]

(b) in relation to proceedings before the Circuit Criminal Court or a Special Criminal Court, to a judge of the High Court, and

(c) in relation to proceedings before the Central Criminal Court or the Court of Criminal Appeal, to a judge of the Supreme Court,

at the instance of the prosecution or the defence.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

253. In page 29, subsection (9), line 19, after “person” to insert the following:

“had taken reasonable steps to comply with this section and having done so,”.

—Joe Costello.

254. In page 29, after line 50, to insert the following subsection:

“(12) This section shall apply with any necessary modification to civil proceedings in any court.”.

—Joe Costello.

SECTION 28

255. In page 30, subsection (1), line 2, to delete “the” and substitute “an”.

—Jim O’Keeffe.

256. In page 30, subsection (2), line 22, to delete “the” where it firstly occurs and substitute “an”.

—Jim O’Keeffe.

257. In page 30, subsection (4), line 34, to delete “the” and substitute “an”.

—Jim O’Keeffe.

SECTION 29

258. In page 31, before section 29, to insert the following new section:

“Possession of article intended for use in connection with certain offences.

29.—(1) It is an offence for a person, without lawful authority or reasonable excuse to possess or control any article with the intention of using it in the course of or in connection with the commission of—

(a) an offence under section 15 of the Non-Fatal Offences against the Person Act 1997, or

(b) the common law offence of kidnapping to which section 2 of, and paragraph 4 of the Schedule to, the Criminal Law (Jurisdiction) Act 1976 applies.

[SECTION 29]

(2) In a prosecution for an offence under *subsection (1)* the court (or the jury as the case may be) may, without more—

(a) having regard to all the circumstances (including the type of article alleged to have been intended for use in the course of or connection with the commission of an offence under this section), and

(b) where it considers it reasonable to do so,

regard possession of the article as sufficient evidence of intent for the purposes of *subsection (1)*.

(3) Where a person is charged with an offence referred to in *subsection (1)*, no further proceedings in the matter (other than any remand in custody or on bail) may be taken except by or with the consent of the Director of Public Prosecutions.

(4) A person guilty of an offence under this section is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years or both.

(5) In this section—

“article” includes a substance, document or any thing;

“document” includes—

(a) a map, plan, graph, drawing, photograph or record, or

(b) a reproduction in permanent legible form, by a computer or other means (including enlarging), of information in non-legible form.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

259. In page 31, line 10, to delete “the” and substitute “an”.

—Jim O’Keeffe.

260. In page 31, line 18, to delete “the” and substitute “an”.

—Jim O’Keeffe.

261. In page 31, line 38, to delete “the” and substitute “an”.

—Jim O’Keeffe.

262. In page 31, line 43, to delete “the” and substitute “an”.

—Jim O’Keeffe.

263. In page 32, line 14, to delete “the” and substitute “an”.

—Jim O’Keeffe.

[SECTION 29]

264. In page 32, line 38, to delete “the” and substitute “an”.

—Jim O’Keeffe.

265. In page 33, line 39, to delete “the” and substitute “an”.

—Jim O’Keeffe.

266. In page 33, line 47, to delete “the” and substitute “an”.

—Jim O’Keeffe.

267. In page 34, line 8, to delete “the” where it secondly occurs and substitute “an”.

—Jim O’Keeffe.

268. In page 34, line 13, to delete “causing” and substitute “cause”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Section opposed.

—Aengus Ó Snodaigh.

SECTION 30

269. In page 34, before section 30, to insert the following new section:

“Amendment of section 19 of Criminal Justice (Public Order) Act 1994.

30.—Section 19 of the Criminal Justice (Public Order) Act 1994 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) Any person who assaults or threatens to assault—

(a) a person providing medical services at or in a hospital, or

(b) a person assisting such a person, or

(c) a peace officer acting in the execution of a peace officer’s duty, knowing that he or she is, or being reckless as to whether he or she is, a peace officer so acting, or

(d) any other person acting in aid of a peace officer, or

(e) any other person with intent to resist or prevent the lawful apprehension or detention of himself or herself or any other person for any offence,

shall be guilty of an offence.”,

(b) in subsection (2), by the substitution of “€3,000” for “£1,000”,

(c) by the substitution of the following subsection for subsection (3):

[SECTION 30]

