



**An Bille um Cheartas Coiriúil
(Cumhachtaí Forfheidhmiúcháin) (Covid-19), 2020**

**Criminal Justice
(Enforcement Powers) (Covid-19) Bill 2020**

*Meabhrán Mínitheach
Explanatory Memorandum*



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CRIMINAL JUSTICE
(ENFORCEMENT POWERS) (COVID-19) BILL 2020**

EXPLANATORY MEMORANDUM

Background

The primary purpose of the Bill is, having regard to the threat to human life and public health posed by Covid-19, to provide additional enforcement powers to An Garda Síochána to address breaches of the relevant Covid-19 regulations by any business or service selling or supplying intoxicating liquor for consumption on the premises.

Provisions of the Bill

Section 1 – Interpretation

Section 1 defines the key terms in the Bill.

Section 2 – Application of Act

Section 2 sets out that the Act will apply to any licenced premises or club where intoxicating liquor is sold or supplied for consumption on the premises.

Section 3 – Entry, Inspection, etc. of relevant premises by member

Section 3 provides the power to An Garda Síochána to enter a relevant premises in relation to any powers under this Act or under the relevant provisions of the Health Act 1947. Preventing or obstructing a Garda from entry to the premises will be a criminal offence.

Section 4 – Immediate Closure Order for failure or refusal to comply with direction

Section 4 provides that where a person in charge of a premises supplying or serving alcohol does not comply with a direction from a Garda to comply with a penal provision of a Covid-19 regulation made under the Health Act 1947, an immediate closure order can be issued by a Garda of superintendent rank or higher closing that premises for the remainder of the day.

Section 5 – Application for emergency closure order for failure or refusal to comply with more than one direction.

Section 5 provides that where there is a continuous or repeated failure or refusal to comply with a direction from a Garda in relation to a particular premises, a Garda of superintendent rank or higher can make an *ex-parte* application to the District Court for an emergency closure order for up to three days. The District Court has the power to adjourn the hearing and notify the licensee of the application. On application to it, the District Court can also discharge an Order where the licensee proves that any direction

is being complied with or gives an undertaking that the relevant Covid-19 regulations made under the Health Act 1947 will be complied with.

Section 6 – Compliance Notice

Section 6 provides that a Garda of superintendent rank or higher may issue a compliance notice to a licensee of a premises where an immediate closure order has been made, or where the specified person has failed or refused to comply with a direction from a Garda. The compliance notice will identify the provisions that are not being complied with and require immediate compliance with the Covid-19 regulations made under the Health Act 1947. The notice informs the person that failure to comply may result in an application to the District Court for a temporary closure order and may result in an objection to the renewal of a licence (or a certificate in the case of a club).

Section 7 – Application to district court for temporary closure order for failure or refusal to comply with compliance notice

Section 7 provides that a Garda of superintendent rank or higher may apply to the District Court for a temporary closure order where he or she is of the opinion there has been a failure to comply with a compliance order and that such failure is likely to continue or to recur. This application is made on notice to the licensee. The penalty for a first temporary closure order shall be the closure of the premises for up to 7 days. The penalty for a second or subsequent temporary closure order is closure of the premises for up to 30 days. The Court may consider any mitigating circumstances and any undertakings related to future compliance. The Court has the power to suspend an order and to restore it, as appropriate.

Section 8 – Emergency closure order and temporary closure order: applicable provisions

Section 8 provides that where a premises is closed due to an emergency closure order or a temporary closure order, a notice must be affixed to the outside of the premises. Failure to affix a notice will be an offence.

Section 9 – Appeal against compliance notice

Section 9 provides for an appeal to the District Court in relation to a compliance notice. A decision of the District Court under this section can be appealed to the Circuit Court.

Section 10 – Appeal against temporary closure order

Section 10 provides for an appeal to the Circuit Court against a temporary closure order.

Section 11 – Grounds for objection to renewal of licences

Section 11 sets out the various grounds for objection to the renewal of a licence.

Section 12 – Grounds for objection to renewal of certificates under the Act of 1904

Section 12 sets out the various grounds for objection to the renewal of a certificate of registration of a club.

Section 13 - Amendment of Section 31A of Health Act 1947

Section 13 provides for an amendment to the Health Act 1947 to provide a regulation making power for the Minister for Health to prescribe certain relevant Covid-19 regulations for the purpose of enforcement measures under this Bill. Before making such regulations, the Minister for Health must consult the Minister for Justice and Equality.

Section 14 – Liability for offences by bodies corporate

Section 14 provides for offences under this Act being committed by a body corporate.

Section 15 – Exercise of Jurisdiction by District Court and Circuit Court

Section 15 sets out the jurisdiction of the District Court and the Circuit Court under this Act.

Section 16 – Service of documents

Section 16 provides for how documents are to be served under this Act.

Section 17 – Short title and operation

Section 17 provides for the short title of the Bill.

Financial Implications

There are no appreciable financial implications for the Exchequer.

*An Roinn Dlí agus Cirt agus Comhionannais,
Lúnasa, 2020.*

