



**Bille an Gharda Síochána (An tÚdarás Póilíneachta agus Forálacha
Ilghnéitheacha), 2015**
**Garda Síochána (Policing Authority and Miscellaneous Provisions) Bill
2015**

Meabhrán Mínitheach agus Airgeadais
Explanatory and Financial Memorandum



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PÓILÍNEACHTA AGUS FORÁLACHA
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MISCELLANEOUS PROVISIONS) BILL 2015**

EXPLANATORY AND FINANCIAL MEMORANDUM

Introduction

The main purpose of this Bill, which represents a significant element of the Government's programme of justice reform, is to provide for the establishment of a new Policing Authority (the "Authority") to oversee the exercise of the Garda Síochána's policing functions.

The Authority will perform a wide range of functions, many of which are currently exercised by the Government or the Minister for Justice and Equality (the "Minister"). The key tasks to be undertaken by the Authority are outlined below.

The Bill comprises 9 Parts and 60 sections. It extensively amends the Garda Síochána Act 2005 (the "Principal Act") to make provision for the Authority.

PART 1 — PRELIMINARY AND GENERAL

(Sections 1 — 7)

This Part contains general provisions, including the short title and commencement provisions (*section 1*), definitions (*sections 2 and 3*) and repeals (*section 7*).

Section 4 sets out a definition of "security services", which will identify the Garda Síochána functions that will not come within the remit of the Authority.

Section 5 sets out the policing principles which will underpin the provision of policing services in the State.

Section 6 amends section 5 of the Principal Act to make the necessary provision for the financing of the Authority.

**PART 2 — PERSONNEL AND ORGANISATION OF GARDA
SÍOCHÁNA**

(Sections 8 — 17)

This Part contains 10 sections and amends Chapter 2 of Part 2 of the Principal Act dealing mainly with the appointment and removal of members of the Garda Síochána. It also contains provisions for the establishment by the Authority of a Garda code of ethics.

Section 8 substitutes a new section for section 9 of the Principal Act dealing with the appointment of the Garda Commissioner. Under the new arrangements, the Government will appoint the Garda Commissioner, following a nomination by the Authority on foot of a selection competition run by the Public Appointments Service.

Section 9 contains similar amendments in respect of section 10 of the Principal Act with regard to the appointment of a Deputy Garda Commissioner.

Section 10 amends section 11 of the Principal Act dealing with the removal of the Garda Commissioner, Deputy Garda Commissioners, Assistant Garda Commissioners, chief superintendents and superintendents. While the Government will continue to remove persons from the ranks of Commissioner and Deputy Commissioner, under the new arrangements it will be open to the Authority to recommend to the Government the removal of the Garda Commissioner or a Deputy Garda Commissioner for stated reasons relating to policing services. In addition, the Authority will be in a position to remove Assistant Garda Commissioners, chief superintendents and superintendents for stated reasons relating to policing services, subject to the fair procedures outlined in the new section 13A of the Principal Act which is provided for in *section 13* of the Bill.

Section 11 amends section 12 of the Principal Act which sets out the procedures that must be followed before the removal of persons from office in accordance with section 11 of the Principal Act, as amended by *section 10* of the Bill. This is required to take account of a situation where a removal is recommended by the Authority.

Section 12 amends section 13 of the Principal Act to provide that the Authority will appoint Assistant Garda Commissioners, chief superintendents and superintendents.

Section 14 amends section 14(2)(d) of the Principal Act which provides for the appointment of members to ranks not above inspector and the summary dismissal of such members. The effect of the amendment is to require the consent of the Authority, rather than the Government, for summary dismissal by the Garda Commissioner of any of these members.

Section 15 amends section 15(4)(a) of the Principal Act to provide a role for the Authority in relation to the training, powers and duties of reserve members of the Garda Síochána.

Section 16 substitutes a new section 17 of the Principal Act to require the Authority to establish a code of ethics for the Garda Síochána within 12 months of its establishment. The code, or specific provisions of the code, will apply with any necessary modifications to the civilian staff of the Garda Síochána.

Section 17 amends section 19 of the Principal Act to provide a general role for the Authority in the appointment of civilian staff by the Garda Commissioner. Additionally, it inserts a new subsection into section 19 to provide that the Authority will appoint the senior members of the civilian staff of the Garda Síochána equivalent to or above the rank of chief superintendent.

PART 3 — ROLES OF MINISTER, AUTHORITY AND GARDA COMMISSIONER

(Sections 18 — 27)

This Part contains 10 sections and amends Chapter 3 of Part 2 of the Principal Act. It is concerned with the respective roles of the Minister, the Authority and the Garda Commissioner following the establishment of the Authority.