“(3) Any person who resists or wilfully obstructs or impedes—

- (a) a person providing medical services at or in a hospital, knowing that he or she is, or being reckless as to whether he or she is, a person providing medical services, or
- (b) a person assisting such a person, or
- (c) a peace officer acting in the execution of a peace officer’s duty, knowing that he or she is or being reckless as to whether he or she is, a peace officer so acting, or
- (d) a person assisting a peace officer in the execution of his or her duty,

shall be guilty of an offence.”,

(d) in subsection (4), by the substitution of “€1,500” for “£500”, and

(e) in subsection (6)—

(i) by the insertion of the following definitions:

“hospital” includes the lands, buildings and premises connected with and used wholly or mainly for the purposes of a hospital;

“medical services” means services provided by—

- (a) doctors, dentists, psychiatrists, psychologists, nurses, midwives, pharmacists, paramedics (including members of the ambulance service) or other persons in the provision of treatment and care for persons at or in a hospital, or
- (b) persons acting under direction of those persons;

and

(ii) in the definition of “peace officer”, by the insertion of “, a member of the fire brigade;” after “a prison officer”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[Acceptance of this amendment involves the deletion of section 30 of the Bill.]

Amendments to Amendment No. 269

1.

In paragraph (b), to delete “€3,000” and substitute “€5,000”.

—Joe Costello.

2.

In paragraph (b), after “£1,000” to insert “and by the substitution of “7 years” for “5 years””.

—Joe Costello.

3.

In paragraph (d), to delete “€1,500” and substitute “€2,500”.

—Joe Costello.

[SECTION 30]

270. In page 34, line 26, to delete “the” and substitute “an”.

—Jim O’Keeffe.

271. In page 34, line 34, to delete “the” where it secondly occurs and substitute “an”.

—Jim O’Keeffe.

SECTION 31

272. In page 34, before section 31, to insert the following new section:

“Amendment of section 1 of Criminal Justice (United Nations Convention Against Torture) Act 2000.

31.—The definition of “torture” in section 1(1) of the Criminal Justice (United Nations Convention Against Torture) Act 2000 is amended by the insertion after “omission” of “done or made, or at the instigation of, or with the consent or acquiescence of a public official”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[Acceptance of this amendment involves the deletion of section 31 of the Bill.]

Amendment to Amendment No. 272

1.

Before “done” to insert “including torture”.

—Joe Costello.

SECTION 32

Section opposed.

—Aengus Ó Snodaigh.

SECTION 33

273. In page 35, lines 24 and 25, to delete subsection (2).

—Joe Costello.

SECTION 34

274. In page 35, before section 34, to insert the following new section:

“Amendment of section 16B(7) of Proceeds of Crime Act 1996.

34.—Section 16B(7) of the Proceeds of Crime Act 1996 is amended by the insertion of “of the Criminal Assets Bureau Act 1996” after “Sections 14 to 14C.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 34]

275. In page 35, line 30 to delete “the” and substitute “an”.
—Jim O’Keeffe.

276. In page 35, line 33, to delete “activities” and substitute “conduct”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 35

277. In page 35, line 44, to delete “the” and substitute “an”.
—Jim O’Keeffe.

278. In page 35, line 45, to delete “the” where it firstly occurs and substitute “an”.
—Jim O’Keeffe.

SECTION 36

279. In page 36, line 15, to delete “the” and substitute “an”.
—Jim O’Keeffe.

280. In page 36, line 25 to delete “the” and substitute “an”.
—Jim O’Keeffe.

281. In page 36, line 27, to delete “the” and substitute “an”.
—Jim O’Keeffe.

282. In page 36, line 36, to delete “the” where it secondly occurs and substitute
“an”.
—Jim O’Keeffe.

SECTION 37

283. In page 37, line 7, to delete “the” where it secondly occurs and substitute
“an”.
—Jim O’Keeffe.

284. In page 37, line 7, to delete “the” where it thirdly occurs and substitute “an”.
—Jim O’Keeffe.

[SECTION 38]

SECTION 38

285. In page 37, line 13, to delete “the” and substitute “an”.

—Jim O’Keeffe.

NEW SECTIONS

286. In page 37, after line 14, to insert the following new section:

“Amendment of section 6(2)(a) of Criminal Law Act 1976.

39.—Section 6(2)(a) of the Criminal Law Act 1976 is amended by the substitution of “€3,000” for “£500”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

287. In page 37, after line 14, to insert the following new section:

“Property of unlawful organisation.

