235a. In page 51, to delete lines 17 and 18 and substitute the following:

“‘misconduct’ means conduct that constitutes an offence or a breach of discipline, including a breach of the code of ethics or a failure to carry out Garda functions as set out in section 7;

‘serious misconduct’ means human rights abuses including but not limited to excessive force, ill-treatment, torture, sexual assault, discrimination, serious harassment or abusive behaviour on grounds of gender, race, ethnicity, nationality, religion, sexual orientation or political opinion, or political interference;”.

—Aengus Ó Snodaigh.

238a. In page 51, line 38, to delete “consent.” and substitute the following:

“consent, or

(c) by the Director of Public Prosecutions, on behalf of the public.”.

—Aengus Ó Snodaigh.

238b. In page 52, line 6, after “it” to insert “to the Ombudsman directly, or”.

—Aengus Ó Snodaigh.

238c. In page 52, line 7, to delete “6” and substitute “12”.

—Aengus Ó Snodaigh.

238d. In page 52, between lines 12 and 13, to insert the following:

“(3) Retrospective complaints, including those dealt with previously by internal Garda investigation or by the Garda Complaints Board shall be considered where the Ombudsman is of the opinion that it is in the public interest due to the nature of the complaint, or its handling by the Garda Síochána or by the Garda Complaints Board.”.

—Aengus Ó Snodaigh.

238e. In page 53, lines 22 and 23, to delete “misbehaviour” and substitute “misconduct”.

—Aengus Ó Snodaigh.

238f. In page 53, line 24, after “allowed” to insert “or otherwise complies with conditions”.

—Aengus Ó Snodaigh.
240b. In page 55, line 39, after “Síochána,” to insert the following:

“an offence or other serious misconduct, or if for any other reason it is warranted in his or her opinion.”.

—Aengus Ó Snodaigh.

242a. In page 56, line 9, after “appropriate” to insert the following:

“, and only with the consent of the complainant in writing”.

—Aengus Ó Snodaigh.

242b. In page 56, line 37, after “Síochána” to insert the following:

“, from a panel of Ombudsman-approved investigating officers”.

—Aengus Ó Snodaigh.

242c. In page 56, after line 40, to insert the following:

“(c) supervise the investigation pursuant to subsection (5).”.

—Aengus Ó Snodaigh.

242d. In page 57, to delete lines 1 to 10.

—Aengus Ó Snodaigh.

242e. In page 57, to delete lines 11 and 12 and substitute the following:

“(5) In the course of supervising the investigation the Ombudsman shall:".

—Aengus Ó Snodaigh.

242f. In page 57, line 23, to delete “If the investigation is supervised,”.

—Aengus Ó Snodaigh.

243a. In page 57, line 34, to delete “If the investigation is not supervised,”.

—Aengus Ó Snodaigh.

243b. In page 57, line 43, to delete “unsupervised”.

—Aengus Ó Snodaigh.

243c. In page 58, to delete lines 1 to 4 and substitute the following:

“(a) review the investigation of the complaint and report back to the complainant concerning any further action that he or she proposes to take in the matter, or”.

—Aengus Ó Snodaigh.

248a. In page 62, line 10, to delete “Subject to subsection (3),”.

—Aengus Ó Snodaigh.

249a. In page 62, to delete lines 19 to 39 and substitute the following:

“(3) An officer conducting a search of a Garda station under this section is subject to obligations under the provisions of the Official Secrets Act 1963.”.

—Aengus Ó Snodaigh.

249b. In page 62, lines 38 to 43, to delete all words from and including “may” in line 38, down to and including “appropriate” in line 43 and substitute the following:

“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”.

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

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

—Ciaran Cuffe, Aengus Ó Snodaigh.

[This amendment is in substitution for amendment no. 250 on part 2 of the principal list of amendments circulated on 22 June, 2005.]

251a. In page 65, line 45, after “person” to insert “, or other serious misconduct”.

