DÁIL ÉIREANN

BILLE AN GHARDA SÍOCHÁNA 2004
GARDA SÍOCHÁNA BILL 2004

LEASUITHE TUARASCÁLA
REPORT AMENDMENTS

[Second numbered list of amendments. This list contains all amendments addressed to remaining pages of the Bill.]

[No. 8c of 2004] [22 June, 2005]
87. In page 19, line 2, to delete “Government” and substitute “State”.
   —An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

88. In page 19, to delete line 6.
   —Aengus Ó Snodaigh.

89. In page 19, between lines 11 and 12, to insert the following:
   “(e) the promotion and protection of human rights, including the European
   Convention on Human Rights.”.
   —Aengus Ó Snodaigh.

90. In page 19, between lines 11 and 12, to insert the following:
   “(4) In preparing the strategy statement, the Garda Commissioner shall consult
   and have regard to the views of Bord an Gharda Síochána.
   (5) In preparing the strategy statement, the Garda Commissioner shall have regard
   to the views expressed or recommendations made in any reports produced by the
   Páirtnéireachtaí Póilíneachta Phobail.”.
   —Aengus Ó Snodaigh.

91. In page 19, line 15, after “Commissioner” to insert “and/or Bord an Gharda
   Síochána”.
   —Aengus Ó Snodaigh.

92. In page 20, to delete lines 4 to 7 and substitute the following:
   “(e) the views of Bord an Gharda Síochána, and
   (f) the views of the Páirtnéireachtaí Póilíneachta Phobail.”.
   —Aengus Ó Snodaigh.

93. In page 20, line 14, after “Commissioner” to insert the following:
   “and/or Bord an Gharda Síochána and/or Páirtnéireachtaí Póilíneachta
   Phobail”.
   —Aengus Ó Snodaigh.

94. In page 20, between lines 17 and 18, to insert the following:

   “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 avail-
   able to the Garda Síochána during that 3 year period.

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(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.”.

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

95. In page 20, line 31, to delete “to limit the independence of” and substitute “in respect of the role of”.

—Joe Costello.

96. In page 21, between lines 7 and 8, to insert the following:

“(b) the objective of protecting and promoting human rights;

(c) the objective of promoting a community service ethos, and the related objective of promoting community confidence in the Garda Síochána;”.

—Aengus Ó Snodaigh.

97. In page 21, to delete line 10.

—Aengus Ó Snodaigh.

98. In page 21, between lines 14 and 15, to insert the following:

“(g) the views of Bord an Gharda Síochána; and

(h) the views of Páirtíneachtaí Póilíneachta Phobail.”.

—Aengus Ó Snodaigh.

99. In page 21, between lines 17 and 18, to insert the following:

“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.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
100. In page 21, line 23, after “information” to insert the following:

“(subject to the putting in place of sufficient safeguards to protect personal information relating to individuals)”.

—Joe Costello.

101. In page 21, between lines 24 and 25, to insert the following:

“(3) An agreement pursuant to this section shall be in writing and shall be laid before both Houses of the Oireachtas as soon as may be after it is made, and shall not enter into force until such time as the terms thereof have been approved by Dáil Éireann.”

—Joe Costello.

102. In page 23, line 15, to delete “exercising” and substitute “performing”.

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

103. In page 23, between lines 33 and 34, to insert the following:

“(2) In determining the distribution and stationing of the Garda Síochána throughout the State, the Garda Commissioner shall consult and have regard to the views of Bord an Gharda Síochána.

(3) In determining the distribution and stationing of the Garda Síochána throughout the State, the Garda Commissioner shall consult and have regard to the views of Páirtíreachtai Póilíneachta Phoblacht.”

—Aengus Ó Snodaigh.

104. In page 23, line 34, to delete “, to the extent practicable,”.

—Aengus Ó Snodaigh.

105. In page 23, between lines 38 and 39, to insert the following:

“(3) Pursuant to subsection (2), the Garda Commissioner shall arrange for Irish language support as necessary for the members concerned.”

—Aengus Ó Snodaigh.

106. In page 24, before line 1, to insert the following:

30.—(1) Nothing in this Act, the Prosecution of Offences Act 1974 or any other enactment or rule of law prevents the Garda Commissioner from providing—

(a) any Minister of the Government with such information relating to or arising from the investigation of an alleged offence within or by a public body in respect of which functions stand conferred on that Minister as may be necessary to enable that Minister effectively to perform those functions and account to Dáil Éireann for matters for which he or she is responsible, or

(b) the Taoiseach, the Minister or both with such information relating to or arising from the investigation of an alleged offence by a member of the Government as may be necessary to enable the Taoiseach, the Minister or both to perform their constitutional and other functions and account to Dáil Éireann for matters for which they are responsible.

(2) Where the Garda Commissioner is of opinion or is advised by the Director of Public Prosecutions that the provision of information to which subsection (1) relates might seriously prejudice or compromise the effective investigation or prosecution of an alleged offence, the Commissioner and Director may take such measures as
may be necessary to ensure the integrity of that investigation or prosecution, as the case may be, but without prejudice to their duty to ensure that information relating to offences committed in the exercise of the executive power of the State or in the administration of public services in the State ultimately receives appropriate public scrutiny.

(3) In subsection (1), ‘public body’ has the meaning assigned to it by section 2 of the Ethics in Public Office Act 1995.”.

—Joe Costello.

107. In page 24, to delete lines 1 to 6 and substitute the following:

“Chapter 4

Establishment and Functions of Páirtnéireachtaí Póilíneachta Phobail

30.—In this Chapter, unless the context otherwise requires, ‘administration area’ and ‘local authority’ have the meaning given by section 2 of the Local Government Act 2001, and ‘Garda District’ means Garda District as established by the Garda Commissioner under section 21(1)(c).”.

—Aengus Ó Snodaigh.

108. In page 24, line 5, after “authority” “where it firstly occurs to insert the following:

“, city council, city development board, county development board”.

—Ciaran Cuffe.

109. In page 24, between lines 6 and 7, to insert the following:

“(b) In this Chapter, ‘committee’ includes a local community policing committee.”.

—Jim O’Keeffe.

110. In page 24, to delete lines 7 to 42 and in page 25, to delete lines 1 to 16 and substitute the following:

“31.—(1) As soon as practicable after the passing of this Act, each local authority in the State shall establish committees to be known as Páirtnéireachtaí Póilíneachta Phobail, or Community Policing Partnerships.

(2) Each local authority shall establish one Community Policing Partnership per Garda District in its administration area.”.

—Aengus Ó Snodaigh.

111. In page 24, line 9, after “Government” to insert the following:

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

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

112. In page 24, line 11, after “committees” to insert “and local community policing committees”.

—Jim O’Keeffe.

113. In page 24, line 14, after “committee” to insert “and a local community policing committee”.

—Jim O’Keeffe.
114. In page 24, line 18, to delete “members” and substitute “elected members and officials”.

—Joe Costello.

115. In page 24, between lines 19 and 20, to insert the following:

“(ii) representatives of the local community and business,.”.

—Joe Costello.

116. In page 24, line 39, after “subcommittees” to insert the following:

“(including where, having regard to the size or population of an administrative area it is expedient to divide that area, the establishment, membership, terms of reference and procedures of area subcommittees)”.  

—Joe Costello.

