



DÁIL ÉIREANN

BILLE AN GHARDA SÍOCHÁNA (FEIDHMEANNA AGUS LIMISTÉIR OIBRÍOCHTA), 2021 GARDA SÍOCHÁNA (FUNCTIONS AND OPERATIONAL AREAS) BILL 2021

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

BILLE AN GHARDA SÍOCHÁNA (FEIDHMEANNA AGUS LIMISTÉIR OIBRÍOCHTA), 2021 —ROGHCHOISTE

GARDA SÍOCHÁNA (FUNCTIONS AND OPERATIONAL AREAS) BILL 2021 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 9

1. In page 9, lines 26 and 27, to delete “the equivalent division” and substitute “a division of the Garda Síochána (howsoever expressed)”.

—An tAire Dlí agus Cirt.

2. In page 9, to delete lines 36 to 38 and substitute the following:

“(e) to amend a definition where that definition refers to a Garda district or a specified superintendent to refer to a division of the Garda Síochána (howsoever expressed) or to one or more superintendents or inspectors of the Garda Síochána, as the case may be;”.

—An tAire Dlí agus Cirt.

NEW SECTION

3. In page 21, after line 34, to insert the following:

“PART 4

AMENDMENT OF ACT OF 2005

Amendment of section 3(1) of Act of 2005

28. Section 3(1) of the Act of 2005 is amended by the insertion of the following definitions:

“ ‘controlled drug’ has the same meaning as it has in section 2 of the Misuse of Drugs Act 1977;

‘psychoactive substance’ means a psychoactive substance within the meaning of section 1 of the Criminal Justice (Psychoactive Substances) Act 2010 to which that Act applies;

‘sample’ means a sample of any of the following taken, or to be taken,

[NEW SECTION]

from a person:

- (a) urine;
- (b) hair, other than pubic hair;
- (c) oral fluid, including saliva;
- (d) blood;”.”.

—An tAire Dlí agus Cirt.

4. In page 21, after line 34, to insert the following:

“Amendment of section 26 of Act of 2005

29. Section 26 of the Act of 2005 is amended by the insertion of the following paragraph after paragraph (a):

“(aa) to perform the functions assigned to him or her by regulations made under section 122(1)(kk) and any associated functions;”.”.

—An tAire Dlí agus Cirt.

5. In page 21, after line 34, to insert the following:

“Amendment of section 122 of Act of 2005

30. Section 122 of the Act of 2005 is amended—

(a) in subsection (1), by the insertion of the following paragraph after paragraph (k):

“(kk) the establishment, maintenance and operation of a regime of testing for controlled drugs and psychoactive substances, which may provide for—

- (i) subject to subparagraph (ii), a prohibition on the presence of controlled drugs or psychoactive substances above a specified concentration in a sample,
- (ii) the procedures to be followed where a person is exposed to a controlled drug or psychoactive substance in the course of and as a result of his or her functions or employment,
- (iii) the taking of samples,
- (iv) a prohibition on tampering with a sample,
- (v) the persons from whom a sample may be taken for testing,
- (vi) the persons who may be permitted to take a sample,
- (vii) the information to be provided to a person required to provide a sample,
- (viii) matters with regard to the testing and analysis of samples,

[NEW SECTION]

- (ix) the reasons for testing, which may include—
 - (I) pre-employment testing,
 - (II) testing of Garda trainees,
 - (III) random testing,
 - (IV) targeted drug testing,
 - (V) with-cause testing, or
 - (VI) post-incident testing,
- (x) the concentration of a controlled drug or psychoactive substance required to be present to yield a positive result in a sample,
- (xi) how samples are to be stored,
- (xii) the period during which samples may be stored,
- (xiii) the reviewing of test results, and
- (xiv) such ancillary and incidental provisions as he or she considers necessary or expedient for the purposes of establishing, maintaining and operating the regime of testing for controlled drugs and psychoactive substances;”,

and

(b) by the insertion of the following subsection after subsection (5):

“(5A) A regulation under section 122(1)(kk) may apply to any or all of the following:

- (a) applicants seeking appointment to the position of member of the Garda Síochána;
- (b) Garda trainees;
- (c) members (including members on probation);
- (d) the persons referred to in subparagraphs (ii) to (v) of section 122(5) (b);
- (e) members of the civilian staff of the Garda Síochána;

and make different provision for the different persons, or categories, grades or ranks of persons, falling within paragraphs (a) to (e) above.”.”.

—An tAire Dlí agus Cirt.

6. In page 21, after line 34, to insert the following:

“Amendment of section 123 of Act of 2005

31. Section 123(2) of the Act of 2005 is amended—

[NEW SECTION]

- (a) in paragraph (f), by the substitution of “station,” for “station, and”,
- (b) in paragraph (g), by the substitution of “performance, and” for “performance.”,
and
- (c) by the insertion of the following paragraph after paragraph (g):

“(h) failure to comply with regulations made under section 122(1) (kk).”.”.

—An tAire Dlí agus Cirt.

7. In page 21, after line 34, to insert the following:

“Amendment of Schedule 5 to Act of 2005

32. Schedule 5 to the Act of 2005 is amended, in paragraph 7, by the substitution of “liquor, controlled drugs or psychoactive substances or a combination of liquor, controlled drugs or psychoactive substances” for “liquor or drugs or a combination of liquor and drugs”.”.

—An tAire Dlí agus Cirt.

TITLE

8. In page 5, line 20, after “1924;” to insert the following:

“to amend the Garda Síochána Act 2005 by amending Schedule 5 and by creating regulation-making powers in order to make provision for a testing regime of members and certain other persons to detect the presence of controlled drugs or psychoactive substances in samples provided, to prohibit their presence in specified concentrations other than where exposure in the course of functions or employment occurs and to make provision for disciplinary sanctions relating to these matters;”.

—An tAire Dlí agus Cirt.