



SEANAD ÉIREANN

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

LEASUITHE TUARASCÁLA REPORT AMENDMENTS

SEANAD ÉIREANN

AN BILLE UM AN DLÍ COIRIÚIL, AN DLÍ SIBHIALTA AGUS COSAINT (FORÁLACHA ILGHNÉITHEACHA), 2026 —AN TUARASCÁIL

CRIMINAL LAW, CIVIL LAW AND DEFENCE (MISCELLANEOUS PROVISIONS) BILL 2026 —REPORT

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

*1. In page 9, line 30, after “amend” to insert “the Misuse of Drugs Act 1984,”.

*2. In page 9, line 31, after “proceedings;” to insert the following:

“to repeal Chapter 3 of Part 2 of the Criminal Law (Sexual Offences and Human Trafficking) Act 2024 and to make provision in relation to evidence regarding the vouching of character of persons convicted of certain offences; to confer a power on members of An Garda Síochána to direct a person wearing a face covering to engage, or refrain from engaging, in certain matters in certain circumstances, to provide for an offence for failure to comply with such a direction and for those purposes to amend the Criminal Justice (Public Order) Act 1994;”.

*3. In page 10, line 12, after “that” to insert “and another”.

*4. In page 10, line 21, after “activity;” to insert the following:

“to make provision for the use of electronic means, and the making of statements of truth, in certain proceedings; to give further effect to Directive (EU) 2016/681 on the use of passenger name record (“PNR”) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime; to provide for the continuation of the Passenger Information Unit and for the processing, including retention, of passenger name record data by that Unit and by competent authorities; to provide for the continued designation of intra-EU flights, and the designation of all extra-EU flights, for the purpose of the prevention, detection, investigation and prosecution of terrorist offences and serious crimes; to provide for the designation of an Independent Authority and the conferral of certain functions on that Authority, including the conduct of reviews of the process for the designation of intra-EU flights and the approval of applications for the transfer, to other Member States and third countries, of passenger name record data

and for those purposes to provide for the revocation of the European Union (Passenger Name Record Data) Regulations 2018;”.

*5. In page 10, line 26, after “2015,” to insert the following:

“the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020, the Criminal Justice (Perjury and Related Offences) Act 2021,”.

*6. In page 11, line 7, to delete “*Part*” and substitute the following:

“*subsection (1) and this subsection, sections 4(b)(i), 49, 75(b)# (insofar as it relates to the Courts Service), 76 and 80 and Parts 3, 4 and*”.

[#This is a reference to a paragraph to be inserted by amendment no.99]

*7. In page 11, line 7, to delete “and *section 75*”.

*8. In page 15, to delete lines 24 to 35, and in page 16, to delete lines 1 to 8 and substitute the following:

“Amendment of section 67 of Courts of Justice Act 1936

12. (1) Subject to *subsection (2)*, section 67 of the Act of 1936 is amended—

- (a) in subsection (2), by the substitution of “8 nominated members” for “10 nominated members”,
- (b) in subsection (3)(a), by the deletion of the words “who shall be the chairperson of the Committee,”,
- (c) in subsection (4), by the substitution of the following paragraphs for paragraphs (a) and (aa):

“(a) 1 shall be an ordinary judge of the Supreme Court nominated by the Chief Justice;

(aa) 1 shall be an ordinary judge of the Court of Appeal nominated by the President of the Court of Appeal;”,

- (d) by the insertion of the following subsection after subsection (4):

“(4A) The Chief Justice shall be the chairperson of the Committee and—

- (a) shall nominate another judge who is a member of the Committee to act as chairperson during the period a person is acting in his or her place as a member of the Committee under subsection (9), and
- (b) may, at any other time, nominate another member of the Committee to act as chairperson during such period or on such occasion or occasions as are specified in the nomination concerned.”,

- (e) in subsection (9), by the substitution of the following paragraph for

paragraph (a):

“(a) in the case of the Chief Justice, an ordinary judge of the Supreme Court, Court of Appeal or High Court,”,

and

(f) by the insertion of the following subsection after subsection (11):

“(12) The Chief Justice may revoke a nomination made by him or her under subsection (4A) at any time and, where that revocation relates to a nomination referred to in paragraph (a) of that subsection, the Chief Justice shall make another nomination under that paragraph if the revocation takes effect during the period referred to in that subsection.”.