117. In page 25, between lines 8 and 9, to insert the following:

“(3) The joint policing committees and local community policing committees may engage persons with expertise for a specific period, or for a specific project to assist them in examining or addressing an issue.”.

—Jim O’Keeffe.

118. In page 25, between lines 12 and 13, to insert the following:

“(4) The meetings of the joint policing committees and local community policing committees shall be held in public unless a majority of members agree to hold a meeting or part thereof otherwise than in public.”.

—Jim O’Keeffe.

119. In page 25, to delete lines 17 to 44 and in page 26, to delete lines 1 to 17 and substitute the following:

“32.—(1) The composition of each Community Policing Partnership shall be as follows:

(a) one third elected representatives, including cross-party representation;

(b) one third representatives from local statutory agencies;

(c) one third representatives from the community and voluntary sectors.

(2) The membership of the Community Policing Partnerships shall be elected by the members of the local authority in accordance with subsections (1) and (3), following a transparent nomination process based on published criteria.

(3) The criteria under subsection (2) shall be established by the Minister, and include that at least 50 per cent of the elected members in each category under subsection (1) are women.

(4) Where consistent with subsection (2), the members of the local authority shall nominate members of the existing Local Policing Fora.

(5) Members of the local authority shall also ensure that the nominees under subsection (2) reflect the full diversity of the community within the relevant Garda District with respect to social class, ethnicity, sexual orientation, disability and age.

(6) The members of the Community Policing Partnership shall elect one of their number as Chair.”
(7) The Minister may establish guidelines providing for terms of office of the
Chair and ordinary members of the Community Policing Partnerships.”.
—Aengus Ó Snodaigh.

120. In page 25, line 18, after “committee” to insert “and local community policing committees”.
—Jim O’Keeffe.

121. In page 25, line 20, after “committee’s” to insert “and local community policing committees”.
—Jim O’Keeffe.

122. In page 25, between lines 29 and 30, to insert the following:

“(b) monitor the performance and effectiveness of the Gardaí in carrying out its
functions in the administrative area,”.
—Jim O’Keeffe.

123. In page 25, between lines 34 and 35, to insert the following:

“(c) the arrangement and hosting of public meetings,”.
—Jim O’Keeffe.

124. In page 26, line 6, to delete “to the local authority”.
—Joe Costello.

125. In page 26, to delete lines 18 to 25 and substitute the following:

“33.—(1) The local authority and the Garda District Superintendents within its
administration area shall jointly arrange for the establishment of a Community
Policing Partnership in each Garda District.

(2) The purpose of the Community Policing Partnerships is to help create safe, se-
cure communities by fostering an equal partnership approach between local Gardaí
and the local community. To this end, Community Policing Partnerships will act as
a mechanism for local accountability by the Gardaí in the performance of their du-
ties and to mobilise cooperation from the community as a whole.

(3) Each Community Policing Partnership shall meet monthly, and in public.

(4) The District Superintendent shall be present for at least a portion of each meet-
ing to present a report or reports and answer questions from the members of the
Community Policing Partnership.

(5) The Chair shall present a formal report to the District Superintendent on behalf
of the Community Policing Partnership, as necessary. Copies of such reports shall
also be provided to the Garda Commissioner and Minister.

(6) The members of the Community Policing Partnership shall have the opportu-
nity and responsibility to question the District Superintendent, to report community
concerns and priorities to the District Superintendent, and to make recommendations as necessary.

(7) The members of the Community Policing Partnership shall be familiar with
human rights standards in relation to policing.

(8) Members of the public shall also have the opportunity to address questions to
the Superintendent at the Community Policing Partnership meetings, through the
Chair.
(9) The Community Policing Partnerships shall provide a forum for public consultation at district level on the draft annual policing plans.

(10) The District Superintendent must make available all information requested by the Community Policing Partnership unless the members agree that it is clearly in the public interest to withhold such information on the basis of a serious threat to public security, to public safety or the safety of an individual, or the need to refrain from jeopardising an investigation or prosecution.

(11) The District Superintendent shall provide explanations for the actions or inaction of Gardaí under his or her command if requested by the Community Policing Partnership.

(12) The District Superintendent shall have due regard to the views of the Community Policing Partnership when formulating or implementing policing plans and strategies for the district.

(13) The District Superintendent shall have due regard to the views of the Community Policing Partnership in the operational management of the service in the district.

(14) Each Community Policing Partnership shall publish an annual report, shall furnish copies of the annual report to the District Superintendent, the Garda Commissioner and the Minister, and also lay a copy before the Houses of the Oireachtas.

(15) The Garda Commissioner shall have due regard for the views of the Community Policing Partnerships in the formulation of the strategy statements under section 20 and the annual policing plans under section 21.

(16) The Minister shall have due regard for the views of the Community Policing Partnerships in the formulation of priorities under section 19 and the directives under section 22.

(17) The Community Policing Partnerships shall meet together annually to exchange information and share best practice.”.

—Aengus Ó Snodaigh.

126. In page 26, lines 19 and 20, to delete all words from and including “the” in line 19 down to and including “of” in line 20 and substitute “the importance of taking steps to prevent”.

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

127. In page 26, to delete lines 22 to 25.

—Joe Costello.

128. In page 26, to delete lines 26 to 35.

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

129. In page 27, line 3, to delete “and the efficiency” and substitute “, efficiency and effectiveness”.

—Aengus Ó Snodaigh.

130. In page 27, to delete lines 19 to 21.

—Joe Costello.
131. In page 27, between lines 29 and 30, to insert the following:

“(4) Whenever required to do so by any other committee of either or both Houses of the Oireachtas, the Garda Commissioner shall give evidence to it on such matters as the committee concerned requests.”.

—Joe Costello.

132. In page 27, line 34, to delete “Garda Commissioner” and substitute “Minister”.

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

133. In page 27, between lines 35 and 36, to insert the following:

“(b) one person nominated by the Garda representative bodies;”.

—Jim O’Keeffe.

134. In page 27, to delete line 36.

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

135. In page 27, between lines 36 and 37, to insert the following:

“(c) one person nominated by Bord an Gharda Síochána;”.

—Aengus Ó Snodaigh.

136. In page 27, line 37, to delete “3” and substitute “4”.

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

137. In page 27, lines 37 to 39, to delete all words from and including “skills” in line 37 down to and including “Síochána” in line 39 and substitute the following:

“auditing skills and experience and none of whom is, or has ever been, a member of An Garda Síochána, whose appointment shall be merit-based, and subject to a transparent public recruitment process”.

—Aengus Ó Snodaigh.

138. In page 27, line 40, to delete “Garda Commissioner” and substitute “Minister”.

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

139. In page 27, line 44, to delete “Garda Commissioner” and substitute “Minister”.

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

140. In page 28, line 2, to delete “Commissioner” and substitute “Minister”.

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

141. In page 28, lines 3 and 4, to delete “by the Commissioner with the Minister’s consent” and substitute “by the Minister for stated reasons”.

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

142. In page 28, lines 6 and 7, to delete “the Garda Commissioner with the consent of”.

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

143. In page 28, line 18, after “Minister” to insert “and Bord an Garda Síochána”.

—Aengus Ó Snodaigh.

