



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

Mar a leasaíodh sa Roghchoiste um Dhlí agus Ceart, Gnóthaí Baile agus Imirce

As amended in the Select Committee on Justice, Home Affairs and Migration



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

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Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 (No. 11)

Criminal Justice (Miscellaneous Provisions) Act 2009 (No. 28)

Criminal Law Act 1997 (No. 14)

Europol Act 2012 (No. 53)

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Interpretation Act 2005 (No. 23)

Policing, Security and Community Safety Act 2024 (No. 1)



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

Bill

entitled

An Act to provide for the carrying out of biometric analysis by members of Garda personnel in certain circumstances; to provide for the preparation of codes of practice in relation to the carrying out of such biometric analysis and, for those and other purposes, to amend the Garda Síochána (Recording Devices) Act 2023; and to provide for related matters.

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Be it enacted by the Oireachtas as follows:

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PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Garda Síochána (Recording Devices) (Amendment) Act 2026.
- (2) This Act shall come into operation on such day or days as the Minister for Justice, Home Affairs and Migration may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

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Definition

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2. In this Act, “Principal Act” means the Garda Síochána (Recording Devices) Act 2023.

PART 2

AMENDMENT OF GARDA SÍOCHÁNA (RECORDING DEVICES) ACT 2023

Amendment of section 2 of Principal Act

3. Section 2 of the Principal Act is amended—
 - (a) by the insertion of the following definitions:

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“ ‘applicable code of practice’ means—

- (a) in a case to which Parts 2 to 6 apply, a code of practice under Part 8, or
- (b) in a case to which Part 6A applies, a code of practice under Part 8A;

‘arrestable offence’ has the same meaning as it has in section 2(1) of the Criminal Law Act 1997;”,

and

- (b) by the substitution of the following definition for the definition of “code of practice”:

“ ‘code of practice’ means a code of practice that is declared by the Minister by order under section 47(4)(a) or 47A(5)(a), as the case may be, to be a code of practice and includes part of a code of practice;”.

Amendment of section 3 of Principal Act

- 4. Section 3(3) of the Principal Act is amended by the substitution of “section 1(2) or an order to which section 47(7A) or section 47A(5) or (10) applies” for “section 1(2)”.

Amendment of section 7 of Principal Act

- 5. (1) Section 7 of the Principal Act is amended—

- (a) by the insertion of the following subsection after subsection (1):

“(1A) Notwithstanding the repeal of section 38 of the Act of 2005 by section 6(1) and the revocation of the Garda Síochána (CCTV) Order 2006 (S.I. No. 289 of 2006) (‘the Order’) by section 6(2)—

- (a) an application for an authorisation that was made before 2 April 2025 under section 38 of the Act of 2005 but not yet determined before the coming into operation of this section shall continue to be assessed under section 38 of that Act and the Order as if that section had not been repealed and that Order had not been revoked,
 - (b) an authorisation given under the said section 38 of the Act of 2005 in respect of an application referred to in paragraph (a) shall, subject to subsection (2), remain in force, and
 - (c) the said section 38 shall remain in force in respect of an authorisation referred to in paragraph (b) for a period of 4 years after the date of the coming into operation of this section.”,

and

- (b) in subsection (2), by the substitution of “subsection (1) or (1A)” for “subsection (1)”.

- (2) *Subsection (1)* shall come into operation on the day on which sections 6 and 7 and Part 5 of the Principal Act come into operation.

Amendment of section 13 of Principal Act

6. Section 13 of the Principal Act is amended by the deletion of the definition of “arrestable offence”.

Amendment of section 20 of Principal Act

7. Section 20(2)(a) of the Principal Act is amended— 5
- (a) in subparagraph (iii), by the substitution of “the State,” for “the State;”, and
 - (b) by the deletion of subparagraph (iv).