—Aengus Ó Snodaigh.

252a. In page 66, line 4, after “person” to insert “, or other serious misconduct”.

—Aengus Ó Snodaigh.

252b. In page 66, lines 33 and 34, to insert the following after “Garda Commissioner,”:

“(iv) Bord an Gharda Síochána,
(v) the relevant Páirtnéireachtaí Póilíneachta Phobail.”.

—Aengus Ó Snodaigh.

252c. In page 66, lines 39 and 40, after “Commissioner,” to insert the following:

“(iii) Bord an Gharda Síochána,
(iv) the relevant Páirtnéireachtaí Póilíneachta Phobail.”.

—Aengus Ó Snodaigh.

252d. In page 67, to delete lines 19 to 22 and substitute the following:

“(1) Where he or she is concerned that a policy or practice is contributing to criminal behaviour or disciplinary misconduct, for the purpose of preventing future complaints arising in relation to a practice, policy or procedure of the Garda Síochána or of reducing the incidence of such complaints, the Ombudsman may—”.

—Aengus Ó Snodaigh.

a253a. In page 67, to delete lines 24 and 25 and substitute the following:

“(b) report to the Minister, the Garda Commissioner, and Bord an Gharda Síochána, within such period as may be specified, on the results of the examination, and”.

—Aengus Ó Snodaigh.

a253b. In page 67, between lines 27 and 28, to insert the following:

“(d) publish any or all of the report.”.

—Aengus Ó Snodaigh.

a253c. In page 67, to delete lines 28 to 30 and substitute the following:

“(2) The Minister may make a request that a practice, policy or procedure be examined by the Ombudsman.”.

—Aengus Ó Snodaigh.
a253d. In page 67, to delete lines 40 and 41 and substitute the following:

“(b) provide the Minister, the Garda Commissioner and Bord an Gharda Síochána with a copy of the report.”.

—Aengus Ó Snodaigh.

a253e. In page 68, line 1, to delete “may” and substitute “shall”.

—Aengus Ó Snodaigh.

a253f. In page 68, to delete lines 7 to 13 and substitute the following:

“(2) Where information and documents are related to matters of national security, these shall be sealed and assessed by a judge.”.

—Aengus Ó Snodaigh.

256a. In page 69, line 27, after “commenced” to insert “or been completed”.

—Aengus Ó Snodaigh.

256b. In page 69, to delete lines 30 to 39.

—Aengus Ó Snodaigh.

256c. In page 70, between lines 8 and 9, to insert the following:

“105.—The Ombudsman shall, in consultation with the Police Ombudsman for Northern Ireland, by written protocols make arrangements for collaboration between the two offices, to include provisions for information-sharing and collaborative investigation.”.

—Aengus Ó Snodaigh.

256d. In page 70, to delete lines 11 to 46, to delete pages 71 and 72 and in page 73, to delete lines 1 to 17 and substitute the following:

“105.—(1) The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Part.

(2) An order under this section shall be laid before each House of the Oireachtas.

106.—On the establishment day, a body to be known as Bord an Gharda Síochána or, in the English language, the Garda Síochána Board (hereafter ‘the Board”), stands established to perform the functions assigned to it by this Act.

107.—Bord an Gharda Síochána shall be independent of the Minister and the Garda Commissioner.

108.—(1) Bord an Gharda Síochána shall consist of a number of members to be determined by the Minister by regulation, which shall be not fewer than 12.

(2) Members of Bord an Gharda Síochána shall be nominated by the Minister following a transparent public recruitment process based on published criteria, where the Minister is satisfied that the proposed members have the appropriate expertise, qualifications, training or experience, and in accordance with the subsections below.

(3) Not fewer than one third of members of Bord an Gharda Síochána shall be public representatives of a cross-party nature.
(4) Not fewer than one third of members of Bord an Gharda Síochána shall be representatives of statutory agencies.