- (2) Notwithstanding the amendments to section 67 of the Act of 1936 effected by *subsection (1)(a) and (c)*, an ordinary judge of the Supreme Court or an ordinary judge of the Court of Appeal who is, immediately prior to the date of coming into operation of this section, a nominated member of the Superior Courts Rules Committee under subsection (4) of that section 67 shall, on and after that date, subject to subsection (5) of that section, remain a nominated member of that Committee.
- (3) It is hereby confirmed that, on the date on which it came into operation, section 20 of the Civil Law (Miscellaneous Provisions) Act 2008, in amending section 67 of the Act of 1936, had the effect of inserting, after subsection (1) of that section, the relevant subsections in substitution for subsections (4), (7), (8), (9) and (10) of that section as it stood immediately before that date.
- (4) In *subsection (3)*, “relevant subsections” means, in relation to the amendment of section 67 of the Act of 1936 by section 20 of the Civil Law (Miscellaneous Provisions) Act 2008, the subsections numbered (2) to (11) that are expressed by the said section 20 to be substituted for subsections (2) to (10) of that section of the Act of 1936.
- (5) In this section, “Act of 1936” means the Courts of Justice Act 1936.”.

***9.** In page 17, line 1, to delete “nominate” and substitute “nominate in writing”.

***10.** In page 17, line 4, to delete “nominate” and substitute “nominate in writing”.

***11.** In page 17, line 6, to delete “,” and substitute the following:

“(2C) The Chief Justice may, at any time, revoke a nomination made under subsection (2B) and, where that revocation relates to a nomination referred to in paragraph (a) of that subsection, the Chief Justice shall make another nomination under that paragraph if the revocation takes effect during the period or on such occasion or occasions referred to in subsection (2A).”.

***12.** In page 17, to delete line 13 and substitute the following:

“(b) in section 13, by the insertion of the following subsection after subsection (1):

“(1A) A nomination under section 12(2A) shall—

(a) cease to have effect upon—

(i) the expiration of the period or the passing of the occasion or occasions, as the case may be, specified in the nomination, or

(ii) the revocation of the nomination by the Chief Justice,

(b) where the Chief Justice ceases to hold judicial office, cease to have effect upon such cessation,

(c) where the judge in respect of whom the nomination was made ceases to hold judicial office, cease to have effect upon such cessation, or

(d) where the judge, in respect of whom the nomination was made, by notice in writing given or sent to the Chief Justice indicates that he or she does not wish to continue to perform the functions concerned, cease to have effect upon the receipt of that notice by the Chief Justice.”,

and”.

***13.** In page 17, line 32, to delete “nominate” and substitute “nominate in writing”.

***14.** In page 17, line 36, to delete “nominate” and substitute “nominate in writing”.

***15.** In page 17, line 39, to delete “,” and substitute the following:

“(2C) The Chief Justice may, at any time, revoke a nomination made under subsection (2B) and, where that revocation relates to a nomination referred to in paragraph (a) of that subsection, the Chief Justice shall make another nomination under that paragraph if the revocation takes effect during the period or on such occasion or occasions referred to in subsection (2A).”,”.

***16.** In page 18, line 5, to delete the period after “be,” ” and substitute a comma.

***17.** In page 18, between lines 5 and 6, to insert the following:

“and

(c) in section 46, by the insertion of the following subsection after subsection (1):

“(1A) A nomination under section 44(2A) shall—

(a) cease to have effect upon—

- (i) the expiration of the period or the passing of the occasion or occasions, as the case may be, specified in the nomination, or
- (ii) the revocation of the nomination by the Chief Justice,
- (b) where the Chief Justice ceases to hold judicial office, cease to have effect upon such cessation,
- (c) where the judge in respect of whom the nomination was made ceases to hold judicial office, cease to have effect upon such cessation, or
- (d) where the judge, in respect of whom the nomination was made, by notice in writing given or sent to the Chief Justice indicates that he or she does not wish to continue to perform the functions concerned, cease to have effect upon the receipt of that notice by the Chief Justice.”.”.

18. In page 19, to delete lines 9 to 25 and substitute the following:

“40B. Nothing in this Part shall be construed as conferring any new or additional power on the Minister to direct the deployment of members of the Defence Forces in aid of the civil power beyond those that exist apart from this Part.”.

—*Senators Chris Andrews, Joanne Collins, Conor Murphy, Maria McCormack, Nicole Ryan, Pauline Tully.*

19. In page 19, between lines 17 and 18, to insert the following:

“(3) When requested by a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas, the Minister shall publish information in relation to the conditions attached to the approval of decisions under subsection (2).

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

20. In page 19, between lines 17 and 18, to insert the following:

“(3) The Minister shall publish, on an annual basis, the class or classes of assistance as agreed with the Minister for Justice, Home Affairs and Migration, for which deployment of members of the Defence Forces in aid of the civil power has been approved.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

21. In page 19, between lines 17 and 18, to insert the following:

“(3) The Minister shall publish a list of the class or classes of assistance for which deployment of members of the Defence Forces in aid of the civil power may be approved under subsection (2).