144. In page 29, line 8, after “committee” to insert “and Bord an Garda Síochána”.

—Aengus Ó Snodaigh.
145. In page 29, lines 19 and 20, to delete all words from and including “not” in line 19 down to and including “request” in line 20 and substitute the following:

“be provided in response to a request under subsection (5), but shall not be made public”.

—Aengus Ó Snodaigh.

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

“(a) the incidence of anti-social behaviour, action taken in response to anti-social behaviour, and the measures which have been put in place to prevent and reduce the incidence of anti-social behaviour;”.

—Jim O'Keeffe.

147. In page 29, between lines 36 and 37, to insert the following:

“(c) the number, nature and outcome of—

(i) any disciplinary hearings against members of the Garda Síochána,

(ii) any legal proceedings against members of the Garda Síochána, in respect of actionable wrongs alleged to have been committed in the course of performing the member’s functions, or against the State by virtue of section 41,

(iii) any criminal proceedings against members of the Garda Síochána, where any of the acts that are alleged to constitute the offence was directly related to the performance of the member’s functions, that were commenced or determined or otherwise disposed of during that year;”.

—Joe Costello.

148. In page 29, to delete lines 41 to 44 and substitute the following:

“39.—(1) The Garda Commissioner shall ensure that statistical information concerning offences, criminal proceedings, the state of crime and crime detection in the state is continuously compiled and stored.”

—Aengus Ó Snodaigh.

149. In page 29, line 43, after “crime” to insert “and anti-social behaviour”.

—Jim O'Keeffe.

150. In page 30, before line 1, to insert the following:

“(2) Statistics under subsection (1) shall be provided at State, regional, divisional, district and station level.”.

—Aengus Ó Snodaigh.

151. In page 30, line 2, to delete “subsection (1)” and substitute “subsections (1) and (2)*”.

[*This is the appropriate reference if amendment no. 150 is accepted.]

—Aengus Ó Snodaigh.

152. In page 30, line 3, after “Office” to insert “at least annually, but otherwise”.

—Aengus Ó Snodaigh.

153. In page 30, to delete lines 5 to 9.

—Aengus Ó Snodaigh.
154. In page 30, to delete lines 10 to 24.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

155. In page 30, between lines 16 and 17, to insert the following:

“(b) the state of Garda discipline and compliance with the code of ethics;”.
—Aengus Ó Snodaigh.

156. In page 30, line 29, to delete “under this Act”.
—Joe Costello.

157. In page 30, line 36, to delete “under this Act”.
—Joe Costello.

158. In page 30, between lines 40 and 41, to insert the following:

“(3) Proceedings may be brought against the Commissioner for the recovery of damages for torts committed by members of the Garda Síochána in the exercise or purported exercise of their functions under this Act, any other enactment or at common law, in like manner as proceedings may be brought against an employer for the recovery of damages for torts committed by his or her employees in the course of their employment, and the Commissioner shall in respect of any such first-mentioned tort be treated for the purposes of such proceedings as a joint tortfeasor.

(4) There shall be paid by the Commissioner, out of moneys for which he or she is accounting officer—

(a) any damages or costs awarded against the Commissioner in any proceedings brought against him or her by virtue of this section and any costs properly incurred by him or her in any such proceedings, so far as not recovered in the proceedings, and

(b) any sum required in connection with the settlement of any claim made against the Commissioner by virtue of this section.

(5) Without prejudice to subsection (3), the Commissioner may, in such cases and to such extent as he or she thinks fit, pay any damages or costs awarded against a member of the Garda Síochána in proceedings for a tort committed by that member, any costs incurred and not recovered by that member in any such proceedings, and any sum required in connection with the settlement of any claim that has or might have given rise to such proceedings.

(6) The Commissioner may make arrangements for the legal representation of the Commissioner or any member of the Garda Síochána in proceedings to which this section applies.”.
—Joe Costello.

159. In page 32, to delete lines 23 to 25.
—Aengus Ó Snodaigh.

160. In page 32, to delete line 28 and substitute “paragraph (a);”.
—Aengus Ó Snodaigh.

161. In page 32, line 35, before “the” to insert the following:

“and subject to approval by the Houses of the Oireachtas,”.
—Aengus Ó Snodaigh.
162. In page 33, line 9, to delete “Government” and substitute “Houses of the Oireachtas”.
—Aengus Ó Snodaigh.

163. In page 33, line 12, to delete “Minister” and substitute “Houses of the Oireachtas”.
—Aengus Ó Snodaigh.

164. In page 33, between lines 12 and 13, to insert the following:
“(3) For the purpose of pension entitlements, a period of full-time service spent outside the State under this section, shall be a reckonable period of service.”.
—Jim O’Keeffe.

165. In page 33, between lines 15 and 16, to insert the following:
“(4) A member shall not be deemed eligible under this section if the following circumstances apply:

(a) the member has not received human rights training;

(b) an investigation is in process or any other action is pending against the member;

(c) the member has been disciplined for a serious breach of the code of conduct, including the code of ethics.”.
—Aengus Ó Snodaigh.

166. In page 33, between lines 21 and 22, to insert the following:

45.—(1) Sections 45 to 51 of this Act shall only come into effect after such time as the Oversight Commissioner has made a statement confirming that the recommendations contained in the Report of the Independent Commission on Policing for Northern Ireland (also known as the Patten Commission) have been fully implemented and the Minister has laid a declaration before each House of the Oireachtas to this effect.

(2) At such time as the condition under subsection (1) has been fulfilled, sections 45 to 51 of the Act shall come into operation on such day as the Minister may appoint by order.

(3) An order under subsection (2) shall be laid by the Minister before each House of the Oireachtas.”.
—Aengus Ó Snodaigh.

167. In page 34, between lines 38 and 39, to insert the following:

48.—(1) All appointments under section 45 and secondments under sections 46 and 47 shall be subject to human rights qualifications and screening for misconduct.

(2) No member shall be deemed eligible for an appointment under section 45 or a secondment under sections 46 or 47 unless that member has completed approved human rights training within their own service.

(3) Notwithstanding a determination of eligibility under section 45(3), no member shall be deemed eligible for an appointment under section 45 or a secondment under sections 46 or 47 if she or he is the subject of an investigation or inquiry, whether internal or otherwise.”.
—Aengus Ó Snodaigh.
168. In page 35, line 31, to delete “(5)” and substitute “(4)”.  
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

169. In page 37, between lines 27 and 28, to insert the following:  
“(3) This section shall not apply to a trade union or representative body which has  
acted in accord with agreed dispute resolution guidelines.”.  
—Jim O’Keeffe.

170. In page 39, line 8, after “is” to insert “a subject of a criminal investigation or”.  
—Aengus Ó Snodaigh.

171. In page 39, line 14, after “of” to insert “or accused of”.  
—Aengus Ó Snodaigh.

172. In page 39, between lines 19 and 20, to insert the following:  
“(h) results in the publication of information that prejudices the right of an ac-  
cused person to a fair trial.”.  
—Aengus Ó Snodaigh.

173. In page 39, line 22, after “privacy” to insert the following:  
“or involves the publication of personal information relating to a de-  
cceased or missing person in a manner likely to cause distress to relatives  
of that person”.  
—Joe Costello.

174. In page 39, between lines 28 and 29, to insert the following:  
“(3) Information shall not be deemed to be of harmful effect if it can be shown  
that its disclosure was inadvertent or procured through fraud or deceit.”.  
—Jim O’Keeffe.