39.—(1) All property (including money and all other property, real or personal, heritable or moveable, including choses in action and other intangible or incorporeal property, including funds as defined in section 12 of the Criminal Justice (Terrorist Offences) Act 2005) held by any person for the use or benefit of, or for use for the purposes of, an unlawful organisation in respect of which a suppression order under section 19 of the Offences against the State Act 1939 is in force is deemed, for the purposes of that Act, the Offences against the State (Amendment) Act 1985 and the Criminal Justice (Terrorist Offences) Act 2005, to be the property of that unlawful organisation and those Acts apply and have effect accordingly.

(2) (a) This subsection applies where the income or a substantial part of the income of a business is regularly applied for the use or benefit of, or for use for the purposes of, an unlawful organisation.

(b) Where this subsection applies, both the business concerned and any property that is, or is an interest in, an asset of the business concerned are deemed to be held for the benefit of the unlawful organisation concerned and *subsection (1)* applies accordingly.

(3) In this section—

“business” means a business carried on for gain by an individual, a body corporate or an unincorporated body of persons and includes a business carried on in the exercise of a profession or vocation; and

“interest”, in relation to an interest in a business concerned, means an interest other than one acquired under a contract made in the ordinary course of business by a person acting within his or her trade, business or profession without knowledge of the fact that the income of the business is applied for the use or benefit of, or for use for the purposes of, an unlawful organisation.”

—Joe Costello.

SCHEDULE 1

[SCHEDULE 1]

288. In page 37, after line 14, to insert the following new Schedule:

“Section 63*.

SCHEDULE 1

INCREASE OF CERTAIN PENALTIES UNDER FIREARMS ACTS 1925 TO 2000

Section of Act	Subject matter	Word(s) deleted	Words substituted
(1)	(2)	(3)	(4)
<i>Amendment of Firearms Act 1925</i>			
12(4)	Register to be kept by firearms dealer	fifty pounds	€3,000
12(5)		twenty-five pounds	€1,500
13(2)	Inspections of stock of firearms dealer	ten pounds	€1,000 or imprisonment for a term not exceeding 6 months or both
21(4)	Search for and seizure of certain firearms, etc.	liable on summary conviction thereof in the case of a first offence to a penalty not exceeding ten pounds, and in the case of a second or any subsequent offence to a penalty not exceeding twenty pounds	liable on summary conviction to a fine not exceeding €1,000 or imprisonment for a term not exceeding 6 months or both
22(2)	Powers of members of Garda Síochána	ten pounds	€1,000
<i>Amendment of Firearms and Offensive Weapons Act 1990</i>			
7(6)(a)	Possession, sale, etc. of silencers	£1,000”	€5,000”
7(6)(b)		“five years	“7 years
8(a)	Reckless discharge of firearm	£1,000	€5,000”
8(b)		five years	“7 years
9(7)(a)	Possession of knives, etc.	£1,000	€5,000
9(7)(b)		£1,000	“€5,000”
10(3)(a)	Trespassing with knife, etc.	“£1,000”	€5,000
11(a)	Production of article capable of inflicting serious injury	£1,000	€5,000
12(3)(a)	Power to prohibit manufacture, etc. of offensive weapons	£1,000	€5,000
12(3)(b)		five years	7 years

[SCHEDULE 1]

<i>Amendment of Firearms (Firearm Certificates for Non-Residents) Act 2000</i>			
3(4)(a)	Prohibition of false information and alteration of firearm certificates	£1,000	€2,500
3(4)(b)		£10,000	€20,000

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

289. In page 37, after line 14, to insert the following new Schedule:

“Section 68*.

SCHEDULE 2

INCREASE IN CERTAIN PENALTIES UNDER EXPLOSIVES ACT 1875

Section of Act	Subject matter	Words deleted	Words substituted
(1)	(2)	(3)	(4)
4	Making explosives in unauthorised place	to a penalty not exceeding one hundred pounds a day for every day during which he so manufactures	, on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000
5	Keeping explosives	to a penalty not exceeding two shillings for every pound of gunpowder so kept	, on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000
9	Regulation of explosives factories and magazines	to a penalty not exceeding in the case of the first offence fifty pounds, and in the case of a second or any subsequent offence one hundred pounds, and in addition fifty pounds for every day during which such breach continues	, on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000
10	General rules for factories and magazines	to a penalty not exceeding ten pounds, and in addition (in the case of a second offence) ten pounds for every day during which such breach continues	, on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000

[SCHEDULE 1]

