



DÁIL ÉIREANN

BILLE AN GHARDA SÍOCHÁNA 2004 GARDA SÍOCHÁNA BILL 2004

LEASUITHE A RINNE AN DÁIL AMENDMENTS MADE BY THE DÁIL

[The page and line references in this list of amendments are to the text of the Bill as passed by Seanad Éireann.]

DÁIL ÉIREANN

BILLE AN GHARDA SÍOCHÁNA 2004 [LEASUITHE A RINNE AN DÁIL]

GARDA SÍOCHÁNA BILL 2004 [AMENDMENTS MADE BY THE DÁIL]

*Leasuithe
Amendments*

SECTION 3

1. In page 9, subsection (1), between lines 37 and 38, the following inserted:

“ ‘Committee of Public Accounts’ means the committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General;”.

2. In page 10, subsection (1), lines 1 and 2, “means regulations made under *section 115*;” deleted and the following substituted:

“means—

- (a) the 1989 Regulations, as amended under *section 119*, for as long as they continue to be in force under that section, or
- (b) any regulations in force under *section 115*;”.

3. In page 10, subsection (1), between lines 2 and 3, the following inserted:

“ ‘document’ means any book, record or other written or printed material in any form, including information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in legible form;”.

4. In page 10, subsection (1), line 16, “volunteer” deleted and “reserve” substituted.

5. In page 10, subsection (1), between lines 25 and 26, the following inserted:

“ ‘1989 Regulations’ means the Garda Síochána (Discipline) Regulations 1989 (S.I. No. 94 of 1989);”.

6. In page 10, subsection (1), to delete lines 26 to 29.

7. In page 10, subsection (1), line 30, “volunteer” deleted and “reserve” substituted.

[SECTION 3]

8. In page 10, subsection (1), line 31, “volunteer” deleted and “reserve” substituted.

SECTION 7

9. In page 11, subsection (1), between lines 18 and 19, the following inserted:

“(c) vindicating the human rights of each individual.”

10. In page 11, subsection (2), line 27, “Government” deleted and “State” substituted.

11. In page 11, lines 30 to 34, subsection (3) deleted and the following substituted:

“(3) In addition to its function under *subsection (1)*, the Garda Síochána and its members have such functions as are conferred on them by law including those relating to immigration.”

12. In page 11, lines 35 and 36, subsection (4) deleted.

SECTION 8

13. In page 12, subsection (3), line 16, after “Director”, “of Public Prosecutions” inserted.

14. In page 12, subsection (4), line 17, “After consulting with the Garda Commissioner, the” deleted and “The” substituted.

SECTION 10

15. In page 13, subsection (3), line 21, “the regulations” deleted and “*section 11*” substituted.

SECTION 11

16. In page 13, subsection (1), lines 26 and 27, all words from and including “by” in line 26 down to and including “(2)” in line 27 deleted and the following substituted:

“, Deputy Garda Commissioner or Assistant Garda Commissioner”.

SECTION 12

17. In page 14, subsection (3)(a), line 15, “require” deleted and “direct” substituted.

18. In page 14, subsection (3)(b), line 18, “require” deleted and “direct” substituted.

19. In page 14, subsection (3)(d), line 23, “require” deleted and “direct” substituted.

[SECTION 12]

20. In page 14, subsection (3), between lines 24 and 25, the following inserted:

“(e) give any other direction that appears to the person appointed under this section to be necessary, just and reasonable for the purposes of the inquiry;”.

21. In page 14, between lines 26 and 27, the following subsection inserted:

“(4) If a person fails or refuses to comply with or disobeys a direction or summons under *subsection (3)*, the High Court may, on application by the person appointed under this section—

- (a) order the person in relation to whom the application was made to comply with the direction or, in the case of a summons, to attend the inquiry, and
- (b) make such other (if any) order as it considers necessary and just to enable the direction to have full effect or, in the case of a summons, to ensure the attendance at the inquiry.”.

22. In page 14, subsection (4), line 29, “requirement” deleted and “direction” substituted.

23. In page 14, subsection (4)(c), lines 33 and 34, all words from and including “to which” in line 33 down to and including “an” in line 34 deleted and the following substituted:

“that the person conducting the inquiry may legally direct him or her to”.

SECTION 13

24. In page 15, lines 12 to 15, subsection (2) deleted and the following substituted:

“(2) *Sections 11 and 12* apply, with any necessary modifications, in relation to a person who holds an office referred to in *subsection (1)* of this section.”.

