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**An Bille um Póilíneacht, Slándáil agus  
Sábháilteacht Pobail, 2023**  
**Policing, Security and Community Safety Bill 2023**

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*Meabhrán Miniúcháin*  
*Explanatory Memorandum*

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**EXPLANATORY MEMORANDUM**

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**Background to and purpose of the Bill**

This Bill is an important part of the Government’s policing reform plan – *A Policing Service for Our Future* (APSFF) – developed to implement the recommendations of the 2018 *Report of the Commission on the Future of Policing in Ireland* (CoFPI) and fulfils a commitment in the *Programme for Government: Our Shared Future*. It provides a new framework for policing and community safety aimed at improving the performance and accountability of our police service to the benefit of the safety of communities, and new national security arrangements. When enacted it will repeal the Garda Síochána Act 2005 in its entirety (the “Act of 2005”).

The main purposes of the Bill, based on the recommendations of CoFPI, are to:

- recognise the prevention of harm to individuals, particularly those who are vulnerable or at risk, as an explicit objective of An Garda Síochána;
- provide a new coherent governance and oversight framework for policing that will strengthen both the internal management of An Garda Síochána and independent external oversight supporting clear and effective accountability;
- make community safety a whole of government responsibility by:
  - providing a new framework at national and local level to improve community safety including through the establishment of Local Community Safety Partnerships, and
  - placing an obligation on Departments of State and other public service bodies to cooperate with each other in relation to improving community safety;
- provide for the establishment of the office of the Independent Examiner of Security Legislation to strengthen national security arrangements;
- repeal the Act of 2005.

In addition to CoFPI, the Bill draws on other reports including the reports of the Effectiveness and Renewal Group in relation to the Department of Justice, the reports of the Disclosures Tribunal, and reports of the Policing Authority and the Garda Síochána Inspectorate. The opportunity has also been taken to review provisions of the Act of 2005 not substantially affected by the CoFPI-based reforms and to address any issues in their operation and to modernise them where they are being restated.

*New governance and oversight framework:* A key driver of the new coherent governance and oversight framework is the CoFPI finding that the existing framework, which developed in a piecemeal reactive manner, is confused and lacks clarity as to where responsibility lies, and notwithstanding the good work of all involved, acts to the detriment of clear and effective accountability for policing. CoFPI also found that there is a lack of distinction between the roles of some of the oversight bodies and the responsibility of An Garda Síochána itself for its own governance and concluded that this conflation of governance and oversight is problematic and counterproductive as it prevents An Garda Síochána from taking ownership of its future direction and driving reform and also undermines the independence of external oversight. The proposals in the Bill are designed to address this by clearly delineating between the governance of An Garda Síochána, independent external oversight and the role of the Minister/Government.

Under the provisions of the Bill the governance of An Garda Síochána will be strengthened through empowering the Garda Commissioner, as a “true CEO”, to lead the organisation and drive reform. The additional functions of the Commissioner will, similar to the CEOs of other public sector bodies, relate to workforce planning, human resources, industrial relations, and finance. The Commissioner will be supported, and held to account for his or her performance, by a non-executive board, a corporate governance standard in the public and private sector. The Board of An Garda Síochána will be accountable to the Minister for its performance. The Board, as recognised by the Effectiveness and Renewal Group in relation to the Department of Justice, has the advantage of providing a more appropriate framework of governance between the Minister’s Department and An Garda Síochána (Second Report, 30 September 2018). It will facilitate the Minister’s Department in pulling back from involvement in day-to-day management of An Garda Síochána while also providing objective assurance to the Minister in relation to governance standards within An Garda Síochána. The Commissioner will continue to be required to keep the Minister and the Secretary General of the Department of Justice informed of significant matters and to account to the Minister and Government for policing and security matters reflecting the Minister and the Government’s overall responsibility for public safety and the security of the State and their accountability to the Houses of the Oireachtas. In tandem with this new governance and oversight framework the Commissioner’s operational independence is made explicit for the first time.

Independent external oversight will be strengthened through the new Policing and Community Safety Authority and the reorganised Garda Síochána Ombudsman Commission.

The Policing and Community Safety Authority will merge the broad-ranging oversight functions of the existing Policing Authority and the inspection functions of the Garda Síochána Inspectorate superseding both bodies and reducing the number of oversight bodies by one. It will oversee and assess in an independent and transparent manner the performance of An Garda Síochána in relation to policing services but with the benefit of an in-house empowered inspection function. Unlike the Policing Authority, it will not have statutory responsibility for executive functions. These functions will transfer to An Garda Síochána under the guidance of the Board or to the Minister as appropriate with the new Authority having a consultative role. The new Authority will (as is the case with the Policing Authority) be required to hold meetings in public with the Garda Commissioner and the senior leadership team.

The three-person Garda Síochána Ombudsman Commission will be replaced with an Ombudsman/Deputy Ombudsman model so that it will have a clear and publicly identifiable head. It will also become a vote-holding body to reinforce its independence. It will have an expanded remit both in terms of garda personnel and the range of allegations of wrongdoing which come within its jurisdiction to investigate. The system for the handling and investigation of allegations of wrongdoing recognised by CoFPI and the Ombudsman Commission itself as requiring an overhaul, will also be streamlined to support timely, more transparent and effective resolution of complaints and investigations in accordance with fair procedures. This will be to the benefit of complainants, An Garda Síochána and the wider public.

Community safety: As noted above the prevention of harm particularly to individuals who are vulnerable or at risk is included as a specific objective of An Garda Síochána in recognition that much of the work that An Garda Síochána does on a daily basis (as is the case with other police services) is concerned with the non-crime related activity of assisting people with mental health and addiction challenges, people who are homeless, children, the elderly and others at risk. A key principle arising from CoFPI is that policing in this broader sense is not the responsibility of An Garda Síochána and the Minister's Department alone, rather it is a shared responsibility involving other Departments of State and agencies and the wider community working together. The national and local framework provided for in the Bill aimed at driving safer communities has been designed having regard to the Working Group on Community Safety (a subgroup of the Implementation Group on Policing Reform overseeing APSFF) and further policy development work undertaken by the Minister's Department to give effect to this key principle.

Security: The establishment of the office of the Independent Examiner of Security Legislation presents a significant development in enhancing the national security infrastructure, providing an independent review of security legislation to ensure that it is effective and contains sufficient safeguards for the protection of human rights, the operation of such legislation and the examination of the delivery of security services. The powers of the Independent Examiner will extend to State offices and agencies who utilise the relevant security legislation and/or have a security remit.

The totality of the changes contained in the Bill – the new governance and oversight framework for An Garda Síochána, the complementary strengthening of the wider national security area through the establishment of the Independent Examiner of Security Legislation, and the national and local structures proposed to drive inter-agency cooperation and community engagement to ensure that people are safe and feel safe in their communities – will see the policing and security landscape transformed.

The framework contained in the Bill is designed to be consistent with the constitutional requirement that the Government retains ultimate control in relation to matters of fundamental importance to the exercise of executive powers in these matters while allowing delegation of appropriate policing matters.

### **Provisions of the Bill**

The Bill consist of 10 Parts with 7 Schedules, the provisions of which are summarised below.

### **PART 1 – PRELIMINARY AND GENERAL**

This Part contains general provisions including the short title and commencement provisions (section 1), interpretation provisions (section 2), repeals (section 5) and expenses (section 6).

### **Section 3**

This section defines “security services” (other than for Part 7) which will identify the functions of An Garda Síochána that will not come within the remit of the Policing and Community Safety Authority. Provision is made for the Minister to make a final determination where a question or dispute arises as to whether a matter relates to policing or security services. It restates section 3A of the Act of 2005 subject to some amendments including the addition to the definition of security services of services provided by An Garda Síochána for the purposes of protecting the State from “acts contrary to the economic well-being of the State where such acts have an impact on national security interests.”

### **Section 4**

This section sets out the main purpose of the provision of policing services in the State and the principles that will underpin their provision. It restates subject to certain amendments the meaning attributed to “policing principles” in section 3B of the Act of 2005. The amendments include a strengthening of the references to human rights.

## **PART 2 – AN GARDA SÍOCHÁNA**

This Part continues An Garda Síochána in being and sets out its functions, and the arrangements for its governance, organisation, and personnel. It provides for the establishment of the Board of An Garda Síochána and sets out the respective roles of the Board, the Garda Commissioner, the Minister and Government, the relationship between them, and the means by which they are to fulfil those roles including through a range of strategic planning and governance instruments. It provides for the Garda Commissioner’s functional independence within the governance and accountability framework set out. It is arranged in 11 chapters.

### **Chapter 1 – Preliminary and general (Part 2)**

#### **Section 7**

This section contains the necessary definitions for this Part.

#### **Section 8**

This section continues the police service known as the Garda Síochána in being and provides that it is to be known as An Garda Síochána having regard to that being the name used by the organisation since its inception. The section further provides that existing references to “the Garda Síochána” throughout the statute book, in legal proceedings and other documents, are to be construed as references to “An Garda Síochána”.

#### **Section 9**

This section sets out the function of An Garda Síochána which is to provide policing services and security services, including vetting, and in doing so, restates in large part section 7 of the Act of 2005. The stated objective of that function has been amended to explicitly include: the prevention of harm to individuals, particularly those who are “vulnerable” or “at risk” (as defined in section 2); and protecting and supporting victims of crime. In addition, the objective relating to vindicating human rights has been strengthened to include the objective of protecting human rights. An Garda Síochána is required to cooperate, as appropriate, with other Departments, agencies and bodies for the purpose of achieving its objective. The section makes clear that An Garda Síochána is to provide any other service, including immigration services, for which they are given responsibility by law.

### **Section 10**

This section provides a statutory basis for the prosecution of offences by members of An Garda Síochána in the name of the Director of Public Prosecutions (DPP) and enables the DPP to regulate how this is done by giving general (relating to a class of prosecutions) or specific (relating to a specific offence) directions or by assuming at any stage of the proceedings the conduct of proceedings initiated by a member of An Garda Síochána. It provides that if a prosecution is instituted by a member of An Garda Síochána, that prosecution may be conducted by that member or any other member of An Garda Síochána. This section restates section 8 of the Act of 2005 as amended by the Garda Síochána (Amendment) Act 2022.

## **Chapter 2 – Board of An Garda Síochána**

### **Section 11**

This section provides for An Garda Síochána to have a non-executive board, to be known as the Board of An Garda Síochána.

### **Section 12**

This section sets out the functions of the Board. Having regard to the Code of Practice for the Governance of State Bodies they include: overseeing and approving the development of corporate strategy including “major plans of action”, risk policy, budgets and service plans; promoting high standards of corporate governance; monitoring organisational performance; overseeing major capital expenditure and investment; ensuring recruitment and related arrangements comply with best practice; ensuring the integrity of the accounting and financial reporting systems; ensuring arrangements are in place to comply with An Garda Síochána’s public sector duty under section 42 of the Irish Human Rights and Equality Commission Act 2014; establishing and implementing arrangements for managing the performance of the Garda Commissioner. The standard provision is made for the Board to have all such powers as are necessary or expedient for the performance of its functions. Having regard to the function of An Garda Síochána, “major plans of action” is defined in order to make it clear that such plans concern the strategic direction of the organisation and matters relating to corporate affairs and do not include operational policing or security plans or plans relating to major event management which are matters within the functional independence of the Garda Commissioner.

### **Section 13**

This section concerns the provision of information to the Board by the Garda Commissioner to enable the Board to perform its functions effectively. It places an obligation on the Garda Commissioner to provide the Board with all such information and assistance as is necessary for this purpose. Having regard to the confidentiality and secrecy attaching to certain information held by An Garda Síochána (e.g. sensitive details relating to national security infrastructure projects) the Garda Commissioner may exclude information the disclosure of which could prejudice the security of the State. This will be circumscribed by arrangements to be agreed by the Board and the Garda Commissioner by way of written protocols.

### **Section 14**

This section sets out the standard relationship between such a board as proposed and the Minister. It provides that the Board is accountable to the Minister for the performance of its functions. The Board is required to inform the Minister of any matter that it considers requires the Minister’s attention.

### **Section 15**

This section provides for the membership of the Board. It will comprise 9 members (a chairperson and 8 ordinary members) who will be appointed by the Minister from amongst persons recommended by the Public Appointments Service. The standard provision is made in respect of the need for gender balance. Provision is made for the Minister to designate the first chairperson and first ordinary members of the Board prior to the coming into operation of the section.

### **Section 16**

This section sets out the process for the selection of members of the Board. The Public Appointments Service will undertake a selection competition, at the invitation of the Minister, to recommend to the Minister persons who are suitable for appointment. The persons recommended for appointment are required to have experience and expertise in matters connected with: the functions of An Garda Síochána; organisational governance, management or public administration; financial matters.

### **Section 17**

This section concerns the terms of appointment and conditions of office of Board members. The term of office of members will be a maximum of 4 years but with a proportion of the ordinary membership appointed for a maximum of 3 years in line with good corporate governance. Members may be reappointed but may not serve for more than 8 years in total.

### **Section 18**

This section sets out the circumstances in which a person is not eligible for or is disqualified from membership of the Board, a committee of the Board or the audit committee and the circumstances in which a person ceases to be a member of the Board, a committee or the audit committee. The circumstances include the standard exclusions in relation to persons who hold political office at local, national or European level. Also excluded are members of garda personnel, members of the Policing and Community Safety Authority and the Police Ombudsman or Deputy Police Ombudsman.

### **Section 19**

This section provides for the circumstances in which the Minister may remove a Board member from office.

### **Section 20**

This section provides for the circumstances in which the Minister may remove all Board members from office. Before removing all Board members on the ground that the Board's functions are not being performed in an effective and efficient manner, the Minister may appoint a person to conduct and submit to the Minister a report on the findings of an independent review of the matter. The Board and the Garda Commissioner are required to cooperate with and assist the person undertaking such a review.

### **Section 21**

This section allows the Board to establish committees in addition to the audit committee (to be established by the Board under section 74), whose membership may include persons who are not Board members, to assist and advise it on the performance of its functions. In appointing members of a committee, the Board is to consider the experience required to contribute to the effective performance of the committee's functions.



## **Section 22**

This section concerns the meetings (including remote meetings) and procedures of the Board. The Board is required to hold a meeting at least once every 2 months. The Garda Commissioner, who will not be a member of the Board, is permitted to attend and speak at meetings of the Board in accordance with its procedures. Subject to the Act the Board is to regulate its own procedures by rules or otherwise.

## **Section 23**

This section provides for the appointment by the Board, following consultation with the Garda Commissioner, of a senior member of garda staff (defined in section 2 as a member of garda staff of a grade equivalent to or higher than a member not below the rank of chief superintendent) with relevant skills and experience as the Secretary to the Board.

## **Section 24**

This section sets out the functions of the Secretary to the Board. It provides that the primary function of the Secretary is to carry on and manage the administration of the Board. The Secretary is to be accountable to the Board for the performance of his or her functions as the Secretary. In performing his or her functions as Secretary the senior member of garda staff will not be subject to the direction and control of the Garda Commissioner. The Secretary may, with the Board's consent, authorise a member of the staff of the Board to perform a function of the Secretary.

## **Section 25**

This section provides that the Garda Commissioner is required to assign to the Board such members of garda staff, premises and other resources that the Board requires to perform its functions including those of its committees and the audit committee. In performing their functions under this section such members of garda staff assigned will not be subject to the direction and control of the Garda Commissioner.

## **Chapter 3 – Garda Commissioner and Deputy Garda Commissioner**

### **Section 26**

This section provides for the appointment by the Government of a person as the Garda Commissioner, following a selection competition undertaken by the Public Appointments Service (the "Service") at the invitation of the Minister. The selection criteria and the recruitment process are required to be agreed between the Service and the Minister following consultation by the Minister with the Board and the Policing and Community Safety Authority. The Service may not recommend a person for appointment by the Government unless it is satisfied that the person is suitable for appointment by reason of his or her experience, qualifications etc. having regard to the functions of the office. The term of office of the Garda Commissioner is to be for a period of 5 years with the possibility of an extension not exceeding 2 years. Consultation with the Board and the Authority is required before any such extension may be granted by Government. Provision is made to deem the person who holds the office of Garda Commissioner on the coming into operation of this section to have been appointed under this section and to continue in office.

