



# **DÁIL ÉIREANN**

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## **AN BILLE UM CHEARTAS COIRIÚIL 2004 CRIMINAL JUSTICE BILL 2004**

### **LEASUITHE COISTE COMMITTEE AMENDMENTS**

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# DÁIL ÉIREANN

## AN BILLE UM CHEARTAS COIRIÚIL 2004 —ROGHCHOISTE

### CRIMINAL JUSTICE BILL 2004 —SELECT COMMITTEE

*Leasuithe Breise*  
*Additional Amendments*

#### SECTION 24.

**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.

#### *Amendments to Amendment No. 123*

1.

In the inserted section 25B(1), to delete “by notice in writing” and substitute “, by notice in writing.”.

—Jim O’Keeffe.

2.

In the inserted section 25B(1), to delete “firearm” and substitute “firearm.”.

—Jim O’Keeffe.

**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.”.

[ SECTION 24. ]

—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 “in writing” and substitute “, in writing.”.

—Jim O’Keeffe.

3.

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

—Jim O’Keeffe.

4.

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

—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:

“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.

[ SECTION 24. ]

(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.

*Amendment to Amendment No. 125.*

1.

In the inserted section 25D(1), to delete “is guilty” and substitute “shall be guilty”.

—Jim O’Keeffe.

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

“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.

[ SECTION 24. ]

(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, to delete subsections (1) to (4) and substitute the following:

“(1) A firearms certificate may, from time to time, be renewed by—

(a) the Commissioner,

(b) the superintendent of the district where the holder of such a certificate resides, irrespective of who had renewed such a certificate,

(c) an inspector or sergeant of the Garda Síochána in the district where the holder of a firearm certificate, issued by a superintendent, resides.”.

—Jim O’Keeffe.

2.

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

—Jim O’Keeffe.

3.

In the inserted section 9, to delete subsection (5) and substitute the following:

“(2) A superintendent, or other member of an Garda Síochána, who is authorised under this section to renew a firearm certificate (“an authorised member”) may refuse or decline to renew it, or vary any conditions to which it is subject under 4(2)(g), at his or her absolute discretion, and he or she shall inform the Commissioner or superintendent, as the case may be, of his or her decision as soon as is reasonably expedient.”.

—Jim O’Keeffe.

4.

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

—Jim O’Keeffe.

5.

In the inserted section 9, to delete “(6)” and substitute “(3)”.

—Jim O’Keeffe.

[ SECTION 24. ]

6.

In the inserted section 9(6)(c), to delete “certificate.” and substitute “certificate, but not after the certificate has expired.”

—Jim O’Keeffe.

7.

In the inserted section 9, to delete “(7)” and substitute “(4)”.

—Jim O’Keeffe.

8.

In the inserted section 9, to delete “(8)” and substitute “(5)”.

—Jim O’Keeffe.

9.

In the inserted section 9(8), to delete “and will continue to be complied with” and substitute “,and will continue to be complied with,”.

—Jim O’Keeffe.

10.

In the inserted section 9, to delete “(9)” and to substitute “(6)”.

—Jim O’Keeffe.

11.

In the inserted section 9(9), to delete “if of opinion” and substitute “if he or she is of opinion”.

—Jim O’Keeffe.

**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.

[ SECTION 24. ]

(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
- (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.

[ SECTION 24. ]

*Amendments to Amendment 133*

1.

In the inserted section 26, to delete subsection (1) and substitute the following:

“Possession of  
firearm while taking  
a 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 or her a firearm, or imitation firearm, shall be guilty of an offence.”

—Jim O’Keeffe.

2.

In the inserted section 26(2), to delete “liable” and substitute “liable,”.

—Jim O’Keeffe.

3.

In the inserted section 26(3), to delete “the *Firearms Acts 1925 to 2006*,”.

—Jim O’Keeffe.

4.

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

—Aengus O’Snodaigh.

5.

In the inserted section 26(5)(b), to delete “offence.” and substitute the following:

“offence,

but, this subsection shall not apply where a person has been convicted of a second or subsequent offence under this section.”