SECTION 14

25. In page 15, before section 14, the following new section inserted:

“Appointment of members to other ranks and summary dismissal of such members.

14.—(1) The Garda Commissioner may appoint, subject to and in accordance with the regulations, such numbers of persons as he or she sees fit to the ranks of garda, sergeant and inspector in the Garda Síochána.

(2) Notwithstanding anything in this Act or the regulations, the Garda Commissioner may dismiss from the Garda Síochána a member not above the rank of inspector if—

- (a) the Commissioner is of the opinion that—

[SECTION 14]

- (i) by reason of the member's conduct (which includes any act or omission), his or her continued membership would undermine public confidence in the Garda Síochána, and
- (ii) the dismissal of the member is necessary to maintain that confidence,
- (b) the member has been informed of the basis for the Commissioner's opinion and has been given an opportunity to respond to the stated basis for that opinion and to advance reasons against the member's dismissal,
- (c) the Commissioner has considered any response by the member and any reasons advanced by the member, but the Commissioner remains of his or her opinion, and
- (d) the Government consents to the member's dismissal.

(3) *Subsection (2)* is not to be taken to limit the power to make or amend Disciplinary Regulations.”.

- 26. In page 15, subsection (1), line 17, “volunteer” deleted and “reserve” substituted.
- 27. In page 15, subsection (1), line 18, “exercising” deleted and “performing” substituted.
- 28. In page 15, subsection (2), line 19, “volunteer” deleted and “reserve” substituted.
- 29. In page 15, subsection (3), line 21, “While on duty, a volunteer member has” deleted and the following substituted:

“Subject to *subsection (5)**, a reserve member has, while on duty,”.

[*This is the reference to the new subsection (5) inserted by amendment no. 31.]

- 30. In page 15, subsection (4), lines 25 and 26, all words from and including “not” in line 25 down to and including “then” in line 26 deleted.
- 31. In page 15, between lines 32 and 33, the following subsection inserted:

“(5) The Garda Commissioner may determine the range of powers to be exercised and duties to be carried out by reserve members.”.

SECTION 16

- 32. In page 16, subsection (1), line 6, “may” deleted and “shall” substituted.

SECTION 17

- 33. In page 17, between lines 11 and 12, the following subsection inserted:

“(6) An association established under this section for the purpose of representing members of the Garda Síochána holding the rank of Garda may include persons admitted, in accordance with the regulations, to training for membership in the Garda Síochána.”.

SECTION 20

- 34. In page 18, subsection (2)(c), line 33, “Government” deleted and “State” substituted.

[SECTION 22]

SECTION 22

35. In page 20, before section 22, the following new section inserted:

“Three Year Review Report.

22.—(1) At the end of each 3 year period, the Garda Commissioner shall submit to the Minister a report, prepared by the Commissioner, containing a review of the efficiency and effectiveness of the management and deployment of resources available to the Garda Síochána during that 3 year period.

(2) The first 3 year period begins on the day this section comes into operation and each subsequent 3 year period begins on the day after the end of the period for which the previous report was submitted.

(3) The report may contain recommendations that the Garda Commissioner considers necessary for improving the management and deployment of resources.

(4) As soon as practicable after receiving the report, the Minister shall, subject to *subsection (4)*, cause a copy of it to be laid before each House of the Oireachtas.

(5) The Minister may exclude from the copies of reports that are to be laid before the Houses of the Oireachtas any matter that, in his or her opinion—

(a) would be prejudicial to the interests of national security, or

(b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.”.

36. In page 20, before section 22, the following new section inserted:

“Professional Standards Unit.

22.—(1) As soon as practicable after the commencement of this section, the Garda Commissioner shall establish a Professional Standards Unit, to be headed by an officer not below the rank of chief superintendent, to—

(a) examine and review, as directed by the Commissioner, the operational, administrative and management performance of the Garda Síochána at all levels,

(b) propose measures to the Commissioner to improve that performance, and

(c) promote the highest standards of practice, as measured by reference to the best standards of comparable police services, in operational, administrative and management matters relating to the Garda Síochána.

(2) Not later than 31 March in each year, the Garda Commissioner shall submit a report to the Minister on the activities of the Professional Standards Unit in the preceding year.”.

[SECTION 24]

SECTION 24

37. In page 21, before section 24, the following new section inserted:

“Arrangements for obtaining views of public.

24.—(1) The Garda Commissioner shall make arrangements for obtaining the views of the public about matters concerning policing and the state of crime.