175. In page 39, between lines 35 and 36, to insert the following:  
“(a) is made in the interests of protecting the integrity of the force,  
(b) is made in the interests of highlighting any activity which is likely to be  
prejudicial to the integrity of the force,  
(c) is made in the interests of the apprehension of a criminal,  
(d) is made in the interests of aiding the detection of an offence.”.  
—Jim O’Keeffe.

176. In page 39, between lines 36 and 37, to insert the following:  
“(i) the public where such disclosure is a matter of exceptional and overrid-  
ing public interest in all the circumstances.”.  
—Joe Costello.

177. In page 40, to delete lines 1 to 4 and substitute the following:  
“(vii) Ombudsman an Gharda Síochána or an officer of the Ombudsman,  
(viii) Bord an Gharda Síochána or an officer of the Board.”.  
—Aengus Ó Snodaigh.
178. In page 40, between lines 17 and 18, to insert the following:

“(g) or is made in good faith with a view to preventing the commission of an offence or the infringement of a person’s rights, or with a view to disclosing such an offence or breach of rights.”.

—Aengus Ó Snodaigh.

179. In page 40, after line 41, to insert the following:

“(9) Where an order under section 2 in respect of the commencement of this section is proposed to be made, a draft order, shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.”.

—Jim O’Keeffe.

180. To delete pages 41 to 69 and in page 70, to delete lines 1 to 8 and substitute the following:

“PART 3

56.—The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Part.

57.—(1) The Ombudsman shall be appointed by the President on—

(a) the nomination of the Government, and

(b) the passage of resolutions by Dáil Éireann and Seanad Éireann recommending their appointment.

(2) Subject to the following provisions of this paragraph, a person shall hold and vacate office as Ombudsman in accordance with the terms of his appointment.

(3) An appointment as Ombudsman may be full-time or part-time.

(4) An appointment as Ombudsman shall be for—

(a) a period of 7 years, or

(b) a period ending on the date on which the person appointed attains the age of 70 years,

whichever is the shorter.

(5) A person whose term of appointment as Ombudsman expires shall not be eligible for re-appointment.

(6) A person may at any time resign his office as Ombudsman by notice in writing to the President.

(7) The Minister may call upon the Ombudsman to retire—

(a) in the interests of efficiency or effectiveness, or

(b) if satisfied that the Ombudsman has—

(i) been convicted of a criminal offence, or
(ii) become bankrupt or made a composition or arrangement with his creditors.

(8) Before calling upon the Ombudsman to retire, the Minister shall give the Ombudsman an opportunity to make, either personally or otherwise, representations to him and shall consider any representations that he makes.

(9) An Ombudsman who is called upon to retire under subsection (7) shall retire on such date as the Minister may specify or on such earlier date as may be agreed between him and the Minister.

58.—(1) The Minister may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of a person appointed to the office of Ombudsman as he may determine.

(2) Where a person ceases to hold office as Ombudsman otherwise than on the expiry of his term of office, and it appears to the Minister that there are special circumstances which make it right for that person to receive compensation, the Minister may make to that person a payment of such amount as the Minister may determine.

59.—(1) The Ombudsman may, with the approval of the Minister as to numbers and as to remuneration and other terms and conditions of service, employ such persons as he thinks fit to enable him to carry out his functions.

(2) The Ombudsman may make arrangements for administrative, secretarial or other assistance to be provided for him by persons employed in the Civil Service.

60.—Any functions of the Ombudsman under this Act may be performed by any officer of the Ombudsman authorised for the purpose by the Ombudsman.

61.—A document purporting to be duly signed by, or on behalf of, the Ombudsman shall be received in evidence and, unless the contrary is proved, be taken to be so signed.

62.—The Minister shall pay to the Ombudsman such sums as appear to the Minister to be appropriate for defraying the expenses of the Ombudsman under this Act.

63.—(1) The Ombudsman shall—

(a) keep proper accounts and proper records in relation to the accounts,

(b) prepare in respect of each financial year a statement of accounts in such form as the Minister may direct, and

(c) send copies of the statement to the Minister and the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.

(2) The Comptroller and Auditor General shall examine, certify and report on each statement received by him under this paragraph and shall lay copies of each statement and his report before each House of Parliament.
64.—(1) The Ombudsman may, for the purposes of his functions as such, acquire, hold and dispose of real or personal property.

(2) Any real or personal property vesting in the Ombudsman for such purposes shall (unless and until disclaimed or disposed of) vest in his successor in office for the time being.

(3) Where there is a vacancy in the Office of Ombudsman at the time when real or personal property would otherwise have vested, the property shall vest in the successor on his appointment.

PART 4

65.—(1) For the purposes of this Part there shall be a Police Ombudsman for Ireland.

(2) The person for the time being holding the office of Police Ombudsman for Ireland shall by that name be a corporation sole.

(3) The Ombudsman shall exercise his powers under this Part in such manner and to such extent as appears to him to be best calculated to secure—

(a) the efficiency, effectiveness and independence of the police complaints system, and

(b) the confidence of the public and of members of the Garda Síochána in that system.

66.—(1) For the purposes of this Part, all complaints about the Garda Síochána shall either—

(a) be made to the Ombudsman, or

(b) if made to a member of the Garda Síochána, be recorded and the complainant provided with a written acknowledgement of its receipt, and forwarded immediately to the Ombudsman.

(2) If any conduct to which a complaint wholly or partly relates is or has been the subject of disciplinary or criminal proceedings, none of the following provisions of this Part shall have effect in relation to the complaint in so far as it relates to that conduct.

67.—(1) The Ombudsman shall consider whether the complaint is suitable for informal resolution and may for that purpose make such investigations as he thinks fit.

(2) A complaint is not suitable for informal resolution unless—

(a) the complainant gives his consent, and

(b) it is not a serious complaint.

(3) If it appears to the Ombudsman that the complaint is suitable for informal resolution, he shall refer the complaint to the appropriate disciplinary authority.
(4) Where a complaint is referred under *subsection (3)*, the appropriate disciplinary authority shall seek to resolve it informally and may appoint a member of the Garda Síochána to do so on behalf of the authority.

(5) The Garda Commissioner shall, at the request of the appropriate disciplinary authority, provide a member of the Garda Síochána to be appointed under *subsection (4)*.

(6) If, after attempts have been made to resolve a complaint informally, it appears to the appropriate disciplinary authority—

(a) that informal resolution of the complaint is impossible, or

(b) that the complaint is for any other reason not suitable for informal resolution,

the appropriate disciplinary authority shall notify the Ombudsman accordingly and refer the complaint to him.

(7) Subject to *subsection (8)*, no statement made by any person for the purpose of the informal resolution of a complaint shall be admissible in any subsequent criminal, civil or disciplinary proceedings.

(8) A statement is not rendered inadmissible by *subsection (7)* if it consists of or includes an admission relating to a matter which does not fall to be resolved informally.

68.—(1) If—

(a) it appears to the Ombudsman that a complaint is not suitable for informal resolution, or

(b) a complaint is referred to the Ombudsman under *section 67(6)*, the complaint shall be formally investigated as provided in *subsection (2)* or (3).

(2) Where the complaint is a serious complaint, the Ombudsman shall formally investigate it in accordance with *section 70*.

