



SEANAD ÉIREANN

**BILLE AN GHARDA SÍOCHÁNA (FEISTÍ TAIFEADTA), 2022
GARDA SÍOCHÁNA (RECORDING DEVICES) BILL 2022**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

BILLE AN GHARDA SÍOCHÁNA (FEISTÍ TAIFEADTA), 2022 —AN COISTE

GARDA SÍOCHÁNA (RECORDING DEVICES) BILL 2022 —COMMITTEE STAGE

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

SECTION 2

1. In page 7, to delete lines 21 to 33 and substitute the following:

“ “recording device”—

- (a) means a device or system specified in a relevant Code of Practice that is capable of creating a record in any medium from which visual images (including moving visual images) or sounds, or both, may, by any means be reproduced,
- (b) includes any devices or systems specified in a relevant Code of Practice that are capable of processing the record made under *paragraph (a)*, which may include—
 - (i) reproducing by any means the visual images (including moving visual images) or sounds concerned,
 - (ii) using Automatic Number Plate Recognition in respect of the record, or
 - (iii) producing a document relating to the record or the processing concerned,and
- (c) includes any device or system referred to in *paragraph (a)* or *(b)* that is in or affixed to a vehicle or structure.”.

—*Senator Sharon Keogan.*

2. In page 7, between lines 24 and 25, to insert the following:

“(b) does not include any devices or systems that are capable of processing the record made under *paragraph (a)* with facial recognition technology.”.

—*Senator Lynn Ruane.*

SECTION 5

*3. In page 8, line 36, to delete “Public Expenditure and Reform” and substitute “Public Expenditure, National Development Plan Delivery and Reform”.

[SECTION 9]

SECTION 9

*4. In page 10, lines 2 and 3, to delete “if the recording device was in the same location as the member,” and substitute “if the member were in the same location as the recording device,”.

5. In page 10, between lines 10 and 11, to insert the following:

“(2) A member of Garda personnel shall operate, or cause to be operated, a recording device where they are requested to do so by an individual with whom they are engaged in the course of their duties.”.

—*Senator Lynn Ruane.*

6. In page 10, between lines 10 and 11, to insert the following:

“(2) A member of Garda personnel shall operate, or cause to be operated, a recording device where they are requested to do so by an individual with whom they are engaged in the course of their duties, except where the member reasonably believes that the making of a recording would be harmful to the individual or another member of the public.”.

—*Senator Lynn Ruane.*

7. In page 10, to delete lines 11 to 17 and substitute the following:

“(2) If a Garda is assigned to wear a body-worn camera, it must be highly visible and turned on at all times when the Garda is—

(a) on-duty,

(b) and is—

(i) responding to a call, or

(ii) engaged in any law enforcement related activity that includes, but is not limited to:

(I) traffic stops;

(II) pedestrian stops;

(III) arrests;

(IV) searches;

(V) interrogations;

(VI) investigations;

(VII) pursuits;

(VIII) crowd control;

(IX) traffic control;

(X) non-community caretaking interactions with an individual while on patrol;

(XI) any other instance in which the officer is enforcing any laws of the

[SECTION 9]

jurisdiction.

- (3) A member of An Garda Síochana shall not be required to have a body-worn camera turned on if they are completing paperwork alone or are only in the presence of another member of An Garda Síochana.”

—*Senator Sharon Keogan.*

8. In page 10, to delete lines 14 to 17 and substitute the following:

“(b) safeguarding against, and the prevention of, threats to public security, including securing public safety and public order, where there are reasonable grounds to believe there is a significant threat;

(c) the protection of the security of the State.”

—*Senator Sharon Keogan.*

9. In page 10, between lines 23 and 24, to insert the following:

“(c) is requested to do so by a member of the public,”

—*Senator Lynn Ruane.*

10. In page 11, between lines 3 and 4, to insert the following:

“(g) has received sufficient training to make them suitably qualified to use the relevant device, and after receiving sufficient data protection training so as to render them proficient in operating the device in accordance with legislation regulating the use of data, and

(h) after a pilot scheme in respect of that device has been completed, and the results of which have been assessed and published.”

—*Senator Sharon Keogan.*

11. In page 11, lines 12 and 13, to delete “, when operating the device in a dwelling, and where appropriate, notify the occupants at the start of the operation and record the notification” and substitute “notify all subjects of the recording at the start of the operation and record the notification”.

—*Senator Lynn Ruane.*

SECTION 10

12. In page 11, between lines 20 and 21, to insert the following:

“(c) is worn in a location and manner that maximises the camera’s ability to capture video footage of the Garda member’s activities.”

—*Senator Sharon Keogan.*

SECTION 11

- *13. In page 11, between lines 20 and 21, to insert the following:

“Power to process data obtained under this Part

11. A member of Garda personnel may, for a purpose referred to in *section 9(2)*, and in

[SECTION 11]

accordance with an applicable code of practice, process data (including personal data) obtained as a result of the operation of a recording device under this Part.”.