Section 18 substitutes a new section 20, and inserts a new section 20A, into the Principal Act. Under the new section 20, the Authority will, with the approval of the Minister, set and revise priorities and performance targets for the Garda Síochána in relation to policing services. Section 20A enables the Minister to set and revise priorities and performance targets for the Garda Síochána in relation to security services.

Section 19 amends section 21 of the Principal Act to enable the Authority to approve, with the consent of the Minister, the 3-year strategy statement for the Garda Síochána.

Section 20 amends section 22 of the Principal Act to enable the Authority to approve, with the consent of the Minister, annual policing plans for the Garda Síochána.

Section 21 amends section 23 of the Principal Act to require the three year review reports prepared by the Garda Commissioner to be submitted to the Authority.

Section 22 amends section 24 of the Principal Act to require the provision to the Authority by the Garda Commissioner of the annual reports on the activities of the Garda Professional Standards Unit.

Section 23 amends section 25 of the Principal Act to enable the Authority to recommend to the Minister that a directive concerning a specific matter relating to policing services be issued to the Garda Commissioner, with the approval of the Government. In addition, it provides that the Minister may, following the approval of the Government, issue directives to the Authority concerning any matter relating to policing services that falls within its remit.

Section 24 amends section 26 of the Principal Act to require the Garda Commissioner to assist and co-operate with the Authority in order to facilitate the performance of its functions.

Section 25 amends section 27 of the Principal Act to enable the Authority, as well as the Garda Commissioner, to make arrangements to obtain the views of the general public about matters in relation to policing services. Before making any such arrangements, the Garda Commissioner will require the approval of the Authority.

Section 26 amends section 32 of the Principal Act to allow the Minister to authorise a Deputy Garda Commissioner, or an Assistant Garda Commissioner, to perform the functions of the Garda Commissioner during any absence of the Garda Commissioner or vacancy in the office of Garda Commissioner. The Authority will be notified of such an authorisation. In addition, where a Deputy Garda Commissioner or an Assistant Garda Commissioner is performing the functions of the Garda Commissioner, the removal arrangements applicable to the Garda Commissioner will apply to that person.

Section 27 is a technical amendment to section 33 of the Principal Act.

PART 4 — CO-OPERATION WITH LOCAL AUTHORITIES AND SECURITY IN PUBLIC PLACES

(Sections 28 — 31)

This Part contains 4 sections and amends Chapter 4 of Part 2 of the Principal Act to provide a role for the Authority in relation to joint policing committees (which involve consultation and co-operation on policing and crime issues between the Garda Síochána, local authorities and elected local representatives), local policing fora and community CCTV schemes.

Section 28 is a technical amendment.

Section 29 amends section 35 of the Principal Act to enable the Authority, rather than the Minister, to issue guidelines concerning the establishment and maintenance of joint policing committees and local policing fora. In addition, the amended section will allow the Authority to convene meetings of the chairpersons, and such other members as the Authority considers appropriate, of joint policing committees for the purpose of coordinating their functions.

Section 30 contains technical amendments to section 36 of the Principal Act arising from the amendments contained in *section 29*.

Section 31 amends section 38 of the Principal Act to enable the Authority to perform the functions currently carried out by the Minister in relation to community CCTV schemes.

PART 5 — ACCOUNTABILITY

(Sections 32 — 38)

This Part contains 7 sections and amends Chapters 5 and 6 of Part 2 of the Principal Act dealing with accountability issues.

Section 32 amends section 40 of the Principal Act to provide a statutory basis for the reporting relationship between the Garda Commissioner and the Authority in relation to policing services.

Section 33 amends section 41 of the Principal Act to require the Minister to inform the Authority of any matters relating to policing services that might be contained in a report submitted to the Minister by the Garda Commissioner on foot of a request for information under section 41(2) of that Act.

Section 34 inserts a new section 41A into the Principal Act to require the Garda Commissioner to keep the Authority informed of matters relevant to its functions and any other matters that, in the opinion of the Commissioner, should be brought to its attention. The provision also allows the Authority to request the Garda Commissioner to submit a report to it on any matter relating to policing services and the Commissioner must comply with any such request.

Section 35 amends section 42 of the Principal Act to enable the Authority to request the Minister to initiate an inquiry into any aspect of the administration, operation, practice or procedure of the Garda Síochána, or the conduct of its members, where the matter giving rise to the need for the inquiry relates to policing services. Where the Minister does not initiate an inquiry on foot of a request from the Authority, he or she must inform the Authority of his or

her reasons for not doing so. In addition, the Minister must consult with the Authority in relation to any section 42 inquiry that will encompass policing services. The Authority must also be consulted regarding the terms of reference of any inquiry that relates to policing services.

Section 36 amends section 44 of the Principal Act to enable the Authority to appoint the members of the Garda audit committee. The Authority will also be able to remove the committee members for stated reasons.

