



DÁIL ÉIREANN

AN BILLE UM CHEARTAS COIRIÚIL 2004 CRIMINAL JUSTICE BILL 2004

LEASUITHE TUARASCÁLA REPORT AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM CHEARTAS COIRIÚIL 2004 —AN TUARASCÁIL

CRIMINAL JUSTICE BILL 2004 —REPORT

Leasuithe Amendments

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

1. In page 13, line 5, to delete “POWERS” and substitute “FUNCTIONS”.

—Brendan Howlin.

2. In page 14, between lines 9 and 10, to insert the following:

“(3) The coming into operation of *Part 13* shall require the approval of both houses of the Oireachtas, 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 5 years after all sections of the 2001 Act become fully operational.”.

—Aengus Ó Snodaigh.

3. In page 14, between lines 9 and 10, to insert the following:

“(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.

4. In page 14, lines 11 and 12, to delete “the Garda Síochána” and substitute “An Garda Síochána”.

—Aengus Ó Snodaigh.

5. In page 14, between lines 20 and 21, to insert the following:

“(6) The collective citation “the Misuse of Drugs Acts 1977 to 2006” shall include Part II (other than section 7) of the Criminal Justice Act 1999 and *Part 8* (other than *section 86*) and those Acts and those Parts (other than the sections specified) shall be construed together as one.”.

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

6. In page 14, line 37, after “prescribed” to insert the following:

“in doing so the Minister shall have regard to the provisions contained in *Schedule I**, human rights standards and international evidence indicating the likely effectiveness and social and economic costs of all potential regulations”.

—Aengus Ó Snodaigh.

7. In page 14, to delete lines 38 to 40 and in page 15, to delete lines 1 to 4 and substitute the following:

“(2) Every regulation under this section shall require the approval of both Houses of the Oireachtas.”.

—Aengus Ó Snodaigh.

8. In page 15, between lines 9 and 10, to insert the following:

“Data sharing
regarding warrants.

5.—(1) Where a person is the subject of an unexecuted warrant for his or her arrest, it shall be lawful notwithstanding anything in the Data Protection Acts 1988 to 2003 for a member of the Garda Síochána to require any data processor (whether in the public or private sector) to communicate with the member any information relevant to the person for the purposes of apprehending the person, or to notify the member or another member when the person interacts with the data processor, or both.

(2) In this section “bench warrant” includes any instrument, warrant or order requiring a person to surrender to a court, prison or member of the Garda Síochána.”.

—Brendan Howlin.

9. In page 15, between lines 9 and 10, to insert the following:

“Duration of
warrants.

5.—Notwithstanding any enactment, provision may be made by rules of court that a warrant issued by a judge of any Court for the arrest of a person shall continue in force until executed or cancelled by the judge or another judge.”.

—Brendan Howlin.

10. In page 16, between lines 24 and 25, 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.

11. In page 16, line 37, after “practicable” to insert the following:

“, but any failure to so do shall not render invalid, retrospectively or otherwise, such a direction”.

—Jim O’Keeffe.

12. In page 16, lines 39 to 45, to delete all words from and including “shall” in line 39 down to and including “concerned.” in line 45 and substitute the following:

“shall—

- (i) describe the place thereby designated as a crime scene,
- (ii) state the date and time when it is given,
- (iii) state the name and rank of the member giving it, and
- (iv) state that the member has reasonable grounds for believing that the direction is necessary to preserve, search for and collect the evidence concerned.”.

—Jim O’Keeffe.

13. In page 17, to delete lines 1 to 15 and substitute the following:

“(9) 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 superintendent that a direction under *subsection (3)* designating a place as a crime scene is in force, and—

- (a) there are reasonable grounds for believing that there is, or may be, evidence at the crime scene,
- (b) the continuance of the direction in force is necessary to preserve, search for and collect any such evidence, or
- (c) the investigation of the offence to which any such evidence relates is being conducted diligently and expeditiously,

the judge may, subject to *subsection (10)*, make an order continuing the direction in force for such further period, not exceeding 48 hours, as may be specified in the order commencing upon the expiration of the period for which the direction is in force.”.

—Jim O’Keeffe.

14. In page 17, to delete lines 39 to 42 and substitute the following:

“(b) the owner, if—

- (i) it is not reasonably practicable to ascertain the identity or whereabouts of the occupier, or
- (ii) the place is unoccupied,

unless it is not reasonably practicable to ascertain the identity or whereabouts of the owner.”.

—Jim O’Keeffe.

15. In page 18, between lines 35 and 36, to insert the following:

“6.—(1) The Offences Against the State Act 1939 is amended by the deletion of section 29 of that Act.”.

—Aengus Ó Snodaigh.

16. In page 18, to delete lines 36 to 47, to delete page 19 and in page 20, to delete lines 1 to 47.

—Brendan Howlin.

17. In page 18, after line 47, to insert the following:

“(2) The Order of the District Judge issuing a search warrant under this section shall record in writing the offence in relation to which the power has been exercised.”.

—Aengus Ó Snodaigh.

18. In page 18, after line 47, to insert the following:

“(2) In issuing a warrant under subsection (1), a judge of the District Court shall—

- (a) have jurisdiction to issue a warrant for any District,
- (b) not be jurisdictionally limited to the District wherein he or she ordinarily sits, and
- (c) not be obliged to be physically present in any District or in a District in respect of the jurisdiction of which he or she is issuing a warrant.”.

—Jim O'Keeffe.

19. In page 18, after line 47, to insert the following:

“(2) Where a judge of the District Court issues a search warrant under subsection (1), he or she shall endorse or cause to be endorsed on such a warrant—

- (a) the time and date of the issue of the warrant,
- (b) the time and date on which the warrant shall expire, the period of validity of any warrant not to exceed one week,
- (c) the named member to whom the warrant applies, and
- (d) the maximum number of other members or persons who may accompany the named member, where a limit on such members or persons applies.”.

—Jim O'Keeffe.

20. In page 19, to delete lines 1 to 22.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí, Aengus Ó Snodaigh.

21. In page 19, to delete lines 1 to 8 and substitute the following:

“(2) A member not below the rank of superintendent may—

- (a) subject to subsection (3) and subsection (5),
- (b) if he or she is satisfied that there are reasonable grounds for suspecting that evidence of, or relating to, the commission of an arrestable offence is to be found in any place,

issue a warrant for the search of that place and any persons found at that place.”.

—Jim O’Keeffe.

22. In page 19, between lines 22 and 23, 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.

23. In page 19, to delete line 23 and substitute the following:

“(2) A search”.

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

24. In page 19, lines 30 and 31, to delete all words from and including “within” in line 30 down to and including “warrant” in line 31 and substitute the following:

“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”.

—Jim O’Keeffe.

25. In page 19, between lines 46 and 47, 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.

26. In page 19, to delete lines 47 to 50.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí, Aengus Ó Snodaigh.

27. In page 19, between lines 50 and 51, to insert the following:

“(6) (a) Where—

- (i) a warrant is issued under subsection (1), and
- (ii) a search under such a warrant has been initiated,

members or persons accompanying the named member in searching the place referred to in the warrant shall be entitled to search that place for a period of not more than 7 days and the time limit for the execution of the warrant shall cease to apply, provided that—

- (I) the member named on the search warrant remains present during the search,
- (II) the continuance of the search is necessary to preserve, search for and collect evidence that is, in the opinion of the named member, necessary, and
- (III) the search is being conducted diligently and expeditiously.

(b) Nothing in this subsection shall be used to permit a frivolous or vexatious search, or to unduly prolong an intrusion in a dwelling.”.

—Jim O’Keeffe.

28. In page 19, to delete line 51 and substitute the following:

“(3) A member acting under the auth-”.

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

29. In page 20, to delete line 20 and substitute the following:

“(4) A person who obstructs or attempts”.

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

30. In page 20, line 24, to delete “subsection (6)(a)” and substitute “subsection (3)(a)”.

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

31. In page 20, to delete line 30 and substitute the following:

“(5) The power to issue a warrant under”.

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

32. In page 20, to delete line 35 and substitute the following:

“(6) In this section—”.

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

33. In page 20, between lines 39 and 40, to insert the following:

“ ‘judge of the District Court’ means any judge of the District Court, irrespective of which District wherein he or she ordinarily sits;”.

—Jim O’Keeffe.

34. In page 20, line 40, to delete “includes a dwelling” and substitute the following:

“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.

35. In page 21, to delete lines 33 to 49 and in page 22, to delete lines 1 to 40.
—Aengus Ó Snodaigh.
36. In page 22, line 30, after “detained” to insert the following:
“in a garda station which is equipped for video and audio recording of interviews”.
—Brendan Howlin.
37. In page 22, between lines 35 and 36, to insert the following:
“(bbb) Where a chief superintendent of An Garda Síochána directs that a person be detained for a further period pursuant to paragraph (bb) the person shall have the right to the presence of a legal representative during all subsequent interviews.”,
—Aengus Ó Snodaigh.
38. In page 22, to delete lines 43 and 44 and substitute the following:
“(a) in section 2—
(i) in subsection (1), by the substitution of the following paragraph for paragraph (a):”
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
39. In page 23, between lines 15 and 16, to insert the following:
“(ii) by the insertion of the following subsection after subsection (7):
“(7A) Notwithstanding subsections (2) and (7), if—
(a) an application is made under subsection (2) for a warrant authorising the detention for a further period of a person detained under that subsection, and
(b) the period of detention under that subsection has not expired at the commencement of the hearing of the application but would, but for this subsection, expire during that hearing,
it shall be deemed not to expire until the determination of the application.”,
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
40. In page 23, between lines 15 and 16, to insert the following:
“(b) in section 2 by the addition of following new subsection (11):

“(11) 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.

41. In page 24, between lines 25 and 26, to insert the following:

“Videorecording of evidence.

12.—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.”.

—Brendan Howlin.

42. In page 24, to delete lines 37 and 38 and substitute the following:

“(3) An authority under *subsection (2)* may be given orally but, if it is given orally, it must be confirmed in writing within less than 12 hours of the oral authority.”.

—Ciarán Cuffe.

43. In page 24, to delete lines 47 to 50 and substitute the following:

“(5) A person who refuses to allow himself or herself to be photographed pursuant to this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €200.”.

—Ciarán Cuffe.

44. In page 25, to delete lines 10 to 13, and substitute the following:

“six months”,

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

“(3) Where proceedings have been so instituted and—

(a) the person is acquitted,

(b) the charge against the person in respect of the offence concerned is dismissed under section 4E of the Criminal Procedure Act 1967, or

(c) the proceedings are discontinued,

the destruction shall be carried out on the expiration of a period of 21 days after the acquittal, dismissal or discontinuance, as the case may be.