(2) Before making any arrangements under this section, the Garda Commissioner shall consult with the Minister about the proposed arrangements and the Minister may approve the arrangements—

(a) as proposed, or

(b) with such revisions as the Minister, after consulting with the Commissioner, may determine.”.

SECTION 27

38. In page 23, subsection (3), line 2, “exercising” deleted and “performing” substituted.

SECTION 30

39. In page 23, line 33, “administration” deleted and “administrative” substituted.

SECTION 31

40. In page 23, subsection (1), line 37, after “Government” the following inserted:

“and the Minister for Community, Rural and Gaeltacht Affairs”.

41. In page 24, subsection (2)(b)(v), line 10, after “persons” the following inserted:

“(including persons representing local community interests)”.

42. In page 24, subsection (4), line 40, after “Government” the following inserted:

“and the Minister for Community, Rural and Gaeltacht Affairs”.

43. In page 24, after line 42, the following subsection inserted:

“(5) The Minister shall cause a copy of guidelines issued under this section and of any revisions to them to be laid before each House of the Oireachtas as soon as practicable after the guidelines are issued or revised.”.

SECTION 32

44. In page 25, subsection (2)(b), line 16, “exercise” deleted and “perform” substituted.

45. In page 25, subsection (2)(d), line 23, “with the Garda Commissioner’s consent,” deleted.

[SECTION 32]

46. In page 25, subsection (2)(d), line 23, after “establish,” the following inserted:

“in consultation with the local Garda superintendent.”.

47. In page 25, subsection (2)(d), lines 26 and 27, all words from and including “the” in line 26 down to and including “they” in line 27 deleted and the following substituted:

“matters that it is to keep under review under *paragraph (a)* or on which it is to advise under *paragraph (b)*, in so far as those matters”.

48. In page 25, between lines 30 and 31, the following subsection inserted:

“(3) If any dispute arises over the establishment of a local policing forum, the joint policing committee shall submit the dispute to the Minister whose decision, made after consulting with the Minister for the Environment, Heritage and Local Government and the Minister for Community, Rural and Gaeltacht Affairs, shall be final.”.

49. In page 25, subsection (5), line 46, after “statement”, “made without malice” inserted.

SECTION 33

50. In page 25, subsection (1), line 48, “the need to take such steps as may be practicable to assist” and in page 26, line 1 “in the reduction of” deleted and “the importance of taking steps to prevent” substituted.

SECTION 34

51. In page 26, before section 34, the following new section inserted:

“Security in public places.

34.—(1) The Garda Commissioner may authorise the installation and operation of CCTV for the sole or primary purpose of securing public order and safety in public places by facilitating the deterrence, prevention, detection and prosecution of offences.

(2) The Garda Commissioner shall specify the areas within which, based on the information available to him or her, the installation and operation of CCTV is warranted for the purpose specified in *subsection (1)*.

(3) Authorisation may be given to any or all of the following:

(a) members of the Garda Síochána;

(b) persons who meet the established criteria and who are retained under a contract with the Garda Commissioner;

(c) persons who meet the established criteria and whose application for authorisation in respect of a specified area within the administrative area of a local authority has been approved by the local authority after consulting with the joint policing committee for that administrative area.

(4) The Garda Commissioner shall establish criteria for the purposes of *subsection (3)(b)*.

(5) The Government shall, by order, establish criteria for the purposes of *subsection (3)(c)* and may establish different criteria for different classes of applicants for authorisation.

[SECTION 34]

(6) An authorisation may contain such terms and conditions as the Garda Commissioner considers necessary—

- (a) generally for the purpose of this section, and
- (b) in relation only to an authorisation given under *subsection (3)(c)*, for the purposes of controlling and supervising the operation of the CCTV to which the authorisation relates.

(7) A person given an authorisation under *subsection (3)(c)* shall ensure that members of the Garda Síochána have access at all times to the CCTV to which that authorisation relates for the purpose of—

- (a) supervising and controlling the operation of the CCTV on behalf of the Garda Commissioner, or
- (b) retrieving information or data recorded by the CCTV.

(8) The Garda Commissioner may—

- (a) issue directions to authorised persons in relation to the installation and operation of CCTV, and
- (b) with the Minister's consent, revoke, for failure to comply with the terms and conditions of the authorisation or with a direction issued by the Commissioner, an authorisation given under *subsection (3)(c)*.