(5) Not fewer than one third of members of Bord an Gharda Síochána shall be representatives from the community and voluntary sector.

(6) Not fewer than 50 per cent of the members of Bord an Gharda Síochána shall be women. It is also preferable that not fewer than 50 per cent of the members from each category in subsections 2-4 should be women.

(7) Nominations shall be made on the basis of positive action, with a view to ensuring that the membership of Bord an Gharda Síochána shall be diverse and as representative as possible of all sections of Irish society including and in particular working class people, ethnic minorities including Travellers, people with disabilities, and lesbian, gay and bisexual people.

(8) The Chair of the Board shall be nominated and elected by the members of Bord an Gharda Síochána. Elected representatives shall not be eligible for the chair.

109.—The purpose of Bord an Gharda Síochána is to provide civilian management oversight regarding recruitment, qualifications, training standards, equipment, accommodation, distribution, organisation, methods, procedures and practices of an Garda Síochána, and thereby not only to support the service to achieve international best practice standards for efficiency and effectiveness, but also to foster public confidence in the service.

110.—The members of Bord an Gharda Síochána shall familiarise themselves with international best practice standards including human rights standards in relation to policing.

111.—The Board shall have the power to appoint members of an Garda Síochána to senior ranks on the basis of a transparent process, to review their performance, and to hold them accountable for their actions or inactions.

112.—Bord an Gharda Síochána shall meet monthly, and in public.

113.—The Garda Commissioner shall be present for at least a portion of each meeting to present a report or reports and answer questions from the members of the Board.

114.—The Chair of the Board shall present a formal report to the Garda Commissioner on behalf of Bord an Gharda Síochána, as necessary. Copies of such reports shall also be provided to the Minister.

115.—The members of Bord an Gharda Síochána shall have the opportunity and responsibility to question the Garda Commissioner, to communicate concerns and priorities to him or her, and to make recommendations as necessary.

116.—The Garda Commissioner must make available all information requested by Bord an Gharda Síochána 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.

117.—Where in the view of Bord an Gharda Síochána the test under section 116 has not been met, the Board may also decide to hold certain sessions otherwise than in public for the purpose of receiving information from the Garda Commissioner, where they agree that to do so is necessary to safeguard the public from 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.

118.—The Garda Commissioner shall provide explanations for his or her own decisions as well as for the decisions and actions or inactions of those under his direction and control, if requested by Bord an Gharda Síochána.

119.—Bord an Gharda Síochána shall agree proposed short-term, medium-term and long term strategic priorities and objectives for an Garda Síochána, which it shall provide to the Minister as part of the process of setting Ministerial priorities and performance targets under section 19, and to the Garda Commissioner as part of the process of agreeing strategy statements under section 20 or annual policing plans under section 21.

120.—The Minister shall consult with and have due regard to the views of Bord an Gharda Síochána when setting priorities and performance targets for an Garda Síochána under section 19.

121.—The Garda Commissioner shall consult with and have due regard to the views of Bord an Gharda Síochána when formulating or implementing strategy statements under section 20 or annual policing plans under section 21.

122.—Bord an Gharda Síochána shall monitor the performance and budget management of an Garda Síochána against the priorities and performance targets under section 19, the strategy statements under section 20, the annual policing plans under section 21 and, if different from these, the Board’s own recommendations under section 119*, and any other indicators deemed appropriate by Bord an Gharda Síochána.

123.—Based on its assessments under section 122*, Bord an Gharda Síochána shall make recommendations on resource allocation or policy change or change of practice to the Garda Commissioner and to the Minister as appropriate, each of whom must take due regard of such recommendations.

124.—Bord an Gharda Síochána may refer to Ombudsman an Gharda Síochána such matters as it deems appropriate.

125.—Bord an Gharda Síochána may refer to the Comptroller and Auditor General such matters as it deems appropriate.

126.—Bord an Gharda Síochána may establish an independent inquiry into any matter as it deems appropriate, having due regard to the public interest.