(3A) For the purposes of subsection (3)(b), a charge against the person in respect of the offence concerned shall be regarded as dismissed when—

- (a) the time for bringing an appeal against the dismissal has expired,
- (b) any such appeal has been withdrawn or abandoned, or
- (c) on any such appeal, the dismissal is upheld.”

and

(iii) in subsection (7)—

(I) by the substitution of “for a period not exceeding twelve months” for “for a period not exceeding six months”, and

(II) by the substitution of “for the purpose of proceedings or further proceedings” for “for the purpose of further proceedings”,

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

45. In page 26, to delete lines 25 to 27 and substitute the following:

“(b) in section 4—

(i) in subsection (2), by the substitution of “within twelve months from the taking of the sample” for “within six months from the taking of the sample”, and

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

“(3) Where proceedings have been so instituted and—

(a) the person is acquitted,

(b) the charge against the person in respect of the offence concerned is dismissed under section 4E of the Criminal Procedure Act 1967, or

(c) the proceedings are discontinued,

the destruction of the record and the sample identified by such record shall be carried out on the expiration of twenty-one days after the acquittal, dismissal or discontinuance, as the case may be, unless an order has been made under subsection (5) of this section.

(3A) For the purposes of subsection (3)(b) of this section, a charge against the person in respect of the offence concerned shall be regarded as dismissed when—

(a) the time for bringing an appeal against the dismissal has expired,

(b) any such appeal has been withdrawn or abandoned, or

(c) on any such appeal, the dismissal is upheld.”

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

46. In page 26, to delete lines 31 to 38 and substitute the following:

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

—Aengus Ó Snodaigh.

47. In page 26, between lines 38 and 39, 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:

(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.

48. In page 26, between lines 38 and 39, to insert the following:

“(2) Any Ministerial regulations arising from this section shall require the approval of both Houses of the Oireachtas.”.

—Aengus Ó Snodaigh.

49. In page 27, between lines 9 and 10, to insert the following:

“ “statutory declaration” includes a statutory declaration made under *section 17* or *18*.”.

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

50. In page 27, to delete lines 14 to 41 and in page 28, to delete lines 1 to 24.

—Aengus Ó Snodaigh.

51. In page 27, line 15, after “statement” to insert the following:

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

—Brendan Howlin.

52. In page 27, line 16, after “may” to insert “, with the leave of the court,”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

53. In page 27, line 16, after “may” to insert “, by leave of the court,”.
—Brendan Howlin.

54. In page 27, line 25, to delete “any fact mentioned in it” and substitute “the fact concerned”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

55. In page 28, to delete lines 37 to 44 and in page 29, to delete lines 1 to 20.
—Aengus Ó Snodaigh.

56. In page 29, between lines 20 and 21, to insert the following:

“19.—(1) Any Ministerial regulations arising from this section shall require the approval of both Houses of the Oireachtas.”

—Aengus Ó Snodaigh.

57. In page 29, between lines 20 and 21, to insert the following:

“19.—(1) All Garda stations shall be internally and externally monitored and recorded by CCTV or the equivalent and the recordings shall be secured for at least a year unless an allegation has been made of abuse by a Garda or it is required for the prosecution of an offence in which case it shall be retained.”

—Aengus Ó Snodaigh.

58. In page 29, between lines 20 and 21, to insert the following:

“19.—(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.

59. In page 29, line 21, to delete “may” and substitute “shall”.
—Aengus Ó Snodaigh.

60. In page 29, line 27, after “retained” to insert the following:

“and

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

—Aengus Ó Snodaigh.

61. In page 29, to delete lines 28 to 34.

—Aengus Ó Snodaigh.

62. In page 30, between lines 2 and 3, to insert the following:

“Miscarriages of justice resulting in acquittal of an accused.

21.—In the case of an accused person tried on indictment for an offence carrying a maximum or mandatory sentence of life imprisonment, who has been acquitted, where at any time following such acquittal the Director of Public Prosecutions comes into possession of significant new evidence which demonstrates that a miscarriage of justice has occurred, he or she may apply to the Court of Criminal Appeal for an order setting aside the acquittal and directing a retrial.”.

—Brendan Howlin.

63. In page 30, between lines 2 and 3, to insert the following:

“Interference with jury resulting in acquittal of an accused.

21.—(1) In the case of an accused person tried on indictment for an offence, who has been acquitted, where at any time following such acquittal the Director of Public Prosecutions comes into possession of evidence which demonstrates that interference with the jury has occurred, he or she may apply to the Court of Criminal Appeal for an order setting aside the acquittal and directing a retrial.

(2) A retrial under this section shall be conducted by a special criminal court unless the Director of Public Prosecutions certifies that the ordinary courts are satisfactory for such retrial.”.

—Brendan Howlin.

64. In page 30, lines 9 to 11, to delete all words from and including “may,” in line 9 down to and including “person,” in line 11 and substitute “may”.

—Brendan Howlin.

65. In page 30, between lines 13 and 14, to insert the following:

“(2) A reference under this section is without prejudice to an acquittal on the merits by a jury.

(3) Where, following a reference under this section in respect of an acquittal by direction of the trial judge, the Supreme Court is of opinion that the direction was erroneous in point of law, the Court may set aside the acquittal and may direct a retrial.”.

—Brendan Howlin.

66. In page 30, lines 18 to 26, to delete all words from and including “appropriate,” in line 18 down to and including “add” in line 26 and substitute “appropriate”.

—Brendan Howlin.

67. In page 30, lines 35 and 36, to delete “with the leave of the Court,”.

—Brendan Howlin.

68. In page 31, between lines 42 and 43, to insert the following:

“Transfer of
criminal appeal
jurisdiction to the
Supreme Court.

22.—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.”.

—Brendan Howlin.

69. In page 31, line 52, after “Court” where it secondly occurs to insert “or the Supreme Court”.

—Brendan Howlin.

70. In page 32, lines 15 to 23, to delete all words from and including “Supreme” in line 15 down to and including “Court” in line 23 and substitute “Supreme Court”.

—Brendan Howlin.

71. In page 32, lines 32 and 33, to delete “with the leave of the Court,”.

—Brendan Howlin.

72. In page 33, line 47, after “Appeal” to insert the following:

“and the accused may appeal to the Court of Criminal Appeal against a refusal to order costs”.

—Brendan Howlin.

73. In page 33, lines 49 to 51, to delete all words from and including “, or” in line 49 down to and including “determine,” in line 51.

—Jim O’Keeffe.

74. In page 34, to delete lines 5 to 44 and in page 35, to delete lines 1 to 4 and substitute the following:

“(a) by the substitution of the following subsection for subsection (1):

“(1) In this Act—

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

- (a) grenades, bombs and other similar missiles, whether or 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;

“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;

“firearm” means—

- (a) a lethal firearm or other lethal weapon of any description from which any shot, bullet or other missile can be discharged,
- (b) an air gun (including an air rifle and air pistol) with a muzzle energy greater than one joule or any other weapon incorporating a barrel from which any projectile can be discharged with such a muzzle energy,
- (c) a crossbow,
- (d) any type of stun gun or other weapon for causing any shock or other disablement to a person by means of electricity or any other kind of energy emission,
- (e) a prohibited weapon,
- (f) any article which would be a firearm under any of the foregoing paragraphs but for the fact that, owing to the lack of a necessary component part or parts, or to any other defect or condition, it is incapable of discharging a shot, bullet or other missile or projectile or of causing a shock or other disablement, as the case may be,
- (g) except where the context otherwise requires, any component part of any article referred to in any of the foregoing paragraphs and, without prejudice to the generality of the foregoing, the following articles shall be deemed to be such component parts:
 - (i) telescope sights with a light beam, or telescope sights with an electronic light amplification device or an infra-red device, designed to be fitted to a firearm specified in paragraph (a), (b), (c) or (e),
 - (ii) a silencer designed to be fitted to a firearm specified in paragraph (a), (b) or (e), and
 - (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,

and

(h) a device capable of discharging blank ammunition and to be used as a starting gun or blank firing gun,

and includes a restricted firearm, unless otherwise provided or the context otherwise requires;

“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;

“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;

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

“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;

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

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

“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 or any other weapon) which contains or is designed or adapted to contain any noxious liquid, noxious gas or other noxious thing;

“place” includes a dwelling;

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

“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;

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

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

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

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

75. In page 35, line 36, to delete “club or shooting range” and substitute “club, shooting range or any other place”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

76. In page 36, line 22, to delete “over 14 years of age” and substitute “, aged not less than 16 years,”.
—Jim O’Keeffe.

77. In page 36, line 26, after “while” to insert the following:
“at a rifle or pistol club or a pistol shooting range”.
—Aengus Ó Snodaigh.

78. In page 36, lines 27 and 28, to delete “hunting or”.
—Aengus Ó Snodaigh.

79. In page 36, line 30, to delete “over 18 years of age” and substitute “, aged not less than 21 years,”.
—Jim O’Keeffe.

80. In page 36, line 36, after “range” to insert the following:
“or other place that stands authorised under section 2(5) of this Act”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

81. In page 36, between lines 41 and 42, to insert the following:

“(2) The commissioner on application and payment of the prescribed fee (if any), may issue to accredited members of an international sporting body recognised by the Irish Sports Council and who are non-residents and over 14 years of age a Firearms Training Certificate, and in the case of those over 18 years of age a Firearm certificate, authorising them to take part in duly authorised rifle or pistol competitions in the state.

(3) The Commissioner shall on application and payment of the prescribed fee authorise, upon satisfying him/herself that the regulations as laid out for rifle or pistol competitions in relation to safety, notice, attendance, age, accreditation and participation as published by the Minister for Justice, Equality and Law Reform following approval of both Houses of the Oireachtas, have been complied with grant a license to the organisers of such an event.

(4) The licence provided under *subsection (3)* shall be revoked by An Garda Síochána in the event that the regulations are not complied with.”.
—Aengus Ó Snodaigh.

82. In page 36, lines 42 and 43, to delete “Where the applicant is under 16 years of age, the” and substitute the following:

“In the case of a person aged less than 18 years, an”.

—Jim O’Keeffe.

83. In page 36, line 45, after “guardian” to insert the following:

“and shall be lodged in person while accompanied with the said guardian at the nearest Garda station to the applicant’s home address”.

—Aengus Ó Snodaigh.