—Jim O’Keeffe.

6.

In the inserted section 26(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.

7.

In the inserted section 26(7), to delete “section” where it firstly occurs and substitute “section,”.

—Jim O’Keeffe.

8.

In the inserted section 26(7) to delete “firearm or imitation firearm” and

[ SECTION 24. ]

substitute “firearm, or imitation firearm,”.

—Jim O’Keeffe.

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:

“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,

[ SECTION 24. ]

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

(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.

*Amendments 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(1)(b), to delete “person or of another person” and substitute “person, or of another person.”.

—Jim O’Keeffe.

3.

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

—Aengus O’Snoaigh.

4.

In the inserted section 27(5)(b), to delete “offence.” and substitute the following:

“offence,

but, this subsection shall not apply where a person has been convicted of a second or subsequent offence under this section.”.

—Jim O’Keeffe.

5.

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

“and

[ SECTION 24. ]

- (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—

(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

[ SECTION 24. ]

(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.

(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.

*Amendments to Amendment No. 135*

1.

In the inserted section 27A, to delete subsection (1) and substitute the following:

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

—Jim O’Keeffe.

2.

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

—Aengus O’Snodaigh.

3.

In the inserted section 27A(5)(b), to delete “offence.” and substitute the following:

“offence,

but, this subsection shall not apply where a person has been convicted of a second or subsequent offence under this section.”.

—Jim O’Keeffe.

[ SECTION 24. ]

4.

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.

(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.

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(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.

*Amendments to Amendment No. 136*

1.

In the inserted section 27B(1), to delete “or an imitation firearm” and substitute “, or an imitation firearm,”.

—Jim O’Keeffe.

2.

In the inserted section 27B(1), to delete “or imitation firearm” and substitute “, or imitation firearm,”.

[ SECTION 24. ]

—Jim O’Keeffe.

3.

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

—Aengus O’Snodaigh.

4.

In the inserted section 27B(5)(b), to delete “offence.” and substitute the following:

“offence,

but, this subsection shall not apply where a person has been convicted of a second or subsequent offence under this section.”.

—Jim O’Keeffe.

5.

In the inserted section 27B(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.

[ SECTION 24. ]

(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.

*Amendments to Amendment No. 137*

1.

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

—Aengus O’Snodaigh.

2.

In the inserted section 27C(2), to delete “punishment conferred by section 23 of the Criminal Justice Act 1951” and substitute “punishment, conferred by section 23 of the Criminal Justice Act 1951,”.

—Jim O’Keeffe.

3.

In the inserted section 27C(3), to delete “by industry and good conduct apply” and substitute “, by industry and conduct, shall not apply”.

—Jim O’Keeffe.

4.

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

—Aengus O’Snodaigh.

**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.

[ SECTION 24. ]

(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.

(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.

[ SECTION 24. ]

(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
- (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(1) to delete “is guilty” and substitute “shall be guilty”.

—Jim O’Keeffe.

2.

In the inserted section 12A(6)(a), to delete “a shot-gun” and substitute “a shot-gun,”.

—Jim O’Keeffe.

3.

In the inserted section 12A(6)(b), to delete “a rifle” and substitute “a rifle,”.

—Jim O’Keeffe.

[ SECTION 24. ]

4.

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

—Aengus O’Snodaigh.

5.

In the inserted section 12A(10)(b), to delete “offence.” and substitute the following:

“offence,

but, this subsection shall not apply where a person has been convicted of a second or subsequent offence under this section.”

—Jim O’Keeffe.

6.

In the inserted section 12A(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.

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,

[ SECTION 24. ]

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.

(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

[ SECTION 24. ]

- (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.

(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.

[ SECTION 24. ]

(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.

*Amendments to Amendment No. 144*

1.

In the inserted section 80(1), to delete “who” and substitute “who,”.

—Jim O’Keeffe.

2.

In the inserted section 80(3), to delete “by evidence” and substitute “, by evidence,”.

—Jim O’Keeffe.

3.

In the inserted section 80(4), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

4.