11	Special rules for regulation of workmen in factories or magazines	forty shillings	€100
13	Devolution and determination of licence	twenty shillings	€50
17	General rules for stores	to a penalty not exceeding ten pounds, and in addition (in the case of a second offence) ten pounds for every day during which such breach continues	, on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000
19	Special rules for regulation of workmen in stores	forty shillings	€100
22	General rules for registered premises	to a penalty not exceeding two shillings for every pound of gunpowder in respect of which, or being on the premises in which, the offence was committed	, on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000
30	Restriction on sale of explosives in highways, etc.	to a penalty not exceeding forty shillings	, on summary conviction, to a fine not exceeding €2,500 or, on conviction on indictment, to a fine not exceeding €5,000
31	Sale of explosives to children	thirteen years to a penalty not exceeding five pounds	18 years , on summary conviction, to a fine not exceeding €2,500 or, on conviction on indictment, to a fine not exceeding €5,000
32	Explosives to be sold in closed packages labelled	to a penalty not exceeding forty shillings	, on summary conviction, to a fine not exceeding €2,500 or, on conviction on indictment, to a fine not exceeding €5,000
33	General rules as to packing of explosives for conveyance	to a penalty not exceeding twenty pounds	on summary conviction, a fine not exceeding €2,500 or, on conviction on indictment, a fine not exceeding €5,000

[SCHEDULE 1]

34	Bye-laws by harbour authority	pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the offence continues	on summary conviction, a fine not exceeding €5,000 or, on conviction on indictment, a fine not exceeding €10,000
35	Bye-laws by railway and canal company	pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the offence continues	on summary conviction, a fine not exceeding €5,000 or, on conviction on indictment, a fine not exceeding €10,000
36	Bye-laws as to wharves in which explosives loaded or unloaded	pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the offence continues	on summary conviction, a fine not exceeding €5,000 or, on conviction on indictment, a fine not exceeding €10,000
37	Byelaws as to conveyance by road or otherwise	pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the offence continues	on summary conviction, a fine not exceeding €5,000 or, on conviction on indictment, a fine not exceeding €10,000
40	Application of Part I to explosives other than gunpowder	to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding two shillings for every pound of such explosive	on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000
43	Manufacture, etc. of specially dangerous explosives	to a penalty not exceeding ten shillings for every pound of such explosive brought in the ship to a penalty not exceeding ten shillings for every pound of such explosive delivered or sold or found in his possession.	on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000 , on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000
55	Powers of Government inspectors	liable to a penalty not exceeding one hundred pounds for each offence	guilty of an offence and liable, on summary conviction, to a fine not exceeding €1,000.

[SCHEDULE 1]

56	Notice to remedy dangerous practices, etc.	to a penalty not exceeding twenty pounds for every day during which he so fails to comply	, on summary conviction, to a fine not exceeding €1,000.
63	Notice of accidents	to a penalty not exceeding twenty pounds	, on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000
66	Inquiry into accidents	shall for every such offence incur a penalty not exceeding ten pounds and in the case of a failure to comply with a requisition for making any return or producing any document, not exceeding ten pounds during every day that such failure continues	is guilty of an offence and liable on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000
69	Duty and power of local authority	to a penalty not exceeding twenty pounds	, on summary conviction, to a fine not exceeding €1,000.
73	Search for explosives	to a penalty not exceeding fifty pounds	, on summary conviction, to a fine not exceeding €1,000.
74	Seizure and detention of explosives	to a penalty not exceeding fifty pounds	, on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €10,000
77	Penalty on and removal of trespassers	to a penalty not exceeding five pounds	, on summary conviction, to a fine not exceeding €3,000 or, on conviction on indictment, to a fine not exceeding €5,000
79	Imprisonment for wilful act or neglect endangering life or limb	of the case, to imprisonment, with or without hard labour, for a period not exceeding six months	“of the case—
			(a) on summary conviction, to imprisonment for a term not exceeding 12 months or both the pecuniary penalty and such imprisonment, or

[SCHEDULE 1]

			(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or both the pecuniary penalty and such imprisonment”.
81	Forgery and falsification of documents	to imprisonment, with or without hard labour, for a term not exceeding two years”	on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both or, on conviction on indictment, to a fine not exceeding €10,000 or imprisonment for a term not exceeding five years or both.
82	Defacing notices	two pounds	€100

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

290. In page 37, after line 14, to insert the following new Schedule:

“Section 100*.