127.—Bord an Gharda Síochána shall publish an Annual Report, shall furnish copies of the Annual Report to the Garda Commissioner and the Minister, and also lay a copy before the Houses of the Oireachtas.”.

—Aengus Ó Snodaigh.

268a. In page 73, to delete line 33 and substitute the following:

“(c) Bord an Gharda Síochána.”.

—Aengus Ó Snodaigh.

268b. In page 73, line 38, after “and” to insert “Bord an Gharda Síochána, and”.

—Aengus Ó Snodaigh.

272a. In page 74, line 41, after “Síochána” to insert the following:

“and one of whom shall be a member of Bord an Gharda Síochána”.

—Aengus Ó Snodaigh.
272b. In page 75, line 3, after “Síochána” to insert the following:

“... and the objective of upholding and promoting human rights and community confidence in and cooperation with an Garda Síochána”.

— Aengus Ó Snodaigh.

272c. In page 75, line 6, to delete “and to volunteer members”.

— Aengus Ó Snodaigh.

274a. In page 75, lines 15 and 16, to delete all words from and including “or” in line 15 down to and including “members,” in line 16.

— Aengus Ó Snodaigh.

276a. In page 75, line 19, to delete “(v)” and substitute “(iv)”.

— Aengus Ó Snodaigh.

276b. In page 75, line 31, after “of” to insert “Bord an Gharda Síochána and”.

— Aengus Ó Snodaigh.

276c. In page 75, line 37, after “Schedule 5” to insert “including”.

— Aengus Ó Snodaigh.

a278a. In page 78, line 8, after “of” to insert “Bord an Gharda Síochána and”.

— Aengus Ó Snodaigh.

a278b. In page 78, lines 13 and 14, to delete all words from and including “and” in line 13 down to and including “appointment,” in line 14 and substitute the following:

“... and any experience, human rights training or other qualification that may be necessary or desirable for that appointment, or lack thereof that disqualifies a member for appointment.”

— Aengus Ó Snodaigh.

a278c. In page 78, to delete lines 37 to 43 and in page 79, to delete lines 1 to 16.

— Aengus Ó Snodaigh.

279a. In page 80, line 21, after “if” to insert “the Private Security Authority”.

— Aengus Ó Snodaigh.

280a. In page 80, to delete lines 27 to 32 and substitute the following:

“(c) where the person is an employee of a person with whom the authorised body or its head has entered into a contract for the provision of security services (‘the contractor’), the Private Security Authority is satisfied that the contractor is a fit and proper person to supervise the person’s exercise of those powers.”

— Aengus Ó Snodaigh.

280b. In page 80, line 35, after “subsection (4)” to insert “, subsection (7),”.

— Aengus Ó Snodaigh.

280c. In page 80, between lines 35 and 36, to insert the following:

“(a) the security officer has received appropriate training as the Minister may specify by regulation,”.

— Aengus Ó Snodaigh.
280d. In page 80, between lines 40 and 41, to insert the following:

“(c) the powers are exercised in accordance with the Equal Status Acts 2000 to 2004 and the European Convention on Human Rights Act 2003.”.

—Aengus Ó Snodaigh.

280e. In page 82, between lines 10 and 11, to insert the following:


(11) The Ombudsman shall have the power to investigate abuses of powers under this section by security officers.

(12) The Minister shall make regulations whereby a person may make a complaint regarding a violation of subsection (10), including provisions for redress.”.

—Aengus Ó Snodaigh.

280f. In page 82, line 29, after “premises” to insert the following:

“and who is certified by the Private Security Authority”.

—Aengus Ó Snodaigh.

281a. In page 84, to delete lines 1 to 32.

—Aengus Ó Snodaigh.

283a. In page 91, between lines 2 and 3, to insert the following:

“1. Breach of the Code of Ethics.”.

—Aengus Ó Snodaigh.