- (4) Where the Minister wishes to introduce a novel class of assistance, he or she shall update the list published under subsection (3).”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

22. In page 19, between lines 17 and 18, to insert the following:

- “(3) The Minister shall, in consultation with the Minister for Justice, Home Affairs and Migration, develop and publish guidelines for directions to deploy members of the Defence Forces in aid of the civil power under subsection (1).”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

23. In page 19, after line 40, to insert the following:

“Review of operation of Part IIIA

- 40D.** (1) The Minister shall carry out a review of the operation of this Part not later than 2 years after the commencement of this section.
- (2) The Minister shall, following the review referred to in subsection (1), carry out further reviews of the operation of this Part at intervals not exceeding 5 years.
- (3) A review under this section shall include an assessment of the exercise of powers under sections 40A, 40B and 40C, including the frequency and circumstances of their use.”.

—*Senators Chris Andrews, Joanne Collins, Conor Murphy, Maria McCormack, Nicole Ryan, Pauline Tully.*

24. In page 19, after line 40, to insert the following:

“Review and sunset of Part IIIA provisions

- 40D.** (1) The provisions of Part IIIA shall cease to have effect 3 years after the commencement of this section unless continued in accordance with subsection (5).
- (2) The Minister shall, not later than 2 years after the commencement of this section, conduct a review of the operation of Part IIIA and shall lay a report before each House of the Oireachtas.
- (3) A report under subsection (2) shall include—
- (a) an assessment of the use in practice of the powers conferred under Part IIIA,
 - (b) consideration of the classification of different types of deployment of the Defence Forces in aid of the civil power,
 - (c) consideration of the thresholds appropriate to such classifications,

- (d) consideration of the safeguards and oversight mechanisms applicable to such deployments, including in situations involving public order, and
- (e) proposals for legislative or administrative reform.
- (4) The Government shall, having considered the report, bring forward such legislative or other measures as it considers appropriate having regard to the findings and proposals contained in the report.
- (5) The provisions of Part IIIA shall not continue in force beyond the period specified in subsection (1) unless a resolution approving their continuation has been passed by both Houses of the Oireachtas.”.”.

—*Senators Sharon Keogan, Sarah O’Reilly.*

***25.** In page 23, between lines 17 and 18, to insert the following:

“Amendment of section 10 of Misuse of Drugs Act 1984

22. Section 10 of the Misuse of Drugs Act 1984 is amended—

- (a) in subsection (1), by the substitution of “FSI” for “Forensic Science Ireland of the Department of Justice”, and

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

- “(2) In any proceedings for an offence under section 3 of the Principal Act, the production of a certificate—

- (a) purporting to be signed by an approved member of An Garda Síochána,

- (b) relating to an examination, inspection or test, as the case may be, by way of an approved category of applicable drug test, carried out by the member, of a relevant controlled drug or other substance, product or preparation, and

- (c) specifying—

- (i) the approved category of applicable drug test concerned, and

- (ii) the relevant controlled drug or other substance, product or preparation concerned,

shall, until the contrary is proved, be evidence of any fact thereby stated without proof of any signature thereon or that any such signature is that of the member.

- (3) The Minister for Justice, Home Affairs and Migration, having consulted with the Director of FSI, may by order prescribe a controlled drug for the purposes of paragraph (d) of the definition of relevant controlled drug in subsection (6) where he or she is satisfied that it is appropriate to do so, having regard to—

- (a) the availability of an examination, inspection or test that is capable of being carried out on a substance, product or preparation in a place other than a laboratory with the purpose of ascertaining whether the controlled drug is present in the substance, product or preparation, and
 - (b) the efficacy, accuracy, usability and safety of any such examination, inspection or test.
- (4) The Director of FSI may, where he or she is satisfied that it is appropriate to do so, having regard to the efficacy, accuracy, usability and safety of a category of applicable drug test, certify, in writing, the category as an approved category of applicable drug test for the purposes of subsection (2).
- (5) The Director of FSI may, where he or she is satisfied that a member of An Garda Síochána—
- (a) has undertaken appropriate training, provided by FSI, on the administration of applicable drug tests, and
 - (b) is competent in such administration,
- certify, in writing, the member as an approved member of An Garda Síochána for the purposes of subsection (2).
- (6) In this section—
- ‘applicable drug test’ means an examination, inspection or test that is capable of being carried out on a substance, product or preparation in a place other than a laboratory with the purpose of ascertaining whether a relevant controlled drug is present in the substance, product or preparation;
- ‘approved category of applicable drug test’ means an applicable drug test certified under subsection (4);
- ‘approved member of An Garda Síochána’ means a member of An Garda Síochána certified under subsection (5);
- ‘Director’, in relation to FSI, has the same meaning as it has in the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014;
- ‘FSI’ means Forensic Science Ireland of the Department of Justice, Home Affairs and Migration;
- ‘member’, in relation to An Garda Síochána, has the same meaning as it has in the Policing, Security and Community Safety Act 2024 (other than in Part 6 of that Act);
- ‘relevant controlled drug’ means—
- (a) cannabis,

- (b) cannabis resin,
- (c) cocaine, or
- (d) any other controlled drug prescribed under subsection (3) for the purposes of this definition.”.”.

