

[Third additional list of amendments.]

DÁIL ÉIREANN

AN BILLE UM CHEARTAS COIRIÚIL 2004 —ROGHCHOISTE

CRIMINAL JUSTICE BILL 2004 —SELECT COMMITTEE

*Leasuithe Breise agus Ionadacha
Substitute and additional Amendments*

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

SECTION 24

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),
- (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.

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(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.

Amendments to Amendment No. 115

1.

In the inserted subsection (4B), to delete “Application” and substitute “An application”.

—Jim O’Keeffe.

2.

In the inserted subsection (4C), to delete “in writing” and substitute “, in writing,”.

—Jim O’Keeffe.

3.

In the inserted subsection (4E), to delete “or its renewal” and substitute “, or its renewal,”.

—Jim O’Keeffe.

4.

In the inserted subsection (4F), to delete “or its renewal” and substitute “, or its renewal,”.

—Jim O’Keeffe.

5.

In the inserted subsection (4F), to delete “from” and substitute “of”.

—Jim O’Keeffe.

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;

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- (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.

[SECTION 24]

Amendments to Amendment No. 116

1.

In subsection (1), to delete “ammunition is” and substitute “ammunition, shall be”.

—Jim O’Keeffe.

2.

In subsection (2), to delete all words from and including “shall” down to and including “made” and substitute the following:

“shall be—

(a) in the prescribed form,

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

(c) be made”.

—Jim O’Keeffe.

3.

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

—Jim O’Keeffe.

4.

In subsection (3), after “superintendent” and substitute “of an Garda Síochána”.

—Jim O’Keeffe.

5.

In subsection (3), after “unless” to insert “he or she is”.

—Jim O’Keeffe.

6.

In subsection (3)(b), to delete “security” and substitute “security,”.

—Jim O’Keeffe.

7.

In subsection (4), to delete “may” and substitute “of an Garda Síochána may,”.

—Jim O’Keeffe.

8.

In subsection (4)(a), to delete “peace” and substitute “peace,”.

—Jim O’Keeffe.

9.

In subsection (5)(c), after “superintendent” to insert “of an Garda Síochána”.

—Jim O’Keeffe.

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10.

In subsection (6), to delete “is” and substitute “, shall be”.

—Jim O’Keeffe.

11.

In subsection (6)(a), to delete “year or” and substitute “year, or to”.

—Jim O’Keeffe.

12.

In subsection (6)(b), to delete “years or” and substitute “years, or to”.

—Jim O’Keeffe.

13.

In subsection (7), to delete “by order” and substitute “, by order,”.

—Jim O’Keeffe.

14.

In subsection (7), to delete all words from and including “ammunition by” down to and including “registered” and substitute the following:

“ammunition by—

(a) an individual who holds a licence under this section, or

(b) a registered”.

—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.

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(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.

Amendments to Amendment No. 117

1.

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

—Jim O’Keeffe.

2.

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

—Jim O’Keeffe.

3.

In the inserted subsection (3), to delete “Minister—” and substitute “Minister:”.

—Jim O’Keeffe.

4.

In the inserted subsection (3)(a), to delete “renewal,” and substitute “renewal;”.

—Jim O’Keeffe.

5.

In the inserted subsection (4), to delete “is” where it firstly occurs and substitute “shall be”.

—Jim O’Keeffe.

6.

In the inserted subsection (4), to delete “and” and substitute “and,”.

—Jim O’Keeffe.

7.

In the inserted subsection (4), to delete “is” where it secondly occurs and substitute “, shall be”.

—Jim O’Keeffe.

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

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

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—

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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 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 No. 118

1.

In the inserted section 15(1)(b), to delete “person” and substitute “person,”.

—Jim O’Keeffe.

2.

In the inserted section 15(1)(b), to delete “ammunition” and substitute “ammunition,”.

—Jim O’Keeffe.

3.

In the inserted section 15(1), to delete “or has not been caused thereby” and substitute “been caused thereby or not”.

—Jim O’Keeffe.

4.

In the inserted section 15(3), to delete “may, in particular,” and substitute “shall”.

—Jim O’Keeffe.

5.

In the inserted section 15(3), to delete all words from and including “under the” down to and including “Criminal” and substitute the following:

“under any one or more of the following Acts:

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

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

(c) the Criminal”.

—Jim O’Keeffe.

6.

