



**An Bille um an Dlí Coiriúil agus an Dlí Sibhialta
(Forálacha Ilghnéitheacha), 2026
Criminal Law and Civil Law (Miscellaneous Provisions)
Bill 2026**

*Meabhrán Mínitheach
Explanatory Memorandum*



**AN BILLE UM AN DLÍ COIRIÚIL AGUS AN DLÍ SIBHIALTA
(FORÁLACHA ILGHNÉITHEACHA), 2026
CRIMINAL LAW AND CIVIL LAW (MISCELLANEOUS
PROVISIONS) BILL 2026**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The purpose of this Bill is to amend and update specific areas of the criminal law and civil law:

- Part 2 amends the Firearms Act 1925 and the Prisons Act 2007 to provide an exemption for prison officers to use incapacitant sprays in the course of their duties where this is provided for by the Minister for Justice, Home Affairs and Migration in accordance with Prison Rules;
- Part 3 amends the Courts of Justice Act 1936 and the Courts Service Act 1998 to empower the Chief Justice to delegate certain non-judicial functions to other members of the judiciary;
- Part 4 amends the Extradition Act 1965 to empower Garda members to provisionally arrest, without a warrant, persons named in Schengen Information System (SIS) alerts from countries that do not participate in the European Arrest Warrant;
- Part 5 amends the Criminal Justice (Community Service) Act 1983 to increase the scope and applicability of community service orders and to make provision for various functions under the Act to be carried out by staff of the Probation Service other than Probation Officers;
- Part 6 amends the Criminal Evidence Act 1992 to provide for a disclosure hearing to be held in all cases relating to the disclosure of counselling records in sexual offence trials, and amends the Criminal Justice Act 1999 to provide for the evidentiary admissibility of certificates signed by garda personnel relating to their custody of exhibits;
- Part 7 amends various enactments to provide for the Minister for Justice, Home Affairs and Migration to certify Irish citizenship where this is relevant to the prosecution of certain offences under the enactments;
- Part 8 amends the Criminal Justice Act 2006 to provide for the taking of suspended sentence recognisances by prison governors or prison officers in certain circumstances and to reduce to inspector the minimum rank of member of An Garda Síochána that may make applications for anti-social behaviour orders in respect of adults;

- Part 9 amends the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 to allow Forensic Science Ireland to generate DNA profiles derived from the analysis of coding DNA for identification purposes in cases relating to missing persons, unknown persons and unknown deceased persons;
- Part 10 amends the Criminal Law (Sexual Offences) Act 2017 to provide for two new offences relating to offers of accommodation in exchange for sexual activity;
- Part 11 provides a permanent regulatory basis for outdoor seating areas for licensed premises;
- Part 12 provides for other miscellaneous amendments as set out below.

Provisions of the Bill

PART 1 – PRELIMINARY AND GENERAL

Section 1: Short title, collective citations and commencement

Section 1 provides for the short title, collective citations and the commencement of the Act.

Section 2: Definitions

Section 2 defines some of the terminology used in the Act.

Section 3: Expenses

Section 3 provides that any expenses incurred by the Minister for Justice, Home Affairs and Migration due to the provisions in the Act may be sanctioned by the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation to be paid from moneys provided by the Oireachtas.

PART 2 – POSSESSION, USE OR CARRIAGE OF INCAPACITANT SPRAY BY PRISON OFFICERS

Section 4: Amendment of Firearms Act 1925

Section 4 amends the Firearms Act 1925 to provide an exemption for prison officers to possess, use or carry incapacitant sprays in the course of their duties in accordance with rules made under the Prisons Act 2007. It also provides for consequential amendments relating to the purchase, importation, exportation and removal of incapacitant sprays by the Irish Prison Service. The section separately includes a technical amendment to the Firearms Act 1925 to amend terminology for non-sworn garda personnel to align with the Policing, Security and Community Safety Act 2024.

Section 5: Amendment of Prisons Act 2007

Section 5 amends the Prisons Act 2007 to provide that Prison Rules may provide for the possession, use or carriage of incapacitant sprays by prison officers in the performance of their duties.