(9) On being notified by the Garda Commissioner of the revocation of an authorisation under *subsection (8)*, the person to whom the authorisation was given shall terminate the operation of the CCTV to which the revoked authorisation relates.

(10) A person who contravenes *subsection (9)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both.

(11) The Minister—

- (a) shall issue guidelines to the Garda Commissioner concerning the supervision and control by the Commissioner of the monitoring of CCTV by authorised persons, and
- (b) may revise those guidelines or may withdraw them and issue new guidelines.

(12) The Minister shall cause a copy of any guidelines issued under this section, and of any revisions to them, to be laid before each House of the Oireachtas as soon as practicable after the guidelines are issued or revised.

(13) This section does not apply to the installation or operation of CCTV on any premises by the owner or occupier of the premises for the purpose of safeguarding persons or property on the premises or in its environs.

(14) In this section—

‘authorisation’ means an authorisation given by the Garda Commissioner under this section;

[SECTION 34]

‘authorised person’ means a person referred to in *subsection (3)(b) or (c)* who holds an authorisation;

‘CCTV’ means any fixed and permanent system employing optical devices for recording visual images of events occurring in public places;

‘operation’, in relation to CCTV, includes the maintenance and monitoring of CCTV;

‘public place’ means a place to which the public have or are permitted access, whether as of right or by express or implied permission;

‘specified area’ means an area specified under *subsection (2)*.”.

SECTION 35

52. In page 26, before section 35, the following new section inserted:

“Chapter 5*

Accountability of Members for discharge of official duties and duty of Garda Commissioner to account to the Government, etc.

Duty of members of Garda Síochána to account.

35.—(1) A member of the Garda Síochána shall, when directed to do so by a member of a higher rank, account for any act done or omission made by the member while on duty.

(2) A failure to comply with a direction under *subsection (1)* shall be the subject of disciplinary action in accordance with the Disciplinary Regulations.

(3) The member concerned shall be informed by the member of higher rank that such failure may lead to dismissal from the Garda Síochána.

(4) Any information provided by a member of the Garda Síochána in accordance with a direction under *subsection (1)* is not admissible in any criminal proceedings against the member and this shall be explained to the member in ordinary language by the member of higher rank.

(5) For the purpose of *subsection (4)* ‘criminal proceedings’ does not include disciplinary proceedings.”.

[*The proposed new Chapter comprehended the inclusion of amendment nos. 52 to 55.]

53. In page 26, before section 35, the following new section inserted:

“Duty of Garda Commissioner to account to Government and provide material to Attorney General.

36.—(1) The Garda Commissioner shall account fully to the Government and the Minister through the Secretary General of the Department of Justice, Equality and Law Reform for any aspect of his or her functions.

(2) The Garda Commissioner’s duty under *subsection (1)* includes the duty to provide, on request by the Secretary General, any document in the power or control of the Garda Síochána, including material in the form of Garda records, statements made by members of the Garda Síochána and by other persons and reports.

[SECTION 35]

(3) The Garda Commissioner shall provide the Attorney General with all of the material specified in *subsection (2)* that is required by the Attorney General in connection with the conduct of legal proceedings on behalf of the State.”.

54. In page 26, before section 35, the following new section inserted:

“Duty of Garda Commissioner to provide information to Minister.

37.—(1) The Garda Commissioner shall keep the Minister and the Secretary General of the Department of Justice, Equality and Law Reform fully informed of the following:

- (a) matters relating to significant developments concerning—
 - (i) the preservation of peace and public order in the State,
 - (ii) the protection of life and property in the State, and
 - (iii) the protection of the security of the State;
- (b) significant developments that might reasonably be expected to affect adversely public confidence in the Garda Síochána;
- (c) matters relevant to the accountability of the Government to the Houses of the Oireachtas;
- (d) any other matters that, in the Commissioner’s opinion, should be brought to the Minister’s attention.

(2) Whenever required by the Minister, the Garda Commissioner shall submit to the Minister a report on any matters connected with the policing or security of the State or the performance of the Commissioner’s other functions that may be specified in the requirement.

(3) A report under *subsection (2)* must—

- (a) address matters of general or specific concern that are specified in the Minister’s requirement, and
- (b) be made in the form and within the period specified in the requirement.

(4) The Minister may publish all or part of a report submitted under this section.”.

55. In page 26, before section 35, the following new section inserted:

“Special inquiries relating to administration, practice or procedure of Garda Síochána.