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

—Aengus O’Snodaigh.

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7.

In the inserted section 15(5), to delete “5” and substitute “10”.

—Jim O’Keeffe.

8.

In the inserted section 15(5)(a)(i), after “indicated,” to insert “and”.

—Jim O’Keeffe.

9.

In the inserted section 15(6), to delete “the *Firearms Acts 1925 to 2006*,”.

—Jim O’Keeffe.

10.

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.

11.

In the inserted section 15, after subsection (6), to insert the following:

“(7) Subsection (5) of this section shall not apply where a person has been convicted of a second or subsequent offence under this section.”.

—Jim O’Keeffe.

12.

In the inserted section 15, to delete “(7)” and substitute “(8)”.

—Jim O’Keeffe.

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—

- (a) the applicant has a good reason for importing it,

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- (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.

Amendments to Amendment No. 120

1.

In the inserted subsection (4B), to delete “in writing” and substitute “, in writing,”.

—Jim O’Keeffe.

2.

In the inserted subsection (4C), to delete “or for its renewal” and substitute “, or for its renewal,”.

—Jim O’Keeffe.

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.

[SECTION 24]

Amendments to Amendment No. 121

1.

In the inserted section 25, to delete “Act” and substitute “Act,”.

—Jim O’Keeffe.

2.

In the inserted section 25, to delete “provided” and substitute “provided,”.

—Jim O’Keeffe.

3.

In the inserted section 25(a), after “months or” to insert “to”.

—Jim O’Keeffe.

4.

In the inserted section 25(b), after “years or” to insert “to”.

—Jim O’Keeffe.

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;
- (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—

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- (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.

Amendments to Amendment No. 122

1.

In the inserted section 25A(1), to delete “by order” and substitute “, by order,”.

—Jim O’Keeffe.

2.

In the inserted section 25A(1), to delete “at any Garda station” and substitute “, at any Garda Síochána station,”.

—Jim O’Keeffe.

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3.

In the inserted section 25A(1)(c), to delete “offence” and substitute the following:

“offence;

where the Minister has laid the proposal for each such a period before the Houses of the Oireachtas and gained the approval thereof”.

—Jim O’Keeffe.

4.

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

—Jim O’Keeffe.

5.

In the inserted section 25A(2)(a), to delete “and” where it secondly occurs.

—Jim O’Keeffe.

6.

In the inserted section 25A(2), after paragraph (a), to insert the following:

“(b) shall, where the member of an Garda Síochána at the Garda Síochána station concerned deems it necessary, produce proof of his identity, and”.

—Jim O’Keeffe.

7.

In the inserted section 25A(4), to delete “weapon” and substitute “weapon,”.

—Jim O’Keeffe.

8.

In the inserted section 25A(4), to delete “it” where it firstly occurs and substitute “it,”.

—Jim O’Keeffe.

9.

In the inserted section 25A(4), to delete “surrendered” and substitute “surrendered,”.

—Jim O’Keeffe.

10.

In the inserted section 25A(4), to delete “the purpose of”.

—Jim O’Keeffe.

11.

In the inserted section 25A(4)(a), before “determining” to insert “the purpose of”.

—Jim O’Keeffe.

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12.

In the inserted section 25A(4)(a), to delete “or” where it secondly occurs.

—Jim O’Keeffe.

13.

In the inserted section 25A(4)(b), before “discovering” to insert “the purpose of”.

—Jim O’Keeffe.

14.

In the inserted section 25A(4)(b), after “section “ to insert the following:

“,or

(c) any purpose that is deemed, by a member of an Garda Síochána not below the rank of superintendent, to be necessary or appropriate.”

—Jim O’Keeffe.

15.

In the inserted section 25A(5), to delete “weapon” and substitute “weapon,”.

—Jim O’Keeffe.

16.

In the inserted section 25A(5), to delete “is” and substitute “, shall be”.

—Jim O’Keeffe.

17.

In the inserted section 25A(6), to delete “a manner” and substitute “whatever manner is”.

—Jim O’Keeffe.

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.

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(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.

Amendment to Amendment No. 183

1. **

In subsection (1), to delete paragraph (a).

—Aengus O’Snodaigh.

*** This amendment to amendment no. 183 is in substitution for amendment 1 to amendment no. 180 on the main (green) list of amendments, which was associated with amendment no. 180 in error.*