Carrying out of biometric analysis in certain circumstances

8. The Principal Act is amended by the insertion of the following Part after Part 6:

“PART 6A 10

CARRYING OUT OF BIOMETRIC ANALYSIS BY MEMBERS OF GARDA PERSONNEL

Interpretation (Part 6A)

43A. In this Part—

‘biometric analysis’ means any or all of the following:

- (a) in relation to individuals generally, the automated recognition and 15
categorising of instances of physical, physiological or behavioural
human features by the use of specific technical processing of
documents obtained by An Garda Síochána in the course of an
investigation;
- (b) in relation to a particular, but unidentified, individual, the 20
automated recognition and categorising of physical, physiological
or behavioural human features by the use of specific technical
processing of documents obtained by An Garda Síochána in the
course of an investigation, in respect of instances of the particular
unidentified individual; 25
- (c) in relation to a particular, identified, individual, the automated
recognition and categorising of physical, physiological or
behavioural human features by the use of specific technical
processing of documents obtained by An Garda Síochána in the
course of an investigation, in respect of instances of the particular 30
identified individual for the purpose of localising that particular
identified individual;

but does not include biometric identification;

‘biometric data’ means personal data resulting from specific technical 35
processing relating to the physical, physiological or behavioural
characteristics of an individual but does not include excluded biometric
data;

‘biometric identification’ means, in relation to an individual, the automated recognition of physical, physiological or behavioural human features for the purpose of ascertaining, or attempting to ascertain, the identity of an individual by comparing biometric data of the individual to biometric data stored in a database of one or more named individuals; 5

‘enactment’ has the same meaning as it has in section 2 of the Interpretation Act 2005;

‘excluded biometric data’ means, in relation to an individual, biometric data derived from—

- (a) fingerprints or palm prints taken from the individual pursuant to any enactment, or 10
- (b) without prejudice to the generality of paragraph (a), intimate or non-intimate samples taken from the individual pursuant to the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014; 15

‘principal purpose’ means, in relation to the carrying out of biometric analysis, the carrying out of biometric analysis for one or more of the purposes specified in section 43C(2).

Application of Part

43B. Nothing in this Part, or in an applicable code of practice, shall affect the operation of— 20

- (a) section 22 of the Criminal Justice (Miscellaneous Provisions) Act 2009,
- (b) sections 8 to 12 of the Europol Act 2012, or
- (c) section 93 of the Policing, Security and Community Safety Act 2024. 25

Carrying out of biometric analysis by member of Garda personnel

43C. (1) A member of Garda personnel shall not carry out biometric analysis other than in accordance with this Part and any applicable code of practice. 30

- (2) A member of Garda personnel shall not carry out biometric analysis, other than for one or more of the following principal purposes:
 - (a) the prevention, investigation, detection or prosecution of arrestable offences;
 - (b) the protection of the security of the State; 35
 - (c) a search for one or more missing persons.

(3) The carrying out of biometric analysis by a member of Garda personnel shall not be carried out unless it is necessary and proportionate having regard to the principal purposes of the biometric analysis concerned. 40

- (4) The carrying out of biometric analysis by a member of Garda personnel shall be presumed to be so necessary and proportionate if it is in accordance with this Part and any applicable code of practice.
- (5) A member of Garda personnel may only carry out biometric analysis using biometric data derived from documents that are obtained in the course of the relevant investigation concerned by An Garda Síochána. 5
- (6) A member of Garda personnel may only carry out biometric analysis in order to search for—
- (a) an individual who the member has reasonable grounds to suspect—
 - (i) of the commission of an arrestable offence, or 10
 - (ii) is a threat to the security of the State,
 - (b) a missing person, or
 - (c) an individual who the member reasonably suspects is or has been a victim of an arrestable offence.
- (7) A member of Garda personnel may only carry out biometric analysis on a retrospective basis. 15
- (8) The results of biometric analysis shall not be used by An Garda Síochána for a principal purpose unless such results have been reviewed by a member of Garda personnel and have been ascertained by him or her to be of sufficient reliability to be so used. 20
- (9) Where a document is used for the carrying out of biometric analysis, the use of which does not result in the recognition and categorising of an individual, the results of the biometric analysis shall be immediately destroyed or deleted in accordance with an applicable code of practice. 25
- (10) The Commissioner of An Garda Síochána shall cause to be created and maintained a written list of instances where biometric analysis was carried out under this Part and such list shall record in writing—
- (a) the circumstances which gave rise to the use of the biometric analysis, and 30
 - (b) any other matters as may be specified in an applicable code of practice.
- (11) In this section—
- ‘missing person’ means a person, other than a person who is a suspected victim of an arrestable offence, who is observed to be missing from his or her normal patterns of life, in relation to whom those persons who are likely to have heard from the person are unaware of the whereabouts of the person and that the circumstances of the person being missing raises concerns for his or her safety and well-being; 40