(3) In the case of any other complaint, the Ombudsman may as he thinks fit—

(a) formally investigate the complaint in accordance with *section 70*, or

(b) refer the complaint to the Garda Commissioner for formal investigation by a police officer in accordance with *section 71*.

69.—(1) The Minister may refer to the Ombudsman any matter which—

(a) appears to the Minister to indicate that a member of the Garda Síochána may have—

(i) committed a criminal offence, or

(ii) behaved in a manner which would justify disciplinary proceedings, and

(b) is not the subject of a complaint,
if, after consultation with the Ombudsman and the Garda Commissioner, it appears to the Minister that it is desirable in the public interest that the Ombudsman should investigate the matter.

(2) The Garda Commissioner shall refer to the Ombudsman any matter which appears to the Garda Commissioner to indicate that conduct of a member of the Garda Síochána may have resulted in the death of some other person.

(3) Where any matter is referred to the Ombudsman under subsection (1) or (2), he shall formally investigate the matter in accordance with section 702.

(4) The Garda Commissioner may refer to the Ombudsman any matter which—

(a) appears to the Garda Commissioner to indicate that a member of the Garda Síochána may have—

(i) committed a criminal offence, or

(ii) behaved in a manner which would justify disciplinary proceedings,

and

(b) is not the subject of a complaint,

if it appears to the Garda Commissioner that it is desirable in the public interest that the Ombudsman should investigate the matter.

(5) Where any matter is referred to the Ombudsman under subsection (4), he shall formally investigate the matter in accordance with section 702 if it appears to him that it is desirable in the public interest that he should do so.

(6) The Ombudsman may of his own motion formally investigate in accordance with section 702 any matter which—

(a) appears to the Ombudsman to indicate that a member of the Garda Síochána may have—

(i) committed a criminal offence, or

(ii) behaved in a manner which would justify disciplinary proceedings,

and

(b) is not the subject of a complaint,

if it appears to the Ombudsman that it is desirable in the public interest that he should do so.

(7) The Ombudsman shall notify—

(a) the Minister, in the case of a matter referred under subsection (1),

(b) the Garda Commissioner, in the case of a matter referred under subsection (2) or (4),

of the outcome of any criminal or disciplinary proceedings brought against a member of the Garda Síochána in respect of, or in connection with, the matter so referred.
70.—(1) Where a complaint or matter is to be formally investigated by the Ombudsman under section 68(2) or (3)(a) or 69(3), (5) or (6), he shall appoint an officer of the Ombudsman to conduct the investigation.

(2) The Minister may by order provide that any provision in any act which relates to investigation of offences conducted by police officers (within the meaning of that order) shall apply, subject to such modifications as the order may specify, to investigations under this section conducted by persons who are not police officers (within the meaning of that order).

(3) A person employed by the Ombudsman for the purpose of conducting, or assisting in the conduct of, an investigation under this section have all the powers and privileges of a Garda throughout Ireland.

(4) At the end of an investigation under this section the person appointed to conduct the investigation shall submit a report on the investigation to the Ombudsman.

71.—(1) Where a complaint is referred to the Garda Commissioner under section 68(3)(b), he shall appoint a police officer to investigate it formally on behalf of the Ombudsman.

(2) A member of the Garda Síochána may not be appointed to investigate a complaint formally if he has previously been appointed to act in relation to it under section 67(4).

(3) The Ombudsman may require—

(a) that no appointment of a person to conduct an investigation under this section shall be made unless the Ombudsman has given notice to the Garda Commissioner that he approves the person whom the Garda Commissioner proposes to appoint, or

(b) if such an appointment has already been made and the Ombudsman is not satisfied with the person appointed, that—

(i) the Garda Commissioner shall, as soon as is reasonably practicable, select another police officer and notify the Ombudsman that he proposes to appoint that person, and

(ii) the appointment shall not be made unless the Ombudsman gives notice to the Garda Commissioner that he approves that person.

(4) The Ombudsman may supervise the investigation of any complaint under this section if he considers that it is desirable in the public interest for him to do so.

(5) Where the Ombudsman decides to supervise an investigation under this section he shall notify the Garda Commissioner to that effect.

(6) A member of a Garda Síochána in Ireland who is appointed to conduct an investigation under this section shall, for the purpose of conducting that investigation, have all the powers and privileges of a Garda throughout Ireland.

(7) The Ombudsman may impose requirements as to the conduct of an investigation which the Ombudsman is supervising; and it shall be the duty of a police officer to comply with any requirement imposed on him by virtue of this subsection.

(8) At the end of an investigation under this section the police officer appointed to conduct the investigation shall submit a report on the investigation to the Ombudsman.
72.—(1) The Ombudsman shall consider any report made under section 70(5) or 71(8) and determine whether the report indicates that a criminal offence may have been committed by a member of the Garda Síochána.

(2) If the Ombudsman determines that the report indicates that a criminal offence may have been committed by a member of the Garda Síochána, he shall send a copy of the report to the Director of Public Prosecutions together with such recommendations as appear to the Ombudsman to be appropriate.

(3) Where a report is sent to the Director under subsection (2), the Ombudsman shall, at the request of the Director, ascertain and furnish to the Director all such further information in relation to the complaint or matter dealt with in the report as appears to the Director to be necessary for the discharge of his functions.

(4) In this section and section 73 the Director’ means the Director of Public Prosecutions.

73.—(1) Where—

(a) the Director has dealt with the question of criminal proceedings, or

(b) the Ombudsman determines that the report under section 70(5) or 71(8) does not indicate that a criminal offence may have been committed by a member of the Garda Síochána,

the Ombudsman shall consider the question of disciplinary proceedings.

(2) The Ombudsman shall send the appropriate disciplinary authority a memorandum containing—

(a) his recommendation as to whether or not disciplinary proceedings should be brought in respect of the conduct which is the subject of the investigation,

(b) a written statement of his reasons for making that recommendation, and

(c) where he recommends that disciplinary proceedings should be brought, such particulars in relation to the disciplinary proceedings which he recommends as he thinks appropriate.

(3) No disciplinary proceedings shall be brought by the appropriate disciplinary authority before it receives the memorandum of the Ombudsman under subsection (2).

(4) The Garda Commissioner shall advise the Ombudsman of what action it has taken in response to a recommendation contained in a memorandum sent to it under subsection (2); and nothing in the following provisions of this section has effect in relation to senior officers.

(5) If—

(a) a memorandum sent to the Garda Commissioner under subsection (2) contains a recommendation that disciplinary proceedings should be brought, but

(b) the Garda Commissioner is unwilling to bring such disciplinary proceedings,

the Ombudsman may, after consultation with the Garda Commissioner, direct him to bring disciplinary proceedings.
(6) Subject to subsection (7)—

(a) it shall be the duty of the Garda Commissioner to comply with a direction under subsection (5),

(b) the Garda Commissioner may not discontinue disciplinary proceedings which he has brought in accordance with—

(i) a recommendation contained in a memorandum under subsection (2), or

(ii) a direction under subsection (5).

(7) The Ombudsman may give the Garda Commissioner leave—

(a) not to bring disciplinary proceedings which subsection (6)(a) would otherwise oblige him to bring, or

(b) to discontinue disciplinary proceedings with which subsection (6)(b) would otherwise require him to proceed.