Section 37 amends section 45(1)(c) of the Principal Act to require that the audit committee's annual report be forwarded to both the Authority and the Minister.

Section 38 amends section 46 of the Principal Act to require the Garda Commissioner to submit an annual report to the Authority on policing services. The Authority will forward a copy of the report to the Minister who will lay it before each House of the Oireachtas.

PART 6 — INTERNATIONAL SERVICE AND CO-OPERATION WITH OTHER POLICE SERVICES

(Sections 39 — 43)

This Part contains 5 sections and amends Chapter 8 of Part 2 of the Principal Act relating to the appointment and secondment of personnel between the Garda Síochána and the Police Service of Northern Ireland (PSNI).

Section 39 amends section 52(1) of the Principal Act to allow the Authority, with the approval of the Government, to appoint members of the PSNI to ranks in the Garda Síochána not above Assistant Garda Commissioner and not below superintendent.

Section 40 amends section 53 of the Principal Act to allow the Authority, with the approval of the Government, to approve the secondment of members of the PSNI to a rank in the Garda Síochána not above Assistant Garda Commissioner and not below superintendent. The Authority will, with the approval of the Government, be able to terminate such secondments.

Section 41 amends section 55 of the Principal Act to provide a role for the Authority in the procedures to deal with breaches of discipline by members of the Garda Síochána seconded to the PSNI.

Section 42 amends section 56(4) of the Principal Act to require the Garda Commissioner to inform the Authority, in addition to the Minister, of the transmission of any documents to the PSNI relating to a breach of discipline by a PSNI member appointed to a position in the Garda Síochána.

Section 43 is a technical amendment to section 62 of the Principal Act.

PART 7 — ESTABLISHMENT AND FUNCTIONS OF POLICING AUTHORITY

(Section 44)

This Part, comprising *section 44*, makes provision for the establishment of the Policing Authority to oversee the exercise of the Garda Síochána's policing functions. It inserts a new Part 2A comprising 20 sections (62A to 62T) into the Principal Act as follows:

Sections 62A and 62B make provision for the establishment of the Authority.

Section 62C provides for the membership of the Authority. It will comprise 9 members (a chairperson and 8 ordinary members) appointed by the Government following the approval of resolutions recommending their appointments by each House of the Oireachtas. Provision is also being made for the Government to designate the first chairperson and the first ordinary members of the Authority prior to the Authority's establishment.

Section 62D sets out the process for the appointment by the Government of the ordinary members of the Authority. The Public Appointments Service will undertake selection competitions to identify and recommend persons who are suitable for appointment.

Section 62E stipulates the terms and conditions of appointment of Authority members. The term of office for members will be a maximum of 4 years and they may be reappointed subject to the requirement that a person cannot be a member of the Authority for periods the aggregate of which exceeds 8 years. In order to ensure continuity of experience in the membership of the Authority, the section provides that the Government will appoint 4 of the first ordinary members of the Authority for a term of 3 years.

Section 62F sets out the criteria for ineligibility and disqualification for appointment as a member of the Authority.

Section 62G enables the Government to remove a member of the Authority from office on specified grounds. Where this occurs, fair procedures must be complied with and a resolution of both Houses of the Oireachtas will be necessary before a removal can take place.

Section 62H sets out the functions of the Authority. They will be very extensive in terms of overseeing the corporate governance, structures and performance of the Garda Síochána in the policing sphere. In addition, the Authority will have a significant body of specific functions which will include:

- nominating persons for appointment by the Government to the posts of Garda Commissioner and Deputy Garda Commissioner;
- appointing persons to the ranks of superintendent, chief superintendent and Assistant Garda Commissioner (and removing them for reasons related to policing services);
- appointing persons to senior positions within the Garda civilian staff;
- determining, with the agreement of the Minister, Garda priorities in relation to policing services;
- approving, with the agreement of the Minister, the 3 year Garda strategy statement;
- approving, with the agreement of the Minister, the annual Garda policing plan;
- establishing a Garda code of ethics;
- promoting and supporting the continuous improvement of policing in the State;

- exercising the current functions of the Minister in relation to joint policing committees.

Section 62J contains provisions relating to meetings of the Authority. While the Authority will decide how its meetings are to be conducted, it will be open to members of the public and the media to attend certain meetings between the Authority and the Garda Commissioner which will be held at least every 3 months.

Section 62K allows the Authority to establish committees to assist and advise it in relation to the performance of all or any of its functions, and to perform any functions delegated by the Authority to them.

Section 62L provides for the appointment by the Authority of consultants and advisers to assist it in the performance of its functions.

Section 62M is a standard type provision that prohibits the disclosure of information by a member of the Authority or its staff, or a member of one of its committees, where such a disclosure is likely to have a harmful effect.

