



**SEANAD ÉIREANN**

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**BILLE NA bPRÍOSÚN, 2015  
PRISONS BILL 2015**

**LEASUITHE A RINNE AN DÁIL  
AMENDMENTS MADE BY THE DÁIL**

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# SEANAD ÉIREANN

BILLE NA bPRÍOSÚN, 2015  
[BILLE SEANAID ARNA LEASÚ AG AN DÁIL]

PRISONS BILL 2015  
[SEANAD BILL AMENDED BY THE DÁIL]

*Leasuithe a rinne an Dáil*  
*Amendments made by the Dáil*

*[The page and line references in this list of amendments  
are to the text of the Bill as initiated]*

## NEW SECTION

1. In page 12, after line 23, the following inserted:

“PART 5

MISCELLANEOUS

### **Taking of certain persons from prison for the purposes of deportation or removal from the State**

24. (1) Where a person who is serving a sentence of imprisonment is subject to—
  - (a) a deportation order under section 3 of the Immigration Act 1999 or an order made under any other enactment that deems such order to be an order made under the said section 3, or
  - (b) a removal order under Regulation 20(1)(a) of the European Communities (Free Movement of Persons) (No. 2) Regulations 2006 (S.I. No. 656 of 2006),the Minister may direct that the person, specified in the direction, shall be taken from the prison, in accordance with this section and subject to the condition specified in *subsection (3)(a)*, if, in the opinion of the Minister, it is necessary or expedient to facilitate the person’s deportation or removal, as the case may be, from the State before the completion by the person of the term of imprisonment concerned.
- (2) (a) The Minister shall not give a direction under *subsection (1)* in respect of a person where more than one year of the term of imprisonment concerned remains to be served in a prison.
  - (b) For the purpose of *paragraph (a)*, in determining the term of imprisonment that remains to be served in a prison, account shall be taken of the period of any remission of sentence earned by the person in accordance with Rule 59 of the Prison Rules 2007 (S.I. No. 252 of 2007).
- (3) (a) The condition referred to in *subsection (1)* is that the person shall remain out of

[NEW SECTION]

the State as required by the deportation order or removal order, as the case may be, to which the person is subject.

- (b) A person who is taken from a prison pursuant to a direction under *subsection (1)* shall comply with the condition specified in *paragraph (a)*.
- (4) Where a direction under *subsection (1)* has been given in relation to a person specified in the direction—
  - (a) the direction shall be given to the governor of the prison concerned,
  - (b) a notice in writing in the form prescribed under *subsection (5)*, or in a form of like effect, of the direction and the condition specified in *subsection (3)(a)* shall be completed and signed by the governor of that prison,
  - (c) the person specified in the direction shall sign or place his or her mark on the notice in the presence of a witness (other than the governor of that prison) who shall also sign the notice,
  - (d) the person specified in the direction shall be given a copy of the notice at the time of his or her being taken from the prison in accordance with this section, and
  - (e) the governor of the prison concerned to whom the direction is given shall comply with that direction, and shall make and keep a record in writing of that direction.
- (5) The Minister may by regulations prescribe the form of the notice referred to in *subsection (4)*.
- (6) If a person specified in a direction under *subsection (1)*, having been requested to sign or place his or her mark on the notice referred to in *subsection (4)*, refuses to sign or place his or her mark on the notice—
  - (a) the refusal shall be recorded on the notice, and
  - (b) the refusal shall not affect the lawfulness of the person's being taken from the prison in accordance with this section.
- (7) A person who is to be taken from a prison pursuant to a direction under *subsection (1)* shall be placed for the purposes of this section by the governor of the prison concerned in the custody of an immigration officer or a member of the Garda Síochána and detained by him or her in accordance with *subsection (8)*.
- (8) (a) A person who is placed in the custody of an immigration officer or a member of the Garda Síochána and detained under *subsection (7)* may be detained for the purpose of his or her being placed in accordance with *subsection (9)* and for a period or periods each not exceeding 12 hours—
  - (i) in a vehicle, for the purposes of bringing the person to the port from which the ship, railway train, road vehicle or aircraft concerned is due to depart, or
  - (ii) within the port referred to in *subparagraph (i)*.
- (b) On the expiry of each period of 12 hours referred to in *paragraph (a)* an immigration officer or a member of the Garda Síochána shall return the person to the prison in which he or she is required in accordance with law to be detained

[NEW SECTION]

and place the person immediately back in the custody of the governor of the prison concerned.