84. In page 37, line 2, to delete “Minister” and substitute “Commissioner”.

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

85. In page 37, line 5, to delete “3 years” and substitute “one year”.

—Aengus Ó Snodaigh.

86. In page 37, line 5, to delete “3 years” and substitute “2 years”.

—Jim O’Keeffe.

87. In page 37, line 6, after “revoked” to insert the following:

“or when the international competition is completed in the case of temporary Firearms Training Certificates”.

—Aengus Ó Snodaigh.

88. In page 37, line 30, after “security,” to insert the following:

“and having consulted such organisations as in the Minister’s opinion are representative of persons engaged in sporting or other lawful use of firearms,”.

—Brendan Howlin.

89. In page 37, to delete line 38 and substitute the following:

“(iv) the muzzle energy of ammunition likely to be used by the firearm,”.

—Brendan Howlin.

90. In page 38, between lines 7 and 8, to insert the following:

“(2) In making an order under subsection (1) the Minister shall have regard to the desirability of facilitating persons engaged in sporting or other lawful use of firearms.”.

—Brendan Howlin.

91. In page 38, between lines 7 and 8, to insert the following:

“(2) A person aggrieved by an order of the Minister under subsection (1) may give notice in a form to be prescribed by the Minister of his or her grievance and of the grounds for it, and the Minister shall consider such notice and shall make a decision on foot of the notice either to make no amendment to the order under subsection (1) or to may make such amendment to the order under subsection (1) as, in the opinion of the Minister, the circumstances warrant.

(3) A person dissatisfied by a decision of the Minister under subsection (2) may appeal against such decision to the High Court which may give such directions to the Minister as the circumstances warrant.”.

—Brendan Howlin.

92. In page 39, line 4, after “person” to insert the following:

“, where the permission of that person has been obtained”.

—Jim O’Keeffe.

93. In page 39, lines 11 and 12, to delete “one month” and substitute “3 months”.

—Brendan Howlin.

94. In page 40, line 28, after “Minister,” to insert the following:

“and having consulted such organisations as in the Commissioner’s opinion are representative of persons engaged in sporting or other lawful use of firearms,”.

—Brendan Howlin.

95. In page 40, between lines 36 and 37, to insert the following:

“(3) In making an order under subsection (1) the Minister shall have regard to the desirability of facilitating persons engaged in sporting or other lawful use of firearms.”.

—Brendan Howlin.

96. In page 40, between lines 36 and 37, to insert the following:

“(3) Guidelines under this section shall be made available by the Commissioner to those likely to be affected thereby.”.

—Brendan Howlin.

97. In page 41, line 14, after “is” to insert “a rifle or pistol”.

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

98. In page 41, line 16, after “club” to insert “or a clay-pigeon shooting club”.

—Brendan Howlin.

99. In page 41, between lines 16 and 17, 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.

100. In page 41, line 40, after “competence” to insert “or a bona fide intention to acquire competence”.

—Brendan Howlin.

101. In page 41, line 41, after “concerned” to insert the following:

“or in such other similar firearms as satisfy the issuing person that the applicant will be competent in the use of the firearm concerned”.

—Brendan Howlin.

102. In page 42, lines 11 and 12, to delete “a person who is a doctor, psychiatrist, dentist, optician, chemist or nurse and” and substitute “doctor or psychiatrist”.

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

103. In page 42, between lines 14 and 15, to insert the following:

“(7) That the applicant for a Firearms Training Certificate and his/her parent or guardian satisfy the conditions under this section at (1), 2(c), 2(e), 2(f), 2(g), 3, 3(a), 3(c) and (6).”.

—Aengus Ó Snodaigh.

104. In page 44, between lines 17 and 18, to insert the following:

“(15) Regulations under subsection (13) insofar as they determine standards by reference to subsection (14)(vi) shall have due regard to the need for shooting ranges to be used by persons who are in the process of acquiring competency in the use of firearms.”.

—Brendan Howlin.

105. In page 45, lines 13 and 14, to delete “this section” and substitute “subsection (18) of this section”.

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

106. In page 46, line 12, after “it” to insert the following:

“, accompanied by a member of An Garda Síochana not below the rank of sergeant and with consent of a Garda Síochana superintendent”.

—Aengus Ó Snodaigh.

107. In page 46, line 12, after “it” to insert “, at any time and without prior notice”.
—Jim O’Keeffe.

108. In page 47, to delete lines 17 to 29 and substitute the following:

“Amendment of
section 8 of
Principal Act.

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

“(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,

(e) any 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 any firearm or ammunition, and

(f) any person not ordinarily resident in the State for a period of 6 months before applying for a firearm certificate.”.

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

109. In page 47, line 25, to delete “or”.

—Jim O’Keeffe.

110. In page 47, between lines 25 and 26, to insert the following:

“(ii) any violent crime, or”.

—Jim O’Keeffe.

111. In page 48, line 18, to delete “18 years” and substitute “21 years”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí, Jim O’Keeffe.

112. In page 48, line 24, after “2005” to insert “, or any violent crime”.

—Jim O’Keeffe.

113. In page 49, line 44, after “purpose” to insert the following:

“, has secure storage for required material and equipment and is separate and distinct from living quarters”.

—Aengus Ó Snodaigh.

114. In page 51, line 10, to delete “€1,000” and substitute “€3,000”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

115. In page 51, to delete lines 42 to 47.
—Aengus Ó Snodaigh.

116. In page 52, line 33, 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 Ó Snodaigh.

117. In page 52, between lines 33 and 34, to insert the following:

“(7) Subsections (2) to (6) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) A person (except a person under the age of 18 years)—

- (a) who is convicted of a second or subsequent offence under this section, or
- (b) who is convicted of a first offence under this section and has been convicted of an offence under section 26, 27, 27A or 27B of the Firearms Act 1964 or section 12A of the Firearms and Offensive Weapons Act 1990,

shall be sentenced to imprisonment for a term of not less than 10 years.”.

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

118. In page 52, between lines 33 and 34, 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.

119. In page 52, to delete line 34 and substitute the following:

“(9) Section 27C of the Firearms Act 1964”.

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

- 120.** In page 52, line 37, after “imposed” to insert “under subsection (4) or (8) of this section”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 121.** In page 53, line 33, after “may” to insert “at the earliest possible opportunity”.
—Aengus Ó Snodaigh.
- 122.** In page 53, between lines 41 and 42, to insert the following:
“(5) For the purposes of this section—
(a) an issuing person—
(i) who is required under section 3(9), 4A(7) or 10(4F) to decide on an application within a specified period, and
(ii) who does not so decide,
is deemed to have decided to refuse to grant the application,
(b) the applicant is deemed to have received notice of the decision on the expiration of that period, and
(c) as the case may be, section 3(10) does not apply in relation to the application.”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 123.** In page 53, to delete line 42 and substitute the following:
“(6) The jurisdiction conferred on the District”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 124.** In page 54, line 40, after “station” to insert the following:
“or at any other place approved for the purpose by a superintendent of the Garda Síochána”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 125.** In page 55, line 4, to delete “name and address” and substitute “name, address and proof of identity”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 126.** In page 55, line 6, after “station” to insert “or place”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 127.** In page 58, line 40, to delete “subsection (6)” and substitute “subsection (5)”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

128. In page 59, line 17, after ““firearm”” to insert “, where they first occur”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

129. In page 60, to delete lines 8 to 13.

—Aengus Ó Snodaigh.

130. In page 60, line 30, 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.

131. In page 60, line 46, 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 Ó Snodaigh.

132. In page 60, between lines 46 and 47, to insert the following:

“(7) Subsections (2) to (6) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) A person (except a person under the age of 18 years)—

- (a) who is convicted of a second or subsequent offence under this section, or
- (b) who is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act, section 27, 27A or 27B of this Act or section 12A of the Firearms and Offensive Weapons Act 1990,

shall be sentenced to imprisonment for a term of not less than 5 years.”.

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

133. In page 60, to delete line 47 and substitute the following:

“(9) In proceedings for an offence under this”.

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

134. In page 61, to delete line 1 and substitute the following:

“(10) Section 27C of this Act applies in relation”.

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

135. In page 61, line 3, after “imposed” to insert “under subsection (4) or (8) of this section”.

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

136. In page 61, to delete lines 34 to 39.

—Aengus Ó Snodaigh.

137. In page 62, line 7, 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.

138. In page 62, line 23, 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 Ó Snodaigh.

139. In page 62, between lines 23 and 24, to insert the following:

“(7) Subsections (2) to (6) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) A person (except a person under the age of 18 years)—

(a) who is convicted of a second or subsequent offence under this section, or

(b) who is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act, section 26, 27A or 27B of this Act or section 12A of the Firearms and Offensive Weapons Act 1990,

shall be sentenced to imprisonment for a term of not less than 10 years.”.

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

140. In page 62, to delete line 24 and substitute the following:

“(9) Section 27C of this Act applies in relation”.

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

141. In page 62, line 26, after “imposed” to insert “under subsection (4) or (8) of this section”.

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

142. In page 63, to delete lines 5 to 10.

—Aengus Ó Snodaigh.

143. In page 63, line 27, 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.

144. In page 63, line 43, 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 Ó Snodaigh.

145. In page 63, between lines 43 and 44, to insert the following:

“(7) Subsections (2) to (6) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) A person (except a person under the age of 18 years)—

(a) who is convicted of a second or subsequent offence under this section, or

(b) who is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act, section 26, 27 or 27B of this Act or section 12A of the Firearms and Offensive Weapons Act 1990,

shall be sentenced to imprisonment for a term of not less than 5 years.”.

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

146. In page 63, to delete line 44 and substitute the following:

“(9) Section 27C of this Act applies in relation”.

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

147. In page 63, line 46, after “imposed” to insert “under subsection (4) or (8) of this section”.

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

148. In page 63, to delete line 48 and substitute the following:

“(10) In the application of section 2 of the Crimi-”.

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

149. In page 64, to delete lines 30 to 35.

—Aengus Ó Snodaigh.

150. In page 65, line 21, 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 Ó Snodaigh.

151. In page 65, between lines 21 and 22, to insert the following:

“(7) Subsections (2) to (6) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) A person (except a person under the age of 18 years)—

(a) who is convicted of a second or subsequent offence under this section, or

(b) who is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act, section 26, 27 or 27A of this Act or section 12A of the Firearms and Offensive Weapons Act 1990,

shall be sentenced to imprisonment for a term of not less than 5 years.”.

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

152. In page 65, to delete line 22 and substitute the following:

“(9) In proceedings for an offence under this”.