### **Section 27**

This section provides for the appointment by the Government of a person to the rank of Deputy Garda Commissioner following a selection competition undertaken by the Public Appointments Service (the Service) at the invitation of the Minister. The selection criteria and the recruitment process are required to be agreed between the Service and the Minister following consultation by the Minister with the Board and the Policing and

Community Safety Authority. The Service may not recommend a person for appointment by the Government unless it is satisfied that the person is suitable for appointment by reason of his or her experience, qualifications etc. having regard to the functions of the rank. Provision is made to deem a person who holds the rank of Deputy Garda Commissioner on the coming into operation of this section to have been appointed under this section and to continue in office. Note that under section 251(1)(e) regulations may be made in relation to the length of the term for which a person appointed to the rank of Deputy Garda Commissioner after the coming into operation of that section may hold office.

#### **Section 28**

This section provides for the performance by a Deputy Garda Commissioner of the functions of the Garda Commissioner for a limited time period in certain circumstances when the Garda Commissioner is unable to perform his or her functions i.e. the Garda Commissioner is absent, incapacitated or suspended from duty or the office is vacant. The criteria for the designation of the appropriate Deputy Garda Commissioner to perform the functions of the Garda Commissioner are set out. Where the Deputy Garda Commissioner (or where there is more than one Deputy, each of the office holders) is unable to perform the functions of the Garda Commissioner an Assistant Garda Commissioner may be designated by the Minister, following consultation with the Board and, where practicable, the Garda Commissioner, to perform the functions of the Garda Commissioner in that eventuality.

#### **Section 29**

This section provides for the resignation of the Garda Commissioner or Deputy Garda Commissioner. The Garda Commissioner or Deputy Garda Commissioner may resign by writing to the Minister, copying the Board. The Minister is required to inform the Policing and Community Safety Authority of any resignation under this section.

#### **Section 30**

This section makes provision for the suspension from duty, by the Minister, of the Garda Commissioner or a Deputy Garda Commissioner in certain circumstances. Those circumstances are that the person concerned is subject to a criminal investigation or an investigation of an allegation of serious misconduct. The Minister must be satisfied that the suspension from duty is in the public interest. The Board may also recommend such suspension to the Minister for the Minister's consideration. The steps to be taken by the Minister prior to suspending a person from duty are set out so as to ensure that the principles of fair procedures and natural justice apply. These steps include notifying the person involved of the reasons for considering removal and giving the person an opportunity to respond. In addition, the Minister must also consult with the Board. The suspension may be terminated by the Minister, following consultation with the Board, when the circumstances which led to the suspension no longer apply.

#### **Section 31**

This section makes provision for the removal from office by the Government of the Garda Commissioner or Deputy Garda Commissioner for stated reasons, including that the person concerned failed to effectively perform the functions of the office. The Board may also recommend such removal to the Government for its consideration. The Government may request the Chief Justice to invite a judge to undertake an inquiry into the matter that gave rise to the removal proposal. The steps to be taken by the Government prior to removing a person are set out so as to ensure that the principles of fair procedures and natural justice apply. These steps include

notifying the person involved of the reasons for considering removal and giving the person an opportunity to respond. In addition, the Government must also consult with the Board. While these steps are being undertaken the Government may suspend the person from duty until a decision is made on his or her removal from office. Where the Government removes a person from office, the Minister is required to lay a statement of the reasons for the removal before each House of the Oireachtas. This section restates elements of sections 11 and 12 of the Act of 2005.

### **Section 32**

This section provides for the conduct of an inquiry by a judge appointed under section 31. An appointed judge may conduct an inquiry in the manner he or she thinks proper and will have the powers, rights and privileges vested in a judge of the High Court.

## **Chapter 4 – Functions and duties of Garda Commissioner**

### **Section 33**

This section sets out the functions of the Garda Commissioner. They include ensuring that An Garda Síochána performs its functions (as set out in section 9), directing and controlling An Garda Síochána, carrying on and managing the administration and business of An Garda Síochána including allocating and deploying its available resources and determining the distribution of members of garda personnel throughout the State, and seeking to continuously improve the policing and security of the State. In addition, the Garda Commissioner is required to advise the Minister on policing and security matters and to assist and cooperate with the Policing and Community Safety Authority and the Police Ombudsman in order to facilitate those external oversight bodies in performing their functions under the Bill. The section further identifies a number of matters to which the Garda Commissioner must have regard when carrying out his or her functions including the policing principles, promoting effectiveness, efficiency and economy, the public sector duty obligations on An Garda Síochána under section 42 of the Irish Human Rights and Equality Commission Act 2014 and the various strategic planning and governance instruments provided for in the Bill (see chapter 6 of this Part in particular).

### **Section 34**

This section makes explicit the Garda Commissioner's independence in performing his or her functions subject to the Act. It further provides that the Garda Commissioner is accountable to the Board for the performance of his or her functions reflecting the standard CEO/Board relationship. It represents a change from the Act of 2005 under which the Garda Commissioner is directly accountable to the Minister for the performance of his or her functions.

### **Section 35**

This section places a duty on the Garda Commissioner to account to the Government and the Minister through the Secretary General of the Department of Justice on matters connected with the provision of policing services and security services by An Garda Síochána. In addition, the provision of documents by the Garda Commissioner to the Government, the Minister and, in certain circumstances, the Attorney General is provided for. Its purpose is to ensure that the Executive is informed or is in a position to inform itself of developments in An Garda Síochána to support its accountability to the Houses of the Oireachtas and the carrying out of its functions in relation to public safety and the security of the State. The section largely restates section 40 of the Act of 2005 in so far as it concerns the Government, the Minister and the Attorney General subject to some amendments to align with the wider Bill.

### **Section 36**

This section places a duty on the Garda Commissioner to keep the Minister and the Secretary General of the Department of Justice fully informed of significant developments relating to An Garda Síochána and policing and security in the State. The Minister may request that the Garda Commissioner to submit a report on any matter connected with the policing and security of the State or any of the Commissioner's other functions. If such a report relates to policing services the Minister is required to inform the Policing and Community Safety Authority of those matters. It restates section 41 of the Act of 2005 subject to amendment to align with the wider Bill.

### **Section 37**

This section provides that the Minister may, with the approval of Government, issue written directives to the Garda Commissioner on matters relating to An Garda Síochána. The Policing and Community Safety Authority may also recommend to the Minister that a directive be issued in relation to policing services. The Garda Commissioner is obliged to comply with any such directive and to keep the Minister informed of measures taken to do so. If the directive relates to policing services, the Minister is obliged to supply the Policing and Community Safety Authority with such information in so far as it relates to policing services. Following the issuing of a directive the Minister must inform both Houses of the Oireachtas that a directive has been issued and, with some exceptions, lay a copy of it before each House of the Oireachtas. The Minister is not permitted to issue directives which would limit the performance of a garda member's functions relating to the investigation or prosecution of offences. This section restates section 25 of the Act of 2005 subject to amendments to align with the wider Bill.

### **Section 38**

This section provides a statutory basis for the provision by the Garda Commissioner of documents to the State Claims Agency that the Agency requires in relation to the conduct of legal claims against or on behalf of a State Authority. The Garda Commissioner may exclude certain specified information from documents provided to the Agency.

### **Section 39**

This section provides for the delegation of the functions of the Garda Commissioner in writing to specified members of garda personnel. Delegation of any function does not preclude the Garda Commissioner from performing that function. It is clarified that any delegation under the section does not cease by reason only that the person lawfully exercising the functions of the Garda Commissioner has changed. This section restates in large part section 31 of the Act of 2005 subject to amendments to align with the Bill.

### **Section 40**

This section allows the Garda Commissioner for the purposes of performing his or her functions in relation to the administration and business of An Garda Síochána to enter into contracts and to operate bank accounts with the consent of the Minister for Public Expenditure and Reform. It makes clear that the power to enter into contracts includes contracts in relation land or an interest in land or any other property subject to the consents of the Minister and the Minister for Public Expenditure and Reform. It further provides that the Garda Commissioner may sue or be sued in the name of his or her office. The section restates in large part section 29 of the Act of 2005.

#### **Section 41**

This section enables the Garda Commissioner to engage, with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform, consultants or advisers to support the performance of the Garda Commissioner's functions and the functions of An Garda Síochána under this Bill. The section restates section 29(2) of the Act of 2005.

#### **Section 42**

This section requires the Garda Commissioner, following consultation with the Minister and the Policing and Community Safety Authority, to make arrangements for obtaining the views of the public on matters concerning policing services and An Garda Síochána. It restates section 27 of the Act of 2005 subject to amendments to align with the wider Bill.

#### **Section 43**

This section provides a statutory basis for the provision of services by An Garda Síochána for a fee for events in certain circumstances including that their provision is in the public interest and consistent with the functions of An Garda Síochána. An indicative list of the types of events is provided and includes sports fixtures and concerts. The provision of services relating to the protection of people or property at risk of harm when in transit is also provided for subject to any regulations made under section 251(1)(p). The Garda Commissioner may set charges for services provided subject to any regulations made under section 251(1)(q) in relation to the matter. This section restates section 30 of the Act of 2005 subject to amendments to align with the wider Bill.

### **Chapter 5 – Garda personnel**

#### **Section 44**

This section provides that the personnel of An Garda Síochána comprises both members of An Garda Síochána (defined in section 2) and members of garda staff (defined in section 2) emphasising that An Garda Síochána comprises a single workforce.

#### **Section 45**

This section provides for the division of members of An Garda Síochána into specified ranks which include the rank of reserve garda. The Minister is empowered to make regulations to add or remove ranks below that of Assistant Garda Commissioner. The Government will determine the number of people appointed to the rank of Deputy Garda Commissioner (with regard to the views of the Garda Commissioner) while the Garda Commissioner, with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform, will determine the number of people appointed to ranks below that of Deputy Garda Commissioner. The Garda Commissioner's determination will be informed by the personnel needs of the organisation which are required to be kept under review. The terms and conditions of members (other than the Garda Commissioner and Deputy Garda Commissioner) are to be determined by the Garda Commissioner with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform.

#### **Section 46**

This section provides for the making of a solemn declaration by persons appointed as members of An Garda Síochána with an updated wording set out in Schedule 2. In particular "before God" no longer appears in the wording while a requirement to comply with the code of ethics established under section 78 has been included along with a requirement to protect and vindicate human rights.

#### **Section 47**

This section provides for the appointment of persons to the ranks of Assistant Garda Commissioner and chief superintendent by the Garda Commissioner with the approval of the Board and following a selection competition undertaken by the Public Appointments Service in accordance with regulations. Provision is made to deem persons who hold the rank of Assistant Garda Commissioner or chief superintendent on the coming into operation of this section to have been appointed under this section and to continue in office. Note that under section 251(1)(e) regulations may be made in relation to the length of the term for which a person appointed to the rank of Assistant Garda Commissioner after the coming into operation of that section may hold office.

#### **Section 48**

This section provides for the suspension by the Garda Commissioner of members who hold the office of Assistant Garda Commissioner or chief superintendent in accordance with regulations. It further provides for the removal of such office holders. The removal must be for stated reasons and requires the approval of the Board. The Garda Commissioner may appoint, with the approval of the Board, a person to undertake an inquiry into the matter that gave rise to the proposal to remove the person from office. The steps to be taken by the Garda Commissioner prior to removing a person from office are set out to ensure that the principles of fair procedures and natural justice apply. These steps include notifying the person involved of the reasons for considering removal and giving the person an opportunity to respond. While these steps are being undertaken the Garda Commissioner may suspend the person from duty. This power to remove is without prejudice to the Performance Regulations and Conduct Regulations made under Part 8.

#### **Section 49**

This section sets out the powers of a person appointed to hold an inquiry under section 48 including directing a person to provide information and documents necessary to the inquiry, summoning witnesses and administering oaths and affirmations. It makes clear that a person who makes admissions or statements on foot of such a direction or summons has the benefit of the privilege against self-incrimination. Provision is made for a High Court application in the event that a person fails or refuses to comply with a direction or summons. The circumstances in which a person may be liable to criminal sanction for such failure or refusal are also set out. This section restates elements of sections 12 and 13A of the Act of 2005 in so far as they relate to the ranks of Assistant Commissioner and chief superintendent.

#### **Section 50**

This section provides for the Garda Commissioner to make appointments to any rank (including that of reserve garda) below the rank of chief superintendent in accordance with regulations. It restates in part section 14 of the Act of 2005. Provision is made to deem members of the ranks concerned on the coming into operation of this section to have been appointed under the section and to continue in office. Provision is also made for the Garda Commissioner, in accordance with regulations, to suspend from duty a person who is a member of any of the ranks concerned.

#### **Section 51**

This section provides for the dismissal by the Garda Commissioner of members below the rank of chief superintendent for reasons of public confidence. The steps to be taken by the Garda Commissioner prior to removing a person from office are set out to ensure that the principles of



fair procedures and natural justice apply. These steps include notifying the person involved of the reasons for considering removal and giving the person an opportunity to respond. The power to dismiss for reasons of public confidence is without prejudice to the Performance Regulations and Conduct Regulations made under Part 8. This section restates in part section 14 of the Act of 2005.

#### **Section 52**

This section concerns the powers of members of the rank of reserve garda and makes clear that they serve in a voluntary capacity. It provides that a reserve garda has, while on duty, the same powers, immunities, privileges and duties as members of An Garda Síochána appointed to the rank of garda. However, this is subject to the Garda Commissioner's determination of the range of powers to be exercised and the duties to be performed by members following consultation with the Policing and Community Safety Authority and the Minister. This section restates elements of section 15 of the Act of 2005.

#### **Section 53**

This section provides that the Garda Commissioner may admit persons as trainees in accordance with regulations with a view to their appointment and enrolment as members of An Garda Síochána. It makes clear that trainees enter into a contract of training with the Garda Commissioner which will set out their conditions of service and not a contract of employment. Provision is made to deem persons in training on the coming into operation of this section to have been admitted as trainees under this section and to continue in such training.

#### **Section 54**

This section provides for the appointment by the Garda Commissioner of members of garda staff and, with the approval of the Board, of senior members of garda staff (defined in section 2). They will be public servants recruited in accordance with the Public Service Management (Recruitment and Appointment) Act 2004. Their terms and conditions of employment will be determined by the Garda Commissioner with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform. Provision is made for persons who are members of the civilian staff of An Garda Síochána before the coming into operation of this section to become members of garda staff (i.e. they will no longer be civil servants of the Government but rather part of a single garda workforce). This change of status is subject to the making of a designation order by the Minister which must be preceded by consultation with trade unions or staff associations representing such civilian staff. The terms and conditions of such staff are addressed in Schedule 3.

#### **Section 55**

This section provides for the making of a superannuation scheme or schemes by the Garda Commissioner, with the approval of the Minister and the Minister for Public Expenditure and Reform, for members of garda staff where such members of garda staff do not become members of the Single Public Service Pension Scheme.

#### **Section 56**

This section provides that members of garda personnel are, when carrying out their functions, subject to the direction and control of the Garda Commissioner. They must carry out lawful orders, and perform all appointed duties and attend to all matters within their office or area of responsibility in a lawful, professional, punctual and prompt manner. It takes account of the recommendations in the Second Interim Report of the Disclosures

Tribunal which emphasised the need for any properly functioning police service “to have a command structure that is unequivocally responded to” and the duty of a police service to ensure that “those serving within it are under command and are not in a position to create difficulty when directed to do their work honestly and properly.”

#### **Section 57**

This section places a duty on members of garda personnel to account for any act or omission of theirs while on duty when directed to do so by a more senior member of garda personnel. A failure to comply with such a direction will render the person liable to disciplinary action. This section restates in part section 39 of the Act of 2005 and extends it to members of garda staff having regard to the objective of creating a single garda workforce.

#### **Section 58**

This section requires members of garda staff to give an undertaking prior to beginning their duties that they will faithfully perform their duties as members of garda staff. The Garda Commissioner will determine the manner in which such undertakings are to be given.

#### **Section 59**

This section provides for the establishment of representative associations for ranks below the rank of Assistant Commissioner. This section restates section 18 of the Act of 2005 subject to minor textual amendments to provide greater clarity.