‘retrospective basis’ means, in relation to the carrying out of biometric analysis, the carrying out of biometric analysis in respect of a person, other than in real time.

- (12) In subsection (5), a reference to ‘using biometric data derived from documents’ includes, for the purposes of paragraphs (b) and (c) of the definition of ‘biometric analysis’, comparing biometric data derived from such documents. 5

Power to process data

- 43D.** A member of Garda personnel may, for a principal purpose, and in accordance with an applicable code of practice, process data (including personal data) obtained as a result of the carrying out of biometric analysis under this Part. 10

Offences under this Part

- 43E.** (1) A person who, without lawful authority or reasonable excuse, knowingly does any of the following: 15
- (a) falsifies, conceals, destroys or otherwise disposes of information (including visual or audio information) obtained as a result of the carrying out of biometric analysis under this Part;
 - (b) permits the falsification, concealment, destruction or disposal of the information, 20
- shall be guilty of an offence.
- (2) A person who induces, coerces or requests, without lawful authority or reasonable excuse, a member of Garda personnel to commit an offence under subsection (1) shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable— 25
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.”.

Amendment of section 47 of Principal Act 30

9. Section 47 of the Principal Act is amended—

- (a) in subsection (4), by the substitution of “subsection (6)” for “subsection (7)”,
- (b) in subsection (6), by the substitution of “to revoke or replace an existing code of practice” for “to amend, revoke or replace an existing code of practice”,
- (c) in subsection (7), by the substitution of “Subject to subsection (7A), the provisions” for “The provisions”, 35
- (d) by the insertion of the following subsection after subsection (7):
 - “(7A) Subject to subsection (9), where the Commissioner of An Garda Síochána proposes to submit a further draft code of practice to the

Minister under subsection (6), and, where in the opinion of the Commissioner of An Garda Síochána, the further draft code of practice contains only minor differences to the existing code of practice referred to in that subsection, the following provisions shall apply:

- (a) the Commissioner of An Garda Síochána may submit that further draft code of practice to the Minister under subsection (6) without having complied with subsection (3) (other than subsection (3)(e), where applicable); 5
 - (b) the Minister, if he or she is satisfied that the differences between the further draft code of practice and the existing code of practice are minor, may by order under paragraph (a) of subsection (4) declare that it is a code of practice for the purposes of this Act and, accordingly, the other provisions of that subsection shall then apply; 10
 - (c) the provisions of this section shall otherwise apply to the further draft code of practice.”, 15
- (e) by the substitution of the following subsection for subsection (8):
- “(8) The Commissioner of An Garda Síochána shall take all reasonable steps to ensure that an applicable code of practice has been brought to the attention of members of Garda personnel.”, 20
- and
- (f) by the insertion of the following subsection after subsection (8):
- “(9) A reference in subsection (7A) to differences between a further draft code of practice and an existing code of practice being minor shall be a reference to— 25
- (a) the correction in the further draft code of practice of typographical or other such minor errors in the existing code of practice,
 - (b) the correction or updating in the further draft code of practice of legislative references in the existing code of practice,
 - (c) the making of changes in the further draft code of practice to reflect minor changes in, or the precise operation of, devices or other technology, or 30
 - (d) the making of minor changes in the further draft code of practice to reflect minor changes in the law, social conditions, the meaning of words used or other relevant matters connected to paragraphs (a) to (c).”.
- 35

