



---

**An Bille Cosanta (Leasú), 2020**  
**Defence (Amendment) Bill 2020**

---

*Mar a tionscnaíodh*

*As initiated*

---





---

**AN BILLE COSANTA (LEASÚ), 2020  
DEFENCE (AMENDMENT) BILL 2020**

---

*Mar a tionscnaíodh*

*As initiated*

---

CONTENTS

Section

1. Definitions
2. Insertion of new section 17A in Principal Act
3. Non-enlistment of minors
4. Re-enlistment of formerly enlisted persons
5. Amendment of section 178E of Principal Act (appeal to summary court-martial)
6. Miscellaneous amendments of Principal Act
7. Amendment of section 4 of Act of 1979 (application of sections 53, 54 and 55 of Principal Act to women)
8. Short title and commencement

ACTS REFERRED TO

Defence (Amendment) (No. 2) Act 1979 (No. 28)

Defence (Amendment) Act 2006 (No. 20)

Defence Act 1954 (No. 18)

European Parliament Elections Act 1997 (No. 2)



---

**AN BILLE COSANTA (LEASÚ), 2020  
DEFENCE (AMENDMENT) BILL 2020**

---

# Bill

*entitled*

An Act to amend the Defence Act 1954 and the Defence (Amendment) (No. 2) Act 1979; and to provide for related matters. 5

**Be it enacted by the Oireachtas as follows:**

## **Definitions**

1. In this Act—

“Act of 1979” means the Defence (Amendment) (No. 2) Act 1979; 10

“Principal Act” means the Defence Act 1954.

## **Insertion of new section 17A in Principal Act**

2. The Principal Act is amended by the insertion of the following section after section 17:

### **“Operational control**

**17A. (1)** In this section— 15

‘Act of 2006’ means the Defence (Amendment) Act 2006;

‘Force Commander’ means the person commanding an international force;

‘international force’ means an International United Nations Force or any force to which a contingent or a member of the Defence Forces may be assigned to for service outside the State for any purpose specified in section 3 of the Act of 2006; 20

‘International United Nations Force’ has the same meaning as in the Act of 2006;

‘operational control’ means the authority delegated to a Force Commander in respect of a contingent assigned to him or her so that the Force Commander may— 25

(a) accomplish certain missions or tasks which are limited by function, time or location,

(b) deploy the contingent, and 30

- (c) retain or assign tactical control of the contingent,  
but does not include the authority to assign separate employment of any component of the contingent.
- (2) In accordance with this Act, the Minister may delegate to a Force Commander the operational control of a contingent, or member, of the Defence Forces. 5
- (3) A delegation of operational control by the Minister under subsection (2) may be subject to such exceptions and limitations as he or she, having had regard to such requirements as may be necessary for the efficient operation of the mission concerned, may from time to time determine. 10
- (4) A delegation of operational control by the Minister under subsection (2) shall—
  - (a) be in writing,
  - (b) be issued to the Force Commander of the mission concerned, 15
  - (c) in so far as is necessary for the efficient operation of a mission, provide that each member of the Defence Forces assigned to an international force led by a Force Commander shall comply with every lawful order issued to him or her by a member of the international force in his or her military chain of command, subject to any exclusion as may be specified in the delegation, 20
  - (d) in so far as is necessary for the efficient operation of a mission, provide that the military police component of the international force under the authority of the Force Commander may arrest and detain a member of the Defence Forces, provided that such member is handed over as soon as practicable to the contingent commander, or the designated senior officer, of the Defence Forces, 25
  - (e) provide that each member of the Defence Forces in respect of whom the delegation is made shall cooperate with the military police component of the international force, and 30
  - (f) include any other ancillary provisions as he or she considers necessary for the efficient operation of the mission concerned.”.