26. In page 23, to delete lines 18 to 35, and to delete pages 24 to 27 and in page 28 to delete lines 1 to 3 and substitute the following:

“Amendment of section 19A of Criminal Evidence Act 1992

22. The Criminal Evidence Act 1992 is amended by the deletion of section 19A and the substitution of the following:

“19A. (1) In this section—

“competent person” means a person with relevant training, study or experience in counselling;

“counselling” means the provision of support, advice, therapy or treatment to a person;

“counselling record” means any record made by a competent person in connection with counselling provided to a complainant in a sexual offence case;

“court” means the Circuit Criminal Court or the Central Criminal Court;

“sexual offence” has the same meaning as in the Schedule to the Sex Offenders Act 2001.

- (2) In proceedings for a sexual offence, counselling records shall be treated as hearsay, and any statement within them as an out-of-court statement tendered for its truth, regardless of form or expression.
- (3) Notwithstanding any rule of law, counselling or therapeutic records relating to a complainant shall not be sought, inspected, disclosed, produced, or admitted in evidence in such proceedings.
- (4) Subsection (3) applies to all records created in the course of counselling, psychotherapy, psychological support, mental health treatment, or related services.
- (5) No application may be made to a court for the production, inspection, disclosure or admission of records to which subsection (3) applies, and any such application shall be void.
- (6) No person shall request or seek such records, whether from a record holder, a complainant or otherwise, and no record holder shall comply with any such request or purported order.
- (7) A court shall not order, direct or invite the production or disclosure of such records.

- (8) Nothing in this section prevents a complainant from voluntarily disclosing their own records, provided such disclosure is not solicited by any party.”.

—*Senators Chris Andrews, Joanne Collins, Conor Murphy, Maria McCormack, Nicole Ryan, Pauline Tully.*

27. In page 23, to delete lines 18 to 35, and to delete pages 24 to 27 and in page 28 to delete lines 1 to 3 and substitute the following:

“Amendment of section 19A of Criminal Evidence Act 1992

22. The Criminal Evidence Act 1992 is amended by the substitution of the following section for section 19A:

“19A. (1) In this section—

‘competent person’ means a person who has undertaken training or study or has experience relevant to the process of counselling;

‘complainant’ means a person in respect of whom an offence is alleged to have been committed;

‘counselling’ means listening to and giving verbal or other support or encouragement to a person, or advising or providing therapy or other treatment to a person (whether or not for remuneration);

‘counselling record’ means any record, or part of a record, made by any means, by a competent person in connection with the provision of counselling to a complainant.

- (2) A counselling record shall not be disclosed in any criminal proceedings unless the complainant has consented to the disclosure.
- (3) A complainant shall not be required, in or in connection with any criminal proceedings, to produce a counselling record unless the complainant has consented to the production of a counselling record.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black, Patricia Stephenson.*

28. In page 26, to delete lines 16 to 21 and substitute the following:

- “(2) (a) There shall be a presumption against the disclosure of all applicable records. The presumption against disclosure may only be rebutted in accordance with subsections (11) and (11A).
- (b) Where, in criminal proceedings for a sexual offence, the prosecutor or the accused is of the opinion that an applicable record ought to be disclosed to the accused under subsection (11) or (11A), the prosecutor or the accused, as the case may be, shall make an application (in this section referred to as a ‘disclosure application’),

in writing, to the court setting out—

- (i) the specific applicable record sought, or particulars identifying same,
- (ii) cogent reasons for seeking the applicable record which engage with the facts of the case, and
- (iii) the grounds relied upon to establish that it is likely to be relevant to an issue at trial.”.

—*Senators Laura Harmon, Nessa Cosgrove.*

29. In page 26, to delete lines 38 to 43, and in page 27, to delete lines 1 to 7 and substitute the following:

“(6) Where the court orders, under subsection (5)(a), that a hearing referred to in subsection (8) be held—

- (a) the court may order that the person who has possession or control of the applicable record concerned shall produce the record to the prosecutor not later than the beginning of such period in advance of the hearing as may be prescribed in rules of court but the court may not make such an order in respect of counselling records,
- (b) the court may order that the person who has possession or control of the applicable record concerned, including a counselling record, shall produce the applicable record to the court only, in a confidential manner as prescribed in rules of court, and not later than the beginning of such period in advance of the hearing as may be prescribed in rules of court, and
- (c) without prejudice to subsection (7), the prosecutor shall, not later than the beginning of such period as may be prescribed in rules of court, notify the person who has possession or control of the applicable record concerned, the complainant, and any other person to whom the prosecutor believes the applicable record relates of the order of the court under subsection (5)(a) and, where applicable, paragraphs (a) and (b).”.