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

153. In page 65, to delete line 28 and substitute the following:

“(10) Section 27C of this Act applies in relation”.

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

154. In page 65, line 30, after “imposed” to insert “under subsection (4) or (8) of this section”.

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

155. In page 65, line 37, to delete “section 15(4)” and substitute “section 15”.

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

156. In page 65, line 38, to delete “section 26(4), 27(4), 27A(4) or 27B(4)” and substitute “section 26, 27, 27A or 27B”.

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

157. In page 65, line 40, to delete “section 12A(9)” and substitute “section 12A”.

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

158. In page 65, to delete lines 44 to 47.

—Aengus Ó Snodaigh.

159. In page 66, to delete lines 5 to 13.

—Aengus Ó Snodaigh.

160. In page 66, between lines 17 and 18, to insert the following:

“Amendment of
Firearms and
Offensive Weapons
Act 1990.

63.—The Firearms and Offensive Weapons Act 1990 is amended—

(a) by the repeal of section 4,

(b) in section 6(1), by the substitution of “paragraph (f) of the definition of “firearm” in section 1(1) of the Principal Act” for “section 4(1)(f)”, and

(c) in section 7(8), by the substitution of “paragraph (g)(ii) of the definition of “firearm” in section 1(1) of the Principal Act” for “section 4(1)(g)”.”.

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

161. In page 66, to delete lines 18 to 44.

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

162. In page 68, to delete lines 19 to 25.

—Aengus Ó Snodaigh.

163. In page 68, line 42, 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.

164. In page 69, line 8, 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 Ó Snodaigh.

165. In page 69, between lines 8 and 9, to insert the following:

“(12) Subsections (7) to (11) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (13)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(13) A person (except a person under the age of 18 years)—

(a) who is convicted of a second or subsequent offence under this section, or

(b) who is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act or section 26, 27, 27A or 27B of the Firearms Act 1964,

shall be sentenced to imprisonment for a term of not less than 5 years.”.

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

166. In page 69, to delete line 9 and substitute the following:

“(14) Section 27C of the Firearms Act 1964”.

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

167. In page 69, line 12, after “imposed” to insert “under subsection (9) or (13)”.

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

168. In page 69, line 16, to delete “the Act” and substitute “the Act of 1976”.

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

169. In page 71, to delete lines 19 to 22 and substitute the following:

“(a) 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,”.

—Jim O’Keeffe.

170. In page 72, line 41, before “does” to insert “except in subsection (1)(b)”.

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

171. In page 73, to delete lines 11 to 40 and to delete pages 74 to 77.

—Aengus Ó Snodaigh, Ciarán Cuffe.

172. In page 73, line 19, after “time” to insert “of more than 3 months”.

—Aengus Ó Snodaigh.

173. In page 73, to delete lines 34 to 36.

—Aengus Ó Snodaigh.

174. In page 74, line 28, after “of” to insert “knowingly”.

—Aengus Ó Snodaigh.

175. In page 74, to delete lines 42 and 43 and in page 75, to delete lines 1 to 12.

—Aengus Ó Snodaigh.

176. In page 75, to delete lines 19 to 21.

—Aengus Ó Snodaigh.

177. In page 75, to delete lines 28 to 31.

—Aengus Ó Snodaigh.

178. In page 78, to delete lines 6 to 12 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 Ó Snodaigh.

179. In page 78, line 23, to delete “at the time” and substitute “at or about the time”.

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

180. In page 78, between lines 39 and 40, to insert the following:

“(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 Ó Snodaigh.

181. In page 78, to delete lines 40 to 47 and substitute the following:

“(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 Ó Snodaigh.

182. In page 79, to delete lines 28 to 33.

—Aengus Ó Snodaigh.

183. In page 80, to delete lines 10 to 16.

—Aengus Ó Snodaigh.

184. In page 81, line 29, to delete “subsection” and substitute “subsections”.

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

185. In page 81, to delete line 40 and substitute the following:

“of a lesser sentence.

(3CCC) Subsections (3A) to (3CC) of this section apply and have effect in relation to a person convicted of a first offence under section 15A or 15B of this Act (other than a person who falls under paragraph (b) of subsection (3CCCC) of this section), and accordingly references in those first-mentioned subsections to an offence under section 15A or 15B of this Act are to be construed as references to a first such offence.

(3CCCC) A person (other than a child or young person)—

(a) who is convicted of a second or subsequent offence under section 15A or 15B of this Act, or

(b) who is convicted of a first offence under one of those sections and has been convicted under the other of those sections,

shall be sentenced to imprisonment for a period of not less than 10 years.””.

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

186. In page 81, line 40, 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 Ó Snodaigh.

187. In page 82, to delete lines 21 to 44, to delete pages 83 to 90 and in page 91, to delete lines 1 to 14.

—Aengus Ó Snodaigh.

188. In page 82, between lines 39 and 40, to insert the following:

“88.—(1) Any Ministerial regulations arising from this Part shall require the approval of both Houses of the Oireachtas.”.

—Aengus Ó Snodaigh.

189. In page 83, line 1, to delete “*subsection (2)*” and substitute “*subsections (2) and (3)*”.

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

190. In page 83, to delete lines 8 to 16 and substitute the following:

“the sentence to be imposed on the person in respect of the offence has yet to be determined.”.

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

191. In page 83, between lines 16 and 17, to insert the following:

“(3) If a person has been convicted on indictment of a drug trafficking offence before the commencement of this Part and, at that commencement, a sentence has been imposed on the person in respect of the offence and—

- (a) the person is serving the sentence in prison,
- (b) the person is temporarily released under section 2 of the Criminal Justice Act 1960, or
- (c) the sentence is otherwise still in force or current,

the Circuit Court, in the circuit where the person ordinarily resides or has his or her most usual place of abode, may, on application to it in that behalf by a member of the Garda Síochána not below the rank of superintendent, order that the person shall be subject to the requirements of this Part if it considers that the interests of the common good so require and that it is appropriate in all the circumstances of the case.

(4) An application under *subsection (3)* may be made within a period of 2 months, or such longer period as the Circuit Court may permit, of the commencement of this Part.”.

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

192. In page 83, lines 19 and 20, to delete “*section 89(2)*” and substitute “*subsection (2) or (3) of section 89*”.

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

193. In page 85, to delete lines 5 to 10 and substitute the following:

“shall, before the end of the period of 7 days beginning with—

- (a) the relevant date,
- (b) if an order is made under *section 89(3)* or *95(3)*, the date of the order, or
- (c) if the relevant date is prior to the commencement of this Part and no such order is made, that commencement,

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.”.

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

194. In page 86, line 17, after “by” where it secondly occurs to insert “registered”.

—Aengus Ó Snodaigh.

195. In page 87, line 39, after “*section 92*” to insert “ or *section 95(1)*”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
196. In page 87, line 41, after “ or (4)” to insert the following:
“ or *section 95(1)*, as may be appropriate”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
197. In page 88, line 4, before “and” to insert “or *section 95(1)*”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
198. In page 88, lines 36 and 37, to delete “the first-mentioned offence” and substitute “an offence mentioned”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
199. In page 88, to delete lines 47 and 48, in page 89, to delete lines 1 to 22 and substitute the following:
“he or she shall, before the end of the period specified in *subsection (2)*, 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,
 - (II) his or her home address, and
 - (III) the fact of his or her conviction for the offence referred to in *paragraph (a)*.
- (2) The period referred to in *subsection (1)* is 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.
- (3) The Circuit Court, in the circuit where a person to whom *subsection (1)* applies ordinarily resides or has his or her most usual place of abode, on application to it in that behalf by a member of the Garda Síochána not below the rank of superintendent, may order that the person shall be subject to the requirements of this Part if it considers that the interests of the common good so require and that it is appropriate in all the circumstances of the case.
- (4) An application under *subsection (3)* may be made within a period of—

(a) 2 months of the date of the notification under *subsection (1)*, or

(b) if no such notification is given, 6 months of the date specified in *paragraph (a), (b) or (c)*, as may be appropriate, of *subsection (2)*,

or such longer period as the Circuit Court may permit.”.

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

200. In page 89, between lines 36 and 37, to insert the following:

“(6) *Subsections (8) to (10) of section 92* shall apply to a notification under *subsection (1)* as they apply to a notification under that section.”.

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

201. In page 89, to delete line 41 and substitute the following:

““home address” and “qualifying period” have the same meanings as they have in *section 92*.”.

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

202. In page 90, between lines 11 and 12, to insert the following:

“(3) A court that makes an order under *section 89(3) or 95(3)* in respect of a person shall forthwith, after the making of the order, issue to each of the persons referred to in *subsection (6)* a certificate stating—

(a) the offence for which the person has been convicted that gave rise to his or her becoming subject to the requirements of this Part,

(b) the sentence imposed on the person in respect of that offence, and

(c) that the person has become subject to the requirements of this Part.”.

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

203. In page 90, line 13, before “is” to insert “or (3)(a) insofar as it relates to an order made under *section 89(3)*”.

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

204. In page 90, lines 22 and 23, to delete “(2) or (3)” and substitute “(2), (3) or (4)”.

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

205. In page 90, line 26, to delete “(2) and (3)” and substitute “(2), (3) and (4)”.

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

206. In page 92, between lines 5 and 6, to insert the following:

“99.—(1) Any Ministerial regulations arising from this Part shall require the approval of both Houses of the Oireachtas.”

—Aengus Ó Snodaigh.

207. In page 95, to delete lines 14 to 17 and substitute the following:

“100.—(1) Where a court makes an order convicting a person of an offence in respect of which the person is liable to both a term of imprisonment and a fine, the court may, subject to *subsection (2)*—”

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

208. In page 97, between lines 7 and 8, to insert the following:

“(14) Section 18(1) of the Courts of Justice Act 1928 is amended by the insertion of “, including an order under *section 100(1)* of the *Criminal Justice Act 2006*” after “the person against whom the order shall have been made”.”

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

209. In page 97, to delete lines 24 to 26 and substitute the following:

“or both, but the court may not, under paragraph (a), require that offender to be in any place or places for a period or periods of more than 9 hours in any one day.”

—Ciarán Cuffe.

210. In page 97, lines 24 to 26, to delete all words from and including “, but” in line 24 down to and including “day” in line 26.

—Jim O’Keeffe.

211. In page 97, to delete lines 27 to 29 and substitute the following:

“(3) A restriction on movement order may be made for any period of not more than 3 months and, during that period, the offender shall keep the peace and be of good behaviour.”

—Ciarán Cuffe.