14. In page 11, between lines 20 and 21, to insert the following:

“Additional provisions regarding operation of recording devices affixed to or part of an unmanned aerial vehicle

11. A member of Garda personnel shall take all reasonable measures to ensure that a camera being operated, while affixed to or part of an unmanned aerial vehicle, shall be overt and clearly visible to all subjects being recorded, including but not limited to—

- (a) ensuring that the vehicle is operated at a height and proximity to the subject such that it is clearly visible to the naked eye of the subject,
- (b) ensuring that the vehicle displays clear markings or visual indicators which identify it as a Garda unmanned aerial vehicle,
- (c) using an auditory or other warning system to alert individuals or subjects of a recording to the presence of a recording device, and
- (d) using other notification or visibility measures prescribed by a Code of Practice under *section 43*.”.

—*Senator Lynn Ruane.*

*15. In page 11, line 25, after “device” to insert “under this Part”.

*16. In page 11, line 28, to delete “permits the damage or destruction of” and substitute “permits damage to, or the destruction of,”.

17. In page 11, between lines 28 and 29, to insert the following:

“(e) turns off, or causes not to be operated, a recording device, including before or during an act of violence or use of force;”.

—*Senator Lynn Ruane.*

18. In page 11, between lines 30 and 31, to insert the following:

“(2) A member of Garda personnel who knowingly turns off his or her recording device before he or she uses force, commits an abusive act or act of violence, or otherwise commits an offence, for the purposes of making that information or any document derived therefrom unavailable as evidence, shall be guilty of an offence.”.

—*Senator Lynn Ruane.*

19. In page 11, between lines 30 and 31, to insert the following:

“(2) A person who, without lawful authority or reasonable excuse, shares information with any party (including video or audio information) gathered by a recording device shall be guilty of an offence.”.

—*Senator Lynn Ruane.*

[SECTION 11]

20. In page 11, line 33, after “*subsection (1)*” to insert “ or *subsection (2)*#”.

—*Senator Lynn Ruane.*

[#*This is a reference to a subsection proposed to be inserted by amendment No. 19.*]

SECTION 14

- *21. In page 13, line 2, to delete “operation of a recording device” and substitute “utilisation of ANPR”.
- *22. In page 13, line 3, to delete “operation” and substitute “utilisation”.
- *23. In page 13, line 5, to delete “operation” and substitute “utilisation”.

SECTION 15

- *24. In page 13, line 9, after “designate” to insert “in writing”.

SECTION 17

- *25. In page 14, line 11, to delete “data”.

26. In page 14, to delete lines 13 to 17 and substitute the following:

“only if that utilisation has been authorised by a judge of the District Court under *section 18.*”.

—*Senator Lynn Ruane.*

27. In page 14, to delete lines 18 to 20 and substitute the following:

“(2) A judge of the District Court may approve an application under this section, having regard to the information contained in the application, if—”.

—*Senator Sharon Keogan.*

28. In page 14, line 18, to delete “A member of the Garda Síochána not below the rank of superintendent” and substitute “A judge of the District Court”.

—*Senator Lynn Ruane.*

29. In page 14, line 32, to delete “member of the Garda Síochána” and substitute “District Court judge”.

—*Senator Lynn Ruane.*

30. In page 14, lines 35 and 36, to delete “member of the Garda Síochána” and substitute “District Court judge”.

—*Senator Lynn Ruane.*

31. In page 14, to delete lines 38 to 41 and in page 15, to delete lines 1 to 12 and substitute the following:

“(4) An approval under this section shall be in writing and shall specify—

- (a) the vehicle that is to be the subject of focused monitoring,
- (b) the name of the District Court Judge and the date of approval,
- (c) the conditions (if any) subject to which the approval is granted,

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- (d) the date of expiry of the approval, and
 - (e) any additional matters that may be specified in an applicable code of practice.
- (5) A District Court judge referred to in *subsection (2)#* may, following an application made by a member of Garda personnel, and taking into account the matters referred to in that subsection, vary, subject to *subsection (3)(a)*, the duration of an approval granted under this section at any time before the expiry of the approval. The total duration of an approval granted under this section, howsoever extended or varied, shall not exceed the duration of 3 months.
- (6) An Garda Síochána shall create and maintain a written list of applications for focused monitoring, which shall contain the details of each application and the reasons why each application was approved or refused, or varied under *subsection (5)*, and any further information provided for in an applicable code of practice.”.

—*Senator Sharon Keogan.*

[#*This is a reference to a subsection proposed to be inserted by amendment No. 27.*]

32. In page 14, line 40, to delete “and rank of the member of the Garda Síochána” and substitute “of the District Court judge”.