#### **Section 60**

This section provides for an evidential presumption in legal proceedings that a person purporting to be a member of garda personnel of any rank or grade is such a member of garda personnel of that rank or grade. It restates section 130 of the Act of 2005 subject to amendments to align with the wider Bill.

### **Chapter 6 – Governance and accountability of An Garda Síochána**

#### **Section 61**

This section provides for the determination by the Policing and Community Safety Authority of priorities for An Garda Síochána in performing its functions relating to policing services (the “policing priorities”). The approval of the Minister is required as is prior consultation including with the Garda Commissioner, the National Office for Community Safety and others. Provision is made for the policing priorities to be reviewed from time to time. The policing priorities are subject to laying and publication requirements. This section restates in part section 20 of the Act of 2005 subject to amendments to align with the wider Bill.

#### **Section 62**

This section provides for the determination by the Minister of priorities (the “security priorities”) and related performance targets for An Garda Síochána in performing its functions relating to security services. Consultation is required including with the Garda Commissioner. The security priorities and performance targets are subject to laying and publication requirements. However, the Minister may exclude any matter from the copy to be laid where he or she is of the opinion that it would be prejudicial to the interests of the security of the State, or facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person. The Garda Commissioner is required to inform the Minister of the measures taken, and outcomes of such measures, to achieve the performance targets. The Minister may review the security priorities



and the performance targets as he or she thinks appropriate and make such revisions as he or she thinks fit. This section restates in large part section 20A of the Act of 2005.

### **Section 63**

This section requires the Garda Commissioner, at the request of the Board, to prepare every 3 years a strategic plan for An Garda Síochána for submission to the Minister for approval (with or without amendment) following its adoption by the Board. The Minister may issue directions in relation to the form and manner of the plan. The matters to which the plan is to relate are enumerated. The preparation is to be preceded by a consultation process. The Garda Commissioner is required to have due regard to any views provided by the Policing and Community Safety Authority in accordance with its functions under Part 4 and other enumerated matters when preparing the plan. With the exception of the first such plan, a strategic plan will review and evaluate the performance by An Garda Síochána of its functions in the previous 3 years. The procedures to be followed by the Minister on receipt of a strategic plan for approval are set out. The procedures by which an approved plan may be amended by the Minister or the Board are also set out.

### **Section 64**

This section contains provisions in relation to the laying and publication of the strategic plan. The Minister may exclude any matter from a copy of the strategic plan to be laid where he or she is of the opinion that it would be prejudicial to the interests of the security of the State, or facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person. Further provision is made for the Board, in consultation with the Garda Commissioner, to provide the Minister with reports on the implementation of the strategic plan as part of the annual report prepared under section 70.

### **Section 65**

This section requires the Garda Commissioner to prepare annually a service plan for An Garda Síochána (the “annual service plan”) for submission to the Minister for approval (with or without amendment) following its adoption by the Board. The Minister may issue directions in relation to the form and manner of the service plan. The matters to which the service plan is to relate are enumerated. The timeline for the submission of the service plan to the Minister is linked to the publication of the Estimates for Public Services having regard to the requirement that the plan contain estimates of the financial resources required to meet each of the objectives set out in the plan. The matters to which the Garda Commissioner is required to have regard when preparing the plan are enumerated and include any views provided by the Policing and Community Safety Authority in accordance with its functions under Part 4. The procedures to be followed by the Minister on receipt of a service plan for approval are set out. Provision is made in the event that the Board fails to adopt the plan. The plan as approved is subject to laying and publication requirements. The Minister may exclude any matter from a copy of the service plan to be laid where he or she is of the opinion that it would be prejudicial to the interests of the security of the State, or facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

### **Section 66**

This section provides for the amendment by the Garda Commissioner of an annual service plan that has been approved by the Minister under section 65, either at the direction of the Minister or at the Garda Commissioner’s own initiative. Relevant provisions of section 65 are to apply to a plan to

be amended under this section. The amended plan is subject to laying and publication requirements.

#### **Section 67**

This section requires the Garda Commissioner to ensure that the services set out in an annual service plan are delivered in accordance with the plan in a manner that does not exceed the resources available to An Garda Síochána. The Garda Commissioner is required to inform the Board and the Minister of actions or proposed actions that would cause An Garda Síochána to exceed the resources available for the period of the plan.

#### **Section 68**

This section concerns the preparation of a plan for capital expenditure (the “capital plan”) by the Garda Commissioner. The capital plan is to be submitted at the request of the Minister following consultation with the Minister for Public Expenditure and Reform, for the Minister’s approval (with or without amendment) following its adoption by the Board. The Minister may specify the form and manner of the capital plan. The matters to which the Garda Commissioner is to have regard in preparing the plan are set out. The procedures to be followed by the Minister on receipt of a capital plan for approval are set out. Provision is made in the event that the Board fails to adopt the plan.

#### **Section 69**

This section provides for the publication and implementation of the capital plan prepared under section 68. The capital plan is subject to laying and publication requirements. The Minister may exclude any matter from a copy of the capital plan to be laid where he or she is of the opinion that it would be prejudicial to the interests of the security of the State, or facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person. The Garda Commissioner is required to take steps to ensure that capital expenditure under a capital plan does not exceed the resources available to An Garda Síochána for the period of the plan. Where actions, or proposed actions, would cause An Garda Síochána to exceed such resources the Garda Commissioner is required to inform the Board and the Minister.

#### **Section 70**

This section provides for the preparation by the Garda Commissioner of an annual report for submission to the Minister within 4 months of the end of each year following its adoption by the Board. The annual report is subject to laying and publication requirements. However, the Minister may exclude any matter from a copy of an annual report to be laid where he or she is of the opinion that it would be prejudicial to the interests of the security of the State, or facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

#### **Section 71**

This section provides for the preparation by the Board of a governance framework for An Garda Síochána for approval by the Minister (with or without amendment). The Garda Commissioner is required to be consulted. The requirement reflects a standard corporate governance requirement for vote-holding bodies under the Corporate Governance Standard for the Civil Service. It is to include information on the guiding governance principles applicable to An Garda Síochána in the performance of its functions, the managerial, organisation and governance structures in place, the processes and guidelines to ensure compliance with statutory obligations, its internal controls including in relation to internal audits, risk management, public

procurement, financial reporting and protected disclosures. It is to be published and kept under periodic review and revised as appropriate.

#### **Section 72**

This section provides that the Garda Commissioner is the accounting officer in relation to the appropriation accounts of An Garda Síochána. The standard terms under which the Garda Commissioner is required to appear before the Committee of Public Accounts are set out. The section continues the position that pertains under section 43 of the Act of 2005.

#### **Section 73**

This section sets out the standard terms under which the Garda Commissioner is required to appear before Oireachtas Committees, other than the Committee of Public Accounts, at their request to account for the general administration of An Garda Síochána.

#### **Section 74**

This section provides for the establishment by the Board of an audit committee comprised of members of the Board and other persons with expertise and experience relevant to the committee's functions. It restates in large part section 44 of the Act of 2005 subject to amendments to reflect the establishment of the Board and to align with the wider Bill.

#### **Section 75**

This section sets out the functions of the audit committee which are: advising the Garda Commissioner on governance and financial matters relating to his or her functions and reporting at least once annually to the Garda Commissioner on such matters and on its activities in the previous year; advising the Board on financial matters relating to its functions and reporting at least once annually to the Board on such matters. The Garda Commissioner is required to support the work of the audit committee by providing it with audit reports and other information relevant to its functions. This section restates in large part section 45 of the Act of 2005 subject to amendments to reflect the establishment and role of the Board and to align with the wider Bill.

#### **Section 76**

This section provides for the dissolution of the audit committee established under section 44 of the Act of 2005 and the necessary transitional provisions in respect of its work.

#### **Section 77**

This section requires the Garda Commissioner to compile and store statistical information concerning offences, criminal proceedings and the state of crime in the State and to periodically make such information available to the Minister and the Central Statistics Office. This section restates section 47 of the Act of 2005.

### **Chapter 7 – Codes of ethics, standards of integrity, unauthorised disclosure of information**

#### **Section 78**

This section requires the Policing and Community Safety Authority to issue a code of ethics setting out standards of conduct and practice for members of garda personnel and including provisions to encourage and facilitate such members to report wrongdoing within An Garda Síochána. The Authority is required to consult with specified parties and to have regard to certain matters before issuing a code. The code is subject to laying and publication requirements. The Garda Commissioner is required to ensure that all members of garda personnel have read and understand the code. The section restates section 17 of the Act of 2005 subject to

amendments to reflect the establishment of the Policing and Community Safety Authority and to align with the wider Bill. Provision is made for the code established under section 17 of the Act of 2005 to be treated as if it had been established under this section.

#### **Section 79**

This section requires the Board to issue a code of ethics for advisers or consultants engaged under section 41, their employees or contractors, and members of the Board or a committee of the Board and the audit committee setting out the standards of integrity and conduct to be maintained when such persons are performing functions under the Bill.

#### **Section 80**

This section concerns the confidentiality of information obtained by An Garda Síochána and provides for an offence of harmful disclosure of information by current and former members of garda personnel, members of the Board, a committee of the Board or the audit committee, and persons engaged by or under contract with An Garda Síochána and their employees. It restates in large part section 62 of the Act of 2005 subject to amendments to clarify elements of the offence and to align with the wider Bill.

### **Chapter 8 – Special inquiries relating to administration, operation, practice or procedure of An Garda Síochána or conduct of members of garda personnel**

This chapter develops the power to establish an inquiry contained in section 42 of the Act of 2005 in order to support the conduct of such inquiries in a timely, efficient and effective manner in the interests of all concerned. It takes account of the experience gained from the establishment of a number of such inquiries under section 42. It also makes changes to align with the wider Bill including, for example, by extending the potential remit of such inquiries to include garda staff in addition to members of An Garda Síochána.

#### **Section 81**

This section provides the necessary interpretation provisions for this chapter.

#### **Section 82**

This section provides for the establishment by the Minister of an inquiry into any aspect of the administration, operation, practice or procedure of An Garda Síochána or the conduct of members of garda personnel. The threshold for the establishment is that the matter is one that the Minister considers to be of significant public concern. Prior consultation is required with the Policing and Community Safety Authority which may also request the Minister to establish an inquiry into a matter relating to policing services. Provision is made for the appointment of a person to conduct an inquiry and the necessary skills and experience required. The appointed person will be independent in the exercise of his or her functions and on the conclusion of the inquiry is required to submit a final report to the Minister.

#### **Section 83**

This section provides that the Minister is to specify, following consultation where appropriate (including with the Policing and Community Safety Authority where the subject relates to policing services), the terms of references of an inquiry established under section 82. The Minister may, by order, amend such terms of reference before the final report is submitted.

#### **Section 84**

This section places a requirement on the Minister, when ordering an inquiry under section 82, to specify the time frame for the submission of the final report of the inquiry, following consultation with the person appointed to undertake it (the “appointed person”). The Minister may, in specified circumstances, extend the time frame.

#### **Section 85**

This section enumerates the powers of an appointed person including: directing a person to provide any information, document or thing relevant to the inquiry, summoning witnesses to the inquiry, directing witnesses to answer questions, and administering oaths and affirmations to, and examining, witnesses. The consequences of a delay or a failure to comply with a direction of the appointed person are also set out.

#### **Section 86**

This section makes it clear that inquiries are to be inquisitorial in nature. An appointed person is required to conduct the inquiry in a manner that is as informal as practicable and consistent with fair procedures. Inquiries are to be conducted in private other than where, in the opinion of the appointed person, it would be desirable in the interests of the inquiry and fair procedures to conduct all or part of it in public.

#### **Section 87**

This section provides for the prescription by the Minister of rules or procedures for the conduct of inquiries so that inquiries may be undertaken in a timely, efficient and effective manner and in accordance with fair procedures. The rules prescribed by the Minister may, following consultation with the Minister for Public Expenditure and Reform, include rules relating to the payment of the reasonable legal costs and expenses of witnesses. The appointed person is required to provide witnesses with a copy of any prescribed rules before witnesses give evidence.

#### **Section 88**

This section places an obligation on an appointed person to prepare an interim report prior to the final report where requested to do so by the Minister. The Minister may, following consultation with an appointed person, publish all or part of an interim or final report.

#### **Section 89**

This section provides for the appointment by the Minister of a replacement person to undertake an inquiry where the appointed person is not in a position to continue to conduct an inquiry or to submit his or her final report within the specified timeframe or extended timeframe.

#### **Section 90**

This section is a transitional provision that provides for the continuation of any inquiries commenced under section 42 of the Act of 2005 that have not been completed before the repeal of that Act.

### **Chapter 9 – International service and cooperation with police services, law enforcement agencies or other relevant person outside State**

#### **Section 91**

This section provides the necessary interpretation provisions for this chapter.

## **Section 92**

This section provides for the assignment of members of An Garda Síochána on international service and reflects the nature and scope of Garda overseas service. Subsection (1) provides that the assignment of eligible members to perform duties of a police character with an international organisation such as the UN is a matter for the Government whereas the Garda Commissioner may assign eligible members to perform liaison duties and other overseas duties as is provided for under subsection (2). The section restates in large part section 51 of the Act of 2005. The necessary transitional provision is made for members serving overseas at the time of the coming into operation of this section.

## **Section 93**

This section allows the Garda Commissioner, with the consent of the Government, to enter into an agreement with a police service or other law enforcement agency outside the State, or a body or person outside the State with functions equivalent to the Police Ombudsman, the Policing and Community Safety Authority, a coroner, a commission of investigation, a tribunal of inquiry or the Criminal Assets Bureau. Such agreements may provide for cooperation between the parties, information sharing and the secondment of personnel and other appropriate matters. It restates in large part section 28 and 28A of the Act of 2005. The necessary transitional provision is made for any pre-existing agreements made pursuant to those sections.

## **Section 94**

This section provides for the secondment of members of the Police Service of Northern Ireland to certain ranks in An Garda Síochána for a maximum period of 3 years. It restates section 53 of the Act of 2005 subject to amendment to align with the wider Bill. See also Schedule 4.

## **Section 95**

This section provides for the secondment of members of An Garda Síochána to the Police Service of Northern Ireland for a maximum period of 3 years. It restates in large part section 54 of the Act of 2005 subject to amendments to align with the wider Bill. See also Schedule 4.

## **Section 96**

This section provides for the disciplinary procedure to apply to members of An Garda Síochána who are seconded to the Police Service of Northern Ireland under section 95. It restates in large part section 55 of the Act of 2005 subject to amendments to align with the wider Bill.

## **Section 97**

This section provides for the disciplinary procedure to apply to members of the Police Service of Northern Ireland who are seconded to An Garda Síochána under section 94. It restates in large part section 56 of the Act of 2005 subject to amendments to align with the Bill.

## **Chapter 10 – Offences of causing disaffection, impersonation**

### **Section 98**

This section restates section 59 of the Act of 2005 subject to amendment to align with the wider Bill. It provides for an offence of causing disaffection among members of An Garda Síochána. It provides that a person who causes, or does any act calculated to cause, disaffection among members of An Garda Síochána or does any act calculated to induce any such member to withhold his or her services or commit a breach of the standards of professional behaviour will be guilty of an offence and sets out the penalties which will apply following conviction of such an offence.



**Section 99**

This section restates section 60 of the Act of 2005. It provides for an offence of impersonating a member of An Garda Síochána and sets out the penalties which apply on conviction of such an offence.

**Section 100**

This section provides for other offences relating to impersonation and the penalties that apply on conviction of such offences. It restates section 60 of the Act of 2005 subject to amendments to include a new offence relating to the use of flashing blue lights by a vehicle in a manner likely to deceive.

**Chapter 11 – Miscellaneous (Part 2)****Section 101**

This section restates section 48 of the Act of 2005 subject to amendment to substitute the Garda Commissioner for the State. It provides that the Garda Commissioner is liable to an action for damages in respect of damage resulting from an actionable wrong committed by a member of An Garda Síochána acting in the course of performing the member's functions.