PART 3 – NON-JUDICIAL FUNCTIONS OF CHIEF JUSTICE

Part 3 amends the Courts of Justice Act 1936 and the Courts Service Act 1998 to allow the Chief Justice to delegate certain non-judicial functions to other members of the judiciary.

Section 6: Amendment of section 67 of Courts of Justice Act 1936

Section 6 amends section 67 of the Courts of Justice Act 1936 to provide for a reduction in the number of ordinary judges of the Supreme Court and Court of Appeal sitting on the Superior Courts Rules Committee from two from each court to one from each court. It also provides that the Chief Justice may nominate an ordinary judge of the Supreme Court, Court of Appeal or High Court to replace him or her on the Superior Courts Rules Committee as a member and as chairperson.

Section 7: Amendment of section 11 of Courts Service Act 1998

Section 7 amends section 11 of the Courts Service Act 1998 to provide that the Chief Justice may nominate a judge of the Supreme Court, the Court of Appeal, the High Court, the Circuit Court or the District Court to replace him or her as a member of the Board of the Courts Service and as chairperson of the Board.

PART 4 – AMENDMENT OF EXTRADITION ACT 1965

Part 4 amends the Extradition Act 1965 to enable Garda members to provisionally arrest, without a warrant, persons named in Schengen Information System (SIS) alerts from Switzerland and Liechtenstein (as countries that do not participate in the European Arrest Warrant system). This is necessary if the SIS is to operate as intended in such cases, and Ireland has made a commitment to the European Commission to address the matter in legislation. The aforementioned enabling power is effected by amending section 27(3) of the Act; the remaining amendments are of a consequential and/or technical nature, including amendments to add or update various definitions.

Section 8: Definition (*Part 4*)

Section 8 provides for a definition of the Extradition Act 1965 (the “Act of 1965”).

Section 9: Amendment of section 26 of Act of 1965

Section 9 amends section 26 of the Act of 1965 to obviate the requirement for the High Court to issue an arrest warrant on production of a certificate by the Minister for Justice, Home Affairs and Migration where the person concerned has already been brought before the court having been arrested without a warrant under section 27(6).

Section 10: Amendment of section 27 of Act of 1965

Section 10 makes various procedural and technical amendments to section 27 of the Act of 1965. Among other amendments, it creates a new subsection (3A) to provide that a person the subject of a SIS alert may be arrested without a warrant, and a new subsection (3B) to provide that a person so arrested shall be informed in ordinary language of the reason for the arrest and furnished with a copy of the alert as soon as may be thereafter. The remaining amendments to section 27 are of a consequential or technical nature, including amendments to clarify particular procedures and create or update certain definitions.

Section 11: Amendment of section 36 of Act of 1965

Section 11 amends section 36 of the Act of 1965 to provide that the seizure powers of An Garda Síochána under that section also apply where a provisional arrest under section 27 is made without a warrant.

PART 5 – AMENDMENT OF CRIMINAL JUSTICE (COMMUNITY SERVICE) ACT 1983

Section 12: Amendment of Criminal Justice (Community Service) Act 1983

Section 12 amends section 3 of the Criminal Justice (Community Service) Act 1983 to oblige the courts to consider a community service order (CSO) in lieu of a prison sentence of up to 24 months' duration (the current such threshold being 12 months) and to give reasons where they consider that a CSO should not be imposed in such a case. It further amends sections 3 and 5 of the Act to increase from 240 to 480 the maximum community service hours that a judge may order. It additionally amends section 7 of the Act to introduce a tiered timeframe for the completion of community service work: where the order requires the performance of 240 hours' work or less, the work must be completed within one year of the date of the order; where the order requires the performance of more than 240 hours' work, the work must be completed within two years of the date of the order.

Section 12 also substitutes "relevant officer" for "probation officer" in sections 3, 4, 7 and 11 of the Act, thereby enabling the designation of staff other than Probation Officers to perform various functions under the Act.