—*Senator Lynn Ruane.*

33. In page 15, line 4, to delete “A member of the Garda Síochána” and substitute “A District Court judge”.

—*Senator Lynn Ruane.*

SECTION 18

- *34. In page 15, line 20, to delete “that period” and substitute “the 3-month period”.
- *35. In page 15, line 20, to delete “utilise the ANPR data” and substitute “utilise ANPR”.
36. In page 15, between lines 21 and 22, to insert the following:

“(2) In making an application under *subsection (1)*, the member shall have regard to the necessity and proportionality of the measure pursuant to an order under this section, taking into account the impact of such on the fundamental rights of individuals.”.

—*Senator Sharon Keogan.*

37. In page 15, line 31, after “*paragraph (c)*” to insert the following:

“, and the impact of such focussed monitoring on the privacy and fundamental rights of the individual or individuals concerned”.

—*Senator Lynn Ruane.*

[SECTION 18]

- *38. In page 15, line 34, to delete “of the District Court” and substitute “to whom an application under *subsection (1)* is made”.
- *39. In page 16, line 1, to delete “judge” and substitute “judge of the District Court assigned to the Dublin Metropolitan District”.
- *40. In page 16, line 8, to delete “any previous” and substitute “the last”.
- *41. In page 16, line 20, to delete “District Court district to which the judge is assigned” and substitute “Dublin Metropolitan District”.

SECTION 19

- 42. In page 16, lines 23 to 39, to delete all words from and including “(1) A” in line 23 down to and including line 39 and in page 17, to delete lines 1 to 15 and substitute the following:

“(1) A member of Garda personnel shall make an application to a member of the Garda Síochána—

- (a) of a rank of superintendent or above that may be specified in the applicable code of practice having regard to the rank or grade of the member of Garda personnel making the application, or to the type or the duration of the retention of the ANPR data concerned, and
 - (b) who is independent of the investigation, inquiry or the matters relating to the security of the State, as the case may be, to which the application relates in order to search ANPR data that has been retained by the Garda Síochána (in this section referred to as “retained ANPR data”) following applications under *section 17* and/or *section 18*.
- (2) A member of the Garda Síochána to whom an application is made under *subsection (1)* may approve the application concerned if he or she believes on reasonable grounds that searching the retained ANPR data may be of material assistance for one or more of the following purposes:
- (a) the prevention, investigation, detection or prosecution of criminal offences;
 - (b) safeguarding against, and the prevention of, threats to public security, including securing public safety and public order, where there are reasonable grounds to believe there is a significant threat;
 - (c) the protection of the security of the State;
 - (d) any other inquiry or investigation into any matter, having regard to the functions of the Garda Síochána.
- (3) An approval under *subsection (2)* may be granted subject to such other conditions as the member of the Garda Síochána granting the approval considers appropriate, having regard to the information contained in the application.
- (4) The Commissioner of the Garda Síochána shall cause to be created and maintained a written list of applications to conduct a search of ANPR data retained by the Garda Síochána, which shall contain the details of the application, whether the application was granted or refused, the reasons for granting or refusing the application, as the case may be, the name and rank of the Garda who sought the request, the name and

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rank of the Garda who either granted or refused the application, the date of the approval or refusal, the name and rank of the Garda who carried out the search, the date of the search, the objective of the search, the specific information searched, the personal data processed during the search, and a written explanation of how the approved measure met the principles of necessity and proportionality, and any other matters that may be specified in an applicable code of practice.”.

—*Senator Sharon Keogan.*

*43. In page 16, line 27, after “type” to insert “of”.

SECTION 20

*44. In page 17, line 23, to delete “permits the damage or destruction of” and substitute “permits damage to, or the destruction of,”.

SECTION 21

45. In page 17, after line 34 to insert the following:

“PART 4

OTHER REGULATION OF RECORDING DEVICES

Calibration of Devices and ANPR

21. (1) Any body-worn cameras or devices using ANPR must be calibrated by an organisation independent of An Garda Síochána.
- (2) Within 6 months of passing this Act the Private Security Authority (PSA) shall issue licenses to organisations that will be required to calibrate the devices.
- (3) Any body-worn camera or ANPR must be calibrated at least every single month by the PSA accredited body.”.

—*Senator Sharon Keogan.*

*46. In page 18, line 9, after “designate” to insert “in writing”.

*47. In page 18, line 19, to delete “under” and substitute “specified in”.

48. In page 19, between lines 5 and 6, to insert the following:

- “(6) (a) The Commissioner shall be prohibited from recording a line that could be used to provide tip-offs, leads or confidential information.
- (b) Any evidence gathered from a recording of a line that could be used to provide tip-offs, leads or confidential information shall be inadmissible in court.”.