38.—(1) The Minister, with respect to any matter considered by him or her to be of public concern, may by order appoint a person to—

- (a) inquire into any aspect of the administration, practice or procedure of the Garda Síochána, and
- (b) make a report to the Minister on the conclusion of the inquiry.

(2) A person who, in the Minister’s opinion, has the experience, qualifications, training or expertise appropriate for the inquiry may be appointed to conduct the inquiry.

[SECTION 35]

(3) The Minister shall specify the terms of reference of the inquiry in the order under *subsection (1)* and may, by order made at any time before the submission of the final report, amend those terms for the purpose of clarifying, limiting or extending the scope of the inquiry.

(4) For the purpose of the inquiry, the appointed person—

(a) may require a member of the Garda Síochána who possesses information or has a document or thing in the member's power or control that is relevant to the inquiry, to provide that information, document or thing to that person, and

(b) where appropriate, may require such member to attend before the appointed person for that purpose.

(5) A member of the Garda Síochána required under *subsection (4)(b)* to attend before the appointed person shall co-operate with the inquiry and shall answer fully and truthfully any question put to the member by that person.

(6) A failure to comply with a requirement under *subsection (4)* shall be the subject of disciplinary action in accordance with the Disciplinary Regulations.

(7) Any information, document or thing provided by a member of the Garda Síochána in accordance with a requirement under *subsection (4)* is not admissible in any criminal proceedings against the member and this shall be explained to the member in ordinary language by the appointed person.

(8) The Minister may publish all or part of any report received under this section.

(9) This section applies even if the matter considered by the Minister to be of public concern arose before the passing of this Act.

(10) The power to order an inquiry under this Act is additional to any power conferred by this or another Act relating to inquiries or investigations.

(11) In this section—

‘appointed person’ means a person appointed under this section to conduct an inquiry;

‘criminal proceedings’ does not include disciplinary proceedings.”.

SECTION 36

56. In page 27, subsection (2)(b), line 16, “Garda Commissioner” deleted and “Minister” substituted.

57. In page 27, line 18, paragraph (b) deleted.

58. In page 27, subsection (2)(c), line 19, “3” deleted and “4” substituted.

[SECTION 36]

59. In page 27, subsection (3), line 22, “Garda Commissioner” deleted and “Minister” substituted.
60. In page 27, subsection (4), line 26, “Garda Commissioner” deleted and “Minister” substituted.
61. In page 27, subsection (4)(a), line 29, “Commissioner” deleted and “Minister” substituted.
62. In page 27, subsection (4)(b), lines 30 and 31, “by the Commissioner with the Minister’s consent” deleted and “by the Minister for stated reasons” substituted.
63. In page 27, subsection (5), lines 33 and 34, “the Garda Commissioner with the consent of” deleted.

SECTION 40

Section deleted.

SECTION 49

64. In page 35, line 5, “(5)” deleted and “(4)” substituted.

SECTION 55

65. In page 38, subsection (1), line 8, “under the” deleted and “of that person’s office, employment,” substituted.

SECTION 58

66. In page 40, between lines 29 and 30, the following subsection inserted:

“(2) One of the members shall be appointed as chairperson.”.

67. In page 40, subsection (4), line 39, “to be a member” deleted and “as the chairperson” substituted.

68. In page 41, subsection (5), line 2, “to be a member” deleted and “as the chairperson” substituted.

69. In page 41, between lines 12 and 13, the following subsections inserted:

“(8) If the chairperson is temporarily unable to carry out the duties of office, the other 2 members shall determine which of them is to act, for all or part of the period of inability, in the chairperson’s place.

(9) For as long as a member is acting in place of the chairperson under *subsection (8)* references in this Act to the chairperson of the Ombudsman Commission are to be read as references to that member.”.

[SECTION 60]

SECTION 60

70. In page 42, subsection (2)(d), line 6, “in appropriate cases,” deleted.

71. In page 42, subsection (2)(d), line 7, “or” deleted and “and, in appropriate cases,” substituted.

72. In page 42, between lines 24 and 25, the following subsection inserted:

“(5) The chairperson of the Ombudsman Commission shall manage and control generally the officers, administration and business of the Commission.”.

SECTION 61

73. In page 42, subsection (2), lines 30 and 31, “misbehaviour, incapacity or bankruptcy” deleted and “misbehaviour or for incapacity” substituted.

74. In page 42, subsection (3)(b), line 36, “is nominated to stand as a candidate for” deleted and “is elected as a member of” substituted.