[ SECTION 24. ]

In the inserted section 80(4), to delete paragraphs (a) to (c) and substitute the following:

“(a) request—

- (i) that the person give his or her name and address,
- (ii) that the information given by the person in response to the request be verified, and
- (iii) if not satisfied that the information so given is correct, that the person accompany the member to a Garda Síochána station for the purpose of verifying the information,

(b) 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 place in which the member suspects that a firework may be found, and
- (iii) seize and detain anything found in the course of the search, that the member reasonably believes to be evidence of, or relating to, an offence under this section.”.

—Jim O’Keeffe.

5.

In the inserted section 80(5) to delete “property” and substitute “property,”.

—Jim O’Keeffe.

6.

In the inserted section 80(5), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

7.

In the inserted section 80(6), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

8.

In the inserted section 80(7), to delete “satisfied” and substitute “satisfied,”.

—Jim O’Keeffe.

9.

In the inserted section 80(7), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

10.

[ SECTION 24. ]

In the inserted section 80(7), to delete “sergeant” and substitute “sergeant,”.

—Jim O’Keeffe

11.

In the inserted section 80, to delete subsection (8) and substitute the following:

“(8) The search warrant shall be—

(a) granted in accordance with *section 5* of the *Criminal Justice Act 2006*, and

(b) expressed, and shall operate, to authorise a named member of an Garda Síochána, accompanied by such other members of an Garda Síochána or other persons as the member thinks necessary—

(i) to enter the place named in the warrant at any time or times within—

(I) one week of the time of issue of the warrant, or

(II) the time limit specified on the warrant,

whichever is the sooner, on production if so requested of the warrant and if necessary by the use of reasonable force,

(ii) to search it and any persons found at the place, and

(iii) 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.”.

—Jim O’Keeffe.

12.

In the inserted section 80(8), to delete “the Garda Síochána” where it firstly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

13.

In the inserted section 80(8), to delete “the Garda Síochána” where it secondly occurs and substitute “an Garda Síochána”.

—Jim O’Keeffe.

14.

In the inserted section 80(9), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

15.

In the inserted section 80(10), to delete “is guilty” and substitute “shall be guilty”.

—Jim O’Keeffe.

16.

[ SECTION 24. ]

In the inserted section 80(10), to delete “on summary conviction” and substitute “, on summary conviction,”.

—Jim O’Keeffe.

17.

In the inserted section 80(10), to delete “or both” and substitute “or to both”.

—Jim O’Keeffe.

18.

In the inserted section 80(11)(a), to delete “the Garda Síochána” and substitute “an Garda Síochána”.

—Jim O’Keeffe.

19.

In the inserted section 80(11), to delete “is guilty” and substitute “shall be guilty”.

—Jim O’Keeffe.

20.

In the inserted section 80(11), to delete “or both” and substitute “or to both”.

—Jim O’Keeffe.

21.

In the inserted section 80(12), to delete “(except subsection (10) or (11))” and substitute “, other than under subsection (10) or (11),”.

—Jim O’Keeffe.

22.

In the inserted section 80(12)(a), to delete “or both” and substitute “or to both”.

—Jim O’Keeffe.

23.

In the inserted section 80(12)(b), to delete “or both” and substitute “or to both”.

—Jim O’Keeffe.

24.

In the inserted section 80, to delete subsection (13) and substitute:

“(13) A court, by which a person is convicted of an offence under subsection (1) or (2), may order anything that is 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.”.

—Jim O’Keeffe.

25.

In the inserted section 80(14), in paragraph (a) of the definition of “firework”, to delete “effect or” and substitute “effect,”.

—Jim O’Keeffe.

26.

[ SECTION 24. ]

In the inserted section 80(14), to delete the definition of “place” 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.

**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.

(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.

[ SECTION 24. ]

(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.

*Amendments to Amendment No. 148*

1.

In section 71(1) to delete “is guilty” and substitute “shall be guilty”.

—Jim O’Keeffe.

2.

In section 71(5) to delete “or both.” and substitute “or to both.”

—Jim O’Keeffe.