



**An Bille Sláinte agus Ceartais Choiriúil
(Covid-19) (Leasú), 2021
Health and Criminal Justice (Covid-19)
(Amendment) Bill 2021**

*Meabhrán Míniúcháin agus Airgeadais
Explanatory and Financial Memorandum*



**AN BILLE SLÁINTE AGUS CEARTAIS CHOIRIÚIL (COVID-19)
(LEASÚ), 2021
HEALTH AND CRIMINAL JUSTICE (COVID-19)
(AMENDMENT) BILL 2021**

EXPLANATORY AND FINANCIAL MEMORANDUM

Purpose of the Bill

The current public health emergency required the State, having regard to the need to preserve and protect public health, to introduce a range of extraordinary time-limited measures and safeguards to prevent, minimise, limit or reduce the risk of persons being infected with Covid-19. These measures and safeguards continue to form part of the effort on the part of the State to reduce the spread of Covid-19 and to preserve and protect public health, along with the vaccination programme.

Part 3 of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020, Part 5 of the Emergency Measures in the Public Interest (Covid-19) Act 2020, the Criminal Justice (Enforcement Powers) (Covid-19) Act 2020 and the Health (Amendment) Act 2020 were all enacted as temporary measures and were, therefore, time-limited. The relevant provisions of these Acts are due to expire on 9 June 2021.

The trajectory of the disease continues to be precarious and uncertain and continues to threaten to put the health system in the State under significant and sustained pressure, including by reason of the spread of the virus and variants of the virus in relation to which evidence of increased transmissibility and the potential to evade immune response exists. It is in this context that the emergency provisions in the four named Acts, aimed at preventing and minimising the spread of Covid-19, will still be required in the near future and should therefore be continued in force.

The purpose of this Bill is to extend the period of application of these provisions to 9 November 2021 and provide that they may be further extended for up to three months by a resolution passed by each House of the Oireachtas.

Summary of Bill Sections

Section 1 of the Bill provides for an amendment to Section 2(3)(b) of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 to allow for an extension of operation of Part 3 of the Act from 10 June 2021 to the later of 9 November 2021 or the date specified in a resolution passed by each House of the Oireachtas under new subsection (6) to be inserted into Section 2. Subsection (6) provides that each House of the Oireachtas may pass a resolution to extend the date of operation of Part 3 for a period that does not exceed 3 months.

Section 2 of the Bill provides for an amendment to Section 1 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 to allow for an extension of operation of Part 5 of the Act from 10 June 2021 to the later of 9 November 2021 or the date specified in a resolution passed by each House of the Oireachtas under new subsections (3 and 4) to be inserted into Section 1. Subsection (4) provides that each House of the Oireachtas may pass a resolution to extend the date of operation of Part 3 for a period that does not exceed 3 months.

Subsection (5) provides that from 9 November 2021 or such later date as specified by the Houses of the Oireachtas, the Mental Health Act 2001 will apply, subject to any amendments made by any other Act of the Oireachtas.

Part 5 provides for amendments to the Mental Health Act 2001 to allow changes to the role of the independent consultant psychiatrists and the role of mental health tribunals, which review the detention of orders of involuntarily detained patients, to continue in the current public health emergency.

Section 3 of the Bill provides for an amendment to Section 17 of the Criminal Justice (Enforcement Powers) (Covid-19) Act 2020. The Act is due to expire on 9 June 2021. The amendment proposes that the Act should continue in operation from 10 June 2021 to the later of 9 November 2021 or the date specified in a resolution passed by each House of the Oireachtas under new subsection (4) to be inserted into Section 17. Subsection (4) provides that each House of the Oireachtas may pass a resolution to extend the date of operation of the Act for a period that does not exceed 3 months.

The Criminal Justice (Enforcement Powers) (Covid-19) Act 2020 provides An Garda Síochána with a power of entry into licenced premises and registered clubs for enforcement of the penal provisions contained in the relevant Covid-19 regulations. It also provides for various closure orders and the possibility of an objection to the renewal of a licence for failures to comply with a direction given by a Garda in a relevant premises.

Section 4 of the Bill provides for an amendment to Section 6 of the Health (Amendment) Act 2020. The Act is due to expire on 9 June 2021. The amendment proposes that the Act should continue in operation from 10 June 2021 to the later of 9 November 2021 or the date specified in a resolution passed by each House of the Oireachtas under new subsection (4) to be inserted into Section 6. Subsection (4) provides that each House of the Oireachtas may pass a resolution to extend the date of operation of the Act for a period that does not exceed 3 months.

The Health (Amendment) Act 2020 provides for the making of regulations to prescribe penal provisions in regulations made under section 31A of the Health Act 1947 to be fixed penalty provisions and dwelling event provisions.

Section 5 of the Bill provides for the title of the Act as the Health and Criminal Justice (Covid-19) (Amendment) Bill 2021, and that it shall come into operation on the 10th day of June 2021.

Financial Implications of the Bill

Statutory measures made under the Health (Preservation and Protection and Other Emergency Measures in the Public Interest) Act 2020 giving effect to public health measures can have many impacts, including financial implications, but are deemed necessary to help stop the transmission of Covid-19. The Emergency Measures in the Public Interest (Covid-19) Act 2020 does not have any direct impacts or financial implications and is

deemed necessary to vindicate the rights of involuntarily detained patients in the context of the pandemic.

*An Roinn Sláinte,
Meitheamh, 2021.*