75. In page 42, subsection (3)(b), line 37, “to” deleted and “of” substituted.

SECTION 63

76. In page 43, before section 63, the following new section inserted:

“Meetings and business of Ombudsman Commission.

63.—(1) The quorum for a meeting of the Ombudsman Commission is 2 members.

(2) Each question at a meeting of the Ombudsman Commission shall be determined by a majority of the votes of the members present and voting on the question.

(3) In the case of an equal division of votes, the chairperson or other member presiding at the meeting has a second or casting vote.

(4) Subject to this Act, the Ombudsman Commission may regulate its own procedures.”.

SECTION 64

77. In page 43, subsection (1), line 25, “Every” deleted and “Any” substituted.

[SECTION 67]

SECTION 67

78. In page 44, subsection (1), line 39, after “the”, “chairperson of the” inserted.

79. In page 44, subsection (1), line 40, “its” deleted and “the Commission’s” substituted.

80. In page 45, subsection (4), line 9, “exercising” deleted and “performing” substituted.

SECTION 70

81. In page 46, subsection (1)(d)(ii), line 16, “in so far as it” deleted and the following substituted:

“that is laid before Dáil Éireann in so far as the report”.

82. In page 46, subsection (1)(d)(ii), lines 17 and 18, “that is laid before Dáil Éireann” deleted.

SECTION 71

83. In page 46, subsection (3), lines 39 and 40, “is, has been or may at a future time be” deleted and “is or is likely to be” substituted.

84. In page 47, subsection (9), line 20, “subsection” deleted and “*subsection (3)*” substituted.

85. In page 47, subsection (10), lines 24 to 26, all words from and including “Commission” in line 24 down to and including “policy” in line 26 deleted and the following substituted:

“shall not—

(a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy, or

(b) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of a person”.

SECTION 72

86. In page 47, lines 41 to 43, subsection (5) deleted.

87. In page 47, after line 48, the following subsection inserted:

“(7) As soon as practicable after receiving a report under this section, the Minister shall cause a copy of the report to be laid before each House of the Oireachtas.”.

[SECTION 73]

SECTION 73

88. In page 49, subsection (4)(a), between lines 1 and 2, the following inserted:

“(viii) the Garda Síochána Inspectorate or an officer of the Inspectorate,”.

89. In page 49, subsection (4)(d), line 11, after “2002” the following inserted:

“or a commission of investigation established under the Commissions of Investigation Act 2004”.

SECTION 75

90. In page 50, subsection (2), after line 43, the following inserted:

“(a) to the Garda Commissioner,”.

SECTION 76

91. In page 51, subsection (3)(b), line 18, before “a”, “the Garda Commissioner or” inserted.

SECTION 77

92. In page 51, subsection (1), line 21, “any other” deleted and “a” substituted.

93. In page 51, between lines 36 and 37, the following subsection inserted:

“(3) If the complaint is made to a member at or above the rank of chief superintendent at a place other than a Garda Síochána station, that member shall ensure that the Garda Commissioner—

(a) is notified of the complaint, and

(b) is sent a copy of the complaint or, if the complaint was not made in writing, a copy of the record of the complaint.”.

SECTION 79

94. In page 52, subsection (1), line 8, after “from”, “the Garda Commissioner or” inserted.

SECTION 80

95. In page 52, subsection (1)(a), line 39, after “complainant”, the following inserted:

“, the member of the Garda Síochána whose conduct is the subject of the complaint”.

[SECTION 82]

SECTION 82

- 96.** In page 53, subsection (1), lines 28 and 29, all words from and including “other” in line 28 down to and including “applies” in line 29 deleted and the following substituted:

“other than—

- (a) complaints to which *section 83* applies,
- (b) complaints about conduct that appears to constitute an offence, and
- (c) complaints determined in accordance with the guidelines not to be suitable for resolution by mediation or other informal means”.

- 97.** In page 53, subsection (2)(a), lines 31 and 32, “about whether a complaint can be resolved” deleted and the following substituted:

“by the Ombudsman Commission about whether a complaint is or is not suitable for resolution”.

- 98.** In page 53, subsection (2)(a), lines 33 and 34, “or whether it warrants an investigation” deleted.