**Section 102**

This section restates section 49 of the Act of 2005 subject to amendment to assign the functions of the Minister to the Garda Commissioner and to address the matter of private prosecutions. It provides that the Garda Commissioner may contribute to the legal costs of a member of An Garda Síochána who is charged with a criminal offence in circumstances where the act alleged was directly related to the performance of the member's functions and where the member's financial circumstances are such that the costs would cause undue hardship. Any contribution made may not exceed that which would be payable in respect of a legally aided person under the statutory Criminal Legal Aid Scheme. Where the member concerned is the Garda Commissioner, provision is made for the Board to make the required decisions. Provision is also made to enable a contribution to be made to the legal costs of a member charged with a criminal offence on foot of a private prosecution. Any such contribution may not exceed the legal costs incurred by the member concerned.

**PART 3 – COMMUNITY SAFETY**

This Part provides for a strategic framework at national and local level to underpin a whole of Government approach to achieve the objective of promoting safer communities. Community safety is a broad concept and for the purposes of the Bill may be understood (as set out in the long title) as relating to improving the safety and perception of safety in communities through collaboration between relevant Departments of State and public service bodies at national and local level and to provide for community engagement in the prevention of crime and harm.

The framework provides for the development of a national strategy and oversight and implementation structures including a designated Cabinet Committee to provide high level political oversight, a steering group to provide senior leadership and direction, a national office to provide executive support and Local Community Safety Partnerships to develop and implement strategies tailored to identified local needs. To support this a statutory obligation is placed on public service bodies to cooperate with each other and in doing so reciprocates, as recommended by CoFPI, the existing obligation on An Garda Síochána contained in section 7 of the Act of 2005 and restated in section 9 of the Bill. Having regard to the role of the Policing and Community Safety Authority in providing oversight of An Garda Síochána's performance in relation to policing, including its

activities aimed at preventing crime and preventing harm to people at risk, the Part includes a number of linkages between that body and the elements of the new framework.

### **Section 103**

This section defines certain words and terms used in this Part. Of particular note are the definitions of:

“local community safety plan” which is to be understood in the context of section 116(1)(b). Under section 116(1)(b) a local community safety partnership develops and adopts, on a three yearly basis, a plan to improve community safety in its functional area;

“other relevant Ministers” which refers to the Ministers of the Government who are to have a role across this Part in particular. In addition to the 7 ministerial offices listed a further category of “such other Ministers of the Government as may be prescribed by the Minister” is included;

“public service body” which lists 9 specific bodies with a further category of “a body that has been designated under section 104.”

### **Section 104**

This section allows the Minister to designate by order a body as a “public service body” for the purposes of this Part. Any such body will be in addition to those specifically listed under the definition of “public service body” in section 103. The criteria required for designation are set out including the consent of the responsible Minister.

### **Section 105**

This section provides for the designation by the Taoiseach of a committee of the Government as the designated committee of the Government for the purposes of this Part.

### **Section 106**

This section provides for the preparation of a national strategy for improving community safety. It is to be prepared by the Minister and the other relevant Ministers (as defined in section 103) and submitted to the Government for approval within a 12 month period. Provision is made for consultation as part of the preparatory work including with the Policing and Community Safety Authority and the public. Standard laying and publication requirements apply to the approved strategy. The strategy is to be reviewed at least once every 6 years and may be revised by the Government in the intervening period.

### **Section 107**

This section provides for the establishment of the National Community Safety Steering Group and sets out its functions and the composition of its membership. Those functions include promoting and monitoring compliance by public services bodies with their obligations under the Bill, fostering collaboration between bodies, providing direction to the National Office and monitoring implementation of the national strategy. Further provision may be made by regulations in relation to the membership and the conduct of its business. The Steering Group is required to report annually to the Minister and to provide the Minister with other reports as may be specified. The Steering Group is also required to report to the designated committee of the Government.



**Section 108**

This section provides for the establishment of the National Office for Community Safety. The functions of the National Office are set out and include supporting public services bodies in the implementation of the national strategy, providing support, training and guidance to safety partnerships and monitoring the implementation of the national strategy and local community safety plans, conducting or commissioning research or evaluations and promoting public awareness of issues affecting community safety.

**Section 109**

This section provides for the appointment of the Director of the National Office and his or her functions. Provision is made for a Director-designate prior to the establishment of the National Office. The Director will be responsible for implementing the policies and decisions of the Steering Group and for managing the staff, administration and business of the National Office.

**Section 110**

This section provides for the accountability of the Director to Oireachtas committees, other than the Committee of Public Accounts, and sets out the standard terms under which the Director is required to appear before such committees to account for the general administration of the National Office.

**Section 111**

This section provides for the appointment of staff to the National Office by the Director.

**Section 112**

This section provides for the making of a superannuation scheme or schemes by the National Office for the Director or staff of the National Office where such persons do not become a member of the Single Public Service Pension Scheme.

**Section 113**

This section provides for the resourcing of the National Office with the funds, premises, facilities and services that are necessary for its proper functioning.

**Section 114**

This section provides for the making of regulations by the Minister, following consultation with other relevant Ministers, relating to the establishment and operation of local community safety partnerships. The regulations may provide for such matters as the membership, the election of chairpersons and vice-chairpersons, the terms and conditions of office of the members, the conduct of the business of and the establishment of committees by safety partnerships. In relation to the membership, provision may be made for the sectors to be represented and the proportion of such membership to be represented by each sector and diversity and gender balance requirements. It is envisaged that the membership will include members of the local authority, representatives of public service bodies, and representatives of local community and voluntary bodies involved in activities related to community safety. Provision may also be made in the regulations, for the purposes of the performance by the Policing and Community Safety Authority of its functions, for the attendance of members of the Authority at meetings of safety partnerships and their committees and for the Authority to convene meetings of chairpersons and vice-chairpersons of safety partnerships. As the safety partnerships

are to replace the Joint Policing Committees provision is made for their dissolution by regulation.

#### **Section 115**

This section provides for the making of regulations by the Minister, following consultation with other relevant Ministers, to provide for area-based neighbourhood community safety fora within the functional area of safety partnerships. The regulations may also make provision for existing local policing fora established under section 36 of the Act of 2005 to either continue as area-based neighbourhood community safety fora or to be dissolved and for any necessary transitional arrangements. As provided for under section 116, such area-based neighbourhood community safety fora will be coordinated and supported by safety partnerships.

#### **Section 116**

This section sets out the functions of safety partnerships including acting as a forum for discussing and responding to community safety concerns, developing, implementing, monitoring and reviewing local 3 year community safety plans to improve community safety and coordinating and supporting area-based neighbourhood community safety fora. Provision is made for safety partnerships to provide views on the preparation and implementation of local policing plans by An Garda Síochána in relation to the provision of policing services in the functional area of the safety partnership. Provision is also made for information and reports to be provided by safety partnerships to the National Office.

#### **Section 117**

This section requires the chief executive of a local authority to assign employees to assist the safety partnership within the area of the local authority in the performance of its functions. It further requires him or her to designate one of the assigned employees as the manager of the safety partnership.

#### **Section 118**

This section places a duty on public service bodies, when performing their functions, to take all reasonable steps to improve community safety, including through the prevention of crime and of harm to individuals, in particular those who are vulnerable or at risk. In addition, public service bodies are required to cooperate as appropriate in order to achieve this objective, including through sharing of information (including personal data) and documents in accordance with law. This obligation reciprocates the obligation on An Garda Síochána under section 9.

### **PART 4 – POLICING AND COMMUNITY SAFETY AUTHORITY**

This Part provides for the establishment of the Policing and Community Safety Authority to oversee and assess in an independent and transparent manner the performance of An Garda Síochána in relation to policing services and its work with other public service bodies to improve community safety. It combines the oversight function of the Policing Authority and the complementary inspection function of the Garda Síochána Inspectorate, superseding both bodies. The Part provides for the establishment, membership, and functions of the body, including the inspection function and related inspection powers (to include the power to conduct unannounced visits to garda premises), the governance and accountability arrangements to apply to the body, and matters arising from the dissolution of the Policing Authority and the Garda Síochána Inspectorate. It is arranged in 7 chapters.

## **Chapter 1 – Definitions (Part 4)**

### **Section 119**

This section defines certain words and terms used in this Part.

## **Chapter 2 – Policing and Community Safety Authority**

### **Sections 120 and 121**

These sections provide for the establishment of a body corporate to be known as the Policing and Community Safety Authority (the “Authority”).

### **Section 122**

This section sets out the objective, functions and powers of the Authority. Its objective is to oversee and assess in an independent and transparent manner the performance by An Garda Síochána of its function relating to policing services in order to support the effective provision and continuous improvement of such services to the benefit of the safety of the public. It is to further this objective in so far as practicable. Other functions enumerated include keeping under review the performance by An Garda Síochána of its function relating to policing services; carrying out inspections (including joint inspections), preparing reports on such inspections and monitoring the implementation by An Garda Síochána of any recommendations included in such reports; promoting the policing principles, professional policing standards and public awareness of matters relating to policing services; keeping the Minister informed of developments in respect of matters relating to policing services; promoting inter-agency collaboration and community engagement to improve community safety; undertaking and commissioning research projects relating to policing services; and, providing advice to the Minister with regard to best policing practice. Its functions also include ensuring that it has appropriate arrangements in place to comply with its obligations under section 42 of the Irish Human Rights and Equality Commission Act 2014.

The Authority will have the powers that are necessary or expedient for the performance of its functions and will be independent in the performance of such functions. To facilitate the Minister in discharging his or her oversight responsibilities in relation to the body (including in accordance with the Code of Practice for the Governance of State Bodies) the Authority is required to furnish to the Minister such information concerning the performance of his or her functions as the Minister may require. The Authority is also required to keep the Minister informed of matters relevant to the Government’s accountability to the Houses of the Oireachtas.

### **Section 123**

This section provides for the membership of the Authority. It will comprise 9 members – a chairperson and 8 ordinary members – who will be appointed by the Government following the approval of resolutions recommending their appointment by both Houses of the Oireachtas. In appointing members, the Government is required to have regard to the objective of achieving gender balance amongst the membership. Provision is also made for the Government to designate persons as the first chairperson and first ordinary members of the Authority prior to the establishment day of the Authority.

### **Section 124**

This section sets out the process for recommending persons for appointment as members of the Authority under section 123. The Public Appointments Service will undertake a selection competition, at the invitation of the Minister, to recommend to the Government persons who are suitable for appointment. The areas of knowledge and expertise identified

as being desirable for members to have are enumerated and include policing services, the criminal justice system, human rights, equality and diversity, services for victims. To take account of the prevention of harm to individuals in particular those who are vulnerable or at risk being given express recognition as an objective of An Garda Síochána, the areas of knowledge also include healthcare, child and social services, and improving the safety of communities including through inter-agency collaboration and community engagement.

#### **Section 125**

This section concerns the terms of appointment and conditions of office of Authority members. The term of office for members will be a maximum of 4 years and they may be reappointed subject to the condition that they do not hold office for a period exceeding 8 years.

#### **Section 126**

This section sets out the circumstances in which a person is not eligible for or is disqualified from membership of the Authority or a committee of the Authority and the circumstances in which a person ceases to be a member of the Authority or a committee.

#### **Section 127**

This section provides for the removal by the Government of a member of the Authority from office on specified grounds following the passage of resolutions in both Houses of the Oireachtas calling for their removal. The steps to be taken before a member may be removed are set out, ensuring that fair procedures are complied with.

#### **Section 128**

This section provides for the establishment by the Authority of committees, whose membership may include persons who are not members of the Authority, to assist and advise it on the performance of its functions or to perform functions of the Authority under the general direction of the Authority. In appointing committee members the Authority is required to have regard to the qualifications and experience necessary for the proper and effective performance of the committee's functions.

#### **Section 129**

This section provides for the appointment by the Authority of the chief executive officer of the Authority and for their terms and conditions of office. The chief executive will be responsible for managing the administration of the Authority and for implementing the policies and decisions of the Authority. Provision is made for the designation by the Minister of a person to be appointed as the first chief executive before the establishment day of the Authority.

#### **Section 130**

This section concerns meetings of the Authority. The Authority will hold as many meetings as are necessary for the performance of its functions annually, including meetings with the Garda Commissioner and the Director of the National Office. Meetings of the Authority, or part thereof, may, where appropriate, be attended by members of the public and broadcast by the media, including at least 4 meetings of the Authority and the Garda Commissioner annually.

#### **Section 131**

This section provides for the appointment by the Authority, with the consent of the Minister and the Minister for Public Expenditure and Reform, of members of staff of the Authority who will be civil servants in the Civil Service of the State.

### **Section 132**

This section allows the Authority, with the consent of the Minister and the Minister for Public Expenditure and Reform, to enter into contracts, to engage consultants or advisors and to engage police officers from police services outside the State to assist it in the performance of its functions.

### **Section 133**

This section requires the Garda Commissioner to report to the Authority in relation to policing services in order to facilitate the performance by the Authority of its functions. This requirement includes the duty to provide to the Authority, on request, information and documents relating to policing services. The Garda Commissioner is required to keep the Authority fully informed of matters relevant to the functions of the Authority and any other matters that the Garda Commissioner considers should be brought to its attention. The Garda Commissioner is further required to submit to the Authority, on request, reports on any matters connected with policing services or the performance of his or her functions in relation to such services.

### **Section 134**

This section places an obligation on the Director of the National Office to assist the Authority in the performance by the Authority of its functions by keeping the Authority informed of and providing reports on matters relevant to its functions and by attending meetings of the Authority, including not fewer than one meeting annually attended by members of the public and which the media may record and broadcast.

## **Chapter 3 – Governance and accountability of Policing and Community Safety Authority**

### **Section 135**

This section provides for the preparation by the Authority of a governance framework for submission to the Minister – a standard corporate governance requirement for vote-holding bodies. It will include information on the guiding principles applicable to the Authority in the performance of its functions, the managerial, organisation and governance structures in place, the processes and guidelines to ensure compliance with statutory obligations, its internal controls including in relation to internal audits, risk management, public procurement, financial reporting and protected disclosures. It is to be published and kept under periodic review and revised as appropriate.

### **Section 136**

This section requires the Authority to prepare a strategy statement for submission to the Minister every 3 years – a standard requirement in relation to vote-holding bodies. The strategy statement will include key objectives, outputs and related strategies including the uses to which resources are to be employed for the period. With the exception of the first such statement, the statement will include a review of the work of the Authority in the previous 3 years. Before its submission to the Minister, the Authority is required to publish the strategy statement in draft to facilitate consultation. The statement is subject to standard laying and publication requirements.

### **Section 137**

This section provides for the preparation and submission by the Authority of an annual report and its submission to the Minister within 3 months of the end of each year. It also provides for the submission of “special reports” by the Authority to the Minister concerning matters which, due to their gravity or other exceptional circumstances, warrant a report to the Minister. The Minister may also request the Authority to prepare reports on

any matter relating to policing services. The reports are subject to laying and publication provisions.

#### **Section 138**

This section requires the Authority to issue a code of ethics setting out the standards of integrity and conduct to be maintained by members of the Authority or a committee of the Authority, its chief executive, staff and other persons engaged by the Authority, when performing their functions.

#### **Section 139**

This section provides that the chief executive is the accounting officer in relation to the appropriation accounts of the Authority, which is to be a vote-holding body. The standard terms under which the chief executive is required to appear before the Committee of Public Accounts are set out.

#### **Section 140**

This section sets out the standard terms under which the chief executive is required to appear before Oireachtas committees, other than the Committee of Public Accounts, at a committee's request to account for the general administration of the Authority.

### **Chapter 4 – Inspections by Policing and Community Safety Authority**

#### **Section 141**

This section provides for the appointment by the Authority of members of the staff of the Authority as inspectors of policing services to carry out inspections under this Part. In appointing persons as inspectors, the Authority will ensure that they have appropriate experience, qualifications, training or expertise to carry out the inspections.

#### **Section 142**

This section provides for the carrying out of inspections in relation to aspects of the operation and administration of An Garda Síochána relating to policing services by the Authority either on its own initiative or at the request of the Minister. The Authority may also carry out inspections jointly with one or more prescribed inspection bodies acting in coordination in the exercise of their statutory powers. Where the Authority decides to carry out an inspection on its own initiative or at the request of the Minister, the Authority will specify in writing the scope and terms of the inspection and authorise in writing one or more inspectors of policing services to carry it out. On so authorising an inspector of policing services, the Authority is required to provide the Garda Commissioner with a notice in writing of the inspection which will include details of the nature and particulars of the matters to be inspected and the scope and terms of the inspection.

