



SEANAD ÉIREANN

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

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

AN BILLE UM CHEARTAS COIRIÚIL 2004 —AN COISTE

CRIMINAL JUSTICE BILL 2004 —COMMITTEE STAGE

Leasuithe Amendments

SECTION 5

1. In page 16, subsection (8)(a), line 40, after “practicable” to insert the following:

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

—*Senator Maurice Cummins.*

2. In page 16, subsection (8)(b), lines 42 to 46, and in page 17, lines 1 and 2, to delete all words from and including “shall” in line 42 down to and including “concerned.” in line 2 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.”.

—*Senator Maurice Cummins.*

3. In page 17, lines 3 to 17, to delete subsection (9) 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,

[SECTION 5]

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.”.

—*Senator Maurice Cummins.*

4. In page 17, subsection (12), lines 41 to 44, to delete paragraph (b) 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.”.

—*Senator Maurice Cummins.*

SECTION 6

5. In page 19, between lines 4 and 5, 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.”.

—*Senator Maurice Cummins.*

6. In page 19, lines 11 and 12, to delete all words from and including “within” in line 11 down to and including “warrant” in line 12 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”.

—*Senator Maurice Cummins.*

[SECTION 6]

7. In page 19, between lines 49 and 50, 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.”.

—*Senator Maurice Cummins.*

8. In page 20, between lines 7 and 8, 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.”.

—*Senator Maurice Cummins.*

9. In page 20, between lines 12 and 13, to insert the following:

“(6) (a) Where—

- (i) a warrant is issued under subsection (1), and

[SECTION 6]

(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.”

—*Senator Maurice Cummins.*

10. In page 20, line 18, 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”.

—*Senator Maurice Cummins.*

SECTION 10

11. In page 23, between lines 13 and 14, 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.”.

—*Senator Maurice Cummins.*

SECTION 14

12. In page 27, paragraph (b), to delete lines 1 to 3.

—*Senator David Norris.*

[SECTION 14]

13. In page 27, paragraph (c), between lines 32 and 33, to insert the following:

“(i) the video taping of the taking of samples in any case where the accused has refused permission for such samples to be taken.”

—*Senator David Norris.*

SECTION 28

14. In page 38, line 42, to delete “over 14 years of age” and substitute “, aged not less than 16 years.”

—*Senator Maurice Cummins.*

15. In page 38, line 42, to delete “14 years” and substitute “18 years”.

—*Senator Mary Henry.*

16. In page 39, lines 18 and 19, 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”.

—*Senator Maurice Cummins.*

SECTION 30

17. In page 41, line 28, after “person” to insert the following:

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

—*Senator Maurice Cummins.*

18. In page 41, between lines 28 and 29, to insert the following:

“(7) A person who uses or attempts to use a firearm on land occupied by another person, where the occupier has not given his or her permission for the use of a firearm, shall be guilty of an offence and liable—

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

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

—*Senator Maurice Cummins.*

[SECTION 31]

SECTION 31

19. In page 43, line 12, to delete “authorisations.”” and substitute the following:
“authorisations.

(3) Any guidelines issued by the Commissioner under this section shall be made publicly available.””.

—*Senator Maurice Cummins.*

SECTION 32

20. In page 43, between lines 39 and 40, 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,”.

—*Senator Maurice Cummins.*

SECTION 34

21. In page 48, line 34, after “it” to insert “, at any time and without prior notice”.

—*Senator Maurice Cummins.*

SECTION 37

22. In page 50, line 2, to delete “or”.

—*Senator Maurice Cummins.*

23. In page 50, line 4, after “firearm,” to insert “or”.

—*Senator Maurice Cummins.*

24. In page 50, between lines 4 and 5, to insert the following:

“(iii) any violent crime,”.

—*Senator Maurice Cummins.*

SECTION 38

25. In page 51, line 5, to delete “a person of unsound mind” and substitute the following:

“a person suffering from a mental disorder as defined under the Criminal Law (Insanity) Act 2006”.

—*Senator Mary Henry.*

[SECTION 42]

SECTION 42

26. In page 55, line 14, after “2005” to insert “, or any violent crime”.
—*Senator Maurice Cummins.*

27. In page 55, line 21, after “effect” to insert “only”.
—*Senator Maurice Cummins.*

SECTION 57

28. In page 64, line 20, after “effect” to insert “only”.
—*Senator Maurice Cummins.*

SECTION 58

29. In page 66, line 20, after “effect” to insert “only”.
—*Senator Maurice Cummins.*

SECTION 59

30. In page 68, line 10, after “effect” to insert “only”.
—*Senator Maurice Cummins.*

SECTION 60

31. In page 70, line 8, after “effect” to insert “only”.
—*Senator Maurice Cummins.*

SECTION 65

32. In page 73, line 42, after “effect” to insert “only”.
—*Senator Maurice Cummins.*

SECTION 68

33. In page 76, 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,

[SECTION 68]

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

—*Senator Maurice Cummins.*

SECTION 84

34. In page 86, line 42, after “effect” to insert “only”.

—*Senator Maurice Cummins.*

SECTION 101

35. In page 103, subsection (2), lines 34 to 36, to delete all words from and including “both,” in line 34 down to and including “day” in line 36 and substitute “both”.

—*Senator Maurice Cummins.*

36. In page 103, subsection (3), line 38, to delete “of not more than 6 months”.

—*Senator Maurice Cummins.*

37. In page 104, subsection (6), line 11, 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.”

—*Senator Maurice Cummins.*

38. In page 104, after line 52, to insert the following subsection:

“(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)*.”

—*Senator Maurice Cummins.*

SECTION 103

39. In page 105, subsection (1), line 22, to delete “written”.

—*Senator Maurice Cummins.*

40. In page 105, subsection (1)(a), line 23, after “offender” to insert “or his or her legal representative”.

—*Senator Maurice Cummins.*

[SECTION 113]

SECTION 113

Section opposed.

—*Senator David Norris.*

SECTION 114

Section opposed.

—*Senator David Norris.*

SECTION 115

Section opposed.

—*Senator David Norris.*

SECTION 116

Section opposed.

—*Senator David Norris.*

SECTION 117

Section opposed.

—*Senator David Norris.*

SECTION 118

Section opposed.

—*Senator David Norris.*

SECTION 119

Section opposed.

—*Senator David Norris.*

SECTION 142

41. In page 124, line 18, to delete “6” and substitute “12”.

—*Senator Maurice Cummins.*

SECTION 185

42. In page 160, between lines 26 and 27, 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)—

[SECTION 185]

- (i) by the substitution of “under this section” for “subsection (1)”, and
- (ii) by the substitution of “€3000” for “£1000”;

—*Senator Maurice Cummins.*

43. In page 161, paragraph (e), between lines 22 and 23, to insert the following:

- “(iii) all such persons acting on behalf of the state to whom reference is made in this section shall have the same rights to compensation as members of the Garda Síochána and the armed services.”

—*Senator David Norris.*