- (9) A person who is placed in the custody of an immigration officer or a member of the Garda Síochána and detained under *subsection (7)* may be placed on a ship, railway train, road vehicle or aircraft about to leave the State by an immigration officer or a member of the Garda Síochána, and shall be deemed to be in lawful custody whilst so detained and until the ship, railway train, road vehicle or aircraft leaves the State.
- (10) The master of any ship and the person in charge of any railway train, road vehicle or aircraft bound for any place outside the State shall, if so required by an immigration officer or a member of the Garda Síochána, receive a person who is placed in accordance with *subsection (9)* on board such ship, railway train, road vehicle or aircraft and afford him or her proper accommodation and maintenance during the journey.
- (11) (a) Where a person, having been taken from a prison pursuant to a direction under *subsection (1)*—
- (i) escapes the lawful custody of an immigration officer or member of the Garda Síochána, or
  - (ii) contravenes the condition specified in *subsection (3)(a)* (save where *subsection (13)* applies),
- such person shall be deemed to be unlawfully at large.
- (b) A person who is unlawfully at large under *subparagraph (i)* or *(ii)* of *paragraph (a)* shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months.
- (c) An immigration officer or a member of the Garda Síochána may arrest without warrant a person whom he or she suspects to be unlawfully at large under *subparagraph (i)* or *(ii)* of *paragraph (a)* and the person may be returned to the prison in which he or she is required in accordance with law to be detained and placed immediately back in the custody of the governor of the prison concerned.
- (12) Where a person, having been taken from a prison pursuant to a direction under *subsection (1)*—
- (a) by reason of his or her conduct, is refused permission to embark, or is required to disembark, or is disembarked from, the ship, railway train, road vehicle or aircraft on which he or she was to be deported or removed from the State,
  - (b) does not leave the State by reason of ill-health, or
  - (c) does not leave the State because the ship, railway train, road vehicle or aircraft on which he or she was to be deported or removed from the State failed to leave the State,

an immigration officer or a member of the Garda Síochána may return the person to the prison in which he or she is required in accordance with law to be detained and place the person immediately back in the custody of the governor of the prison

[NEW SECTION]

concerned.

- (13) (a) Where a person, having been taken from a prison pursuant to a direction under *subsection (1)*, returns to the State because the ship, railway train, road vehicle or aircraft on which he or she was to be deported or removed from the State returns to the State, having failed to complete its journey, such person shall be deemed to be unlawfully at large.
- (b) An immigration officer or a member of the Garda Síochána may arrest without warrant a person whom he or she suspects to be unlawfully at large under *paragraph (a)* and the person may be returned to the prison in which he or she is required in accordance with law to be detained and placed immediately back in the custody of the governor of the prison concerned.
- (14) The currency of the sentence of imprisonment of a person who is unlawfully at large under *subparagraph (i)* or *(ii)* of *subsection (II)(a)* for any period shall be suspended in respect of the whole of that period.
- (15) In this section—
- “governor” includes, in relation to a prison, a person for the time being performing the functions of governor;
- “immigration officer” has the meaning it has in section 3 of the Immigration Act 2004.
- (16) In this section—
- (a) references to a person who is serving a sentence of imprisonment shall be construed as including references to a person being detained in a place provided under section 2 of the Prisons Act 1970 and “sentence of imprisonment” shall be construed accordingly, and
- (b) references to a prison shall be construed as including references to a place provided under the said section 2.”.

2. In page 12, after line 23, the following inserted:

**“Amendment of section 41 of Petty Sessions (Ireland) Act 1851**

25. Section 41 of the Petty Sessions (Ireland) Act 1851 is amended by adding the following:

“For the avoidance of doubt it is hereby declared that the reference in this section to the executing of any warrants does not include a reference to the addressing of such warrants.”.

[TITLE]

TITLE

3. In page 5, line 7, after “enactments;” the following inserted:

“to make provision, in respect of certain persons who are serving sentences of imprisonment, for the purposes of deportation or removal from the State;”.

4. In page 5, line 7, after “enactments;” “to amend the Petty Sessions (Ireland) Act 1851;” inserted.