



**Bille an Gharda Síochána (Feistí Taifeadta) (Leasú),
2025**
**Garda Síochána (Recording Devices) (Amendment) Bill
2025**

Meabhrán Míniúcháin
Explanatory Memorandum



**BILLE AN GHARDA SÍOCHÁNA (FEISTÍ TAIFEADTA)
(LEASÚ), 2025
GARDA SÍOCHÁNA (RECORDING DEVICES)
(AMENDMENT) BILL 2025**

EXPLANATORY MEMORANDUM

The main purpose of the Bill is:

The main purpose of the Garda Síochána (Recording Devices) (Amendment) Bill is amend the Garda Síochána (Recording Devices) Act 2023 (the Principal Act). The Bill will allow for the carrying out of biometric analysis by An Garda Síochána, subject to a Code of Practice.

It will provide for retrospective searching of documents (which includes video footage or images) in the context of the prevention, investigation, detection or prosecution of an arrestable offence, for missing persons, or for the protection of the security of the State.

The power to process documents using biometrics in this Bill must be subject to sufficient controls and oversight to ensure its use is necessary and proportionate at all times as there are potential implications for fundamental rights of individuals subjected to these technologies. The Bill provides for codes of practice to be prepared, including requirements to conduct data protection impact assessments and human rights assessments prior to the deployment of any of the measures. Any codes created under the Bill will require positive resolutions from both Houses of the Oireachtas. Judicial oversight will be provided by a High Court Judge who will report to the Taoiseach annually on the operation of the Part.

Provisions of the Bill:

Part 1

Preliminary and General

Section 1 – Short title and commencement

Section 1 is a standard provision, which sets out the title of the Bill, and provides for commencement orders for the coming into force of the Bill once enacted.

Section 2 – Definitions

Section 2 is a standard provision defining key words and phrases used in the Bill.

Part 2

Amendment Of Principal Act

Section 3 – Amendment of section 2 of Principal Act

Section 3 amends the definitions in Section 2 of the Principal Act. It inserts the definition of “arrestable offence” and amends the definition of a “code of practice”.

Section 4 – Amendment of Section 3 of Principal Act

Section 4 amends section 3 of the Principal Act. Section 3 of the Principal Act provides for the Minister to make any regulations that are necessary for the operation of the Act, and provides that any order or regulation made under the Act will be laid before the Houses of the Oireachtas, except for orders under section 1(2) of the Principal Act. Section 4 inserts orders under section 47(7A) and 47A (5) and (10) under the exception alongside orders under section 1(2), as they relate to minor amendments to a code of practice, and orders which have to be laid for a positive resolution.

Section 5 – Amendment of section 13 of Principal Act

Section 5 amends section 13 of the Principal Act by deleting the definition of “arrestable offence” from section 13. The definition of “arrestable offence” will be inserted into section 2 of the Principal Act by section 3 of this Bill.

Section 6 – Carrying out of biometric analysis in certain circumstances

Section 6 inserts Part 6A, sections 43A to 43E, into the Principal Act after Part 6.

Section 43A provides definitions for terms used in this Part of the Bill. This includes the definition of “biometric analysis”, which will allow for the specific technical processing of documents by An Garda Síochána.

Section 43B provides that this Bill will not affect the operation of section 22 of the Criminal Justice Miscellaneous Provisions Act 2009, sections 8 to 12 of the Europol Act 2012, or section 93 of the Policing, Security and Community Safety Act 2024.

Section 43C sets out the purposes for which Garda personnel may carry out of biometric analysis. These purposes are narrow in scope. Its utilisation is only permitted for arrestable offences which are offences punishable by imprisonment for a term of 5 years or more; for missing persons; or for the protection of the security of the State. Subsections (3) and (4) set out that use will be necessary and proportionate where it is in line with its principal purposes and with a code of practice. Subsection (5) sets out the documents on which biometric analysis may be carried out. Subsection (6) sets out the data subjects that may be searched for using biometric analysis. Subsection (7) sets out that biometric analysis can only be carried out on a retrospective basis. Subsection (8) provides for human review of any results. Subsection (9) provides for the deletion of any material resulting from the utilisation of biometric analysis that does not result in the person being recognised in the footage. This does not include the original CCTV, video footage or images which have been lawfully gathered. Subsection (10) provides for the maintenance of a written list by the Garda Commissioner. Subsection (11) provides for definition of terms utilised in this section and subsection (12) provides for a construction on subsection (5).

Section 43D sets out that a member of Garda personnel may process data from the carrying out of biometric analysis where it is in accordance with an applicable code of practice.

Section 43E provides a range of offences specific to the Part punishable on summary conviction, to a class A fine, or a term of imprisonment not exceeding 12 months or both, or on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

Section 7 – Amendment of section 47 of Principal Act

Section 7 amends section 47 of the Principal Act. This includes a minor technical amendment to change an incorrect reference in the Principal Act and the insertion of a new subsection (7A) into that section. Subsection (7A) will allow for minor amendments to be made to the Code of Practice without necessitating a full consultation process under section 47(3).

Section 8 – Codes of practice for Part 6A

Section 8 inserts Section 47A, Part 8A, into the Principal Act. This new section provides for a Code of Practice for Part 6A inserted by section 6 of this Bill into the Principal Act.

Part 8A sets out that a Code or Codes of Practice must be drawn up by the Garda Commissioner. It provides what a Code or Codes of Practice must incorporate, including provisions relating to procedures to be followed, confidentiality, security, storage, access and retention. This Part lists the parties and stakeholders with whom the Garda Commissioner must consult, which includes the Data Protection Commission and the Irish Human Rights and Equality Commission, as well as the information that must be provided to them. This comprises of a draft Code or Codes of Practice, the results of any data protection impact assessments, and the results of any assessment of the impact on the human rights of a person. The draft Code or Codes must also be published on the Garda website, for a period to be determined by the Garda Commissioner, to allow persons to make written representations in respect of the draft Code or Codes. The Garda Commissioner may also consult with any other persons he or she deems appropriate and may amend the Code or Codes of Practice as a result of the assessments conducted, the consultations, or the representations made in respect of the Code or Codes. Once a draft Code is submitted to the Minister, the Code must be laid before both Houses for positive resolutions to be passed before the Minister may, by order, declare it a Code of Practice, save for where an order is made under subsection (10). Provision is made for the review of a code of practice at least every 5 years from the date of the order, or from the previous review. Provision is also made to allow for minor amendments to be made to the Code of Practice without necessitating a full consultation process under the section. Subsection (12) ensures that all reasonable steps are taken by the Commissioner to bring a code of practice, to the attention of Garda personnel.

Section 9 – Amendment of Section 49 of Principal Act

Section 9 amends section 49 (3)(a) of the Principal Act. This is to reflect the need for judicial oversight for Part 6A.

*An Roinn Dlí agus Cirt, Gnóthai Baile agus Imirce,
Nollaig, 2025.*

