



DÁIL ÉIREANN

**BILLE AN GHARDA SÍOCHÁNA (LEASÚ) (UIMH. 3), 2014
GARDA SÍOCHÁNA (AMENDMENT) (NO. 3) BILL 2014**

**LEASUITHE TUARASCÁLA
REPORT AMENDMENTS**

DÁIL ÉIREANN

BILLE AN GHARDA SÍOCHÁNA (LEASÚ) (UIMH. 3), 2014 —AN TUARASCÁIL

GARDA SÍOCHÁNA (AMENDMENT) (NO. 3) BILL 2014 —REPORT

Leasuithe Amendments

1. In page 3, between lines 14 and 15, to insert the following:

“Amendment of section 65(1) of Principal Act

2. Section 65(1) of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) The Ombudsman Commission is to consist of 1 member, who is to 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.”.”.

—Pádraig Mac Lochlainn.

2. In page 3, between lines 14 and 15, to insert the following:

“2. Section 67(2) of the Principal Act is amended by the insertion of the following paragraph after paragraph (h):

“(i) to hold the Garda Commissioner responsible, in his capacity as the Commissioner of An Garda Síochána but not in his capacity as head of national security, for the operations of An Garda Síochána.”.”.

—Niall Collins.

3. In page 3, between lines 17 and 18, to insert the following:

“Amendment of section 73 of Principal Act

3. Section 73 of the Principal Act is amended by the insertion of the following subsection after subsection (3):

“(4) The Ombudsman Commission and the Garda Inspectorate may, for the purposes of an investigation, recruit a pool of independent investigators in place of designated officers.”.”.

—Pádraig Mac Lochlainn.

4. In page 3, between lines 20 and 21, to insert the following:

“Amendment of section 74 of Principal Act

4. Section 74 of the Principal Act is amended by the insertion of the following subsection after subsection (4):

“(5) The Ombudsman Commission and the Garda Inspectorate may, for the purposes of an investigation, recruit a pool of independent investigators in place of designated officers.”.

—Pádraig Mac Lochlainn.

5. In page 3, between lines 20 and 21, to insert the following:

“Amendment of section 82(1) of Principal Act

4. Section 82(1) of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) In this Part, unless the context otherwise requires—

‘admissible complaint’ means a complaint determined by the Ombudsman Commission under section 87 to be admissible;

‘breach of discipline’ means conduct specified in Schedule 5;

‘complainant’ means—

- (a) a person who makes a complaint,
- (b) a person on whose behalf a complaint is made, and
- (c) where a complaint is made on behalf of another by a person authorised to do so under section 83, the authorised person;

‘conduct’ includes any act or omission and a reference to the occurrence of any conduct includes the doing of an act or the making of an omission;

‘disciplinary proceeding’ means a proceeding conducted in accordance with the Disciplinary Regulations;

‘Garda Commissioner’ includes a Deputy Garda Commissioner or an Assistant Garda Commissioner acting in place of the Garda Commissioner under section 32;

‘Independent Adjudicator’ means a member of the judiciary chosen to adjudicate on disputes between the Ombudsman Commission and the Garda Inspectorate;

‘member of the Garda Síochána’ does not include the Garda Commissioner;

‘member of the public’ means a person other than a member of the Garda Síochána or the Garda Commissioner;

‘misbehaviour’ means conduct that constitutes an offence or a breach of discipline;

‘serious harm’ means injury that—

- (a) creates a substantial risk of death,
- (b) causes serious disfigurement, or
- (c) causes substantial loss or impairment of mobility of the body as a whole or of the function of any particular bodily member or organ.”.”.

—Pádraig Mac Lochlainn.

6. In page 3, to delete lines 21 to 23 and substitute the following:

“Amendment of section 84 of Principal Act

4. Section 84 of the Principal Act is amended by substituting the following for subsection (1):

“(1) Subject to subsection (1A)*, a complaint must be made within the period of 1 year beginning on the date of the conduct giving rise to the complaint or within any extension of that period allowed under subsection (2).