212. In page 97, line 28, to delete “of not more than 6 months”.

—Jim O’Keeffe.

213. In page 97, line 28, to delete “6 months” and substitute the following:

“the maximum term of imprisonment for the offence concerned, or 6 months, whichever is greater”.

—Brendan Howlin.

214. In page 97, line 48, to delete “is participating, and it shall ensure, as far as practicable,” and substitute the following:

“ordinarily participates, and it shall ensure, as far as is practicable.”

—Jim O’Keeffe.

215. In page 98, between lines 41 and 42, to insert the following:

“(12) The court shall, in all circumstances, endeavour to ensure and satisfy itself that, the offender who is to be the subject of an order under *subsection (1)* fully understands the implications of his or her agreeing to comply with the requirements of the order under *subsection (11)*.”

—Jim O’Keeffe.

216. In page 99, to delete lines 4 to 13.

—Aengus Ó Snodaigh, Ciarán Cuffe.

217. In page 99, line 15, to delete “written”.

—Jim O’Keeffe.

218. In page 99, line 16, after “offender” to insert “or his or her legal representative”.

—Jim O’Keeffe.

219. In page 100, line 3, after “district” where it secondly occurs to insert the following:

“, or, as the case may be, a judge of the Circuit Court for the time being assigned to the circuit.”

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

220. In page 100, line 31, before “in” to insert “, or, as the case may be, the circuit,”.

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

221. In page 100, line 43, after “district” to insert “or, as the case may be, another circuit”.

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

- 222.** In page 101, line 7, after “district” where it secondly occurs to insert the following:
“, or, as the case may be, a judge of the Circuit Court for the time being assigned to the circuit,”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 223.** In page 101, to delete lines 20 to 23.
—Aengus Ó Snodaigh.
- 224.** In page 101, line 20, to delete “automatically produced” and substitute “produced automatically or otherwise”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 225.** In page 101, to delete lines 38 and 39.
—Aengus Ó Snodaigh.
- 226.** In page 102, to delete lines 9 to 20.
—Aengus Ó Snodaigh.
- 227.** In page 102, to delete lines 21 to 24.
—Brendan Howlin.
- 228.** In page 102, to delete lines 30 to 33.
—Aengus Ó Snodaigh.
- 229.** In page 102, line 30, to delete “automatically produced” and substitute “produced automatically or otherwise”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 230.** In page 103, to delete lines 1 to 6.
—Aengus Ó Snodaigh.
- 231.** In page 103, to delete lines 7 to 14.
—Aengus Ó Snodaigh.
- 232.** In page 103, line 7, after “may” to insert “, with the consent of the Minister for Finance,”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

233. In page 103, to delete lines 15 to 39, to delete pages 104 to 107 and in page 108, to delete lines 1 to 45.

—Aengus Ó Snodaigh, Ciarán Cuffe.

234. In page 103, line 20, to delete “civil order” and substitute “Anti-Social Behaviour Order”.

—Aengus Ó Snodaigh.

235. In page 103, between lines 22 and 23, to insert the following:

“(2) Any Ministerial regulations or guidelines arising from this Part shall require the approval of both Houses of the Oireachtas.”.

—Aengus Ó Snodaigh.

236. In page 103, between lines 22 and 23, to insert the following:

“(2) (a) The Minister shall, in consultation with the Garda Síochána, the Judiciary, the Irish Human Rights Commission and relevant sectoral NGOs, draw up guidelines concerning all aspects of the operation of this Part.

(b) Without prejudice to the generality of (a) the guidelines shall include:

(i) that an application for an order under this Part shall not be made unless all appropriate alternative mechanisms for dealing with the behaviour have been considered and used or considered inappropriate for use;

(ii) the Court considers it is the only satisfactory mechanism for dealing with the behaviour; and

(iii) Judicial education on the content of orders to ensure that every order respects the constitutional and human rights of the subjects of the order and any interference with those rights is proportionate and justified in the circumstances of the particular case.

(c) The guidelines shall also identify the special circumstances where anti-social behaviour may have sufficiently serious consequences to justify the use of an application for an order in accordance with the provisions of this Part.

(d) These guidelines shall require the approval of both Houses of the Oireachtas.”.

—Aengus Ó Snodaigh.

237. In page 103, between lines 22 and 23, to insert the following:

“(2) The Minister shall designate an independent body for the purpose of monitoring Garda practice in relation to this Part to ensure, in particular, that these orders are not used to circumvent the procedural requirements of the ordinary criminal law and this body shall report to the Oireachtas, An Garda Síochána Inspectorate, An Garda Síochána Ombudsman Commission and the National Crime Commission on an annual basis.”.

—Aengus Ó Snodaigh.

238. In page 103, lines 24 and 25, to delete “or, in the circumstances, is likely to cause,”.

—Ciarán Cuffe.

239. In page 103, between lines 31 and 32, to insert the following:

“The Minister shall, in consultation with An Garda Síochána, the Judiciary, the Irish Human Rights Commission and other relevant sectoral NGO’s, draw up guidelines regarding the definitions of the actions contained in *paragraphs (a), (b) and (c)*.”.

—Ciarán Cuffe.

240. In page 104, to delete lines 4 to 7 and substitute the following:

“(2) The behaviour warning may be issued orally or in writing and, if it is issued orally, it shall be recorded in writing within a period of no longer than 48 hours from when the oral warning is given, and a written record of the behaviour warning shall be served on the person personally or by post.”.

—Ciarán Cuffe.

241. In page 104, line 7, after “by” to insert “recorded”.

—Aengus Ó Snodaigh.

242. In page 104, line 11, to delete “manner,” and substitute the following:

“manner and indicate what that behaviour is and when and where it took place,”.

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

243. In page 104, line 11, after “manner” to insert the following:

“detailing the time, place and type of behaviour contrary to *subsection 113(2)*”.

—Aengus Ó Snodaigh.

244. In page 104, line 24, to delete “one month” and substitute “2 weeks”.

—Aengus Ó Snodaigh.

245. In page 104, to delete lines 29 and 30.

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

246. In page 104, between lines 33 and 34, to insert the following:

“(8) The District Superintendent shall facilitate an appeal against a behaviour warning and where it is deemed that the behaviour warning was unwarranted it shall immediately cease to have effect and the appellant shall be informed of this.”.

—Aengus Ó Snodaigh.

247. In page 104, line 39, to delete “(a “civil order”)” and substitute “(“an Anti-Social Behaviour Order”)”.

—Aengus Ó Snodaigh.

248. In page 104, line 39, to delete “(a “civil order”)” and substitute “(an “anti-social behaviour order”)”.

—Brendan Howlin.

249. In page 105, to delete lines 24 to 27 and substitute the following:

“(6) Unless discharged under *subsection (7)*, a civil order remains in force for no more than the lesser of the following:

(a) 6 months from the date the order is made;

(b) the period specified in the order.”.

—Ciarán Cuffe.

250. In page 105, between lines 37 and 38, to insert the following:

“(9) (a) Where an application is made under this section there shall be a hearing by the Court and an order shall not be made, varied or discharged unless an opportunity has been given to the respondent to be heard and to cross examine any witness who has given information on oath in support of the application.

(b) The Judge, on hearing evidence from the respondent for the purpose of determining whether any behaviour by the respondent constituted anti-social behaviour, shall disregard any act by the respondent which she or he considers to be reasonable in all the circumstances.”.

—Aengus Ó Snodaigh.

251. In page 105, line 39, to delete “civil” and substitute “criminal”.

—Aengus Ó Snodaigh.

- 252.** In page 106, line 26, to delete “civil” and substitute “criminal”.
—Aengus Ó Snodaigh.
- 253.** In page 109, to delete lines 1 to 39, to delete pages 110 to 124 and in page 125, to delete lines 1 to 6.
—Ciarán Cuffe.
- 254.** In page 109, line 28, to delete “section 257A(1);” and substitute “section 257A(2);”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 255.** In page 110, line 7, after “society” to insert “or the interests of the child”.
—Aengus Ó Snodaigh.
- 256.** In page 110, line 8, after “child” to insert “over the age of 12 years”.
—Aengus Ó Snodaigh.
- 257.** In page 110, to delete line 10.
—Aengus Ó Snodaigh.
- 258.** In page 110, line 12, to delete “or anti-social behaviour”.
—Aengus Ó Snodaigh.
- 259.** In page 110, to delete lines 16 to 21.
—Aengus Ó Snodaigh.
- 260.** In page 110, to delete lines 22 to 39.
—Aengus Ó Snodaigh.
- 261.** In page 110, to delete lines 40 to 43 and in page 111, to delete lines 1 to 15.
—Aengus Ó Snodaigh.
- 262.** In page 111, to delete lines 27 to 30.
—Aengus Ó Snodaigh, Ciarán Cuffe.
- 263.** In page 111, to delete lines 31 to 46 and in page 112, to delete lines 1 to 5.
—Ciarán Cuffe.

264. In page 111, to delete all words from and including “of” in line 31 down to “abolished.” in line 46 and in page 112, to delete lines 1 to 5 and substitute the following:

“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.

(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 Ó Snodaigh.

265. In page 112, line 19, to delete “may” and substitute “shall”.

—Aengus Ó Snodaigh.

266. In page 112, between lines 29 and 30, to insert the following:

“(b) under section 76C, to dismiss the case on its merits,”.

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

267. In page 112, line 44, after “justice” to insert “and in the interests of the child”.

—Aengus Ó Snodaigh.

268. In page 112, to delete line 47 and in page 113, to delete lines 1 to 10 and substitute the following:

“76B.—(1) Where—

(a) a child who is charged with an offence is remanded on bail or, subject to section 88(10)(b), in custody, 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) Where the child is remanded on bail, the request shall be made at least one week before the date of the resumption of the proceedings concerned.”.

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

269. In page 113, line 2, after “bail” to insert “or in custody”.

—Aengus Ó Snodaigh.

270. In page 113, between lines 16 and 17, to insert the following:

“New section 76C
in Act of 2001.

134.—The following section is inserted in the Act of 2001 after section 76B:

“Dismissal of
case against
child under 14
in certain
circumstances.

76C.—Where a child under 14 years of age is charged with an offence, the Court may, of its own motion or the application of any person, dismiss the case on its merits if, having had due regard to the child’s age and level of maturity, it determines that the child did not have a full understanding of what was involved in the commission of the offence.”.

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

271. In page 114, lines 6 and 7, to delete the following “, as far as practicable and where it is in the interests of the child,”.

—Aengus Ó Snodaigh.