- 99.** In page 54, between lines 11 and 12, the following subsection inserted:

“(6) If a complaint is resolved pursuant to the guidelines—

- (a) the Ombudsman Commission shall notify the Garda Commissioner of the resolution of the complaint,
- (b) any record of the complaint held by the Garda Síochána shall be expunged, and
- (c) the member whose conduct was the subject matter of the complaint shall not be discriminated against by way of dismissal, reduction in rank, denial of an opportunity for promotion or otherwise by reason only of the complaint.”.

SECTION 84

- 100.** In page 54, lines 32 and 33, all words from and including “and” in line 32 down to and including “*section 83*” in line 33 deleted and the following substituted:

“or is a complaint referred to in *paragraphs (a) to (c) of section 82(1)*”.

SECTION 86

- 101.** In page 56, between lines 11 and 12, the following subsection inserted:

“(8) If the Ombudsman Commission, after considering the report submitted under *subsection (6)*, is of the opinion that the conduct under investigation may constitute an offence by the member of the Garda Síochána concerned, the Commission shall—

[SECTION 86]

- (a) direct a designated officer to investigate the complaint under *section 90*, or
- (b) comply with *section 93(2)* as though the report had been made by a designated officer under *section 93(1)*.”.

SECTION 88

102. In page 58, lines 29 to 39, subsection (10) deleted and the following substituted:

“(10) Any information, document or thing provided by a person in accordance with a requirement under *subsection (1)(a)* or *(3)(a)* or with a direction under *subsection (6)* is not admissible against that person in criminal proceedings and this shall be explained to the person in ordinary language by the Ombudsman Commission.”.

103. In page 59, subsection (13), line 5, “civil or” deleted.

SECTION 89

104. In page 59, between lines 8 and 9, the following inserted:

“(a) a statement of the facts established by the investigation under *section 86* or *87* into the conduct of the member of the Garda Síochána who is the subject of the report,”.

105. In page 59, subsection (1)(a), lines 11 and 12, all words from and including “the” where it firstly occurs in line 11 down to and including “report” in line 12 deleted and “that member” substituted.

106. In page 59, between lines 16 and 17, the following subsection inserted:

“(2) In any disciplinary proceedings instituted in accordance with a recommendation in a report referred to in *subsection (1)*, a document that purports to be that report—

- (a) is evidence of the facts stated in the document unless the contrary is proved, and
- (b) is deemed to be such document unless the contrary is proved.”.

SECTION 90

107. In page 59, subsection (1), line 20, after “Commission” the following inserted:

“under *section 83(2)(b)*, *84(c)*, *86(8)(a)** or *86(11)(b)**”.

[*These are references to the subsection inserted by amendment no. 101.]

[SECTION 90]

108. In page 59, subsection (1), line 21, after “has”, “, in relation to the member of the Garda Síochána under investigation,” inserted.

109. In page 59, subsection (1)(b), lines 30 and 31, “the member of the Garda Síochána under investigation” deleted and “a person” substituted.

110. In page 59, subsection (1)(c), line 32, “that member” deleted and “a person” substituted.

111. In page 59, subsection (1)(d), line 33, “the member” deleted and “a person” substituted.

112. In page 59, subsection (1)(e), line 34, “the member” deleted and “a person” substituted.

113. In page 59, subsection (1)(f), line 36, “the member” deleted and “a person” substituted.

114. In page 59, subsection (1)(g), lines 37 and 38, “the member” deleted and “a person” substituted.

SECTION 91

115. In page 61, subsection (5), lines 20 to 25, all words from and including “may” in line 20, down to and including “appropriate” in line 25 deleted and the following substituted:

“shall issue directions specifying the part of the document storage facility or the part of the station that may be searched.

(6) A direction under *subsection (5)* may contain any conditions or restrictions relating to the search that the Minister considers necessary in the interests of the security of the State”.

SECTION 99

116. In page 66, subsection (2), line 32, after “determines”, “with the Minister’s consent” inserted.

SECTION 101

117. In page 67, subsection (1), line 13, “appoint a judge to inquire” deleted and the following substituted:

“invite a judge to inquire (while serving as a judge)”.

118. In page 67, lines 16 to 18, subsection (2) deleted and the following substituted:

“(2) Either a judge of the Supreme Court or, with the consent of the President of the High Court, a judge of the High Court may be invited, and, if the invitation is accepted, shall be appointed, by the Chief Justice to conduct the inquiry.”.