(8) The Garda Commissioner shall advise the Ombudsman of what action he has taken in response to—

(a) a recommendation contained in a memorandum under subsection (2),

(b) a direction under subsection (5).

74.—(1) The Ombudsman shall, at the request of the Minister, report to the Minister on such matters relating generally to the functions of the Ombudsman as the Minister may specify, and the Ombudsman may for that purpose carry out research into any such matters.

(2) The Ombudsman may make a report to the Minister on any matters coming to the Ombudsman’s attention under this Part to which the Ombudsman considers that the Minister’s attention should be drawn in the public interest.

(3) The Ombudsman shall, not later than 3 months after the end of each financial year, make to the Minister a report on the discharge of the Ombudsman’s functions during that year.

(4) The Ombudsman shall—

(a) keep under review the working of this Part, and

(b) at least once every five years, make a report on it to the Minister.

(5) The Ombudsman shall send a copy of any report under this section to the Minister and the Garda Commissioner.

(6) The Minister shall—

(a) lay before both Houses of the Oireachtas a copy of every report received by him under this section, and

(b) cause every such report to be published.

(7) The Ombudsman shall send to the Minister any statistical or other general information which the Ombudsman considers should be brought to the attention of the Minister.
75.—The Ombudsman may, in relation to any exercise of his functions under this Part, publish a statement as to his actions, his decisions and determinations and the reasons for his decisions and determinations.

76.—(1) No information received by a person to whom this subsection applies in connection with any of the functions of the Ombudsman under this Part shall be disclosed by any person who is or has been a person to whom this subsection applies except—

(a) to a person to whom this subsection applies,

(b) to the Minister,

(c) to other persons in or in connection with the exercise of any function of the Ombudsman,

(d) for the purposes of any criminal, civil or disciplinary proceedings, or

(e) in the form of a summary or other general statement made by the Ombudsman which—

(i) does not identify the person from whom the information was received, and

(ii) does not, except to such extent as the Ombudsman thinks necessary in the public interest, identify any person to whom the information relates.

(2) Subsection (1) applies to—

(a) the Ombudsman, and

(b) an officer of the Ombudsman.

(3) Any person who discloses information in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

77.—(1) The Minister may make regulations—

(a) as to the procedure to be followed under this Part, and

(b) for prescribing anything authorised or required to be prescribed by any provision in this Part.

(2) The Minister shall by regulations provide—

(a) that, subject to such exceptions and in accordance with such procedures as may be prescribed, the Ombudsman shall furnish a copy of, or of the record of, a complaint against a member of the Garda Síochána to—

(i) that member,

(ii) the complainant, and

(iii) the appropriate disciplinary authority,

(b) procedures for the informal resolution of complaints of such descriptions as may be prescribed, and for giving the complainant a record of the outcome of any such procedure,
(c) procedures for giving a member of the Garda Síochána, whose conduct is
the subject of a complaint which falls to be resolved informally, an op-
portunity to comment orally or in writing on the complaint,

(d) for cases in which any provision of this Part is not to apply where—

(i) a complaint, other than a complaint which falls to be resolved infor-
mally, is withdrawn,

(ii) the complainant indicates that he does not wish any further steps to be
taken, or

(iii) the complainant fails to indicate, in response to a request from the Omb-

udsman to do so, whether he wishes any further steps to be taken,

(e) for enabling the Ombudsman to dispense with any requirement of this

Part,

(f) for enabling the Ombudsman to relinquish the supervision of the investi-
gation of any complaint under this section,

(g) procedures for an investigation begun under this section to be continued,

where the Ombudsman so directs, as if it had originally been begun un-
der the sections in this Part,

(h) procedures for the making of complaints and the reference of complaints

and other matters under this Part,

(i) that the Ombudsman shall be supplied with such information or docu-

ments of such description as may be prescribed at such time or in such

circumstances as may be prescribed,

(j) that any action, determination or decision of a prescribed description taken

by the Ombudsman shall be notified to prescribed persons within a pre-
scribed time and that, in connection with such a notification, the Omb-
udsman shall have power to supply the person notified with any relevant

information,

(k) for authorising or requiring the Ombudsman to provide to the appropriate
disciplinary authority information relevant to the exercise by that authori-
ty of any power of suspension under regulations,

(l) that the Garda Commissioner shall have power to delegate any functions

conferred on him by or by virtue of this Part,

(m) for enabling the Ombudsman to pay to a complainant—

(i) sums in respect of expenses incurred by him, and

(ii) allowances by way of compensation for the loss of his time,

in accordance with such scales and subject to such conditions as may be

prescribed,

(n) for enabling the Ombudsman, in such cases as may be prescribed, to make

a recommendation to the Garda Commissioner for the payment by the

Garda Commissioner to the complainant of compensation of such amount

as the Ombudsman considers appropriate (but not exceeding such

amount as may be prescribed).
3. Regulations under this section may authorise the Minister to make provision for any purposes specified in the regulations.

4. Before making any regulations under this section, the Minister shall consult—

(a) the Ombudsman,

(b) the Garda Commissioner,

(c) the Garda Representative Association, and

(d) the Association of Garda Inspectors.

78.—(1) The Minister may issue guidance to the Garda Commissioner and police officers concerning the discharge of their functions under this Part and they shall have regard to any such guidance in the discharge of their functions.

(2) Guidance may not be issued under subsection (1) in relation to the handling of a particular case.

(3) In discharging his functions under section 73 the Ombudsman shall have regard—

(a) to any guidance given to him by the Minister with respect to such matters as are for the time being the subject of guidance under subsection (1), and

(b) in particular, but without prejudice to the generality of paragraph (a), to any such guidance as to the principles to be applied in cases that involve any question of criminal proceedings.

(4) In discharging his functions under this Part the Ombudsman shall have regard to any guidance given to him by the Minister with respect to matters the disclosure of which may be prejudicial to the public interest.”.

—Ciaran Cuffe.

[These are the appropriate references if this amendment is accepted.]

[These are the appropriate references if this amendment is accepted.]

[These are the appropriate references if this amendment is accepted.]

[These are the appropriate references if this amendment is accepted.]

[This is the appropriate reference if this amendment is accepted.]

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[This is the appropriate reference if this amendment is accepted.]

181. In page 41, between lines 3 and 4, to insert the following:

“56.—Hereafter in this and other sections all references to ‘the Ombudsman Commission’ or ‘the Commission’ or ‘a member of the Ombudsman Commission’ or ‘members of the Ombudsman Commission’ or ‘the membership of the Ombudsman Commission’ or ‘a member’ in relation to a member of the Ombudsman Commission shall be construed to mean references to ‘Ombudsman an Gharda Síochána’ or
‘the Ombudsman’ or ‘an Ombudsman’, usage of the term ‘their’ in relation to the members of the Ombudsman Commission or ‘its’ in relation to the Ombudsman Commission shall be construed to mean references to ‘his or her’ in relation to the Ombudsman, and usage of the term ‘it’ or ‘itself’ in relation to the Ombudsman Commission shall be construed to mean references to ‘him or her’ or ‘himself or herself’ in relation to the Ombudsman.”.

—Aengus Ó Snodaigh.

182. In page 41, line 16, to delete “3 members” and substitute “at least one but not more than 3 members”.

—Joe Costello.

183. In page 41, line 16, after “members” to insert the following:

“(one of whom shall be appointed to be the Chairperson of the Ombudsman Commission)”.