—*Senators Laura Harmon, Nessa Cosgrove.*

30. In page 27, between lines 24 and 25, to insert the following:

“(b) the information contained in the record cannot reasonably be obtained by any other means, and”.

—*Senators Laura Harmon, Nessa Cosgrove.*

31. In page 27, to delete lines 25 to 28 and substitute the following:

“(b) there would be a real risk of an unfair trial in the absence of such

disclosure.”.”.

—*Senators Chris Andrews, Joanne Collins, Conor Murphy, Maria McCormack, Nicole Ryan, Pauline Tully, Alice-Mary Higgins, Lynn Ruane, Frances Black, Patricia Stephenson.*

32. In page 27, between lines 28 and 29, to insert the following:

“(11A) Notwithstanding subsection (11), the Court shall not order disclosure of the content of a counselling record to the accused, and where applicable, the prosecutor, unless the court is satisfied, having examined the record, that the information contained in the record cannot reasonably be obtained by any other means and there would be a real risk of an unfair trial in the absence of such disclosure.”.

—*Senators Laura Harmon, Nessa Cosgrove.*

33. In page 27, between lines 28 and 29, to insert the following:

“(g) by the insertion of the following after subsection (11):

“(11A) Where an applicable record containing analysis, opinion or interpretation by the record-maker is adduced in evidence in proceedings before a jury, the court shall give a warning to the jury outlining the nature and limitations of such evidence, including that it may constitute a third-party interpretation and not a direct account of fact.”.”.

—*Senators Chris Andrews, Joanne Collins, Conor Murphy, Maria McCormack, Nicole Ryan, Pauline Tully.*

34. In page 28, between lines 3 and 4, to insert the following:

“Review of operation of section 19A of Criminal Evidence Act 1992

23. (1) The Minister shall, not later than 2 years after the coming into operation of *section 16*, cause a review to be carried out of the operation of section 19A of the Criminal Evidence Act 1992.

(2) A review under *subsection (1)* shall include an examination of—

- (a) the effectiveness of the provisions in protecting the privacy rights of complainants,
- (b) the extent to which applicable records are the subject of disclosure applications,
- (c) the impact of the provisions on the fairness of criminal proceedings, and
- (d) the operation in practice of the procedures introduced by section 19A of the Criminal Evidence Act 1992, including timelines and procedural safeguards.

(3) The Minister shall, as soon as practicable after the completion of a review under this

section, prepare and lay before each House of the Oireachtas a report setting out—

- (a) the findings of the review, and
- (b) any recommendations for legislative or administrative changes arising from those findings.”.

—*Senators Chris Andrews, Joanne Collins, Conor Murphy, Maria McCormack,
Nicole Ryan, Pauline Tully.*

35. In page 28, between lines 3 and 4, to insert the following:

“Annual reporting and publication of anonymised data

- 23.** (1) The Minister shall, in respect of each calendar year, cause to be compiled and published a report containing anonymised statistical data relating to the operation of section 19A of the Criminal Evidence Act 1992.
- (2) A report under *subsection (1)* shall include anonymised information in relation to—
- (a) the number of disclosure applications made,
 - (b) the number of such applications granted, refused, or withdrawn,
 - (c) the categories of applicable records sought,
 - (d) the stage in proceedings at which applications are made, and
 - (e) any other matters that the Minister considers appropriate for the purpose of promoting transparency and public understanding of the operation of section 19A of the Criminal Evidence Act 1992.
- (3) In preparing a report under this section, the Minister shall ensure that no information is included that could reasonably lead to the identification of any complainant or other person to whom an applicable record relates.
- (4) A report under this section shall be laid before each House of the Oireachtas as soon as practicable after its completion.”.

—*Senators Chris Andrews, Joanne Collins, Conor Murphy, Maria McCormack,
Nicole Ryan, Pauline Tully.*

***36.** In page 28, to delete lines 4 to 17.

***37.** In page 28, between lines 22 and 23, to insert the following:

“Repeal of Chapter 3 of Part 2 of Criminal Law (Sexual Offences and Human Trafficking) Act 2024 and transitional provision

- 25.** (1) Chapter 3 of Part 2 of the Criminal Law (Sexual Offences and Human Trafficking) Act 2024 is repealed.
- (2) Notwithstanding the repeal effected by *subsection (1)*, the said Chapter 3 shall

continue to have effect in respect of a person convicted of a specified offence referred to in that Chapter where the conviction occurred before the date of the coming into operation of this section.”.

***38.** In page 28, between lines 22 and 23, to insert the following:

“Vouching of character of persons convicted of certain offences

- 26.** (1) Subject to *subsection (2)*, where a person is convicted of an indictable offence and he or she intends to adduce evidence of his or her character for the purpose of the determination by the court of the sentence to be imposed on him or her for the offence, such evidence shall—
- (a) where the evidence is to be given orally before the court, be given on oath, or
 - (b) otherwise be given by affidavit.
- (2) *Subsection (1)* shall apply only in respect of a person who is convicted of an offence referred to in that subsection on or after the date of the coming into operation of this section.”.