[SECTION 104]

SECTION 104

119. In page 68, subsection (1), line 20, after “statement”, “made without malice” inserted.

SECTION 113

120. In page 72, subsection (2), lines 2 and 3, all words from and including “the” where it firstly occurs in line 2 down to and including “appropriate” in line 3 deleted and the following substituted:

“any or all of the following as the Minister considers appropriate:

- (a) the Garda Commissioner;
- (b) the Ombudsman Commission;
- (c) the Garda Síochána Inspectorate”.

SECTION 114

121. In page 72, subsection (1)(d), line 16, after “members” the following inserted:

“, including members who have served with other police services and members with different ethnic or national origins or different religious beliefs or backgrounds”.

122. In page 72, subsection (1), between lines 16 and 17, the following inserted:

“(e) the appointment to the Garda Síochána of members on secondment from any other police service;”.

123. In page 73, between lines 8 and 9, the following subsection inserted:

“(2) A person is not eligible for appointment as a member of a panel referred to in *subsection (2)* if the person is or has been a member of the Garda Síochána.”.

124. In page 73, subsection (2), lines 10 to 12, all words from and including “comprising” in line 10 down to and including “Síochána” in line 12 deleted and the following substituted:

“comprising 3 members—

- (a) one of whom shall be a member of the Garda Síochána appointed by the Garda Commissioner as a member of the board, and
- (b) 2 of whom (including the chairperson of the board) shall be appointed by the Minister from a panel established in accordance with the regulations and consisting of suitably qualified persons appointed to the panel by the Government.”.

125. In page 73, subsection (4)(a), line 18, “volunteer” deleted and “reserve” substituted.

[SECTION 114]

126. In page 73, subsection (4)(b)(iv), line 27, “or” deleted.

127. In page 73, subsection (4), between lines 27 and 28, the following inserted:

“(v) members appointed to the Garda Síochána on secondment from any other police service, or”.

128. In page 73, subsection (4)(b)(v), line 28, “volunteer” deleted and “reserve” substituted.

SECTION 115

129. In page 74, subsection (2)(e), line 13, “and” deleted.

130. In page 74, subsection (2), between lines 13 and 14, the following inserted:

“(f) any abuse of procedure by a member of the Garda Síochána with respect to a search under *section 92* of a document storage facility in a designated Garda Síochána station, and”.

131. In page 76, subsection (7), line 2, “of” deleted and “not exceeding” substituted.

SECTION 116

132. In page 76, before section 116, the following new section inserted:

“Regulations relating to reporting corruption and malpractice in the Garda Síochána.

116.—(1) The Minister shall, after consulting with the Garda Commissioner, the Ombudsman Commission and the Inspectorate, and with the approval of the Government, make regulations providing for the establishment of a charter containing guidelines and mechanisms to enable members of the Garda Síochána or other persons to report in confidence allegations of corruption and malpractice within the Garda Síochána.

(2) The Minister shall cause a copy of every regulation made under this section to be laid before each House of the Oireachtas as soon as practicable after the regulation is made.”.

SECTION 119

133. In page 77, between lines 41 and 42, the following subsections inserted:

“(3) Any proceedings relating to a member of the Garda Síochána that were commenced but are not concluded under the 1989 Regulations before their revocation pursuant to *subsection (2)* may be continued under those Regulations as though no provision of them had been revoked.

[SECTION 119]

(4) If in relation to proceedings that by virtue of this section are continued under the 1989 Regulations a decision is made by an inquiry held under Regulation 14 or by the Garda Commissioner under Regulation 23(1), the member concerned is entitled to apply in accordance with Regulation 26 to have the decision reviewed by an Appeal Board appointed under Regulation 25 and in that case the provisions of the 1989 Regulations relating to the hearing and determination by an Appeal Board of the application apply.”.

NEW SECTION

134. In page 80, after line 41, the following new section inserted:

“Amendment of Comptroller and Auditor General (Amendment) Act 1993.

123.—The Comptroller and Auditor General (Amendment) Act 1993 is amended by inserting the following section after section 18:

‘Application of this Act to Garda Síochána. 18A.—This Act applies to the Garda Síochána as though it were a Department.’”.

SCHEDULE 1

135. In page 81, between lines 7 and 8, the following inserted:

No. 31 of 1924	Dublin Police Act 1924	Section 12
----------------	------------------------	------------

SCHEDULE 4

136. In page 88, paragraph 1(1), line 6, “a member” deleted and “the chairperson” substituted.

137. In page 88, paragraph 2(1), line 21, “a member” deleted and “the chairperson” substituted.

SCHEDULE 5

138. In page 89, paragraph 3(b), line 23, after “deceiving”, “any person” inserted.