(1A) Where the conduct giving rise to the complaint would, if substantiated, constitute an offence by the member of the Garda Síochána, a complaint must be made within the period of 2 years beginning on the date of the said conduct or within any extension of that period allowed under subsection (2).”.”.

—Mick Wallace, Clare Daly.

[*This is a reference to the subsection proposed to be inserted by this amendment.]

7. In page 3, between lines 23 and 24, to insert the following:

“Amendment of section 91 of Principal Act

5. Section 91 of the Principal Act is amended by the insertion of the following subsection after subsection (2):

“(3) The Ombudsman Commission and the Garda Inspectorate may, for the purposes of an investigation, recruit a pool of independent investigators in place of designated officers.”.”.

—Pádraig Mac Lochlainn.

8. In page 3, between lines 23 and 24, to insert the following:

“5. Section 96(1) of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) For the purpose of an investigation under section 95, the Ombudsman Commission—

(a) may require a person who, in its opinion, possesses information or has a document or thing in his or her power or control that is relevant to the investigation, to provide that information, document or thing to the Commission, and

(b) where appropriate, may require that person to attend before the Commission for that purpose,

(c) may require the Garda Commissioner to provide the Commission with access to the Garda Síochána Police Using Leading Systems Effectively (PULSE) computer system,

and the person and/or Garda Commissioner shall, subject to subsection (4), comply with the requirement.”.”.

—Niall Collins.

9. In page 3, between lines 23 and 24, to insert the following:

“Amendment of section 96(4) of Principal Act

5. Section 96(4) of the Principal Act is amended by the substitution of the following subsection for subsection (4):

“(4) A person may not be required under subsection (1)(a) or (3)(a) to provide any information, document or thing that is designated, or is of a class designated, under section 126 as relating to the security of the State, and where a dispute occurs the matter shall be referred to the independent adjudicator.”.”.

—Pádraig Mac Lochlainn.

10. In page 3, between lines 23 and 24, to insert the following:

“Amendment of section 96(5) of Principal Act

5. Section 96(5) of the Principal Act is amended by the substitution of the following subsection for subsection (5):

“(5) If a person required under subsection (1)(a) or (3)(a) to provide any information, document or thing claims that subsection (4)* applies in relation to the matter, the Ombudsman Commission shall refer the matter to the independent adjudicator.”.”.

—Pádraig Mac Lochlainn.

[*This is a reference to the subsection proposed to be inserted by amendment 9.]

11. In page 3, between lines 23 and 24, to insert the following:

“Amendment of section 96(6) of Principal Act

5. Section 96(6) of the Principal Act is amended by the substitution of the following subsection for subsection (6):

“(6) If the Independent Adjudicator determines that the disclosure of all or part of the information, document or thing specified in the requirement would not be prejudicial to the security of the State or that its disclosure is necessary for the proper investigation of a matter concerning the death of, or serious harm to, a person as a result of Garda operations or while in the care or custody of the Garda Síochána, the Independent Adjudicator may issue a direction—

- (a) specifying that all or part, as the case may be, of the document, information or thing be disclosed, and
- (b) imposing any conditions or restrictions relating to the security of the State that the Independent Adjudicator considers appropriate.”.”.

—Pádraig Mac Lochlainn.

12. In page 3, between lines 23 and 24, to insert the following:

“5. Section 98(1) of the Principal Act is amended by the insertion of the following paragraph after paragraph (g):

“(h) the search of the Garda Síochána Police Using Leading Systems Effectively (PULSE) computer system for any purpose relevant to the investigation being conducted by the designated Officer of the Ombudsman Commission.”.”.

—Niall Collins.

13. In page 4, line 18, to delete “and subject to the consent of the Minister.”.

—Niall Collins, Mick Wallace, Pádraig Mac Lochlainn, Clare Daly, Paul Murphy, Joe Higgins, Ruth Coppinger.

14. In page 4, line 18, after “Minister” to insert “given with the approval of the Government”.

—An tAire Dlí agus Cirt agus Comhionannais.

15. In page 4, between lines 22 and 23, to insert the following:

“(c) repeated breach of duty.”.

—Mick Wallace, Clare Daly.