***39.** In page 28, between lines 22 and 23, to insert the following:

“PART 9

AMENDMENT OF CRIMINAL JUSTICE (PUBLIC ORDER) ACT 1994

Amendment of Criminal Justice (Public Order) Act 1994

27. The Criminal Justice (Public Order) Act 1994 is amended—

- (a) by the insertion of the following section after section 8B:

“Failure to comply with direction of member of An Garda Síochána to remove face covering

8C. (1) Where a member of An Garda Síochána finds a person in a public place wearing a face covering on his or her face and suspects, with reasonable cause, that such person is—

- (a) without lawful authority or reasonable excuse, acting in a manner which consists of loitering in a public place in circumstances, which may include the company of other persons, that give rise to a reasonable apprehension for the safety of persons or the safety of property or for the maintenance of public peace, and
- (b) wearing the face covering on his or her face—
 - (i) with intent to intimidate another person, or
 - (ii) in a manner that is likely to intimidate another person,

the member may direct the person wearing the face covering so suspected to do any or all of the following:

- (I) desist from acting in such a manner;
 - (II) remove the face covering from his or her face;
 - (III) leave immediately the vicinity of the place concerned in a peaceable or orderly manner.
- (2) It shall be an offence for any person, without lawful authority or reasonable excuse, to fail to comply with a direction given by a member of An Garda Síochána under this section.
- (3) A person who is guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding €1,000 or to imprisonment for a term not exceeding 6 months or to both.
- (4) In this section, ‘face covering’ means an article of any type, which, when worn by a person, covers the person’s face or part of the person’s face.”,

and

- (b) in section 24(5), by the substitution of “8, 8C, 9A” for “8, 9A”.”.

***40.** In page 39, to delete lines 28 to 33.

***41.** In page 39, between lines 33 and 34, to insert the following:

“Amendment of section 154 of Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

51. Section 154 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 is amended—

- (a) in subsection (1), by the substitution of “under this Act or under section 10 of the Misuse of Drugs Act 1984” for “under this Act”, and
- (b) in subsection (4), by the substitution of “under a provision of this Act or under section 10 of the Misuse of Drugs Act 1984” for “under a provision of this Act”.”.

42. In page 41, between lines 26 and 27, to insert the following:

- “(d) the area does not contain any street furniture incorporating advertisements, apart from the name of the licensed premises, that are visible to members of the public, unless with the prior consent of the relevant local authority;”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black, Patricia Stephenson.*

43. In page 47, to delete lines 7 to 14 and substitute the following:

“ “relevant conviction or other determination”, in relation to a person, means—

(a) the conviction of the person—

(i) on or after 6 December 1922, by a court of criminal or military jurisdiction,
or

(ii) prior to 6 December 1922, by a court of criminal or military jurisdiction
sitting in a place that is now within the State—

(I) of the offence of buggery, or

(II) of an offence under—

(A) section 18 of the Offences against the Person (Ireland) Act 1829,

(B) section 62 of the Offences against the Person Act 1861,

(C) section 11 of the Criminal Law Amendment Act 1885, or

(D) section 1(1)(b) of the Vagrancy Act 1898.”.

—*Senators Laura Harmon, Nessa Cosgrove.*

44. In page 47, between lines 14 and 15, to insert the following:

“(b) the conviction of the person by a court-martial or other tribunal established under
military law of an offence under military law in circumstances where—

(i) the offence related to consensual sexual activity between persons of the same
sex, and

(ii) persons of different sexes engaging in equivalent sexual activity in the same
circumstances would not have been liable to prosecution for the offence.”.

—*Senators Laura Harmon, Nessa Cosgrove.*

45. In page 49, to delete lines 7 to 10 and substitute the following:

“(d) where the relevant person is deceased but there is no immediate family member
who can or wishes to make an application, by—

(i) a relative, other than where there is an objection by an immediate family
member to such an application being made in respect of the relevant person,
or

(ii) such other person as the Minister considers appropriate having regard to—

(I) the nature of the relationship between that person and the relevant
person,

(II) any express or implied wish of the relevant person that such a person
make an application on the relevant person’s behalf, and

(III) whether any immediate family member or relative objects to such an

application being made,”.

—*Senators Laura Harmon, Nessa Cosgrove.*

46. In page 49, line 26, to delete “24 months” and substitute “48 months”.

—*Senators Laura Harmon, Nessa Cosgrove.*

*47. In page 52, line 16, to delete “proposes” and substitute “has decided”.

*48. In page 52, line 19, to delete “proposed refusal” and substitute “decision”.