#### **Section 143**

This section provides for the Minister to have the power to prescribe inspection bodies, following consultation with the Authority and any relevant Minister, for the purposes of this Part.

#### **Section 144**

This section concerns the conduct of joint inspections with prescribed inspection bodies. On agreeing to undertake a joint inspection, the Authority and the other inspection body or bodies are required to prepare a joint inspection plan which will set out the purpose of the joint inspection, the reasons why a joint inspection is appropriate, the aspects of the joint inspection to be carried out by the Authority and those to be carried out by the other inspection body or bodies, the arrangements for the joint inspection, including the sharing of information in accordance with law, and the arrangements for reporting.



**Section 145**

This section provides for the Authority to prepare, from time to time, an inspection plan setting out priorities for inspections and information on how such inspections will be carried out in a manner which is proportionate, accountable and transparent while ensuring the integrity and objectivity of the findings of inspections. The inspection plan is subject to consultation and publication provisions.

**Section 146**

This section sets out the powers of inspectors of policing services. Such powers include: the power to enter garda stations and other premises at any time to inspect any aspect of the administration or operation of An Garda Síochána in relation to the provision of policing services relevant to the inspection, to require garda personnel to provide information or documents that an inspector of policing services may reasonably require for the purposes of an inspection and to examine or take possession of such documents. A member of garda personnel may refuse to provide information on the grounds that it would be prejudicial to the security of the State or would endanger the life or safety of a person who has given information in confidence to a public body. Where a member of garda personnel so refuses the inspector of policing services is required to inform the Authority who may request that the Garda Commissioner provide the information or document. If the Garda Commissioner refuses the request the Authority may refer the refusal to the Independent Examiner for review.

**Section 147**

This section requires the Authority and the Garda Commissioner to agree a memorandum of understanding concerning the conduct of inspections to ensure that inspections are carried out efficiently and effectively and in a manner that does not adversely impact the functions of An Garda Síochána, jeopardise criminal investigations or prosecutions or prejudice the safekeeping of a person in legal custody.

**Section 148**

This section requires the Authority, following the completion of an inspection undertaken on its own initiative, to submit a report of the inspection, which may contain recommendations where appropriate, to the Garda Commissioner and the Minister. The Garda Commissioner is obliged, where requested to do so by the Authority, to submit a response to the inspection report which may include any actions to be taken in response to the report. The Authority is required to publish reports submitted under this section, subject to certain safeguards, and may also publish, where appropriate, any written response of the Garda Commissioner.

**Section 149**

This section requires the Authority, following the completion of an inspection undertaken at the request of the Minister, to submit a report of the inspection, which may contain recommendations where appropriate, to the Minister, who will submit a copy of the report to the Garda Commissioner. The Garda Commissioner is obliged, where requested to do so by the Minister, to submit a response to the inspection report which may include any actions to be taken in response to the report. The Minister may provide a copy of the Garda Commissioner's response to the Authority or publish all or part of the response. The reports submitted under this section are subject to standard laying and publication requirements.

### **Section 150**

This section provides for the monitoring and assessment by the Authority, at the request of the Minister or on its own initiative, of measures taken by An Garda Síochána in relation to recommendations contained in reports of inspections prepared under this Part. The Garda Commissioner is required to provide the Minister and the Authority with information and documents as may be required for the purposes of this section.

## **Chapter 5 – Unauthorised disclosure of information**

### **Section 151**

This section concerns the confidentiality of information connected with inspections and provides for an offence of disclosure of such information by current and former office holders and other persons employed or engaged by the Authority where such information is not otherwise in the public domain.

### **Section 152**

This section concerns the confidentiality of information obtained by the Authority and provides for an offence of harmful disclosure of information by current and former office holders and other persons employed or engaged by the Authority or the Policing Authority prior to its dissolution.

## **Chapter 6 – Dissolution of Policing Authority**

### **Section 153**

This section dissolves the Policing Authority on the establishment day of the Authority.

### **Section 154**

This section provides for the transfer of the staff of the Policing Authority to the Authority on its establishment day and ensures that, except in accordance with a collective agreement negotiated with any recognised trade union or staff association, the terms and conditions of service or remuneration of such staff are not less beneficial than those to which they were subject before such transfer.

### **Section 155**

This section provides for the property of the Policing Authority to vest in the Authority on its establishment day.

### **Section 156**

This section provides for the transfer of the rights and liabilities of the Policing Authority to the Authority on its establishment day and for the continuation of leases, licenses and permissions in relation to its property granted by the Policing Authority.

### **Section 157**

This section preserves contracts, agreements and arrangements made by the Policing Authority.

### **Section 158**

This section provides for the transfer of the records of the Policing Authority on its dissolution to the Authority, the Minister or An Garda Síochána having regard to their functions under this Bill and for such records to become the property of the office holder or body to whom they are so transferred. The transfer of records will not affect any right of access to such records under the Freedom of Information Act 2014.



### **Section 159**

This section provides for the substitution of the Authority for the Policing Authority in any legal proceedings pending immediately before the establishment day of the Authority. It also provides that any claim in respect of any loss or injury alleged to have been suffered by a person before the establishment day arising out of the performance of functions by the Policing Authority will after the establishment day lie against the Authority.

### **Section 160**

This section provides for the preparation and submission by the Authority of the final accounts of the Policing Authority to the Comptroller and Auditor General and for the preparation and submission to the Minister of the final annual report of the Policing Authority, which will be subject to standard laying and publication requirements.

## **Chapter 7 – Dissolution of Garda Síochána Inspectorate**

### **Section 161**

This section dissolves the Garda Síochána Inspectorate on the establishment day of the Authority.

### **Section 162**

This section provides for the transfer of the staff appointed to the Garda Síochána Inspectorate to the Authority by Ministerial order following engagement with any recognised trade union or staff association. It is necessary to provide for the transfer by Ministerial order as under section 119 of the Act of 2005 the staff of the Inspectorate are appointed by the Minister. Provision is made to ensure that, except in accordance with a collective agreement negotiated with any recognised trade union or staff association, the terms and conditions of service or remuneration of such transferred staff are not less beneficial than those to which they were subject before such transfer.

### **Section 163**

This section preserves contracts, agreements and arrangements made by the Garda Síochána Inspectorate.

### **Section 164**

This section provides for the transfer of the records of the Garda Síochána Inspectorate to the Authority on its establishment day, with the exception of records relating to security services, which will be transferred to the Minister. The transfer of records to the Authority or the Minister will not affect any right of access to such records under the Freedom of Information Act 2014.

### **Section 165**

This section provides for the substitution of the Authority for the Garda Síochána Inspectorate in any legal proceedings pending immediately before the establishment day of the Authority. It also provides that any claim in respect of any loss or injury alleged to have been suffered by a person before the establishment day arising out of the performance of functions by the Garda Síochána Inspectorate will after the establishment day lie against the Authority.

## **PART 5 – POLICE OMBUDSMAN**

This Part provides for the reorganisation of the three-person Garda Síochána Ombudsman Commission (GSOC) whose primary concern under the Act of 2005 is complaints in respect of members of An Garda Síochána. Under the Bill GSOC will continue in being as the Office of the

Police Ombudsman under an Ombudsman/Deputy Ombudsman structure with a chief executive officer. The reorganisation follows from a review, as recommended by the Commission on the Future of Policing in Ireland, to ensure GSOC's suitability to take on the expanded remit in terms of members of garda personnel and investigations of allegations of wrongdoing envisaged for the body under Part 6 of the Bill. The Part provides for the appointment and terms and conditions of the Police Ombudsman, Deputy Police Ombudsman and chief executive officer, the objective, functions and powers of the Police Ombudsman, personnel matters, governance and accountability arrangements and some miscellaneous matters. This Part is arranged in 4 chapters.

## **Chapter 1 – Preliminary and general (Part 5)**

### **Section 166**

This section contains the necessary definition for the Part.

### **Section 167**

This section continues the body corporate known as the Garda Síochána Ombudsman Commission in being under the name of the Office of the Police Ombudsman and as reorganised in accordance with the Part i.e. the Police Ombudsman and the Deputy Police Ombudsman are to replace the three-person Commission. The general function of the Office is to support the Police Ombudsman in the furtherance of his or her objectives and functions under the Bill or any other enactment.

## **Chapter 2 – Appointment and functions of Police Ombudsman**

### **Section 168**

This section provides for the appointment of the Police Ombudsman and the Deputy Police Ombudsman by the President, on the nomination of the Government, following the approval of resolutions recommending their appointment by both Houses of the Oireachtas. Explicit provision is made for the Public Appointments Service, at the request of the Minister, to undertake a selection competition to identify and recommend to the Government a person suitable for nomination as the Police Ombudsman or the Deputy Police Ombudsman, as the case may be. The circumstances in which a person is not eligible for nomination or appointment as the Police Ombudsman or Deputy Police Ombudsman are set out. Specific provision is made in the event of the appointed person being a person who holds judicial office in a superior court or the Circuit Court. See also Schedule 5 in that regard.

### **Section 169**

This section sets out the objectives, functions and powers of the Police Ombudsman. The Police Ombudsman's objectives are to improve public understanding and promote public confidence in the processes for the resolution of complaints and the investigations undertaken, and ensure that his or her functions are performed in a timely, efficient and effective manner in accordance with fair procedures.

The Police Ombudsman's functions, elaborated in Part 6, are to: receive complaints from members of the public concerning members of garda personnel; resolve or investigate such complaints and other matters referred or notified by the Garda Commissioner, the Policing and Community Safety Authority or the Minister, where appropriate; to resolve or investigate protected disclosures in relation to relevant wrongdoings relating to An Garda Síochána; to report on such investigations and make recommendations to the appropriate office including the Director of Public Prosecutions; and to undertake research and analysis to identify trends and patterns arising from the performance of his or her functions. The Police

Ombudsman is required to establish and maintain systems and procedures for the receipt and handling of complaints and the conduct of investigations under Part 6 and when doing so, is to have regard to the need to exercise his or her functions in a timely, efficient and effective manner, and in accordance with fair procedures.

To facilitate the Minister in discharging his or her oversight responsibilities in relation to the body (including in accordance with the Code of Practice for the Governance of State Bodies) the Police Ombudsman is required to furnish to the Minister such information concerning the performance of his or her functions as the Minister may require. The Police Ombudsman is also required to keep the Minister informed of matters relevant to the Government's accountability to the Houses of the Oireachtas.

The Police Ombudsman, subject to the provisions of the Bill, is independent in the performance of his or her functions.

### **Section 170**

This section concerns the terms and conditions of office of the Police Ombudsman and the Deputy Police Ombudsman. They will each hold office for a term of 6 years and may be reappointed for one further term. The circumstances in which a person holding either office would be disqualified or cease to hold office are set out. Provision is made for the resignation of the Police Ombudsman and the Deputy Police Ombudsman and for their removal from office by the President in certain specified circumstances and following resolutions passed by both Houses of the Oireachtas.

### **Section 171**

This section provides for the performance by the Deputy Police Ombudsman of the functions of the Police Ombudsman where the Police Ombudsman is unable to perform his or her duties or during a vacancy in the office.

### **Section 172**

This section provides for the appointment and terms and conditions of officers of the Police Ombudsman who will be civil servants of the State. Officers of the Garda Síochána Ombudsman Commission appointed under the Act of 2005 will be deemed on the coming into operation of this section to have been appointed under this section on terms and conditions of service not less favourable to those to which they were previously subject.

### **Section 173**

This section provides for the appointment by the Police Ombudsman of officers of the Police Ombudsman or persons engaged under section 177 to provide special assistance, as designated officers or senior designated officers for the purpose of any of the provisions under Part 6. The provision for "senior designated officers" enables greater differentiation to be made in Part 6 in relation to the exercise of certain police powers with the powers of members of An Garda Síochána of inspector rank or above being exercisable by a senior designated officer subject to some exceptions. The Police Ombudsman is required to provide each designated officer with a warrant card, which they are required to carry and present if requested. Provision is made for evidence of such designation to be provided by way of certificate in any legal proceedings.

#### **Section 174**

This section provides for the Office of the Police Ombudsman to have a chief executive officer. The chief executive officer will be appointed by the Police Ombudsman following a selection competition. Provision is made for a chief executive officer designate prior to the coming into operation of the new organisational structure under section 167. The standard functions of such an officer are set out and include implementing the policies and decisions of the Police Ombudsman and carrying on and managing the staff, administration and business of the Office of the Police Ombudsman.

#### **Section 175**

This section is a standard provision providing for the delegation of functions of the Police Ombudsman to the Deputy Police Ombudsman, the chief executive officer, or any officer of, or other person engaged by the Police Ombudsman. Provision is made for evidence of such delegation to be provided by way of certificate in any legal proceedings.

#### **Section 176**

This section is a standard provision. It allows the Police Ombudsman, with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform, to enter into contracts and to engage consultants or advisors to assist the Police Ombudsman in the performance of his or her functions.

#### **Section 177**

This section provides for the Police Ombudsman to enter into arrangements with An Garda Síochána, other police services or other bodies for the temporary engagement of persons with the Office of the Police Ombudsman for the purpose of providing “special assistance”. It restates in large part section 74 of the Act of 2005 subject to amendment to reflect the restructured organisation and to align with the Bill. In particular, it enables not only eligible members of An Garda Síochána to be engaged but also members of garda staff. Provision is made to deem any existing arrangement entered into under section 74 to have been entered into under this section.

#### **Section 178**

This section provides that the Police Ombudsman may, with the consent of Government, enter into agreements with law enforcement agencies or other relevant bodies or persons outside the State to facilitate the performance of each party's respective functions. It restates in large part section 28A of the Act of 2005 (as inserted by section 7 of the Criminal Justice (International Co-operation) Act 2019) subject to amendment to reflect the restructured organisation and to align with the Bill. Provision is made to deem any existing agreements to have been entered into under this section.

### **Chapter 3 – Governance and accountability of Police Ombudsman**

#### **Section 179**

This section provides for the preparation by the Police Ombudsman of a governance framework for the Office of the Police Ombudsman for submission to the Minister – a standard corporate governance requirement for vote-holding bodies under the Corporate Governance Standard for the Civil Service. It will include information on the guiding principles applicable to the Office in the performance of its functions, the managerial, organisation and governance structures in place, the processes and guidelines to ensure compliance with statutory obligations, its internal controls including in relation to internal audits, risk management, public

procurement, financial reporting and protected disclosures. It is to be published and kept under periodic review and revised as appropriate.

#### **Section 180**

This section requires the Police Ombudsman to prepare a strategy statement for the Office of the Police Ombudsman for submission to the Minister every 3 years – a standard requirement in relation to vote-holding bodies. The strategy statement will include key objectives, outputs and related strategies including the uses to which resources are to be employed for the period. With the exception of the first such statement, the statement will include a review of the work of the Police Ombudsman in the previous 3 years. Before its submission to the Minister, the Police Ombudsman is required to publish the strategy statement in draft to facilitate public consultation. The statement is subject to standard laying and publication requirements.

#### **Section 181**

This section provides for the preparation by the Police Ombudsman of an annual report and its submission to the Minister within 3 months of the end of each year. It also provides for the preparation of “special reports” by the Police Ombudsman to the Minister concerning matters which, due to their gravity or other exceptional circumstances, warrant a report to the Minister. The reports are subject to laying and publication provisions. However, the Minister may exclude any matter from a copy of a report to be laid where he or she is of the opinion that it would be prejudicial to the interests of the security of the State, or facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

#### **Section 182**

This section requires the Police Ombudsman to issue a code of ethics setting out the standards of integrity and conduct to be maintained by the office holder, the Deputy Police Ombudsman, the chief executive officer, the officers of the Police Ombudsman, consultants, advisors and other persons engaged by the Police Ombudsman, when performing their functions.

#### **Section 183**

This section provides that the chief executive officer is the accounting officer in relation to the appropriation accounts of the Office of the Police Ombudsman which is to be a vote-holding body. The standard terms under which the chief executive officer is required to appear before the Committee of Public Accounts are set out.

#### **Section 184**

This section sets out the standard terms under which the Police Ombudsman and / or the chief executive officer are required to appear before Oireachtas committees, other than the Committee of Public Accounts, at a committee's request to account for the general administration of the Office of the Police Ombudsman. It restates in large part section 79 of the Act of 2005 subject to amendments to reflect the restructured organisation.