Codes of practice for Part 6A

10. The Principal Act is amended by the insertion of the following Part after Part 8:

“PART 8A

CODES OF PRACTICE FOR PART 6A

Codes of practice for Part 6A

- 47A.** (1) Subject to this section, the Commissioner of An Garda Síochána shall, having had regard to the matters contained in Part 6A— 5
- (a) prepare one or more draft codes of practice, to provide further detail on the operation of Part 6A and any associated procedures, and
 - (b) submit each draft code of practice (amended, where applicable, in accordance with subsection (4)) to the Minister. 10
- (2) Without prejudice to the generality of subsection (1), a draft code of practice shall include provisions relating to—
- (a) the procedures to be followed by members of Garda personnel in the operation of Part 6A,
 - (b) parameters for use of biometric analysis, including geographical and, subject to section 43C(7), temporal limits of such use, 15
 - (c) the confidentiality, security, storage, access, retention, erasure and destruction of data obtained as a result of the operation of Part 6A, and
 - (d) those sections of Part 6A that provide that a matter is to be specified, or otherwise contained in, or to be the subject of, a code of practice. 20
- (3) A draft code of practice may contain different provisions in relation to—
- (a) each provision of Part 6A, 25
 - (b) different types of biometric data and biometric analysis,
 - (c) different categories of persons or data (including biometric data), and
 - (d) the circumstances in which such biometric data is used or such biometric analysis is carried out. 30
- (4) Before submitting a draft code of practice to the Minister under this section, the Commissioner of An Garda Síochána—
- (a) shall cause an assessment of the impact of the proposed draft code on the human rights of individuals affected by the code to be carried out, 35
 - (b) shall consult with the following regarding the content of the draft code and, where an assessment under paragraph (a) has been carried out, provide them with the results of the assessment and the results of any applicable data protection impact assessment:
 - (i) the Minister; 40

- (ii) An tÚdarás Póilíneachta agus Sábháilteachta Pobail;
 - (iii) the Police Ombudsman;
 - (iv) the Data Protection Commission;
 - (v) the Irish Human Rights and Equality Commission,
- (c) shall ensure that the draft code of practice is published on the website of An Garda Síochána in order to allow persons a period that the Commissioner of An Garda Síochána shall specify to make written representations in relation to the draft code, and
- (d) may consult with any other person appearing to the Commissioner of An Garda Síochána to have an interest in the matter,
- and the Commissioner of An Garda Síochána may, if he or she considers it appropriate to do so, amend the draft code of practice as a result of the assessment (where applicable), consultations or representations referred to in paragraphs (a) to (d).
- (5) Subject to subsection (6), where a draft code of practice is submitted to the Minister under subsection (1) or subsection (8)—
- (a) the Minister may by order declare that it is a code of practice for the purposes of this Act,
 - (b) an order under this subsection shall set out the text of the code of practice to which the order relates, and
 - (c) the code of practice shall come into operation on the date specified in the order.
- (6) Where an order (other than an order relating to a draft code of practice to which subsection (10) applies) is proposed to be made under this section, a draft of the order setting out the text of the draft code of practice to which the order relates shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House.
- (7) The Commissioner of An Garda Síochána shall ensure that—
- (a) a code of practice to which an order under subsection (5) relates is first reviewed not later than 5 years from the date of the order, or in the case of a subsequent review, not later than 5 years from the date of the previous review under this subsection,
 - (b) in conducting a review under this subsection, the provisions of subsection (4) shall be complied with in respect of the review, and
 - (c) the Minister is informed of the outcome of the review.
- (8) The Commissioner of An Garda Síochána, on foot of a review of a code of practice under subsection (7) or at any other time that he or she considers appropriate, may, on or after the date of the coming into operation of *section 10 of the Garda Síochána (Recording Devices) (Amendment) Act 2026*, submit a further draft code of practice to the

Minister in order to revoke or replace an existing code of practice, or to create a new code of practice.