Section 62N is a standard type provision requiring the Authority to prepare a strategy statement.

Section 62O is a standard type provision requiring the preparation of reports by the Authority, including an annual report.

Section 62P is a standard type provision relating to the appointment and functions of the chief executive of the Authority.

Section 62Q makes provision for the appointment of the staff of the Authority.

Section 62R is a standard type provision relating to financial accounting and audit matters.

Sections 62S and *62T* are standard type provisions relating to the accountability of the chief executive to the Committee of Public Accounts and other Oireachtas Committees in respect of the accounts of the Authority and its general administration.

PART 8 — MATTERS RELATING TO GARDA SÍOCHÁNA OMBUDSMAN COMMISSION AND GARDA SÍOCHÁNA INSPECTORATE

(Sections 45 — 54)

This Part contains 10 sections and amends Parts 3, 4 and 5 of the Principal Act to facilitate the informal resolution of complaints against Garda members and to permit the Authority to request the Garda Síochána Ombudsman Commission (GSOC) and the Garda Síochána Inspectorate to investigate or carry out inspections in relation to matters concerning policing services.

Section 45 amends section 67 of the Principal Act to include among the objectives of GSOC the promotion and encouragement of the use of mediation and other informal means of resolving certain complaints against Garda members.

Section 46 is a technical amendment to section 81(2)(d) of the Principal Act.

Section 47 amends section 90 of the Principal Act to require GSOC to consult with the Garda Commissioner in the context of issuing guidelines relating to mediation and other informal means of complaint resolution.

Section 48 amends section 102 of the Principal Act to allow the Authority to request GSOC to investigate any matter relating to policing services that gives rise to a concern that a member of the Garda Síochána may have committed an offence or behaved in a manner that would justify disciplinary proceedings.

Section 49 amends section 102B of the Principal Act, which is concerned with complaints made against the Garda Commissioner, to allow the Authority, subject to the consent of the Minister, to request GSOC to investigate certain matters relating to the conduct of the Garda Commissioner. Where the Minister does not consent to the Authority making such a request, he or she must give reasons for the refusal.

Section 50 amends section 103 of the Principal Act to include the Authority in the list of parties that GSOC must keep informed of the progress and results of an investigation under section 102B of that Act.

Section 51 amends section 104 of the Principal Act to extend, from 12 to 18 months, the time limit for instituting summary proceedings relating to an offence reported to the Director of Public Prosecutions by GSOC.

Section 52 substitutes a new section 106 into the Principal Act to allow the Authority to request GSOC to examine practices, policies and procedures in the Garda Síochána in respect of policing services.

Section 53 amends section 117 of the Principal Act to allow the Authority to request the Garda Síochána Inspectorate to initiate an inspection or inquiry in relation to aspects of the operation and administration of the Garda Síochána relating to policing services.

Section 54 inserts a new section 117A into the Principal Act to enable the Authority, at the request of the Minister, to monitor and assess measures taken by the Garda Síochána in relation to recommendations contained in a report prepared by the Garda Síochána Inspectorate and submitted under section 117 of the Principal Act.

PART 9 — REGULATIONS AND MISCELLANEOUS PROVISIONS

(Sections 55 — 60)

This Part contains 6 sections and amends Part 6 of the Principal Act to provide that the Minister will consult with the Authority prior to making certain regulations. It also provides for the continuance in force of existing regulations and for a review of the operation of the amendments being made to the Principal Act.

Section 55 amends section 121(2) of the Principal Act to require the Minister to consult with the Authority, in addition to consulting with the Garda Commissioner, GSOC and the Garda Síochána Inspectorate, prior to making regulations under that section.

Section 56 amends section 122 of the Principal Act to, *inter alia*, require the Minister to consult with the Authority, in addition to

consulting with the Garda Commissioner, prior to making regulations under that section.

Section 57 amends section 123 of the Principal Act to, *inter alia*, require the Minister to consult with the Authority, in addition to consulting with the Garda Commissioner, prior to making regulations under that section.

Section 58 amends section 125 of the Principal Act to include the Authority, in addition to the Garda Commissioner, as a party that should be consulted prior to the making of regulations under that section.

Section 59 is a technical provision to enable the continuation in operation of certain regulations and orders.

Section 60 provides for a review of the operation of the amendments being made to the Principal Act by the Bill.

The *Schedule* to the Bill sets out sections of the Principal Act that are being repealed.

Financial Information

The proposed arrangements under the Bill will provide for a new oversight regime for the Garda Síochána. Currently, it is not possible to quantify the full extent of the resources that will be required and the matter is being actively pursued.

Roinn Dlí agus Cirt agus Comhionannais
Bealtaine, 2015.