#### **Section 185**

This section provides that the Police Ombudsman, the Deputy Police Ombudsman and other specified officers shall not be liable in damages in respect of any act done or omitted to be done in the performance, or purported performance, of their functions, unless the act or omission concerned was done in bad faith. It further provides that the State will also indemnify a person to whom this section applies in respect of any act done or omitted to be done by the person in the performance, or purported

performance, of his or her functions under this Bill, unless the act or omission was done in bad faith.

#### **Chapter 4 – Miscellaneous (Part 5)**

##### **Section 186**

This section provides that statements made in the course of discussions at meetings of the Police Ombudsman, or in documents of or reports by the Police Ombudsman, Deputy Police Ombudsman or officer of the Police Ombudsman without malice are privileged for the purposes of the law of defamation. It restates section 112 of the Act of 2005 subject to amendments to reflect the restructured organisation.

##### **Section 187**

This section concerns the confidentiality of information obtained by the Police Ombudsman and provides for an offence of harmful disclosure of information by current and former office holders and other persons employed or engaged by the Office of the Police Ombudsman or the Garda Síochána Ombudsman Commission. It restates in large part section 81 of the Act of 2005 subject to amendments to reflect the restructured organisation and to clarify the elements of the offence.

##### **Section 188**

This section provides for the preparation by the chief executive officer of the final accounts of the Garda Síochána Ombudsman Commission and for the preparation by the Police Ombudsman of its final annual report for submission to the Minister.

### **PART 6 – COMPLAINTS, INVESTIGATIONS AND OTHER MATTERS**

This Part provides for the Police Ombudsman (as renamed and reorganised under Part 5) to have an expanded remit and streamlines the processes and procedures for the handling of complaints and the conduct of investigations to support timely, more transparent and effective resolution while safeguarding due process for all concerned. The expanded remit applies to both garda personnel with the inclusion of garda staff in the remit, and the matters that may be subject to its independent oversight and investigation. It is arranged in 3 chapters.

#### **Chapter 1 – Preliminary and general (Part 6)**

##### **Section 189**

This section provides the necessary interpretation provisions for this Part. Of particular note are the definitions of:

“abuse of power for sexual purpose” and the related definition of “serious harm” in relation to a person which has been extended to include that the person is the victim of a sexual offence or of an abuse of power for a sexual purpose. “sexual offence” is defined with reference to the Sex Offenders Act 2001;

“approved list” is to be understood in the context of section 196(3). Under section 196 the Police Ombudsman is to prepare a draft list of categories of complaints within defined parameters which are suitable for resolution by An Garda Síochána. This is to be done in consultation with the Garda Commissioner. The draft list when approved by the Minister is the “approved list”;

“Garda Síochána premises” and the related definition of “curtilage” are defined to include any premises used where a member is stationed, vehicles, vessels, aircrafts etc. These are relevant to the search power contained in section 207;



“incident of concern” and the related definitions of “notifiable misconduct” and “misconduct” which define the scope of the obligation on the Garda Commissioner under section 200 to notify the Police Ombudsman of acts or omissions on the part of a member of garda personnel that are not the subject of a complaint from a member of the public or a mandatory referral of a matter concerning the death of, or serious harm to, a person. The act or omission must have occurred while the member was serving and must be either an allegation that the member may have committed a criminal offence or behaved in a manner that constitutes “notifiable misconduct”. In order to constitute the latter two requirements must be met – the misconduct must be such as would justify conduct proceedings (defined in section 2) and must be of a type prescribed by the Minister having regard to certain specified factors. The definition of “misconduct” is intended to ensure that the Police Ombudsman is empowered to deal with incidents of concern which relate to acts or omissions occurring before the coming into operation of the Bill but which do not become known until after the operative date;

“member of garda personnel” which is defined to exclude the serving Garda Commissioner who is the subject of specific arrangements under section 203. Former members of the rank of Garda Commissioner are included in the definition;

“investigations” which is to be understood in the context of section 204 which identifies the matters in respect of which the Police Ombudsman may appoint a designated officer to undertake an investigation and related matters;

“joint investigations” which is to be understood in the context of section 205. Establishing a joint investigation with An Garda Síochána is an option available to the Police Ombudsman in the case of an “incident of concern” involving an allegation of a criminal nature;

“relevant arrangements” which is to be understood in the context of section 197 which requires the Garda Commissioner to establish and maintain efficient and effective arrangements for handling complaints that fall within a category of complaints that are specified in the “approved list” (see above) i.e. are suitable for resolution by An Garda Síochána.

The section also contains a number of provisions to ensure that, where appropriate, references to “investigations” in this Part are construed as including “joint investigations” and that other provisions that apply to designated officers appointed to undertake investigations apply, where appropriate, to such officers when appointed to undertake joint investigations.

## **Section 190**

This section concerns the application of the Part. It excludes garda staff from the remit of complaints and investigations under this Part until such time as the Minister has made an order under section 54(5) designating civilian staff as garda staff. It also provides that nothing in the Part is to be taken to limit the Minister’s or the Government’s power under sections 30 or 31 to suspend or remove the Garda Commissioner or the Deputy Garda Commissioner or to limit the power of the Garda Commissioner under sections 48, 50(3) or 51 to suspend, remove or dismiss a member as the case may be in accordance with the terms of those provisions.

## **Chapter 2 – Complaints, investigations and other matters**

### **Section 191**

This section sets out the persons who may make complaints under this Part. It provides that complaints may be made by relevant members of the public or persons acting on a relevant member of the public's behalf. It also sets out the criteria applicable to persons who wish to make a complaint on another's behalf. A child who is between 16 and 18 years may make a complaint on his or her own behalf. "relevant member of the public" is defined to exclude the serving Garda Commissioner, members of An Garda Síochána and members of garda staff in so far as the subject of the complaint is connected with his or her employment as such a member of garda staff.

### **Section 192**

This section provides that complaints concerning any act or omission of a member of garda personnel may be made to the Police Ombudsman or An Garda Síochána. Where a complaint is made to An Garda Síochána, it must be referred without delay to the Police Ombudsman. The Police Ombudsman and the Garda Commissioner are required to ensure that appropriate arrangements are in place for receiving, recording and acknowledging complaints and, in the case of the Garda Commissioner, for referring complaints to the Police Ombudsman, and in the case of the Police Ombudsman, for receiving such referred complaints.

In so far as the section requires all complaints received by An Garda Síochána to be referred to the Police Ombudsman, provision is made for the Minister to review this requirement within 3 years (and periodically thereafter) taking account of certain specified matters. The Garda Commissioner, Police Ombudsman and the Policing and Community Safety Authority are to be consulted as part of the review. A possible outcome of the review is that the Minister may specify, by order, that a category or categories of complaints already contained in the approved list of complaints deemed suitable for resolution by An Garda Síochána are not required to be referred in the first instance to the Police Ombudsman. Instead, the complaints within the category may be handled directly by An Garda Síochána in accordance with the arrangements established and maintained by the Garda Commissioner under section 197.

### **Section 193**

This section sets a time limit of 12 months for the making of complaints from the date of the act or omission giving rise to the complaint. The Police Ombudsman may extend this time limit if he or she considers there is good reason to do so. The authorisation to extend must be recorded in writing. Provision is made for evidence of such authorisations to be provided by way of certificate in any legal proceedings.

### **Section 194**

This section requires the Police Ombudsman to determine the admissibility of complaints received directly or referred by An Garda Síochána. The Police Ombudsman is empowered to make appropriate inquiries for this purpose and to take any information obtained into account. In order to be admissible the complaint must in the first instance be made by an eligible complainant, within the time limit or any authorised extension thereof, and concern an act or omission by a person who was a member of garda personnel at the relevant time. Notwithstanding meeting these requirements a complaint shall be inadmissible if one of six specified grounds applies to it including that it is frivolous, vexatious or made in bad faith, it lacks substance or sufficient information to warrant further action under this Part, it relates to the general direction or control of An



Garda Síochána, it relates to a member of An Garda Síochána while he or she was not on duty (other than where the act or omission alleged would be likely, if proved, to bring discredit on An Garda Síochána), it relates to an act or omission by a member of garda staff who was not on duty, or it would not be reasonably practical to take any further action under the Part. In addition to these grounds the Police Ombudsman is given discretion to determine a complaint to be inadmissible where he or she is satisfied that the subject matter is the same or substantially the same as the subject matter of a previous complaint determined under the Bill or the Act of 2005.

The admissibility of a complaint is not affected by whether the identity of the member of garda personnel is known. Also the fact that the member who is the subject of the complaint may have, in the intervening period, resigned or retired does not render the complaint inadmissible. It is made clear that the Police Ombudsman may determine a complaint to be partially admissible.

Where the Police Ombudsman determines that a complaint is inadmissible, he or she shall notify the complainant and include the reason for the determination. Where the Police Ombudsman determines that a complaint, which was originally received by An Garda Síochána and referred to the Police Ombudsman under section 191 is inadmissible, the Police Ombudsman shall also notify the Garda Commissioner and include in the notification the reason for the determination. Provision is also made for the Police Ombudsman to notify the Garda Commissioner of any other complaint that has been determined to be inadmissible where the Police Ombudsman is of the opinion that there is good reason to do so.

### **Section 195**

This section sets out the actions that may be taken by the Police Ombudsman in respect of a complaint determined to be admissible under section 194. The Police Ombudsman may either determine that the admissible complaint is suitable for resolution by An Garda Síochána in accordance with the arrangements under section 197 or warrants an investigation under section 204 i.e. an investigation by a designated officer appointed by the Police Ombudsman. The Police Ombudsman may determine that a complaint is suitable for resolution by An Garda Síochána where the complaint falls within a category of complaints that is included in the approved list and there are no special circumstances that would warrant an investigation by the Police Ombudsman. Provision is made for the Police Ombudsman to make appropriate inquiries for this purpose and to take any information obtained into account.

Where the Police Ombudsman determines that the admissible complaint is suitable for resolution by An Garda Síochána provision is made for the notification of the complainant of that determination and the referral of the complaint and any related information or documents to the Garda Commissioner. The notification is to be accompanied by information on the arrangements established by An Garda Síochána to resolve such complaints under section 197.

Where the Police Ombudsman determines that the admissible complaint warrants investigation provision is made for the notification of the complainant and the Garda Commissioner and, where known (or once they become known), the member of garda personnel concerned. The obligation to notify the member of garda personnel is subject to postponement where the Police Ombudsman considers that there is good reason to do so. The postponement may only continue as long as there is good reason for it. The Garda Commissioner is to be informed where such notification is postponed and the reason for same. The Garda Commissioner is also to be

notified where the reason for postponement has ceased and the notification has issued.

#### **Section 196**

This section provides for the preparation by the Police Ombudsman, in consultation with the Garda Commissioner, of a draft list of categories of complaints suitable for resolution by An Garda Síochána for submission to the Minister. The section specifies the parameters for the categories that may be contained in the draft list by excluding categories of complaint where the act or omission complained of would constitute a criminal offence, constitute a breach of the standards of professional behaviour that would render the member of garda personnel liable to dismissal, or that concern the death of, or serious harm to, a person. The Minister may approve the draft list, subject to any modifications, after which the Police Ombudsman is required to publish the approved list. The Minister, is required before approving the list to consider whether it complies with the parameters specified and whether the draft categories do not reach the degree of seriousness that would warrant investigation by the Police Ombudsman. Provision is made for the amendment of the list having regard to the experience of the Police Ombudsman and the Garda Commissioner in the operation of this Part.

#### **Section 197**

This section requires the Garda Commissioner to establish and maintain efficient and effective arrangements for the handling of complaints included in the approved list of complaints suitable for resolution by An Garda Síochána prepared under section 196 (the “relevant arrangements”). Prior consultation is required with the Police Ombudsman. An indicative list of the matters to be provided for is set out. It includes provision for the complaints to be dealt with in a transparent, timely, fair, objective and proportionate manner and at a divisional level where appropriate, resolution through such means as the provision of information, explanation, assurance or apology, the notification of relevant persons and the provision of information to keep relevant persons updated on progress, the circumstances in which a review of how a complaint was dealt with may be sought and the provision of advice, guidance or training to the member of garda personnel as appropriate, and the keeping of records.

The arrangements are to be kept under review and may, following consultation with the Police Ombudsman, be modified. Details of the arrangements including any modifications are to be published. The Garda Commissioner is required to report to the Police Ombudsman in relation to the operation of the arrangements and the Police Ombudsman may publish such reports in full or in part.

#### **Section 198**

This section provides for the handling by the Garda Commissioner of complaints that have been deemed as suitable for resolution by An Garda Síochána in accordance with the arrangements established under section 197. It is made clear that the complaint may be dealt with notwithstanding that the member of garda personnel may in the intervening period have resigned or retired. Provision is made for the complaint to be returned to the Police Ombudsman with his or her approval where, in the course of handling the complaint, it appears to the Garda Commissioner that by reason of its nature or gravity it is not suitable for resolution by An Garda Síochána.

### **Section 199**

This section requires the Garda Commissioner to refer to the Police Ombudsman without delay any matter that appears to the Garda Commissioner to indicate that the death of, or serious harm to, a person may be a result of an act or omission by a member of garda personnel. This obligation does not apply in respect of an act or omission by a member of garda staff while off duty.

### **Section 200**

This section requires the Garda Commissioner where he or she becomes aware of an incident of concern, as defined in section 189, relating to a member of garda personnel to notify the Police Ombudsman of the incident as soon as practicable in accordance with protocols to be entered into under section 220. The obligation on the Garda Commissioner to notify does not extend to matters that would be prejudicial to the security of the State or would endanger the life or safety of a person who has given information in confidence to a public body in relation to the enforcement or administration of the law. Where such circumstances arise the Garda Commissioner is obliged to inform the Independent Examiner of Security Legislation and the Police Ombudsman.

On receipt of a notification of an incident of concern the Police Ombudsman has a number of courses of action open to him or her. He or she may decide to take no further action, to request to be notified of the outcome of any garda investigation or to be kept informed of the progress of any garda investigation. In the case of an alleged offence, two further actions are open to the Police Ombudsman. He or she may decide to establish a joint investigation in conjunction with An Garda Síochána under section 205 or that the allegation warrants an investigation by the Police Ombudsman under section 204. The Police Ombudsman is required to notify the Garda Commissioner of his or her determination without delay. It is made clear that An Garda Síochána may act to prevent the commission of any offence or misconduct notwithstanding that the notification of the incident of concern has been made and that the Police Ombudsman's determination is awaited.

### **Section 201**

This section provides for the investigation by the Police Ombudsman on his or her own initiative or at the request of the Minister, the Policing and Community Safety Authority, or the Garda Commissioner of a "relevant cause of concern" in the public interest. "relevant cause of concern" is defined in the section. It refers to a concern that a member of garda personnel may have committed an offence, or behaved in a manner that constitutes misconduct that would justify the bringing of conduct proceedings (defined in section 2).

### **Section 202**

This section provides for the handling of protected disclosures relating to An Garda Síochána made to the Police Ombudsman as a person prescribed under section 7 of the Protected Disclosures Act 2014 or referred to him or her by the Protected Disclosures Commissioner under section 10D of that Act. The Police Ombudsman is to consider such disclosures in accordance with section 201 i.e. whether an investigation is required in the public interest. Such an investigation may proceed notwithstanding that the worker who made the disclosure has withdrawn or abandoned it. Where the Police Ombudsman decides not to investigate he or she is to notify the worker concerned and, where relevant, the Protected Disclosures Commissioner of the decision and the reasons for same.

### **Section 203**

This section provides for the investigation by the Police Ombudsman of matters giving rise to a concern that the serving Garda Commissioner may have committed an offence or behaved in a manner that would constitute serious misconduct. The process may be initiated by either the Police Ombudsman or the Minister where it appears that an investigation would be in the public interest. In the case of the Police Ombudsman, the consent of the Minister with the approval of the Government is required. The consent may be refused for stated reasons. In the case of the Minister, Government approval is required. Where the investigation by the Police Ombudsman is to proceed provision is made for the Minister to issue a directive to a Deputy Garda Commissioner or an Assistant Commissioner to ensure measures are taken to preserve evidence and to facilitate the Police Ombudsman in obtaining that evidence.