- (9) Subject to subsection (10), the provisions of this section shall apply to or in relation to a draft code of practice submitted to the Minister under subsection (8) as they apply to a draft code of practice submitted to the Minister under subsection (1). 5
- (10) Subject to subsection (11), where the Commissioner of An Garda Síochána proposes to submit a further draft code of practice to the Minister under subsection (8), and where in the opinion of the Commissioner of An Garda Síochána the further draft code of practice contains only minor differences to the existing code of practice referred to in that subsection, the following provisions shall apply: 10
- (a) the Commissioner of An Garda Síochána may submit that further draft code of practice to the Minister under subsection (8) without having complied with subsection (4) (other than subsection (4)(d), where applicable); 15
 - (b) the Minister, if he or she is satisfied that the differences between the further draft code of practice and the existing code of practice are minor, may by order under paragraph (a) of subsection (5) declare that it is a code of practice for the purposes of this Act and the other provisions of that subsection shall then apply; 20
 - (c) the provisions of this section shall otherwise apply to or in relation to the further draft code of practice.
- (11) A reference in subsection (10) to differences between a further draft code of practice and an existing code of practice being minor shall be a reference to— 25
- (a) the correction in the further draft code of practice of typographical or similar minor errors in the existing code of practice,
 - (b) the correction or updating in the further draft code of practice of legislative references in the existing code of practice, 30
 - (c) the making of changes in the further draft code of practice to reflect minor changes in, or the precise operation of, devices or other technology, or
 - (d) the making of minor changes in the further draft code of practice to reflect minor changes in the law, social conditions, the meaning of words used or other relevant matters connected to paragraphs (a) to (c). 35
- (12) The Commissioner of An Garda Síochána shall take all reasonable steps to ensure that an applicable code of practice has been brought to the attention of members of Garda personnel.”. 40

Amendment of section 49 of Principal Act

- 11.** Section 49 of the Principal Act is amended by the substitution of the following subsection for subsection (3):

“(3) The functions of the designated judge are to—

- (a) keep under review the operation of Parts 3, 6 and 6A in so far as each of them has come into operation, and 5
- (b) report to the Taoiseach from time to time and at least once every 12 months concerning any matters relating to that operation that the designated judge considers should be reported.”.

Bille an Gharda Síochána (Feistí Taifeadta)
(Leasú), 2025

BILLE

(mar a leasaíodh sa Roghchoiste um Dhlí agus
Ceart, Gnóthaí Baile agus Imirce)

dá ngairtear

Acht do dhéanamh socrú maidir le comhaltaí de phearsanra an Gharda do dhéanamh anailís bhithmhéadrach in imthosca áirithe; do dhéanamh socrú maidir le cóid chleachtais a ullmhú i ndáil le hanailís bhithmhéadrach den sórt sin a dhéanamh agus, chun na gcríoch sin agus chun críoch eile, do leasú Acht an Gharda Síochána (Feistí Taifeadta), 2023; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Ordaíodh ag an Roghchoiste a chlóbhualadh,
3 Márta, 2026

Garda Síochána (Recording Devices)
(Amendment) Bill 2025

BILL

(as amended in the Select Committee on Justice,
Home Affairs and Migration)

entitled

An Act to provide for the carrying out of biometric analysis by members of Garda personnel in certain circumstances; to provide for the preparation of codes of practice in relation to the carrying out of such biometric analysis and, for those and other purposes, to amend the Garda Síochána (Recording Devices) Act 2023; and to provide for related matters.

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