*49. In page 54, line 25, to delete “in accordance with” and substitute “made under”.

*50. In page 54, line 26, to delete “a proposed refusal under *section*”.

*51. In page 54, line 40, after “decision” to insert “made”.

*52. In page 55, line 1, to delete “proposed refusal” and substitute “decision made”.

*53. In page 55, line 11, to delete “proposed refusal to issue a certificate of disregard” and substitute “decision made”.

*54. In page 55, between lines 29 and 30, to insert the following:

“Public body obligation to bring certain information to attention of Minister

66. Where, having been notified of the issuance of a certificate of disregard in respect of a relevant person under *section 63(3)(a)*, a public body subsequently becomes aware of information which might reasonably be grounds for a belief that the application upon which the certificate of disregard was granted included, or was supported by, false or misleading information or documentation, the public body shall, as soon as practicable, bring such information to the attention of the Minister.”.

*55. In page 55, to delete lines 33 to 35 and substitute the following:

“(a) having received information, under *section 66#* or otherwise, which causes him or her to reasonably believe—

(i) that an application upon which the certificate of disregard was granted included, or was supported by, false or misleading information or documentation, and

(ii) that, in all the circumstances, it is likely that the independent person would not have recommended that a certificate of disregard be issued in respect of the relevant conviction or other determination concerned had the application not included, or had it not been supported by, such false or misleading

information or documentation,
and”.

[#This is a reference to the a section proposed to be inserted by amendment no. 54]

*56. In page 57, line 2, to delete “should”.

*57. In page 57, line 4, after “had” to insert “it”.

*58. In page 57, line 28, after “applicant a notice” to insert “revoking the certificate”.

*59. In page 57, between lines 33 and 34, to insert the following:

“(2) Where, in relation to a notification made under *section 66(1)*, the Minister has not received a request in accordance with *section 66(3)*, or where he or she has received such a request but reasonably considers it to be frivolous, vexatious or otherwise manifestly unfounded, the Minister shall issue to the applicant a notice of revocation and any such notice shall be accompanied by reasons in writing for the decision to revoke the certificate of disregard concerned.”.

*60. In page 59, between lines 10 and 11, to insert the following:

“PART 17

USE OF ELECTRONIC TECHNOLOGY IN CERTAIN COURT PROCEEDINGS

Definitions (*Part 17*)

71. In this Part—

“criminal proceedings” means proceedings against a person for an offence and includes any appeal proceedings related to the offence;

“relevant proceedings” means proceedings under—

- (a) the Extradition Act 1965,
- (b) the Transfer of Sentenced Persons Act 1995,
- (c) Part II of the International War Crimes Tribunals Act 1998,
- (d) the European Arrest Warrant Act 2003,
- (e) the Transfer of Execution of Sentences Act 2005,
- (f) Part 3 of the International Criminal Court Act 2006, or
- (g) Part 3 of the Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023,

and includes any appeal proceedings related to such proceedings.”.

*61. In page 59, between lines 10 and 11, to insert the following:

“Use of electronic means in criminal proceedings and relevant proceedings

72. (1) Notwithstanding any other enactment or rule of law, and without prejudice to any such provision in any enactment or rules of court, rules of court may, in relation to criminal proceedings or relevant proceedings, make provision for—

- (a) the lodgement or filing of a document with, and the making of an application to, a court by transmitting the document or application by electronic means to the court office concerned,
- (b) the issue by or on behalf of a court or court office, by transmitting the document concerned by electronic means, of any of the following:

- (i) a summons;

- (ii) a judgment, decree or other order or determination of a court (including any judgment, decree or other order or determination entered in or issuing from a court office);

- (iii) a warrant;

- (iv) any other document required under any enactment or rule of law to be issued by or on behalf of a court or court office,

or

- (c) the transmission by or on behalf of a court or court office by electronic means of any other document or information required under any enactment or rule of law to be transmitted by or on behalf of a court or court office.

(2) Where rules of court referred to in *subsection (1)* provide for the transmission of a document by electronic means, such rules may, in addition—

- (a) provide that such transmission be subject to such conditions and exceptions as may be specified in the rules,

- (b) in relation to the transmission of a document referred to in *subsection (1)(a)*, require that—

- (i) such a document be authenticated, and

- (ii) the identity of the person transmitting such a document be verified, including by the provision of the personal public service number issued to the person,

in such manner as may be specified in the rules,

- (c) in relation to the transmission of a document referred to in *paragraph (b)* or *(c)* of *subsection (1)*, require that the identity of the person receiving such a document be verified, including by the provision of the personal public service number issued to the person, in such manner as may be specified in the rules, and