272. In page 114, to delete lines 17 to 19 and substitute the following:

“(10) The Court shall not remand a child in custody under this section if the only reason for doing so is that—

(a) the child is in need of care or protection, or

(b) the Court wishes the Health Service Executive to assist it under section 76B in dealing with the case.”.

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

273. In page 114, to delete lines 24 to 28.

—Aengus Ó Snodaigh.

274. In page 114, to delete lines 29 to 31.

—Aengus Ó Snodaigh.

275. In page 114, between lines 31 and 32, to insert the following:

“(14) The Court shall remand a child in custody only as a measure of last resort.”.

—Aengus Ó Snodaigh.

276. In page 115, to delete lines 22 to 32 and substitute the following:

“(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) where the child is charged with an offence—

(i) to avoid injustice to the child,

(ii) where the child is unlawfully at large, for the purpose of apprehending the child, or

(iii) in the public interest,

or

(b) where the child is subject to an order under section 257D—

(i) to avoid injustice to the child, or

(ii) to ensure that the order is complied with.”.

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

277. In page 115, to delete lines 29 to 32.

—Aengus Ó Snodaigh.

278. In page 115, to delete lines 33 to 35.

—Aengus Ó Snodaigh.

279. In page 115, line 34, after “section” to insert the following:

“it shall do so only to the extent that is strictly required to meet the objectives in subsection (2) of this section and”.

—Aengus Ó Snodaigh.

280. In page 115, between lines 35 and 36, to insert the following:

“(4) The Court shall dispense with the requirements of this section only having considered the right of the child to privacy.”.

—Aengus Ó Snodaigh.

281. In page 117, line 8, before “the” to insert the following:

“consideration shall be given to releasing the person into the community under supervision in accordance with section 151 of the Act of 2001 where this is not in the interests of the child or the public.”.

—Aengus Ó Snodaigh.

282. In page 117, line 18, to delete “6” and substitute “3”.

—Aengus Ó Snodaigh.

283. In page 117, line 18, to delete “6” and substitute “12”.

—Jim O’Keeffe.

284. In page 117, to delete lines 26 to 45 and in page 118, to delete lines 1 to 10.

—Aengus Ó Snodaigh.

285. In page 118, between lines 10 and 11, to insert the following:

“(6) Within three months of the passing of this Act, the Minister shall lay before both Houses of the Oireachtas a schedule for the transfer of all males aged 16 and 17 years from St Patrick’s Institution to Children Detention Schools. This is to take place within 2 years of the passing of this Act.”.

—Aengus Ó Snodaigh.

286. In page 118, to delete lines 11 to 22.

—Aengus Ó Snodaigh.

287. In page 118, to delete lines 25 and 26.

—Aengus Ó Snodaigh.

288. In page 118, to delete lines 29 and 30.

—Aengus Ó Snodaigh.

289. In page 119, lines 7 and 8, to delete all words from and including “such” in line 7 down to and including “shall” in line 8 and substitute the following:

“immediately before such commencement, such functions shall”.

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

290. In page 119, line 10, after “Minister” to insert “for Health and Children”.

—Aengus Ó Snodaigh.

291. In page 119, lines 13 and 14, to delete “Health Service Executive” and substitute “Minister for Health and Children”.

—Aengus Ó Snodaigh.

292. In page 120, line 11, after “Science” to insert “and includes relevant vocational programmes”.

—Aengus Ó Snodaigh.

293. In page 120, between lines 22 and 23, to insert the following:

“(f) ensure that the educational needs of each child admitted to a Children Detention School are assessed and an individualised education plan is drawn up to meet those needs, and

(g) ensure that relevant vocational programmes are available.”.

—Aengus Ó Snodaigh.

294. In page 120, line 31, to delete “commencement” and substitute “dissolution”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

295. In page 120, between lines 40 and 41, to insert the following:

“New section 159B
in Act of 2001.

147.—The following section is inserted in the Act of 2001 after section 159A:

“Transfer of property, rights and liabilities of certified industrial school on commencement of section 159 (2). 159B.—(1) In this section—
“board of management” in relation to a certified industrial school, includes managers of the school within the meaning of the Act of 1908;
“certified industrial school” means a certified industrial school under Part IV of the Act of 1908 which becomes transferred premises on the transfer day;

“land” includes any rights, liabilities, powers or privileges relating to or connected with the land;

“property” includes any rights or liabilities relating to or connected with the property;

“transfer day” means the day on which a certified industrial school becomes, by virtue of section 159(2), 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;

“transferred premises” means premises which on the transfer day become premises so provided and maintained.

(2) On the transfer day—

(a) any land or other property, and any other rights or liabilities, vested in the Minister for Education and Science in relation to the certified industrial school concerned or in its board of management immediately before that day, except any rights or liabilities referred to in paragraph (b), is transferred to and vested in the Health Service Executive without any conveyance or assignment,

(b) any rights or liabilities—

(i) of the Minister for Education and Science in relation to the school or of its board of management, and

(ii) relating to or connected with members of its teaching staff or their teaching functions,

however arising immediately before that day are transferred to and vested without any assignment in the vocational educational committee in whose functional area the transferred premises are situated.

(3) Any rights or liabilities transferred under this section may on and after the transfer day be sued on, recovered or enforced by or against the Health Service Executive or the vocational education committee concerned in its own name, and it shall not be necessary for the Executive or committee to give notice of the transfer to the person whose rights or liabilities are so transferred.

(4) Subject to subsection (5), where any proceedings to which the certified industrial school concerned or its board of management is a party are pending immediately before the transfer day, the Minister for Education and Science shall be substituted for the school or board as a party to the proceedings on and after that day, and the proceedings shall not abate by reason of the substitution.

(5) Where—

(a) the Minister for Education and Science is a party to proceedings pending immediately before the transfer day in relation to a certified industrial school or its board of management, whether by virtue of subsection (4) or otherwise, and

(b) the Minister and the Health Service Executive or vocational education committee concerned agree that the Executive or committee should be substituted for the Minister as a party to the proceedings,

the Executive or the committee shall notify the other parties to the proceedings accordingly, and the proceedings shall not abate by reason of the substitution.

(6) A person who was an employee of the certified industrial school concerned (other than a member of its teaching staff) immediately before the transfer day shall on that day become an employee of the Health Service Executive, and the rights and entitlements enjoyed by the person as such employee in respect of his or her terms and conditions of employment, including remuneration, allowances 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 that day.

(7) The functions, including powers and duties, of the Minister for Health and Children under the Child Care Act 1991, as amended, and the Health Acts 1947 to 2006 in relation to premises provided and maintained under section 38(2) of the Act of 1991 by the Health Service Executive for the provision of residential care for children in care apply and have effect in relation to transferred premises.

(8) A child who is found guilty of an offence may not be ordered to be placed or detained in transferred premises.

(9) The Minister for Education and Science shall, before the commencement of section 159(2), direct the transfer of each child convicted of an offence or on remand in respect of an offence from any place which, on such commencement, becomes transferred premises to a certified reformatory or industrial school under Part IV of the Act of 1908 or a children detention school to serve the whole or any part of the unexpired residue of his or her period of detention.

(10) This section is without prejudice to section 159A.”.”.

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

296. In page 120, to delete lines 41 to 51 and in page 121, to delete lines 1 to 11.

—Aengus Ó Snodaigh.

297. In page 120, line 46, after “place” to insert “(except a prison)”.

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

298. In page 120, line 49, after “satisfied” to insert the following:

“that the place is not a prison or part of a prison and”.

—Aengus Ó Snodaigh.

299. In page 121, to delete lines 16 to 24.

—Aengus Ó Snodaigh.

300. In page 121, line 29, to delete “12” and substitute “6”.

—Aengus Ó Snodaigh.

301. In page 121, line 37, after “health,” to insert “including emotional and mental health”.

—Aengus Ó Snodaigh.

302. In page 122, between lines 4 and 5, to insert the following:

“(f) policies and practice concerning education and vocational training, and

(g) policies and practice concerning work on offending behaviour.”.

—Aengus Ó Snodaigh.

303. In page 122, to delete lines 5 to 7 and substitute the following:

“(3) The authorised person may hear complaints by children who at any time were or who are detained in a children detention school, and for that and any other purpose—”.

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

304. In page 122, between lines 13 and 14, to insert the following:

“(4) Any interviews with children shall be with their consent and may, if they agree, take place in private.

(5) The authorised person—

(a) shall not be an employee of any children detention school which the person inspects, and

(b) shall be independent in the exercise of his or her functions in carrying out inspections.”.

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

305. In page 122, to delete line 14 and substitute the following:

“(6) The authorised person shall submit a report”.

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

306. In page 122, between lines 17 and 18, to insert the following:

“(5) The authorised person shall be independent of the detention school.”.

—Aengus Ó Snodaigh.

307. In page 122, to delete lines 18 to 46 and in page 123, to delete lines 1 to 22.

—Aengus Ó Snodaigh.

308. In page 122, line 25, after “186” to insert “, by a child in detention”.

—Aengus Ó Snodaigh.

309. In page 122, line 26, to delete “Minister” and substitute “Ombudsman for Children”.

—Aengus Ó Snodaigh.

310. In page 122, line 27, after “desirable” to insert the following:

“or necessary to vindicate the rights of the child involved”.

—Aengus Ó Snodaigh.

311. In page 122, line 28, to delete “Minister” and substitute “Ombudsman for Children”.

—Aengus Ó Snodaigh.

312. In page 122, between lines 30 and 31, to insert the following:

“(2) The Inspector shall be independent of the place of detention.”.

—Aengus Ó Snodaigh.

313. In page 122, line 42, before “members” to insert “children”.

—Aengus Ó Snodaigh.

314. In page 122, line 46, to delete “and managers of the place” and substitute the following:

“, managers of the place and children when appropriate”.

—Aengus Ó Snodaigh.

315. In page 122, after line 46, to insert the following:

“(4) The Inspector—

(a) shall not be an employee of any children detention school which he or she inspects,

(b) shall be independent in the exercise of his or her functions in carrying out inspections, and may interview any child who at any time was or who is detained in a children detention school.

(5) Any such interview shall be with the consent of the child concerned and may, if the child agrees, take place in private.”.

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

316. In page 123, to delete line 1 and substitute the following:

“(6) The Inspector shall submit a report to the”.

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

317. In page 123, line 1, after “a” to insert “timely”.

—Aengus Ó Snodaigh.

318. In page 123, to delete “Minister” in line 2 and substitute “Ombudsman for Children”.

—Aengus Ó Snodaigh.

319. In page 123, to delete line 3 and substitute the following:

“(7) Each such report shall, where appropriate,”.