### **Section 204**

This section provides for the appointment of a designated officer to undertake investigations of admissible complaints and other enumerated matters where the Police Ombudsman is either required to undertake such investigations or has determined that such investigation is warranted. The appointment must be recorded in writing and evidence of same may be given by way of certificate in any legal proceedings. It is made clear that an investigation may proceed notwithstanding that the member of garda personnel concerned may not be known or may, in the intervening period, have resigned or retired. Equally, the investigation may proceed notwithstanding that the subject matter may involve persons who are not members of garda personnel.

Where the investigation arises on foot of a matter other than a complaint provision is made for the notification of members of garda personnel that a designated officer has been appointed to undertake an investigation as such members would not otherwise be aware and also to notify the Garda Commissioner. Provision is made for postponement of the obligation to notify the member of garda personnel where there is good reason to do so. The postponement may only continue as long as there is good reason for it. The Garda Commissioner is to be informed where such notification is postponed and the reason for same. The Garda Commissioner is also to be notified where the reason for postponement has ceased and the notification has issued.

The Police Ombudsman is empowered to direct that an investigation be suspended for specified reasons including that the matter is under investigation by another body, the matter is the subject of ongoing criminal or civil proceedings, or it would interfere with or conflict with the functions of another public body to commence the investigation at the relevant time.

The designated officer is to submit a report to the Police Ombudsman on the completion of an investigation but it is made clear that the officer may submit reports at any time during the investigation in respect of a part of the investigation or a member who is the subject of the investigation. This enables the designated officer to investigate criminal and non-criminal elements (where they arise) in parallel, if appropriate, and to bring to a conclusion some elements of an investigation at an earlier stage than others if practicable.

### **Section 205**

This section provides for the establishment, in conjunction with the Garda Commissioner, of joint investigations in relation to incidents of concern that relate to the alleged commission of an offence. It provides that the Police Ombudsman shall appoint a designated officer to undertake the joint investigation in accordance with protocols under section 220.

### **Section 206**

This section provides that where a designated officer has been appointed under section 204 to undertake an investigation, any designated officer undertaking or assisting in the investigation concerned or any matters ancillary or consequential to it have all the powers, immunities and privileges conferred, and all the duties imposed, on any member of An Garda Síochána. This is subject to certain modifications to address equivalency issues as follows: a reference to a member of An Garda Síochána (a member of any rank) in any enactment is to be construed as a reference to a designated officer, a reference to a member in charge of a Garda Síochána station under section 4 of the Criminal Justice Act 1984 or the related Custody Regulations is to be construed as a reference to a designated officer, while a reference in an enactment to member not below the rank of inspector is to be construed as a reference to a senior designated officer. A summary offence of obstructing a designated officer in the exercise of his or her powers or the carrying out of his or her duties is provided for.

### **Section 207**

This section provides for the search of Garda Síochána premises (as defined in section 189) by designated officers in the context of an investigation. Such a search may only be carried out under a warrant issued by a District Court judge. The application to the judge may be made by a designated officer on foot of an authorisation by the Police Ombudsman. A confidential consultation with the Garda Commissioner must take place prior to the issuing of an authorisation by the Police Ombudsman to enable the Commissioner, where relevant, to object to a search for reasons relating to the security of the State.

Where no objection is made the Police Ombudsman may issue the authorisation. Where an objection is made the matter is required to be notified to the Independent Examiner of Security Legislation without delay for his or her review in accordance with section 240 and recommendation to the Minister. Where the Minister, having taken the recommendation into account, is satisfied that the search of the premises or part of the premises would not be prejudicial to the security of the State or is proportionate and necessary for the proper investigation of a matter concerning the death of, or serious harm to, a person as a result of garda operations or while in the care or custody of An Garda Síochána the Minister shall issue a directive specifying the premises or part thereof concerned. A copy of the directive is to be provided to the Police Ombudsman and the Garda Commissioner who may authorise the making of the application by the designated officer on foot of same. The authorisation and any directive are to be included in the information on oath provided by the designated officer to the judge. Where the Minister decides not to issue a directive the Police Ombudsman and the Garda Commissioner are to be informed.

The matters of which the judge must be satisfied before issuing a search warrant are specified as are the actions authorised by a search warrant and the powers of those executing the warrant. A summary offence of obstructing a designated officer acting under a warrant is provided for.

### **Section 208**

This section provides a designated officer with additional powers to those under section 206 for the purpose of undertaking an investigation. The powers include requiring persons by notice in writing to provide any information or document or thing that is relevant to and required for the purposes of an investigation and to attend before a designated officer for that purpose. A person who is required to attend is obligated to answer fully and truthfully any questions put to him or her and may be required to sign a declaration of truth.

A person who fails or refuses to comply with a requirement under the section without reasonable excuse is liable to summary conviction. Special procedures apply where the refusal is on the grounds of the security of the State. In such cases provision is made for the Independent Examiner of Security Legislation to review the matter and to make a recommendation to the Minister who will, taking account of the recommendation, decide whether or not to issue a direction.

It is made clear that nothing in the section requires a person to provide any information, document or thing that would be exempt from production in proceedings in a court on the grounds of legal professional privilege. It also made clear that any statement or admission by a person on foot of a requirement under the section is not admissible as evidence in any criminal proceedings brought against the person. This is required to be explained to the person in ordinary language.

### **Section 209**

This section makes provision for a determination by a judge of the District Court as to whether legal professional privilege applies in relation to a requirement to provide information, a document or thing to a designated officer under section 208. The application, which may be heard otherwise than in public, may be made by the Police Ombudsman or the person who has refused to comply on the grounds that legal professional privilege applies.

### **Section 210**

This section enables the Police Ombudsman to direct that the investigation of a complaint or other matter be discontinued in certain enumerated circumstances. Where such a direction is issued provision is made for relevant persons and bodies to be notified.

### **Section 211**

This section and section 212 concern the actions that Police Ombudsman may take on foot of a report of an investigation submitted by a designated officer. This section provides for the referral by the Police Ombudsman to the Director of Public Prosecutions of a report which discloses an act or omission that may constitute an offence by a member of garda personnel.

### **Section 212**

This section provides for the actions to be taken by the Police Ombudsman where a report of an investigation submitted by a designated officer discloses matters of concern other than those relating to offences. The Police Ombudsman has an expanded range of recommendations open to him or her. Provision is made for the referral of such reports, along with any recommendations, to the Minister, the Garda Commissioner or the Authority, as appropriate.



**Section 213**

This section requires the Police Ombudsman to keep certain parties informed of the progress and results of an investigation, subject to certain safeguards. The Police Ombudsman is required to do so on his or her own initiative or at the request of an interested party, who are enumerated.

**Section 214**

This section strengthens the obligation on the Garda Commissioner to provide the Police Ombudsman with such information and documents as the Police Ombudsman may request for the purposes of, or in connection with, the exercise of his or her functions. The path to be followed where the Garda Commissioner considers that the requested information or documents relate to the security of the State is set out.

**Section 215**

This section continues the practice of designated officers, under the direction of the Police Ombudsman, in connection with investigations that concern the death of a person, performing functions and assisting in relation to inquiries and inquests by a coroner into such deaths.

**Chapter 3 – Miscellaneous (Part 6)****Section 216**

This section requires the Garda Commissioner to ensure that members of garda personnel obtain and preserve evidence relating to matters that are the subject of a complaint, notification or referral to the Police Ombudsman under this Part. The obligation applies irrespective of whether a decision has been taken on the admissibility of a complaint. It restates in part section 89 of the Act of 2005 but extends the provision to members of garda staff.

**Section 217**

This section places a duty on members of garda personnel when directed to do so by a designated officer to account for any act done or omission made while on duty. Failure to comply renders the member liable to disciplinary sanction. Any statement or admission made on foot of a direction is not admissible as evidence in any criminal proceedings brought against the member concerned. The section largely restates section 39 of the Act of 2005 in so far as it relates to the Garda Síochána Ombudsman Commission while extending the duty to include members of garda staff.

**Section 218**

This section extends the time limit imposed by the Petty Sessions (Ireland) Act 1851 for instituting summary proceedings in respect of an offence reported to the Director of Public Prosecutions under this Part from 6 months to 18 months from the date of an offence. In doing so it restates section 104 of the Act of 2005. Provision is also made for it to be presumed, unless the contrary is shown, that the offence concerned was reported by the Police Ombudsman to the Director of Public Prosecutions as required under this Part.

**Section 219**

This section makes it clear that a member of An Garda Síochána may charge a member of garda personnel with an offence or issue him or her with a fixed charge notice even though the act or omission concerned could be the subject of a complaint or investigation under this Part. However, where a complaint regarding the act or omission concerned has already been made, the member of garda personnel may not be charged unless by or with the consent of the Director of Public Prosecutions. It restates subject to minor amendments section 105 of the Act of 2005.

**Section 220**

This section requires the Police Ombudsman and the Garda Commissioner to prepare written protocols to provide for a number of enumerated matters. The matters addressed in the protocols include matters relating to the operation of aspects of section 200 which concerns “incidents of concern”, the establishment and operation of joint investigations under section 205, the use of detention facilities at garda stations and the application of the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987, the provision of information and the sharing of information between the Police Ombudsman and the Garda Commissioner, the provision of training in relation to the conduct of investigations and such other matters as would support the proper performance of the respective functions of the Police Ombudsman and the Garda Commissioner under the Part. The protocols are to be kept under review and may be amended. Provision is made for protocols agreed under section 108 of the Act of 2005 to be retained where they are compatible with the provisions of this Part.

**Section 221**

This section provides a right of review for complainants who are dissatisfied with determinations of the Police Ombudsman that a complaint is inadmissible or that an investigation be discontinued. A request for a review must be lodged within 28 days of receiving the notification of the determination concerned. This period may be extended where the Police Ombudsman considers that there is good reason to do so. The means by which the notification of the determination is to be given to the person concerned are specified and include by electronic means where the person has so consented.

**Section 222**

This section provides for a judge-led inquiry into the conduct of the Police Ombudsman, Deputy Police Ombudsman and officers in undertaking an investigation and/or the policies, practices and procedures of the Police Ombudsman on a single occasion or generally in relation to investigations under the Part. It restates section 109 of the Act of 2005 amending it to align with the Bill but also to make a number of substantive changes including to provide a public interest test for the establishment of such an inquiry, to expressly include the conduct of the Police Ombudsman and the Deputy Ombudsman and all officers of the Police Ombudsman in addition to designated officers within the scope of an inquiry, and to include the policies, practices and procedures of the Police Ombudsman within the scope of an inquiry.

**Section 223**

This section provides for an offence of knowingly giving false or misleading information to the Police Ombudsman or a member of An Garda Síochána in relation to a complaint or an investigation under this Part. It restates section 110 of the Act of 2005 but extends the offence to knowingly giving false or misleading information to a member of An Garda Síochána.

**Section 224**

This section makes clear that the Police Ombudsman has jurisdiction to investigate an offence under this Part and empowers a designated officer appointed by the Police Ombudsman for this purpose in like manner to a designated officer appointed under section 204.

### **Section 225**

This section makes the necessary transitional arrangements for complaints received and investigations and other matters in train under the Act of 2005 before the repeal of that Act.

## **PART 7 – INDEPENDENT EXAMINER OF SECURITY LEGISLATION**

This Part provides for the establishment of the office of the Independent Examiner of Security Legislation to enhance national security arrangements. The primary function of the Independent Examiner will be to keep under review the operation and effectiveness of security legislation to ensure security legislation remains necessary and fit for purpose, and contains appropriate safeguards for protecting human rights. The Independent Examiner will also have a general examination function in relation to the delivery of security services; and those State offices and agencies who have a security remit will be obliged to cooperate with the Examiner in the performance of his or her duties. The Independent Examiner will also assume the existing oversight roles carried out by designated judges (currently serving High Court judges) relating to the operation of the statutory frameworks for data retention, interception of communications and surveillance. The provisions relating to these matters are contained in Part 10 as they concern amendments to other enactments of the Oireachtas.

### **Chapter 1 – Preliminary and general (Part 7)**

#### **Section 226**

This section defines certain words and terms used in this Part.

#### **Section 227**

This section provides for the specification by the Taoiseach, following consultation with the Independent Examiner and any appropriate Minister of the Government, of enactments as “security legislation” for the purposes of this Part.

### **Chapter 2 – Establishment of office of Independent Examiner**

#### **Sections 228 and 229**

These sections provide for the establishment of the office of the Independent Examiner of Security Legislation. The holder of the office will be known as the Independent Examiner.

### **Chapter 3 – Independent Examiner**

#### **Section 230**

This section provides for the appointment by the Government, following the passage of resolutions in both Houses of the Oireachtas, of a suitable person as the Independent Examiner. Provision is made for a person to be designated as the first Independent Examiner prior to the establishment day of the office. The necessary provision is made where the person appointed is a judge of the Superior Courts (see also Schedule 6).

#### **Section 231**

This section sets out the objectives, functions and powers of the Independent Examiner. The functions of the Independent Examiner will include: keeping under review the operation and effectiveness of security legislation, including examining whether it is proportionate and contains sufficient safeguards for the protection of human rights; reviewing refusals of information to the policing oversight bodies on grounds of the security of the State and where those bodies wish to appeal that decision and issuing recommendations; examining the efficiency and effectiveness of the delivery of security services.

The independence of the Independent Examiner in performing his or her functions is explicitly stated.

#### **Section 232**

This section concerns the terms and conditions of appointment of the Independent Examiner. The Independent Examiner will hold office for a maximum term of 5 years and may be reappointed once for a further term.

#### **Section 233**

This section provides for the designation by the Taoiseach of a person to perform the functions of the Independent Examiner for a maximum period of 6 months where the Independent Examiner is unable to perform his or her functions.

#### **Section 234**

This section sets out the circumstances in which a person is not eligible for, is disqualified from or ceases to hold the office of the Independent Examiner.

#### **Section 235**

This section provides for the resignation of the Independent Examiner.

#### **Section 236**

This section provides for the removal from office of the Independent Examiner by the Government for stated reasons.

#### **Section 237**

This section requires the Minister, following consultation with the Independent Examiner and with the consent of the Minister for Public Expenditure and Reform, to provide the Independent Examiner with the funds, premises, facilities and services that are required for proper functioning of the office of the Independent Examiner. Provision is made for the appointment of officers of the Minister for Justice to assist the Independent Examiner in the performance of his or her functions.

#### **Section 238**

This section allows the Independent Examiner, with the consent of the Minister and the approval of the Minister for Public Expenditure and Reform, to engage consultants and advisors and to enter into contracts with persons or bodies to assist in the performance of the Independent Examiner's functions. Given the sensitivity of the information to which persons engaged under this section may have access to, the Minister may, with the consent of the Taoiseach, make regulations providing for procedures to determine the suitability of such persons.

#### **Section 239**

This section provides that the Independent Examiner, for the purposes of the performance of his or her functions, may require, subject to specified safeguards, information holders to provide him or her with any information or document in his or her control or to attend before the Independent Examiner. The Independent Examiner and an information holder may agree memorandum of understanding concerning the manner in which information or documents are to be provided.

#### **Section 240**

This section makes provision for the Independent Examiner to review and to issue recommendations where, inter alia, requests for information or documents by the Policing and Community Safety Authority (under specified provisions of Part 4) or the Police Ombudsman (under specified

provisions of Part 6) have been rejected on the grounds of the security of the State.

## **Chapter 4 – Reporting**

### **Section 241**

This section provides for the preparation and submission by the Independent Examiner of an annual report to the Taoiseach. The matters to be included in an annual report are enumerated and include reviews of specified security enactments every year and other security enactments once every 3 years.

### **Section 242**

This section provides for the preparation and submission by the Independent Examiner, either on his or her own initiative or at the request of the Taoiseach, of special reports to the Taoiseach in certain specified circumstances.

### **Section 243**

This section provides for the preparation and submission by the Independent Examiner of a review of the effectiveness of the office of the Independent Examiner, including the functions and powers of the Independent Examiner, along with any recommendations for improving its effectiveness, to the Taoiseach at the request of the Taoiseach.