SCHEDULE 3

Offences for the purposes of restriction on movement orders

1. *Criminal Justice (Public Order) Act 1994*

section 6 (threatening, abusive or insulting behaviour in public place)

section 8 (failure to comply with direction of member of Garda Síochána)

section 11 (entering building, etc., with intent to commit an offence)

section 13 (trespass on building, etc.)

section 16 (affray)

section 19 (assault or obstruction of peace officer)

2. *Non-Fatal Offences Against the Person Act 1997*

section 2 (assault)

section 3 (assault causing harm)

section 9 (coercion)

section 10 (harassment)”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SCHEDULE 1]

291. In page 37, after line 14, to insert the following new Schedule:

“Section 154*.

SCHEDULE 4

MINOR AND CONSEQUENTIAL AMENDMENTS OF CHILDREN ACT 2001

Amendment No	Section of Act	Amendment
1.	4, 5(2), 6	“, the Minister for Education and Science” deleted.
2.	22, 24(2), 25, 26(1) and (2), 28(2)(a), 30(3)(a), 32, 38(f), 39(3)(i)	“or anti-social” inserted after “criminal”.
3.	28(2)(c)	“or engaging in further anti-social behaviour” inserted after “offences”.
4.	31(2)(b), 39(3)(h)	“or further criminal or anti-social behaviour by the child” after “offences”.
5.	54	Section deleted.
6.	71(1)(a)	“Parts 8 and 12A” substituted for “Part 8”.
7.	95	Definition of “children detention centre” deleted.
8.	98(h)	“or children detention centre” deleted.
9.	103(1)	Paragraph (c) deleted.
10.	103(1)(e)	“or children detention centre” and “or person for the time being in charge of the centre, as appropriate” deleted.
11.	142	“or children detention centre” deleted.
12.	143	“, in the case of a child under 16 years of age,” deleted.
13.	145	“under 16 years of age” deleted.
14.	147	Section deleted.
15.	150	Section deleted.
16.	151(1)	“who is between 16 and 18 years of age” deleted.
17.	151(2) and 151(3)	“children detention school” substituted for “children detention centre”.
18.	152	Section deleted.
19.	153	Section deleted.

[SCHEDULE 1]

20.	154	“, in any children detention centre designated under section 150 of the Children Act, 2001,” deleted.
21.	158	“appropriate educational, training and other programmes and facilities” substituted for “educational and training programmes and facilities”.
22.	167(4)(c)	“Minister for Education and Science” substituted for “Minister for Justice, Equality and Law Reform”.
23.	179	“with the consent of the Minister” inserted after “time”.
24.	187	Section deleted.
25.	188	Section deleted.
26.	189	Section deleted.
27.	203(3)	“Minister and” inserted before “board of management” and “the board’s” deleted.
28.	204(9)	“Minister and” inserted before “board of management” and “board’s” deleted.
29.	214	Subsection (2) deleted.
30.	225(2)	“Minister for Justice, Equality and Law Reform” substituted for “Minister for Education and Science”.
31.	263	“(a) while in transit to a court from a remand centre or children detention school,” substituted for paragraph (a). “(c) while awaiting removal pursuant to this Act to a remand centre or children detention school.” substituted for paragraph (c).
32.	265	“or a place of detention designated under section 150” deleted.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

292. In page 37, after line 14, to insert the following new Schedule:

SCHEDULE 1

GUIDELINES FOR INCLUSION IN REGULATIONS GOVERNING THE TAKING OF SAMPLES UNDER SECTION 5 OF THE CRIMINAL JUSTICE (FORENSIC EVIDENCE) ACT 1990 AS AMENDED:

- (i) the taking of bodily samples should be carried out in circumstances affording reasonable privacy to the suspect;
- (ii) the taking of bodily samples should be carried out in the presence or view of a person who is of the same sex as the suspect;
- (iii) the taking of bodily samples should not be carried out in the presence or view of a person whose presence is not necessary for the purposes of the forensic procedure;
- (iv) there should be no questioning during the taking of bodily samples;
- (v) the taking of bodily samples should not involve any cruel, inhuman or degrading treatment;
- (vi) the taking of bodily samples should be carried out by specified professionals including nurses, medical practitioners, and dentists depending on the procedure;
- (vii) a child or incapable person should be entitled to have present a parent, guardian, legal practitioner or other independent person who is not a member of the Garda Síochána during the taking of bodily samples;
- (viii) the number of members of the Garda Síochána present during the taking of bodily samples must not exceed that which is reasonably necessary to ensure that the procedure is carried out effectively;
- (ix) the taking of bodily samples must be video recorded in all circumstances unless the suspect objects to the video recording and the suspect must be informed of the reasons for the video recording;
- (x) the suspect should have the right to an interpreter where he or she does not speak English as his or her first language;
- (xi) the suspect should have the right of access to legal advice of his or her choice to decide the implications of refusing to give a bodily sample.