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

320. In page 123, line 5, after “implemented” to insert the following:

“and the Ombudsman for Children may append his or her own recommendations to each such report”.

—Aengus Ó Snodaigh.

321. In page 123, to delete line 6 and substitute the following:

“(8) A copy of each such report shall be laid by”.

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

322. In page 123, line 6, to delete “A” and substitute the following:

“The Ombudsman for Children shall submit each such report to the Minister and a”.

—Aengus Ó Snodaigh.

323. In page 123, to delete line 8 and substitute the following:

“(9) Before laying a report before each House”.

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

324. In page 123, line 10, to delete " Minister" and substitute “Ombudsman for Children”.

—Aengus Ó Snodaigh.

325. In page 123, to delete line 13 and substitute the following:

“(10) An appointment of an Inspector shall be for”.

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

326. In page 123, line 14, to delete "Minister" and substitute “Ombudsman for Children”.

—Aengus Ó Snodaigh.

327. In page 123, line 16, to delete "Minister" and substitute “Ombudsman for Children”.

—Aengus Ó Snodaigh.

328. In page 123, to delete line 18 and substitute the following:

“(11) The appointment of an Inspector shall be”.

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

329. In page 123, line 20, to delete “Minister” and substitute “Ombudsman for Children”.

—Aengus Ó Snodaigh.

330. In page 123, between lines 22 and 23, to insert the following:

“152.—Section 11(1)(e)(iii) of the Ombudsman for Children Act 2002 is deleted.”.

—Aengus Ó Snodaigh.

331. In page 123, line 35, after “is” to insert “in the interests of the child and is”.

—Aengus Ó Snodaigh.

332. In page 124, line 32, after “persons” to insert “with relevant experience of youth justice”.

—Aengus Ó Snodaigh.

333. In page 125, between lines 2 and 3, to insert the following:

“(e) The Ombudsman for Children or her/his nominee.”.

—Aengus Ó Snodaigh.

334. In page 125, to delete lines 7 to 40, to delete pages 126 to 134 and in page 135, to delete lines 1 to 27.

—Aengus Ó Snodaigh, Ciarán Cuffe.

335. In page 125, to delete lines 9 to 40 and in page 126, to delete lines 1 and 2.

—Aengus Ó Snodaigh.

336. In page 125, between lines 23 and 24, to insert the following:

“(2) Any Ministerial regulations or guidelines arising from this Part shall require the approval of both Houses of the Oireachtas.”.

—Aengus Ó Snodaigh.

337. In page 125, between lines 23 and 24, to insert the following:

“(2) (a) The Minister shall, in consultation with the Garda Síochána, the Judiciary, the Irish Human Rights Commission and relevant sectoral NGOs, draw up guidelines concerning all aspects of the operation of this Part.

(b) Without prejudice to the generality of (a) the guidelines shall include:

- (i) that an application for an order under this Part shall not be made unless all appropriate alternative mechanisms for dealing with the behaviour have been considered and used or considered inappropriate for use;
 - (ii) the Court considers it is the only satisfactory mechanism for dealing with the behaviour; and
 - (iii) Judicial education on the content of orders to ensure that every order respects the constitutional and human rights of the subjects of the order and any interference with those rights is proportionate and justified in the circumstances of the particular case.
- (c) The guidelines shall also identify the special circumstances where anti-social behaviour may have sufficiently serious consequences to justify the use of an application for an order in accordance with the provisions of this Part.
- (d) These guidelines shall require the approval of both Houses of the Oireachtas.”.

—Aengus Ó Snodaigh.

338. In page 125, between lines 23 and 24, to insert the following:

“(2) The Ombudsman for Children shall monitor Garda practice in relation to this Part to ensure, in particular, that these orders are not used to circumvent the procedural requirements of the ordinary criminal law and this body shall report to the Oireachtas, An Garda Síochána Inspectorate, An Garda Síochána Ombudsman Commission and the National Crime Commission on an annual basis.”.

—Aengus Ó Snodaigh.

339. In page 125, line 26, to delete “or, in the circumstances, is likely to cause,”.

—Ciarán Cuffe.

340. In page 125, line 26, to delete “in the circumstances, is likely to cause,”.

—Aengus Ó Snodaigh.

341. In page 125, between lines 34 and 35, to insert the following:

“The Minister shall, in consultation with An Garda Síochána, the Judiciary, the Office of the Ombudsman for Children and other relevant sectoral NGO’s, draw up guidelines regarding the definitions of the actions contained in *paragraphs (a), (b) and (c)*.”.

—Ciarán Cuffe.

342. In page 126, between lines 2 and 3, to insert the following:

“(4) This Part shall not commence without the approval of both houses of the Oireachtas, 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 5 years after all sections of the 2001 Act become fully operational.”.

—Aengus Ó Snodaigh.

- 343.** In page 126, line 14, before “post” to insert “recorded”.
—Aengus Ó Snodaigh.
- 344.** In page 126, line 18, to delete “manner,” and substitute the following:
“manner and indicate what that behaviour is and when and where it took place.”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 345.** In page 126, line 36, to delete “one month” and substitute “2 weeks”.
—Aengus Ó Snodaigh.
- 346.** In page 126, to delete lines 41 to 43.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 347.** In page 126, to delete line 44 and substitute the following:
“(6) Subject to subsection (7), a behaviour warn-”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 348.** In page 127, to delete line 1 and substitute the following:
“(7) If an application is made under section”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
- 349.** In page 127, between lines 4 and 5, to insert the following:
“(9) The District Superintendent shall facilitate an appeal against a behaviour warning and where it is deemed that the behaviour warning was unwarranted it shall immediately cease to have effect and the appellant shall be informed of this.”.
—Aengus Ó Snodaigh.
- 350.** In page 127, to delete lines 5 to 46, to delete page 128 and in page 129, to delete lines 1 to 31.
—Aengus Ó Snodaigh.
- 351.** In page 127, to delete lines 12 to 22 and substitute the following:
“(a) the child has behaved in an anti-social manner and is likely to continue doing so, and
(b) the child has received a warning under section 257B, and

(c) holding such a meeting would help to prevent further such behaviour by the child.”.

—Aengus Ó Snodaigh.

352. In page 127, line 29, after “warning” to insert “and the behaviour”.

—Aengus Ó Snodaigh.

353. In page 127, between lines 38 and 39, to insert the following:

“(e) an independent advocate nominated by the child.”.

—Aengus Ó Snodaigh.

354. In page 128, line 1, to delete “At” and substitute “Subject to subsection (8), at”.

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

355. In page 128, lines 2 and 3, to delete “simple language” and substitute “language that the child understands”.

—Aengus Ó Snodaigh.

356. In page 128, between lines 13 and 14, to insert the following:

“(d) The child shall be entitled to legal aid to seek legal advice prior to and subsequent to the meeting referred to in this section.”.

—Aengus Ó Snodaigh.

357. In page 128, between lines 21 and 22, to insert the following:

“(8) The functions of a superintendent under subsection (7) may, at his or her request, be performed by a member of the Garda Síochána not below the rank of inspector, and in that case the member shall provide the superintendent with a written report of the outcome of the meeting.”.

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

358. In page 128, to delete line 22 and substitute the following:

“(9) A good behaviour contract shall expire at”.

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

359. In page 128, to delete line 27 and substitute the following:

“(10) The superintendent may from time to time”.

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

360. In page 128, to delete line 31 and substitute the following:

“(11) If the child—”.

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

361. In page 128, lines 40 and 41, to delete all words from and including “(11) A” in line 40 down to and including “(10)” in line 41 and substitute the following:

“(12) A renewal of the contract under subsection (11)”.

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

362. In page 129, to delete line 1 and substitute the following:

“(13) Nothing in this section prevents a child”.

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

363. In page 129, to delete line 5 and substitute the following:

“(14) This subsection applies—”.

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

364. In page 129, lines 15 and 16, to delete “or the parents or guardian”.

—Aengus Ó Snodaigh.

365. In page 129, to delete line 21 and substitute the following:

“(15) Where subsection (14) applies, either—”.

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

366. In page 129, to delete lines 32 to 48, to delete page 130 and in page 131, to delete lines 1 to 29.

—Aengus Ó Snodaigh.

367. In page 129, line 46, after “necessary” to insert “and is likely to be effective”.

—Aengus Ó Snodaigh.

368. In page 130, to delete line 10 and substitute “proportionate”.

—Aengus Ó Snodaigh.

369. In page 130, lines 16 and 17, to delete “or in the vicinity of”.

—Aengus Ó Snodaigh.

370. In page 130, line 21, after “attendance” to insert the following:

“or other educational, work or vocational activities”.

—Aengus Ó Snodaigh.

371. In page 130, to delete lines 38 to 42 and substitute the following:

“(6) Unless discharged under subsection (7), a civil order remains in force for no more than the lesser of the following—

(a) 3 months from the date the order is made;

(b) the period specified in the order.”.

—Ciarán Cuffe.

372. In page 130, line 41, to delete “2 years” and substitute “6 months”.

—Aengus Ó Snodaigh.

373. In page 131, between lines 14 and 15, to insert the following:

“(9) (a) Where an application is made under this section there shall be a hearing by the Court and an order shall not be made, varied or discharged unless an opportunity has been given to the respondent to be heard and to cross examine any witness who has given information on oath in support of the application.

(b) The Judge, on hearing evidence from the respondent for the purpose of determining whether any behaviour by the respondent constituted anti-social behaviour, shall disregard any act by the respondent which she or he considers to be reasonable in all the circumstances.”.

—Aengus Ó Snodaigh.

374. In page 131, line 16, to delete “civil” and substitute “criminal”.

—Aengus Ó Snodaigh.

375. In page 131, line 33 to delete “21” and substitute “28”.

—Aengus Ó Snodaigh.

376. In page 131, to delete lines 36 to 39.

—Aengus Ó Snodaigh.

377. In page 132, line 13 to delete “civil” and substitute “criminal”.

—Aengus Ó Snodaigh.

378. In page 132, between lines 38 and 39, to insert the following:

“(9) In proceedings under this section, the Circuit Court shall at all times bear in mind that the appellant is a child.”.

—Aengus Ó Snodaigh.

379. In page 132, to delete lines 39 to 51 and in page 133, to delete lines 1 to 16.

—Aengus Ó Snodaigh.

380. In page 132, to delete lines 41 to 49 and substitute the following:

“ “Offences.

257F.—(1) A child commits an offence who without reasonable excuse, does not comply with a behaviour order to which the child is subject.”.