—Joe Costello.

184. In page 41, lines 16 and 17, to delete “3 members, all of whom are” and substitute “one member who is”.

—Jim O'Keeffe.

185. In page 41, between lines 17 and 18, to insert the following:

“(a) the recommendation of an independent advisory body,”.

—Aengus Ó Snodaigh.

186. In page 41, between lines 20 and 21, to insert the following:

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

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

187. In page 41, to delete lines 21 and 22 and substitute the following:

“(2) Where there are 2 or more members of the Commission, at least one member shall be a woman and at least one shall be a man.”.

—Joe Costello.

188. In page 41, to delete lines 21 and 22 and substitute the following:

“(2) Where the Ombudsman’s office is vacant or becomes vacant, applications to fill the vacancy shall be—

(a) advertised within and outside the State,

(b) encouraged from persons outside the State.”.

—Jim O'Keeffe.

189. In page 41, to delete lines 21 and 22.

—Aengus Ó Snodaigh.

190. In page 41, line 27, after “Commission” to insert the following:

“and in so doing shall follow a transparent public recruitment process based on published criteria”.

—Aengus Ó Snodaigh.

191. In page 41, line 30, to delete “to be a member” and substitute “as the chairperson”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
192. In page 41, line 35, to delete “to be a member” and substitute “as the chairperson”.

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

193. In page 42, to delete lines 2 and 3 and substitute the following:

“(7) The appointment to the position of Ombudsman an Gharda Síochána becomes effective on the establishment day.”

—Aengus Ó Snodaigh.

194. In page 42, between lines 3 and 4, to insert the following:

“(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.”

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

195. In page 42, to delete lines 13 to 15.

—Aengus Ó Snodaigh.

196. In page 42, line 16, to delete “membership” and substitute “office”.

—Aengus Ó Snodaigh.

197. In page 42, line 20, to delete “member” and substitute “person”.

—Aengus Ó Snodaigh.

198. In page 42, line 31, after “complaints” to insert “and conducting those investigations”.

—Joe Costello.

199. In page 42, between lines 32 and 33, to insert the following:

“(a) to conduct investigations on its own initiative or following a reference by the Commissioner, pursuant to section 94, concerning the conduct of members of the Garda Síochána.”

—Joe Costello.

200. In page 42, between lines 39 and 40, to insert the following:

“(d) to prosecute summarily members of the Garda Síochána where it decides to do so,”

—Joe Costello.

201. In page 43, to delete lines 1 to 3.

—Joe Costello.

202. In page 43, between lines 5 and 6, to insert the following:

“(g) to recommend changes to policy or procedure,”

—Aengus Ó Snodaigh.

203. In page 43, between lines 7 and 8, to insert the following:

“(h) to determine breaches of the Garda Disciplinary Code and the Code of Ethics,
(i) to assign penalties and remedies, including recommendations of disciplinary action, dismissal or compensation, and”.

—Aengus Ó Snodaigh.

204. In page 43, lines 20 and 21, to delete “misbehaviour, incapacity or bankruptcy” and substitute “misbehaviour or for incapacity”.

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

205. In page 43, line 26, to delete “is nominated to stand as a candidate for” and substitute “is elected as a member of”.

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

206. In page 43, line 27, to delete “to” and substitute “of”.

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

207. In page 44, between lines 2 and 3, to insert the following:

“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.”.

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

208. In page 44, line 5, to delete “with the consent of the Minister for Finance”.

—Aengus Ó Snodaigh.

209. In page 44, lines 18 to 21, to delete all words from and including “may” in line 18 down to and including “Commission” in line 21 and substitute the following:

“shall be eligible to apply for a post under section 63”.

—Aengus Ó Snodaigh.

210. In page 44, line 16, to delete “Every” and substitute “Any”.

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

211. In page 45, to delete lines 1 to 4.

—Ciaran Cuffe.

212. In page 45, lines 13 and 14, to delete “the Garda Síochána or”.

—Ciaran Cuffe.

213. In page 45, to delete lines 18 to 29.

—Ciaran Cuffe.

214. In page 45, line 45, to delete “exercising” and substitute “performing”.

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

215. In page 46, line 8, to delete “may” and substitute “shall”.

—Aengus Ó Snodaigh.
216. In page 46, between lines 12 and 13, to insert the following:

“69.—The Minister shall ensure the provision of adequate resources as required to carry out the Ombudsman’s objectives, functions and powers under section 60 of this Act, including the number of full-time posts as required by the Ombudsman under section 63.”

—Aengus Ó Snodaigh.

217. In page 46, lines 34 and 35, to delete “nominated by it for the purpose”.

—Aengus Ó Snodaigh.

218. In page 47, to delete lines 10 to 12.

—Joe Costello.

219. In page 47, line 12, after “policy,” to insert the following:

“save insofar as it relates to a finding under section 98.”

—Aengus Ó Snodaigh.

220. In page 47, line 25, to delete “nominated by it for the purpose”.

—Aengus Ó Snodaigh.

221. In page 47, lines 29 and 30, to delete “is, has been or may at a future time be” and substitute “is or is likely to be”.

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

222. In page 47, line 30, to delete “has been”.

—Joe Costello.

223. In page 48, to delete lines 10 to 13.

—Joe Costello.

224. In page 48, lines 11 to 13, to delete all words from and including “Commission” in line 11 down to and including “policy” in line 13 and substitute the following:

“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”.

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

225. In page 48, line 13, after “policy” to insert the following:

“save insofar as it relates to a finding under section 98”.

—Aengus Ó Snodaigh.

226. In page 48, between lines 23 and 24, to insert the following:

“(4) The report shall include statistics, identify trends or patterns and make any such analyses or recommendations as the Ombudsman sees fit, including, where warranted, on matters of national security.”

—Aengus Ó Snodaigh.

227. In page 48, to delete lines 28 to 30.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.
228. In page 48, between lines 35 and 36, to insert the following:

“(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.”.

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

229. In page 48, between lines 35 and 36, to insert the following:

“(7) For the purpose of making reports and recommendations under this section, the Ombudsman Commission may consult widely, with both members of the general public, public bodies and non-governmental organisations and shall, in making recommendations, be conscious of the need to ensure that—

(a) policing arrangements are such that the State has a police service that can enjoy widespread support from, and is seen as an integral part of, the community as a whole, and

(b) the Garda Síochána operates within a clear framework of accountability to the law and the community it serves, so that—

(i) it is constrained by, accountable to and acts only within the law,

(ii) its powers and procedures, like the law it enforces, are clearly established and publicly available, and

(iii) there are open, accessible, effective, independent and publicly trusted means of investigating and adjudicating upon complaints against its members.”.

—Joe Costello.

230. In page 48, line 38, after “Commission” to insert “, including the Ombudsman,”.

—Aengus Ó Snodaigh.

231. In page 49, to delete line 29 and substitute the following:

“(i) Ombudsman an Gharda Síochána,.”

—Aengus Ó Snodaigh.

232. In page 49, between lines 29 and 30, to insert the following:

“(ii) an officer of a police ombudsman or comparable body, outside the State,”.

—Jim O’Keeffe.

233. In page 50, line 5, after “2002” to insert the following:

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

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

234. In page 50, between lines 11 and 12, to insert the following:

“(h) or is made in good faith with a view to preventing the commission of an offence or the infringement of a person’s rights, or with a view to disclosing such an offence or breach of rights.”.