### **Section 244**

This section provides for publication, subject to safeguards regarding sensitive information, by the Independent Examiner of reports prepared under this chapter as soon as practicable after they have been laid before the Houses of the Oireachtas.

### **Section 245**

This section requires the Taoiseach, on behalf of the Government, to issue a response to reports, including addressing any recommendations made in such reports, prepared under this chapter and to lay, with certain specified exceptions, the response before the Houses of the Oireachtas.

### **Section 246**

This section sets out the procedures to apply where sensitive information has been provided to the Independent Examiner in relation to reports prepared under this chapter. The Independent Examiner is obliged to consult with the relevant information holder and the relevant Minister on the matter and, where it is considered that the sensitive information is not suitable for publication, to agree redactions or other amendments prior to publication of the report.

## **Chapter 5 – Information**

### **Section 247**

This section provides for an offence of disclosure of sensitive information by a person who is or was the Independent Examiner, a member of staff of the office of the Independent Examiner and a person engaged by the Independent Examiner under section 238 or an employee of such a person.

### **Section 248**

This section requires the Independent Examiner to ensure the security of information, documents or things provided to him or her in the course of performing his or her functions by putting in place appropriate security measures.

## **PART 8 – REGULATIONS**

This Part concerns regulation and order making powers, including in relation to the management of An Garda Síochána and the performance and conduct of members of An Garda Síochána.

### **Section 249**

This section provides that the Minister may make regulations to provide for any matter referred to in the Bill as prescribed or to be prescribed. It identifies the regulations or orders to be made that require the approval of the Government and those that are required to be laid before the Houses of the Oireachtas. Regulations made may contain such incidental, supplementary and consequential provisions as appear to be necessary or expedient for the purposes of the regulations.

### **Section 250**

This section provides a general power to the Minister to make regulations for the purposes of giving full effect to the Bill in addition to the specific powers conferred by the Bill subject to a requirement to consult with such of the specified office holders or bodies as the Minister considers appropriate.

### **Section 251**

This section provides for the making of regulations by the Minister relating to the management of An Garda Síochána. Prior consultation is required with the Garda Commissioner and the Policing and Community Safety Authority. The matters include, but are not limited to, matters relating to admissions, appointments, promotions, selection processes, training, secondment, retirement, the payment of pensions, resignations, and representative associations. Different provisions may be made for different categories of members or ranks or categories or grades of garda staff or other persons to whom the regulations may apply.

### **Section 252**

This section provides for the making of regulations by the Minister to provide for the establishment, maintenance and operation of a regime for the testing for controlled drugs and psychoactive substances in relation to An Garda Síochána. Prior consultation is required with the Garda Commissioner and the Policing and Community Safety Authority. It restates elements of section 122 of the Act of 2005 (as amended by Part 4 of the Garda Síochána (Functions and Operational Areas) Act 2022) in so far as they relate to such testing.

### **Section 253**

This section together with sections 254 and 255 provide a suite of regulation-making powers that will enable the existing discipline system for members of An Garda Síochána as provided for in the Garda Síochána (Discipline) Regulations 2007 to be replaced with a system that distinguishes between matters appropriate to performance management and behaviour constituting misconduct as recommended by the Commission on the Future of Policing in Ireland. This section provides for the making of regulations providing for the procedures to address unsatisfactory performance by, or the unsatisfactory attendance of, members of An Garda Síochána including by means of an improvement plan notifying the member concerned that improvement is required and specifying any actions required to be taken to bring about such improvement. Prior consultation with the Garda Commissioner and the Police Ombudsman is required before the making of the regulations. The regulations may make different provision depending on the degree of seriousness of the unsatisfactory performance or attendance or for different categories or ranks of members.



#### **Section 254**

This section provides for the making of regulations by the Minister concerning the procedures to apply to address misconduct by members of An Garda Síochána. Prior consultation with the Garda Commissioner and the Police Ombudsman is required before the making of the regulations. The regulation-making power enables different provision depending on the degree of seriousness of the misconduct or for different categories of members or ranks of members. Misconduct is defined, inter alia, as a breach of the standards of professional behaviour to be prescribed under section 255. Provision is made to address transitional matters. In particular the regulations made will not apply to misconduct occurring prior to the coming into operation of the section and in relation to which disciplinary proceedings under the Garda Síochána (Discipline) Regulations 2007 have been commenced but not concluded on the date of such coming into operation. Furthermore any disciplinary action imposed on a member under the regulations in respect of misconduct occurring prior to the coming into operation of the section may not exceed the sanction that could have been imposed in respect of the breach at the time that the breach occurred.

#### **Section 255**

This section provides for standards of professional behaviour applicable to members of garda personnel to be prescribed by the Minister having regard to certain factors. Prior consultation with the Garda Commissioner, the Police Ombudsman and the Policing and Community Safety Authority is required. These prescribed standards will, in effect, replace the breaches of discipline contained in Schedule 5 to the Act of 2005 and the Schedule to the Garda Síochána (Discipline) Regulations 2007. As provided for in section 2(2) the provision does not apply to members of civilian staff prior to the coming into operation of an order made by the Minister under section 54(5) i.e. designating such members of civilian staff as members of garda staff.

#### **Section 256**

This section provides for the making of regulations by the Minister, following consultation with the Garda Commissioner and with the consent of the Minister for Public Expenditure and Reform, prescribing fees for the provision of vetting services by An Garda Síochána. It restates section 127A of the Act of 2005.

#### **Section 257**

This section provides for the continuation in force of existing regulations and orders made, or continued in being, under Acts to be repealed by this Bill, with the exception of those regulations and orders specified in Schedule 7. Regulations or orders continued in force may be revoked or amended, in whole or in part, by the Minister, with the approval of the Government.

### **PART 9 – MISCELLANEOUS**

This Part contains miscellaneous provisions.

#### **Section 258**

This section provides for the dissolution of the Garda Síochána Reward Fund established in 1924 and for any balance of funds to be disposed of in accordance with the Garda Commissioner's directions for the promotion of the well-being of garda personnel.

#### **Section 259**

This section provides that authorised bodies designated by the Minister may designate individuals to be security officers for the purpose of the body's premises. The powers and obligations of such security officers are set out. The section restates in large part section 131 of the Act of 2005 subject to amendments to reflect the Private Security Services Acts 2004 and 2011.

#### **Section 260**

This section provides a statutory basis for the sharing of documents and information (including personal data) in accordance with the law between An Garda Síochána, the Policing and Community Safety Authority and the Office of the Police Ombudsman for the purpose of the performance of their respective functions. In addition, this section provides for the Minister to prescribe additional bodies for the purpose of the reciprocal sharing of information between a relevant body and such a prescribed body for the purpose of the performance of their respective functions. Provision is also made for the making of regulations in relation to such information sharing.

### **PART 10 – AMENDEMENTS OF OTHER ACTS OF THE OIREACHTAS**

This Part makes the necessary amendments to other Acts of the Oireachtas consequential to the changes introduced by the Bill.

#### **Section 261**

This section amends sections 315, 318 and 319 of the Fisheries (Consolidation) Act 1959, which provide for payments to the Garda Síochána Reward Fund in respect of a portion of fines for certain offences and the proceeds of certain fish forfeitures, to remove references to the Reward Fund, which is to be dissolved under section 258. The fines and proceeds of certain forfeitures will be paid to Inland Fisheries Ireland.

#### **Section 262**

This section amends the Coroners Act 1962 in a number of respects to reflect the reorganisation of the Garda Síochána Ombudsman Commission as the Office of the Police Ombudsman and the changes to its processes and procedures under the Bill.

#### **Section 263**

This section amends the Second Schedule to the Ombudsman Act 1980 to take account of the dissolution of the Garda Síochána Inspectorate, the reorganisation of the Garda Síochána Ombudsman Commission as the Office of the Police Ombudsman and the establishment of the Policing and Community Safety Authority and the office of the Independent Examiner of Security Legislation.

#### **Section 264**

This section amends section 98 of the Postal and Telecommunications Services Act 1983 to take account of the reorganisation of the Garda Síochána Ombudsman Commission as the Office of the Police Ombudsman and the changes to its processes and procedures under the Bill.

#### **Section 265**

This section amends the Criminal Justice Act 1984 to take account of the reorganisation of the Garda Síochána Ombudsman Commission as the Office of the Police Ombudsman and to update the reference to members of the civilian staff of An Garda Síochána to include members of garda staff.

**Section 266**

This section amends the National Archives Act 1986 to add the Office of the Police Ombudsman as a scheduled body for the purposes of that Act.

**Section 267**

This section amends the Industrial Relations Act 1990 to update the references to the Act of 2005 to reflect the equivalent provisions in the Bill.

**Section 268**

This section amends the Comptroller and Auditor General (Amendment) Act 1993 to include the Office of the Police Ombudsman and the Policing and Community Safety Authority (in place of the Policing Authority) as vote-holding bodies in addition to An Garda Síochána.

**Section 269**

This section amends the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 to take account of the reorganisation of the Garda Síochána Ombudsman Commission as the Office of the Police Ombudsman and the establishment of the office of the Independent Examiner of Security Legislation. It makes provision for the Independent Examiner to undertake the oversight role currently performed by a serving judge of the High Court of reviewing the operation of the Act.

**Section 270**

This section amends the Taxes Consolidation Act 1997 to substitute the Office of the Police Ombudsman and the Policing and Community Safety Authority for the Garda Síochána Ombudsman Commission and the Policing Authority in Schedule 13 to that Act.

**Section 271**

This section amends the Children Act 2001 to refer to an area-based neighbourhood community safety forum in place of a local policing forum in order to align with Part 3 of the Bill.

**Section 272**

This section amends the Public Service Superannuation (Miscellaneous Provisions) Act 2004 to refer to the Policing, Security and Community Safety Act 2022 in place of the Act of 2005.

**Section 273**

This section amends the Criminal Justice (Mutual Assistance) Act 2008 to take account of the reorganisation of the Garda Síochána Ombudsman Commission as the Office of the Police Ombudsman and to refer to the Policing, Security and Community Safety Act 2022 in place of the Act of 2005.

**Section 274**

This section amends the Criminal Justice (Surveillance) Act 2009 to take account of the reorganisation of the Garda Síochána Ombudsman Commission as the Office of the Police Ombudsman and the establishment of the office of the Independent Examiner of Security Legislation. It makes provision for the Independent Examiner to undertake the oversight role currently performed by a serving judge of the High Court of reviewing the operation of the Act.

**Section 275**

This section amends the Housing (Miscellaneous Provisions) Act 2009 to refer to a local community safety partnership in place of a joint policing committee in order to reflect Part 3 of the Bill and to provide for necessary transitional provisions.

**Section 276**

This section amends the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 to update reference to members of the civilian staff of An Garda Síochána to include members of garda staff.

**Section 277**

This section amends section 81 of the Road Traffic Act 2010 to update references to members of the civilian staff of An Garda Síochána to take account of members of garda staff and to update the definition of a member of An Garda Síochána to align with the Bill.

**Section 278**

This section amends the Communications (Retention of Data) Act 2011 to make provision for the Independent Examiner of Security Legislation to undertake the oversight role currently performed by a serving judge of the High Court of reviewing the operation of the provisions of the Act.

**Section 279**

This section amends the Welfare of Greyhounds Act 2011 to replace a reference to the Act of 2005 with a reference to the equivalent provision in this Bill.

**Section 280**

This section amends the Europol Act 2012 to replace a reference to the Act of 2005 with a reference to the equivalent provision in the Bill.

**Section 281**

This section amends the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to replace a reference to the Act of 2005 with a reference to the equivalent provision in this Bill and to refer to the Office of the Police Ombudsman in place of the Garda Síochána Ombudsman Commission.

**Section 282**

This section amends the Animal Health and Welfare Act 2013 to replace a reference to the Act of 2005 with a reference to the equivalent provision in the Bill.

**Section 283**

This section amends the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 to replace a reference to the Act of 2005 with a reference to the equivalent provision in the Bill.

**Section 284**

This section amends the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 to update the terminology relating to members of garda personnel to align with the terminology in the Bill and to take account of the reorganisation of the Garda Síochána Ombudsman Commission as the Office of the Police Ombudsman.

**Section 285**

This section amends the Freedom of Information Act 2014 in a number of respects to align with the Bill. Section 42 is amended to refer to Chapter 8 of Part 2 in place of section 42 of the Act of 2005, and to include the records held or created by the Independent Examiner of Security Legislation. Part 1 of Schedule 1, which lists partially included bodies, is amended to replace the reference to the Garda Síochána Ombudsman Commission with a reference to the Police Ombudsman and the reference to the Garda Síochána Inspectorate with a reference to the Policing and Community

Safety Authority, and, to include the Board of An Garda Síochána and the Independent Examiner of Security Legislation.

#### **Section 286**

This section amends Schedule 2 to the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, which concerns specified employment and service in respect of which the benefits of the Act do not apply, to include the Policing and Community Safety Authority, the Office of the Police Ombudsman, the office of the Independent Examiner and to update the definition of a reserve member of An Garda Síochána to align with the Bill.

#### **Section 287**

This section amends the Criminal Justice (Offences Relating to Information Systems) Act 2017 to update the definition of “member” to align with the definition of member of An Garda Síochána in the Bill.

#### **Section 288**

This section amends Schedule 1 to the National Shared Services Office Act 2017, which defines “public service body” for the purposes of that Act, to refer to the Office of the Police Ombudsman in place of the Garda Síochána Ombudsman Commission.

#### **Section 289**

This section amends the Criminal Justice (Victims of Crime) Act 2017 to take account of the reorganisation of the Garda Síochána Ombudsman Commission as the Office of the Police Ombudsman.

#### **Section 290**

This section amends the Criminal Justice (Corruption Offences) Act 2018 to take account of the reorganisation of the Garda Síochána Ombudsman Commission as the Office of the Police Ombudsman and the establishment of the Policing and Community Safety Authority under the Bill.

#### **Section 291**

This section amends the Criminal Justice (International Co-operation) Act 2019 to update a reference to the Act of 2005 to reflect the equivalent provision in the Bill.

#### **Section 292**

This section amends the Criminal Records (Exchange of Information) Act 2019 to update a reference to members of the civilian staff of An Garda Síochána to include members of garda staff.

#### **Section 293**

This section amends the Garda Síochána (Functions and Operational Areas) Act 2022 to update the definitions in section 2 to align with this Bill and to substitute references to section 33(1) of the Act of 2005, which provides for the determination by the Garda Commissioner of the manner in which An Garda Síochána are to be distributed and stationed throughout the State, with the equivalent provision in the Bill.

### **SCHEDULES**

#### **Schedule 1**

This Schedule lists the enactments that are to be repealed by section 5 and details the extent to which they will be repealed.

## **Schedule 2**

This Schedule sets out the wording of the solemn declaration that a person is required to make under section 46 before becoming a member of An Garda Síochána. The wording includes a commitment to discharge the duties of a member in a manner that protects and vindicates human rights and to conduct oneself in accordance with the code of ethics established under section 78.

## **Schedule 3**

This Schedule concerns the terms and conditions of members of civilian staff who become members of garda staff following the making of an order by the Minister under section 54(5). Its purpose is to ensure, except in accordance with a collective agreement negotiated with any recognised trade union or staff association, that the scales of pay and terms and conditions of service applicable to such persons are not less beneficial than those to which they were entitled before the making of the order.

## **Schedule 4**

This Schedule contains the text of the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland on Police Co-operation, done at Belfast on 29 April 2002 and the text of the amendment to that Agreement which entered in force on 19 April 2010. This Agreement provides, amongst other matters, for secondments to An Garda Síochána from the Police Service of Northern Ireland and vice versa.

## **Schedule 5**

This Schedule concerns the appointment of a person who holds a judicial office as the Police Ombudsman or the Deputy Police Ombudsman. In particular it is intended to ensure that the number of authorised judges in the court concerned may be maintained.

## **Schedule 6**

This Schedule concerns the appointment of a person who holds a judicial office as the Independent Examiner of Security Legislation. In particular it is intended to ensure that the number of authorised judges in the court concerned may be maintained.

## **Schedule 7**

This Schedule lists the regulations and orders made under or continued under an enactment repealed by section 5 which are not to be continued in force under this Bill and the extent of their revocation.

*An Roinn Dlí agus Cirt,*

*Mí Eanáir, 2023.*