—Ciarán Cuffe.

381. In page 132, to delete lines 42 to 46.

—Aengus Ó Snodaigh.

382. In page 132, line 50, after “Síochána” to insert “rank of Sergeant”.

—Ciarán Cuffe.

383. In page 132, line 51, to delete “without warrant”.

—Ciarán Cuffe.

384. In page 133, line 2, to delete “subsection (1)(b)” and substitute “subsection (1)”.

—Ciarán Cuffe.

385. In page 133, to delete lines 3 to 12 and substitute the following:

“(3) A child who is guilty of an offence under this section is liable on summary conviction in the case of an offence under subsection (1), to a fine not exceeding €200.”.

—Ciarán Cuffe.

386. In page 133, between lines 12 and 13, to insert the following:

“(c) The means of the child and his parents or guardian will be taken into account before an order is made under this section.”.

—Aengus Ó Snodaigh.

387. In page 135, between lines 27 and 28, to insert the following:

“165.—The following subsection is inserted in the Act of 2001 after section 96 (5):

“(6) A Court when dealing with a child in any matter shall explain the reasons for its decision in open court in language that is appropriate to the child’s age and level of understanding and shall operate so as to vindicate the rights of the child recognised in subsection 1(a) above.”.”.

—Aengus Ó Snodaigh.

388. In page 135, between lines 27 and 28, to insert the following:

“165.—Section 3 of the Children Act 2001 is amended by the insertion of the following:

‘court’ in Parts 7 and 8 means the Children Court with the exception of section 93 where the court means ‘all courts’.”.

—Aengus Ó Snodaigh.

389. In page 137, between lines 20 and 21, to insert the following:

“Funding of
Committee.

172.—For the purposes of expenditure by the Committee in the performance of its functions, the Minister may in each financial year, with the consent of the Minister for Finance, advance to the Committee out of moneys provided by the Oireachtas such sum or sums as the Minister, after consultation with the Committee, may determine.”.

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

390. In page 137, lines 25 and 26, to delete all words from and including “laid” in line 25 down to and including “report” in line 26 and substitute the following:

“circulated to members of the Houses of the Oireachtas and brought to the attention of the appropriate Committees of the Houses no later than one week from the receipt of the report”.

—Aengus Ó Snodaigh.

391. In page 137, between lines 34 and 35, to insert the following:

“173.—The Criminal Law (Sexual Offences) Act 2006 is amended by the insertion of the following subsection after section 3(9):

“(10) This section shall cease to be in operation on and from the 30th day of November 2007, unless a resolution has been passed by each House of the Oireachtas resolving that that section should continue in operation.”.”.

—Aengus Ó Snodaigh.

392. In page 137, between lines 34 and 35, to insert the following:

“Maximum fine by District Court etc.

173.—Notwithstanding any other enactment, where a court proposes to impose a monetary fine as a penalty on conviction for any offence, whether or not the court proposes to impose any other penalty in addition, the court shall have regard to the annual income of the offender and the ability of the offender to pay.”

—Brendan Howlin.

393. In page 137, between lines 34 and 35, to insert the following:

“173.—(1) Where a defendant appears or is represented at the hearing of a complaint charging a summary offence, the court shall first state the substance of the complaint and ask whether the defendant pleads guilty or not guilty.

(2) If the defendant or the defendant’s representative on his or her behalf informs the court that he or she pleads guilty, the court may, if it sees no sufficient reason to the contrary, convict or make an order against the defendant accordingly, without hearing the evidence.

(3) If the defendant does not plead guilty, or does not subsequently change his or her plea to guilty, the court shall proceed to hear and determine the complaint and may, after hearing the evidence and such representations, if any, as may be made to it by or on behalf of the parties, convict the defendant or dismiss the complaint.

(4) In imposing sentence following conviction for a summary offence, a court shall have regard to whether the defendant pleaded guilty or not guilty to that offence and, in the event of a plea of guilt, at what stage he or she pleaded guilty to that offence.”

—Brendan Howlin.

394. In page 137, between lines 34 and 35, to insert the following:

“173.—(1) Where an enactment creates an offence and provides any qualification, exception, exemption, proviso or excuse, whether accompanying the description of the offence or otherwise—

- (a) the qualification, exception, exemption, proviso or excuse need not be specified or negated in a complaint charging that offence,
- (b) at the hearing of a complaint charging that offence, no proof in relation to the qualification, exception, exemption, proviso or excuse is required on the part of the prosecution,
- (c) if the defendant at the hearing of a complaint charging that offence wishes to rely on the qualification, exception, exemption, proviso or excuse—
 - (i) the burden of proving such qualification, exception, exemption, proviso or excuse rests on the defendant,
 - (ii) the court shall, unless the interests of justice otherwise require, allow the prosecution to re-open the case in order to adduce evidence in rebuttal of evidence adduced by the defendant under *subparagraph (i)*.

(2) In determining whether *subsection (1)* applies to an enactment creating an offence, regard shall be had to—

(a) whether the provision concerned—

(i) reduces the scope or extent of the factual outline that delineates the ambit of the offence,

(ii) excludes specified persons or cases from the class of those who would otherwise fall within that factual outline, or

(iii) otherwise narrows the effect of the enactment,

(b) whether, notwithstanding that a particular fact is provided for as an ingredient of an offence rather than the non-existence of that fact being provided for as giving rise to a qualification, exception, exemption, proviso or excuse, the fact in question is of such a nature that its non-existence in any particular case would be exceptional and its existence in such cases generally can therefore reasonably be presumed,

(c) whether there is a reasonable possibility that a state of affairs adverted to by or on behalf of the defendant may exist or may have existed,

(d) the comparative ease or difficulty for the prosecution and the defendant in discharging the burden of proving the fact in question,

(e) the public interest in ensuring that the prosecution should not be required to prove facts peculiarly within the knowledge of the defendant or to disprove facts that are improbable,

(f) the presumption of innocence and the constitutional rights of accused persons.

(3) Without prejudice to the generality of *subsection (1)* and without exhausting or limiting its meaning, the following is an example of its operation, namely in relation to a prohibition on doing an act save with the licence or permission of specified authorities, proof that the licence or permission was not given by those authorities.

(4) This section applies to summary proceedings for any offence, whether the offence is a summary offence, an indictable offence that is triable summarily or an offence that is triable either summarily or on indictment.”

—Brendan Howlin.

395. In page 138, between lines 33 and 34, to insert the following:

“(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.”.

—Brendan Howlin.

396. In page 144, line 40, after “person” to insert the following:

“had taken reasonable steps to comply with this section and having done so,”.

—Brendan Howlin.

397. In page 146, to delete lines 29 to 42 and in page 147, to delete lines 1 to 17.
—Aengus Ó Snodaigh.

398. In page 147, to delete lines 18 to 45, to delete pages 148 and 149 and in page 150, to delete lines 1 to 16.
—Aengus Ó Snodaigh.

399. In page 150, between lines 35 and 36, to insert the following:

“(b) by the insertion of the following:

“(2) Any person who assaults or threatens to assault—

(a) a person providing emergency medical services in any place, or

(b) a person assisting such a person, shall be guilty of an offence.”,

(c) in subsection (2)—

(i) by the substitution of “under this section” for “*subsection (1)*”, and

(ii) by the substitution of “€3000” for “£1000”.

—Jim O’Keeffe.

400. In page 151, to delete lines 17 to 22 and substitute the following:

“(a) doctors, dentists, psychiatrists, nurses, midwives, pharmacists, health and social care professionals (within the meaning of the Health and Social Care Professionals Act 2005) or other persons in the provision of treatment and care for persons at or in a hospital, or”.

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

401. In page 151, line 27, to delete “, a member of the fire brigade;” and substitute the following:

“, a member of the fire brigade, ambulance personnel”.

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

402. In page 151, line 31, before “done” to insert “including torture”.

—Brendan Howlin.

403. In page 151, to delete lines 34 to 39 and substitute the following:

“Amendment of
Offences Against
the State Act 1939.

184.—The Offences Against the State Act 1939 is amended—

(a) in section 30, by the insertion of the following subsection after subsection (4C):

“(4D) If—

- (a) an application is made under subsection (4) of this section for a warrant authorising the detention for a further period of a person detained pursuant to a direction under subsection (3) of this section, and
- (b) the period of detention under subsection (3) of this section has not expired at the commencement of the hearing of the application but would, but for this subsection, expire during that hearing,

it shall be deemed not to expire until the determination of the application.”,

and

(b) in section 30A—

- (i) in subsection (2)(b), by the substitution of “subsections (4), (4A), (4B) and (4D)” for “subsections (4), (4A) and (4B)”, and
- (ii) in subsection (3), by the substitution of “for the purpose of charging him or her with that offence forthwith or bringing him or her before a Special Criminal Court as soon as practicable so that he or she may be charged with that offence before that Court” for “for the purpose of charging him with that offence forthwith”.

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

404. In page 151, to delete lines 34 to 39.

—Aengus Ó Snodaigh.

405. In page 151, between lines 39 and 40, to insert the following:

“Amendment of section 30 of the Offences Against the State Act 1939.

185.—Section 30 of the Offences Against the State Act 1939 is amended by the addition of following 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.

406. In page 152, to delete lines 7 and 8.

—Brendan Howlin.

407. In page 153, after line 45, to insert the following:

“Imprisonment or distress and sale of goods on conviction on indictment in default of payment of fine.

192.—(1) Where on conviction on indictment a fine is imposed a court may order that, in default of due payment of the fine, the person liable to pay the fine shall be imprisoned for a term not exceeding 12 months.

(2) Where on conviction on indictment a fine is imposed on a body corporate, the fine may, in default of due payment, be levied by distress and sale of the goods of the body corporate.

(3) In this section “fine” includes any compensation, costs or expenses in addition to a fine ordered to be paid.”

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

408. In page 154, between lines 2 and 3, to insert the following:

“Property of
unlawful
organisation.

193.—(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.”

—Brendan Howlin.

409. In page 154, between lines 2 and 3, to insert the following:

“Section 13.

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;
- (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.

410. In page 156, column (4), line 51**, before “a”, to insert “to”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
411. In page 156, column (4), line 54**, before “a”, to insert “to”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
412. In page 157, column (3), line 31**, to delete “offence” and substitute “breach”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
413. In page 158, between lines 44 and 45**, to insert the following:

“

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

[**Note: A printing error has resulted in incorrect line references in pages 156, 157 and 158 of the Bill. The line references in the above amendments relate to the actual number of lines of text contained in those pages of the Bill.]