PART 6 – CRIMINAL EVIDENCE

Section 13: Amendment of section 19A of Criminal Evidence Act 1992

Section 13 amends section 19A of the Criminal Evidence Act 1992 to delete subsection (17) of that section, which provides that complainants may waive their right to non-disclosure of counselling records in applicable proceedings. The effect of this amendment is that a disclosure hearing will be held in all such cases and hence that counselling records will be disclosed only where the judge considers it necessary.

Section 14: Amendment of section 30 of Criminal Justice Act 1999

Section 14 amends section 30 of the Criminal Justice Act 1999, which provides for the admissibility in evidence of certificates relating to custody of exhibits, to provide that members of garda staff (in addition to members of An Garda Síochána as is already the case) may prepare and sign such certificates.

PART 7 – CERTIFICATION OF CITIZENSHIP

Part 7 amends various enactments to reassign from the Minister for Foreign Affairs and Trade to the Minister for Justice, Home Affairs and Migration the responsibility for certifying citizenship where Irish citizenship is relevant to certain offences under the enactments. The amendments will bring these enactments in line with the approach taken in more recent enactments.

Section 15: Amendment of section 60 of Criminal Justice (Theft and Fraud Offences) Act 2001

Section 15 amends section 60 of the Criminal Justice (Theft and Fraud Offences) Act 2001 to provide for the admissibility of certificates of officers of the Minister for Justice, Home Affairs and Migration relating to citizenship in proceedings for offences under sections 38(1) and 45 of the Act.

Section 16: Amendment of section 8 of Maritime Security Act 2004

Section 16 amends section 8 of the Maritime Security Act 2004 to provide for the admissibility of certificates of officers of the Minister for Justice, Home Affairs and Migration relating to citizenship in proceedings for offences under section 2 of the Act.

Section 17: Amendment of section 75 of Act of 2006

Section 17 amends section 75 of the Criminal Justice Act 2006 to provide for the admissibility of certificates of officers of the Minister for Justice, Home Affairs and Migration relating to citizenship in proceedings for offences under sections 71 and 74 of the Act.

Section 18: Amendment of section 63 of International Criminal Court Act 2006

Section 18 amends section 63 of the International Criminal Court Act 2006 to provide for the admissibility of certificates of officers of the Minister for Justice, Home Affairs and Migration relating to citizenship in proceedings for offences under the Act.

Section 19: Amendment of section 14 of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010

Section 19 amends section 14 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 to provide for the admissibility of certificates of officers of the Minister for Justice, Home Affairs and Migration relating to citizenship in proceedings for offences under section 8 of the Act.

Section 20: Amendment of Regulation 8 of European Union (Market Abuse) Regulations 2016

Section 20 amends Regulation 8 of the European Union (Market Abuse) Regulations 2016 to provide for the admissibility of certificates of officers of the Minister for Justice, Home Affairs and Migration relating to citizenship in proceedings for offences under Regulation 8.

PART 8 – AMENDMENT OF ACT OF 2006

Section 21: Amendment of Act of 2006

Section 21 amends section 99 of the Criminal Justice Act 2006 to provide, in respect of suspended sentence recognisances, that where the person entering into the recognisance is for the time being in custody in a prison, the governor of the prison or a designated prison officer may take the recognisance in the prison. The section also amends sections 113, 115 and 116 of the Criminal Justice Act 2006 to lower from superintendent to inspector the minimum rank of member of An Garda Síochána that may apply for a behaviour order in respect of adults.

PART 9 – AMENDMENT OF CRIMINAL JUSTICE (FORENSIC EVIDENCE AND DNA DATABASE SYSTEM) ACT 2014

Section 22: Amendment of section 2 of Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 22 amends the interpretation of “DNA profile” in the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014, in order to allow Forensic Science Ireland to generate DNA profiles from analysis of coding regions of DNA for identification purposes in cases relating to missing persons, unknown persons and unknown deceased persons.

Section 23: Generation of more than one profile from sample

Section 23 provides that more than one DNA profile may be generated from a sample taken in relation to cases involving missing persons, unknown persons and unknown deceased persons.