—*Senator Sharon Keogan.*

[SECTION 23]

SECTION 23

*49. In page 19, between lines 11 and 12, to insert the following:

“Offences under this Part

23. (1) Where a member of Garda personnel records a telephone call to or from the Garda Síochána on a telephone line or number that the Commissioner of the Garda Síochána has not designated under *section 21(2)* that person shall be guilty of an offence.

(2) A person who, without lawful authority or reasonable excuse, knowingly does any of the following:

(a) falsifies, conceals, destroys or otherwise disposes of data (including personal data) recorded by the Garda Síochána from telephone lines or numbers designated under this Part;

(b) permits the falsification, concealment, destruction or disposal of the data (including personal data),

for the purpose of making that data or any document derived therefrom unavailable as evidence, shall be guilty of an offence.

(3) A person who induces, coerces, threatens or requests, without lawful authority or reasonable excuse, a member of Garda personnel to act in a manner contrary to *subsection (2)* shall be guilty of an offence.

(4) A person guilty of an offence under *subsection (1)* shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

(5) A person guilty of an offence under *subsection (2)* or *(3)* shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.”.

SECTION 25

*50. In page 20, line 12, after “apply” to insert “in writing”.

51. In page 20, between lines 27 and 28, to insert the following:

“(c) state the precise technological and software specifications of the cameras to be used,”.

—*Senator Lynn Ruane.*

52. In page 20, between lines 27 and 28, to insert the following:

“(c) state the means by which the public and local residents will be appropriately notified of the use of cameras and their relevant rights,”.

—*Senator Lynn Ruane.*

[SECTION 26]

SECTION 26

*53. In page 21, line 7, after “apply” to insert “in writing”.

54. In page 21, between lines 22 and 23, to insert the following:

“(c) state the precise technological and software specifications of the cameras to be used,”.

—*Senator Lynn Ruane.*

55. In page 21, between lines 22 and 23, to insert the following:

“(c) state the means by which the public and local residents will be appropriately notified of the use of cameras and their relevant rights,”.

—*Senator Lynn Ruane.*

SECTION 32

*56. In page 25, between lines 15 and 16, to insert the following:

“Power to process data obtained under this Part

32. A member of Garda personnel may, for a purpose referred to in *section 25(1)*, and in accordance with an applicable code of practice, process data (including personal data) obtained—

(a) pursuant to an authorisation given under this Part, and

(b) where the authorisation was given to a local authority under *section 26*, pursuant to access given to members of Garda personnel under *subsection (4)(a)* of that section.”.

*57. In page 25, line 35, to delete “permits the damage or destruction of” and substitute “permits damage to, or the destruction of,”.

58. In page 25, after line 37, to insert the following:

“(4) A person who, without lawful authority or reasonable excuse, shares information with any party (including video or audio information) gathered by CCTV shall be guilty of an offence.”.

—*Senator Lynn Ruane.*

SECTION 40

* *Section proposed to be deleted.*

SECTION 41

*59. In page 31, to delete lines 1 to 3.

*60. In page 31, line 10, to delete “permits the damage or destruction of” and substitute “permits damage to, or the destruction of,”.

61. In page 31, between lines 12 and 13, to insert the following:

“(5) A person who, without lawful authority or reasonable excuse, shares information with any party (including video or audio information) gathered by CCTV shall be guilty of

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an offence.”.

—*Senator Lynn Ruane.*

*62. In page 31, line 16, to delete “or (3)”.

SECTION 42

*63. In page 31, line 29, to delete “operation” and substitute “operation, or both,”.

SECTION 43

*64. In page 32, between lines 4 and 5, to insert the following:

“Power to process data obtained under this Part

43. A member of Garda personnel may, for a purpose referred to in *section 42(1)*, process the data (including personal data) obtained pursuant to the operation of CCTV in accordance with an authorisation under this Part.”.

*65. In page 32, between lines 4 and 5, to insert the following:

“Offences under this Part

44. (1) A person who, without lawful authority or reasonable excuse, knowingly does any of the following:

- (a) falsifies, conceals, destroys or otherwise disposes of information (including visual or audio information) gathered by CCTV to which this Part relates;
- (b) permits the falsification, concealment, destruction or disposal of the information;
- (c) causes damage to or destroys the CCTV or part thereof;
- (d) permits damage to, or the destruction of, the CCTV or part thereof,

for the purpose of making that information, any document derived therefrom or the CCTV or part thereof unavailable as evidence, shall be guilty of an offence.

(2) A person who induces, coerces, threatens or requests, without lawful authority or reasonable excuse, a member of Garda personnel to act in a manner contrary to *subsection (1)* shall be guilty of an offence.

(3) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.”.

TITLE

*66. In page 5, lines 17 to 19, to delete all words from and including “to” in line 17 down to and including “offence;” in line 19.