Guidelines for inclusion in regulations governing the taking of samples without consent under section 5 of the Criminal Justice (Forensic Evidence) Act 1990 as amended:

- (i) The suspect should have access to their legal representative to advise them;
- (ii) The taking of non-intimate bodily samples should be videotaped under all circumstances;

[SCHEDULE 1]

- (iii) There should be specific police training in the procedures surrounding the taking of bodily samples; and
- (iv) A comprehensive custody records should be kept detailing the forensic procedure.”.

—Aengus Ó Snodaigh.

TITLE

- 293.** In page 5, line 5, to delete “THE” where it secondly occurs and substitute “AN”.

—Jim O’Keeffe.

- 294.** In page 5, line 7, after “OFFENCES;” to insert the following:

“TO DISPROPORTIONATELY AND UNNECESSARILY LIMIT CERTAIN RIGHTS OF INDIVIDUALS ENSHRINED BY THE 1937 CONSTITUTION, THE EUROPEAN CONVENTION ON HUMAN RIGHTS, THE CONVENTION ON THE RIGHTS OF THE CHILD AND THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS;”.

—Aengus Ó Snodaigh.

- 295.** In page 5, lines 8 to 10, to delete all words from and including “INCLUDING” in line 8 down to and including “STATEMENTS,” in line 10.

—Aengus Ó Snodaigh.

- 296.** In page 5, line 17, before “A” to insert the following:

“PROVISION FOR OFFENCES RELATING TO ORGANISED CRIME, AMENDMENTS TO THE MISUSE OF DRUGS ACT 1977, AN OBLIGATION, IN THE INTERESTS OF THE COMMON GOOD, ON PERSONS CONVICTED ON INDICTMENT OF CERTAIN DRUG TRAFFICKING OFFENCES TO NOTIFY CERTAIN INFORMATION TO THE GARDA SÍOCHÁNA, PROVISIONS IN RELATION TO SENTENCING;”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendment to Amendment No. 296

1.

To delete “OFFENCES RELATING TO ORGANGISED CRIME”.

—Aengus O’Snodaigh.

2.

To delete “AN OBLIGATION, IN THE INTERESTS OF THE COMMON

[*TITLE*]

GOOD, ON PERSONS CONVICTED ON INDICTMENT OF CERTAIN
DRUG TRAFFICKING OFFENCES TO NOTIFY CERTAIN INFORMATION
TO THE GARDA SÍOCHÁNA.”.

—Aengus O’Snodaigh.

3.

After “INFORMATION TO”, to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

297. In page 5, lines 21 to 24, to delete all words from and including “THE” where it secondly occurs in line 21 down to and including “1994,” in line 24.

—Aengus Ó Snodaigh.

298. In page 5, lines 24 to 26, to delete all words from and including “, AN” in line 24 down to and including “CERTIFICATE” in line 26.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

299. In page 5, lines 26 to 28, to delete all words from and including “AND” in line 26 down to and including “WARRANTS” in line 28.

—Aengus Ó Snodaigh.

300. In page 5, line 29, before “AND” to insert the following:

“TO AMEND THE FIREARMS ACTS 1925 TO 2000 AND THE EXPLOSIVES ACT 1875; TO MAKE PROVISION IN RELATION TO ANTI-SOCIAL BEHAVIOUR BY ADULTS AND CHILDREN; TO AMEND THE CHILDREN ACT 2001; TO PROVIDE FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS THE CRIMINAL LAW CODIFICATION ADVISORY COMMITTEE”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

Amendments to Amendment No. 300

1.

To delete “TO MAKE PROVISION IN RELATION TO ANTI-SOCIAL BEHAVIOUR BY ADULTS AND CHILDREN;”.

—Aengus O’Snodaigh.

2.

After “KNOWN AS” to insert “COISTE UN CÓDÚ AN DLÍ CHOIRIÚIL OR IN THE ENGLISH LANGUAGE AS”.

—Joe Costello.