PART 10 – AMENDMENT OF CRIMINAL LAW (SEXUAL OFFENCES) ACT 2017**Section 24: Offences relating to accommodation offered in exchange for sexual activity**

Section 24 amends the Criminal Law (Sexual Offences) Act 2017 to insert a new section 45A in the Act which provides for two new offences, each with a penalty of a class A fine, relating to offers of accommodation in exchange for sexual activity. Subsection (1) of section 45A provides for an offence of offering a person accommodation in return for sexual activity in lieu of payment. Subsection (2) of section 45A provides for an offence of advertising or causing to be advertised an offer of accommodation in return for sexual activity in lieu of payment. In relation to each offence, the offer of accommodation may be a tenancy or a licence arrangement, of a kind which would ordinarily be provided in exchange for payment.

PART 11 – OUTDOOR SEATING AREAS FOR LICENSED PREMISES

Part 11 provides a permanent legal basis for outdoor seating areas for licensed premises. The current legal basis, the Civil Law (Miscellaneous Provisions) Act 2021, requires renewal every 6 months by Oireachtas resolution.

Section 25: Definitions (*Part 11*)

Section 25 defines some of the terminology used in this Part.

Section 26: Licensed premises with street furniture licence to include outdoor seating area

Section 26 provides that an outdoor seating area which is subject to a street furniture licence shall be deemed to be part of the licensed premises, subject to the provisions of the Licensing Acts 1833 to 2018.

Section 27: Street furniture licence: duties of licensee and District Court clerk

Section 27 provides that where a licensee under the Licensing Acts 1833 to 2018 has been granted a street furniture licence under the Planning and Development Act 2000, they must notify the District Court. The District Court clerk is then required to record the particulars of the street furniture licence in the register of licences kept under the Licensing Acts 1833 to 2018.

Section 28: Withdrawal or variation of street furniture licence: duties of licensee and District Court clerk

Section 28 provides that in the event that a street furniture licence is withdrawn or varied, the licensee is obliged to notify the District Court, and the register of licences must be updated accordingly.

Section 29: Transitional provision: outdoor seating area licensed under Act of 2021

Section 29 provides for transitional arrangements. This section deems an outdoor seating area to be part of the licensed premises for the interim period between the expiration of the period specified in a resolution granted under the Civil Law (Miscellaneous Provisions) Act 2021 and the next sitting of the annual licensing District Court.

PART 12 – MISCELLANEOUS AMENDMENTS

Section 30: Amendment of section 22 of Criminal Procedure Act 1967

Section 30 amends section 22 of the Criminal Procedure Act 1967 to provide, in respect of bail recognisances, that where the person entering into the recognisance is for the time being in custody in a Garda Síochána station, the sergeant or other member of An Garda Síochána in charge of the station may take the recognisance in the station.

Section 31: Amendment of Schedule to Bail Act 1997

Section 31 amends the Schedule to the Bail Act 1997 to correct a reference in paragraph 19(c) of the Schedule to the Bail Act 1997 from “towing a vehicle without authority” to “using or taking a mechanically propelled vehicle without lawful authority”. It also adds the offences of coercive control and forced marriage (as provided for in the Domestic Violence Act 2018) to the Schedule to the Bail Act 1997, which means that these offences are “serious offences” for the purposes of the Bail Act 1997.

Section 32: Amendment of section 257D of Children Act 2001

Section 32 amends section 257D of the Children Act 2001 to lower from superintendent to inspector the minimum rank of member of An Garda Síochána that may apply for a behaviour order in respect of a child of or above the age of 12 years.

Section 33: Amendment of Multi-Unit Developments Act 2011

Section 33 amends sections 3 and 33 of the Multi-Unit Developments Act 2011 to delete two references to the Minister for the Environment, Heritage and Local Government (which pursuant to orders under section 6(1) of the Ministers and Secretaries (Amendment) Act 1939 is to be construed as the Minister for Housing, Local Government and Heritage). This amendment is necessary to enable the transfer of the functions of the Minister for Justice, Home Affairs and Migration under the Multi-Unit Developments Act 2011 to the Minister for Housing, Local Government and Heritage.

*An Roinn Dlí agus Cirt, Gnóthaí Baile agus Imirce,
Eanáir, 2026.*