**Non-enlistment of minors**

**3. Chapter II of Part IV of the Principal Act is amended—**

- (a) in section 53— 35
  - (i) in subsection (1)(a), by the deletion of “(including a minor)”, and
  - (ii) in subsection (1)(b)—
    - (I) by the substitution of “person” for “boy”,
    - (II) by the insertion of “, prior to its amendment by *section 3* of the *Defence (Amendment) Act 2020*,” after “this section”, and 40

- (III) by the substitution of “he or she attains” for “he attains”,
- (b) in section 54, by the deletion of “(including a minor)”,
- (c) in section 55—
  - (i) in subsection (1)(a), by the deletion of “(including a minor)”, and
  - (ii) in subsection (1)(b)—
    - (I) by the substitution of “person” for “boy”,
    - (II) by the insertion of “, prior to its amendment by *section 3* of the *Defence (Amendment) Act 2020*,” after “this section”, and
    - (III) by the substitution of “he or she attains” for “he attains”,
- (d) by the deletion of sections 76 and 77, and
- (e) in section 80, by the deletion of “76, 77,”.

**Re-enlistment of formerly enlisted persons**

**4. The Principal Act is amended—**

- (a) in section 19(b), by the substitution of “section 53, 53A or 54” for “section 53 or 54”,
- (b) by the insertion of the following section after section 53:

**“Re-enlistment of formerly enlisted persons**

**53A.** (1) A person who was formerly enlisted in the Permanent Defence Force—

- (a) who has served the full term of his or her original enlistment in accordance with section 53 (and, if applicable, any periods of service authorised under section 64 or 65), or
  - (b) who was discharged in accordance with section 75,
- may, subject to subsection (2), be re-enlisted as an enlisted person of the Permanent Defence Force for a specified period as determined by the Minister.
- (2) A person may only be re-enlisted under subsection (1) where the Minister determines that this course of action will address a deficiency, within the Defence Forces, of necessary skills or expertise which, in his or her opinion, cannot be met through the use of existing personnel resources.
  - (3) A person re-enlisted under subsection (1) may have that period of service extended for such further term as the Minister may determine, having regard to any deficiency within the Defence Forces of necessary skills or expertise which, in his or her opinion, cannot be met through the use of the then existing personnel resources.
  - (4) Sections 53, 63, 64, 65 and 70 shall not apply to a person re-enlisted under this section.”

- (c) in section 58(1), by the substitution of “section 53 or 53A” for “section 53”, and
- (d) in section 69, by the substitution of “section 53 or 53A” for “section 53”.

**Amendment of section 178E of Principal Act (appeal to summary court-martial)**

- 5. Section 178E(3) of the Principal Act is amended by the substitution of the following paragraph for paragraph (b): 5

“(b) within such longer period as the summary court-martial may allow following an application made in that behalf to the summary court-martial before the end of the initial period.”.

**Miscellaneous amendments of Principal Act**

- 6. The Principal Act is amended— 10

- (a) by the substitution of the following section for section 74:

**“Discharge of reservists in certain public service positions**

74. A reservist who is—

- (a) elected as a member of either House of the Oireachtas or the European Parliament, 15
- (b) nominated as a member of Seanad Éireann, or
- (c) regarded under Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament to fill a vacancy,

shall thereupon stand, by virtue of this section, discharged from the Reserve Defence Force.”. 20

and

- (b) by the repeal of section 318.

**Amendment of section 4 of Act of 1979 (application of sections 53, 54 and 55 of Principal Act to women)** 25

- 7. Section 4 of the Act of 1979 is amended by the deletion of “and references in sections 53(1)(b) and 55(1)(b) of that Act to a boy shall be construed as including references to a girl”.

**Short title and commencement**

- 8. (1) This Act may be cited as the Defence (Amendment) Act 2020. 30
- (2) This Act shall come into operation on such day or days as the Minister for Defence may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.





An Bille Cosanta (Leasú), 2020

---

# BILLE

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht do leasú an Achta Cosanta, 1954 agus an Achta Cosanta (Leasú) (Uimh. 2), 1979; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

---

*An tAire Cosanta a thiolaic,*

*8 Eanáir, 2020*

---

Defence (Amendment) Bill 2020

---

# BILL

*(as initiated)*

*entitled*

An Act to amend the Defence Act 1954 and the Defence (Amendment) (No. 2) Act 1979; and to provide for related matters.

---

*Presented by the Minister for Defence,*

*8th January, 2020*

---

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2.  
(Tel: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)  
nó trí aon díoltóir leabhar.

---

DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased from  
GOVERNMENT PUBLICATIONS,  
52 ST. STEPHEN'S GREEN, DUBLIN 2.  
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)  
or through any bookseller.

€1.27

ISBN 978-1-4468-6660-3



9 781446 866603