16. In page 4, to delete lines 23 to 27 and substitute the following:

“(2) The Minister may, with the approval of the Government and if he or

she considers it desirable in the public interest to do so, request the Ombudsman Commission to investigate any matter that gives rise to a concern that the Garda Commissioner may have done anything referred to in subsection (1), and the Commission shall investigate that matter.”.

—An tAire Dlí agus Cirt agus Comhionannais.

17. In page 4, to delete lines 28 to 30 and substitute the following:

“(3) The Minister may, with the approval of the Government, for stated reasons refuse to consent to an investigation by the Ombudsman Commission of any matter under subsection (2).”.

—An tAire Dlí agus Cirt agus Comhionannais.

18. In page 4, to delete lines 28 to 30.

—Mick Wallace, Pádraig Mac Lochlainn, Clare Daly, Paul Murphy, Joe Higgins,
Ruth Coppinger.

19. In page 5, line 9, to delete “Minister” and substitute “Garda Authority”.

—Mick Wallace, Clare Daly.

20. In page 5, line 10, after “investigation.” to insert the following:

“If the Garda Authority deems it necessary and in the public interest, the Authority may subsequently report the matter to the Minister.”.

—Mick Wallace, Clare Daly.

21. In page 5, between lines 28 and 29, to insert the following:

“**9.** The Ombudsman Commission may, if the investigation so requires, access the PULSE system.”.

—Pádraig Mac Lochlainn.

22. In page 5, lines 34 and 35, to delete all words from and including “section” in line 34 down to and including line 35 and substitute the following:

“sections 95, 98, 102 or 106, is so provided within four weeks of the date of receipt of a formal request.

103B. An Assistant Garda Commissioner shall ensure that information is to be provided by the Garda Síochána to the Ombudsman Commission for the purposes of an investigation by the Commission of a complaint, or an investigation by the Commission of any matter under section 102B is so provided within four weeks of the date of receipt of a formal request.”.

—Mick Wallace, Clare Daly.

23. In page 5, line 35, to delete “as soon as practicable” and substitute “within thirty days”.

—Pádraig Mac Lochlainn.

24. In page 6, line 6, to delete “Minister” and substitute “Garda Authority”.
—Mick Wallace, Clare Daly.
25. In page 6, line 12, to delete “Minister” and substitute “Garda Authority”.
—Mick Wallace, Clare Daly.
26. In page 6, line 18, to delete “Minister” and substitute “Garda Authority”.
—Mick Wallace, Clare Daly.
27. In page 6, line 19, to delete “Minister” and substitute “Garda Authority”.
—Mick Wallace, Clare Daly.
28. In page 6, line 26, to delete “under subsection (3)” and substitute “from the Garda Authority”.
—Mick Wallace, Clare Daly.
29. In page 6, to delete lines 28 to 33 and substitute the following:
“(5) (a) The Minister may exclude from the copies of reports which are to be laid before the Houses of the Oireachtas under subsection (4) any matter which, in his or her opinion would be prejudicial to the interests of national security.
(b) If the Minister takes any action under paragraph (a), reasons must be provided to the Garda Authority for any such exclusion, and the Garda Authority shall have a right of appeal in this regard to the designated Judge under section 100 of the Principal Act.”.”
—Mick Wallace, Clare Daly.
30. In page 6, between lines 33 and 34, to insert the following:
“11. Section 117 of the Principal Act is amended by substituting “the Garda Authority” for “the Minister” wheresoever it appears.”.
—Mick Wallace, Clare Daly.
31. In page 6, line 38, to delete “Minister” and substitute “Garda Authority”.
—Mick Wallace, Clare Daly.
32. In page 11, between lines 3 and 4, to insert the following:
“Establishment of Criminal Justice Inspectorate
14. The Minister shall establish a Criminal Justice Inspectorate which is primarily responsible for the effectiveness and efficiency of the workings of organisations within the Criminal Justice sector including; An Garda Síochána; Garda Síochána Ombudsman Commission; The Director of Public Prosecutions; The Probation Service; The Courts Service; Irish Youth Justice Service.”.
—Pádraig Mac Lochlainn.