—Aengus Ó Snodaigh.
235. In page 50, between lines 32 and 33, to insert the following:

74.—Notwithstanding sections 55 and 73, the exchange of any type of information or other form of co-operation between—

(a) the Garda Commissioner or any member of the Gardaí and the Ombudsman Commission,

(b) the Garda Commissioner or any member of the Gardaí and the Inspectorate,

(c) the Ombudsman Commission and a comparable body outside the State,

made in the course of, and in accordance with, the duties of that person’s office, shall not be an offence.”.

—Jim O’Keeffe.

236. In page 51, lines 31 to 38, to delete all words from and including “Commission—” in line 31 down to and including “consent” in line 38 and substitute the following:

“Commission by or on behalf of any member of the public”.

—Joe Costello.

237. In page 51, between lines 31 and 32, to insert the following:

“(a) by a member of the Garda Síochána who is directly affected by, or who witnesses, the conduct, or”.

—Jim O’Keeffe.

238. In page 51, between lines 33 and 34, to insert the following:

“(b) by a member of the Garda Síochána, or”.

—Ciaran Cuffe.

239. In page 54, lines 36 and 37, to delete all words from and including “other” in line 36 down to and including “applies” in line 37 and substitute the following:

“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”.

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

240. In page 54, line 40, after “is” to insert “or is not”.

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

241. In page 55, lines 38 to 45, to delete all words from and including “as” in line 38 down to and including “practicable.” in line 45 and in page 56, to delete lines 1 to 5 and substitute the following:

“while in the custody or care of the Garda Síochána, the Ombudsman Commission shall immediately direct a designated officer to—

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(a) examine the complaint for the purpose of recommending whether the complaint should be investigated under section 87 or 90, and

(b) report his or her recommendation to the Commission as soon as practicable.

(2) On receiving the designated officer’s recommendation, the Ombudsman Commission shall either—

(a) conduct an investigation under section 87, or

(b) direct a designated officer of the Commission to investigate the complaint under section 90.

(3) If a complaint concerns the death of, or serious harm to, a person as a result of Garda operations, the Ombudsman Commission shall immediately direct a designated officer of the Commission to investigate the complaint under section 90.”.

—Joe Costello.

242. In page 56, lines 7 and 8, to delete all words from and including “and” in line 7 down to and including “section 83” in line 8 and substitute the following:

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

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

243. In page 57, between lines 33 and 34, to insert the following:

“(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—

(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).”.

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

244. In page 59, between lines 11 and 12, to insert the following:

“(c) shall be granted legal representation and related costs,”.

—Jim O’Keeffe.

245. In page 60, line 40, after “Commission” to insert the following:

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

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

[*These are the appropriate references if amendment no. 243 is accepted.]

246. In page 61, between lines 4 and 5, to insert the following:

“(b) the designation of a place as a crime scene and the taking of such steps as the designated officer reasonably considers necessary to preserve any evidence of, or relating to, the commission of any offence;”.

—Joe Costello.
247. In page 61, line 6, after “investigation” to insert the following:

“and any interview conducted with a member arrested under this Act shall be subject to procedures which shall be prescribed by the Minister for the video and audio recording of interviews with arrested persons generally”.

—Joe Costello.

248. In page 61, lines 43 to 47, to delete all words from and including “instrument” in line 43 down to and including “1993,” in line 47 and in page 62, to delete lines 1 to 3 and substitute “instrument;”.

—Joe Costello.

249. In page 62, to delete lines 19 to 43.

—Ciarán Cuffe.

250. In page 62, line 44, to delete “Subject to any directions under subsection (5),”.

—Ciarán Cuffe.

251. In page 64, line 47, after “concerned,” to insert the following:

“it may institute criminal proceedings against the member and if it decides not to do so”.

—Joe Costello.

252. In page 65, line 47, after “are” to insert “immediately”.

—Joe Costello.

253. In page 67, line 22, after “to” to insert the following:

“, or the Ombudsman Commission upon its own initiative may”.

—Ciarán Cuffe.

254. In page 68, between lines 32 and 33, to insert the following:

“(2) Protocols adopted pursuant to this section shall be laid before both Houses of the Oireachtas.”.

—Joe Costello.

255. In page 68, line 34, to delete “appoint a judge to inquire” and substitute the following:

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

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

256. In page 68, to delete lines 37 to 39 and substitute the following:

“(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.”.

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

257. In page 70, line 39, after “appointment” to insert “, being such a period not exceeding 5 years”.

—Jim O’Keeffe.

258. In page 70, line 40, after “reappointment” to insert “once only”.

—Jim O’Keeffe.

259. In page 71, line 28, after “out” to insert “of its own volition or”.

—Jim O’Keeffe.
260. In page 71, line 29, to delete “or with the consent”. —Jim O'Keeffe.

261. In page 71, line 29, after “Minister” to insert “or the joint committee”. —Joe Costello.

262. In page 71, between lines 31 and 32, to insert the following: “(b) also, on its own initiative, to investigate any matter regarding the activities of An Garda Síochána, in particular, policing practices.”. —Jim O'Keeffe.

263. In page 71, line 32, after “Minister” to insert “or the joint committee”. —Joe Costello.

264. In page 71, line 34, after “Minister” to insert “or the joint committee”. —Joe Costello.

265. In page 71, line 39, after “Minister” to insert “or the joint committee”. —Joe Costello.

266. In page 71, between lines 40 and 41, to insert the following: “(3) In this section ‘joint committee’ means the Oireachtas Joint Committee on Justice, Equality, Defence and Women’s Rights.”. —Joe Costello.


268. In page 71, line 45, to delete “subsection (2)(b)” and substitute “this section”. —Jim O'Keeffe.

269. In page 74, line 4, after “members” to insert the following: “, including members who have served with other police services and members with different ethnic or national origins or different religious beliefs or backgrounds”. —An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

270. In page 74, between lines 4 and 5, to insert the following: “(e) the appointment to the Garda Síochána of members on secondment from any other police service”: . —An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

271. In page 74, between lines 37 and 38, to insert the following: “(3) 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.”. —An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

272. In page 74, lines 39 to 41, to delete all words from and including “comprising” in line 39 down to and including “Síochána” in line 41 and substitute the following: “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.”.

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

273. In page 75, line 6, to delete “volunteer” and substitute “reserve”.

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

274. In page 75, line 15, to delete “or”.

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

275. In page 75, between lines 15 and 16, to insert the following:

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

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

276. In page 75, line 16, to delete “volunteer” and substitute “reserve”.

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

277. In page 76, line 4, to delete “and”.

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

278. In page 76, between lines 4 and 5, to insert the following:

“(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”.

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

279. In page 80, line 20, before “designate” to insert “following a prescribed period of training,.”.

—Jim O’Keeffe.

280. In page 80, line 25, after “training” to insert “(including human rights training)”.

—Ciaran Cuffe.

281. In page 82, after line 31, to insert the following:

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

18A.—This Act applies to the Garda Síochána as though it were a Department.”.

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

282. In page 90, line 6, to delete “a member” and substitute “the chairperson”.

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

283. In page 90, line 21, to delete “a member” and substitute “the chairperson”.

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

284. In page 91, line 23, after “deceiving” to insert “any person”.

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