- (d) specify whether such transmission is in place of, or is an alternative to, any other method by which such document could be filed, lodged, issued or transmitted, or such application could be made, as the case may be.
- (3) Rules of court may provide that, where a document that is required under any enactment or rule of law to be furnished to, or lodged or filed with, a court, is, in accordance with rules of court referred to in *subsection (1)*, furnished to, or lodged or filed with, the court by electronic means—
- (a) a copy of that document transmitted by electronic means and displayed in readable form, or
 - (b) a printed version of such a copy,
- shall be treated as the original of the document.
- (4) References, howsoever expressed, in any enactment or rule of law to—
- (a) the furnishing of a document to a court,
 - (b) the lodgement or filing of a document with a court,
 - (c) the making of an application to a court,
 - (d) the transmission of a document to or by a court, or
 - (e) the issue of a document by a court,
- shall be construed as including references to the performance of such action by electronic means, where this is provided for in rules of court referred to in *subsection (1)*.
- (5) In this section—
- “court office” means—
- (a) an office of, or attached to—
 - (i) the Supreme Court,
 - (ii) the Court of Appeal,
 - (iii) the High Court,
 - (iv) the President of the High Court,
 - (v) the Circuit Court, or
 - (vi) the District Court, or
 - (b) an office of the Courts Service designated by the Courts Service for the purpose of receiving documents or applications, or issuing documents, by electronic means for the purposes of any enactment or rule of law;
- “personal public service number” has the same meaning as it has in section 262 of the Social Welfare Consolidation Act 2005.”.

*62. In page 59, between lines 10 and 11, to insert the following:

“Statement of truth in criminal proceedings and relevant proceedings

73. (1) Subject to *subsection (2)*, where, in criminal proceedings or relevant proceedings, evidence is to be given on, or a document or information is to be verified by, affidavit or statutory declaration, rules of court may, notwithstanding any other enactment or rule of law, make provision for a statement, which shall be known as a *section 73#* statement of truth, to be made and transmitted by electronic means in place of the affidavit or statutory declaration concerned and subject to such conditions and exceptions as may be specified by such rules.
- (2) A *section 73#* statement of truth—
- (a) may be in electronic form,
 - (b) shall contain a statement that the person making the statement of truth has an honest belief that the facts stated therein are true,
 - (c) may be signed by the person making it by that person entering his or her name in an electronic format or otherwise electronically as may be permitted by rules of court, and
 - (d) shall comply with any other requirements as to its content, verification, authentication or form as may be prescribed by rules of court.
- (3) Where rules of court have made provision for the matters referred to in *subsection (1)*, any reference in any enactment to an affidavit or a statutory declaration shall be construed as including a reference to a *section 73#* statement of truth which may be made in place of such affidavit or statutory declaration by virtue of that subsection.
- (4) Without prejudice to the law as to contempt of court, a person who makes, or causes to be made, a statement in a *section 73#* statement of truth without an honest belief as to the truth of that statement shall be guilty of an offence.
- (5) A person guilty of an offence under *subsection (4)* shall be liable—
- (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months, or both, or
 - (b) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 5 years, or both.”.

[#This is a reference to a section proposed to be inserted by amendment no. 62]

*63. In page 59, between lines 10 and 11, to insert the following:

“PART 18

PASSENGER NAME RECORD DATA

CHAPTER 1

Preliminary and General

Interpretation (*Part 18*¹)

71. (1) In this Part—

“air carrier” means an air transport provider with a valid operating licence or equivalent permitting it to carry out carriage of passengers by air;

“API data” means advance passenger information and includes the type, number, country of issuance and expiry date of any identity document, nationality, family name, given name, gender, date of birth, airline, flight number, departure date, arrival date, departure port, arrival port, departure time and arrival time;

“competent authority” means an authority—

(a) referred to in *section 82(1)*², or

(b) designated under *section 82(2)*²,

that is competent for the prevention, detection, investigation and prosecution of a terrorist offence or serious crime;

“competent authority of another Member State” means an authority of another Member State that is competent for the prevention, detection, investigation and prosecution of—

(a) a terrorist offence (within the meaning of *paragraph (b)* of the definition of that term), or

(b) a serious crime (within the meaning of *paragraph (b)* of the definition of that term);

“competent authority of a third country” means an authority of a third country that is competent for the prevention, detection, investigation and prosecution of a terrorist offence or serious crime under the law of that third country;

“data protection officer” shall be construed in accordance with *section 79(1)*³;

“designated intra-EU flight” shall be construed in accordance with *section 72*⁴;

“Directive” means Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime;

“Director” means the Director of the PIU;

“extra-EU flight” means a scheduled or non-scheduled flight by an air carrier flying—

- (a) from a third country and planned to land in the State, or
- (b) from the State and planned to land in a third country,

including a flight with any stop-overs in another Member State or in a third country;

“Independent Authority” has the meaning assigned to it by *section 83(1)*^{#5};

“intra-EU flight” means a scheduled or non-scheduled flight by an air carrier flying—

- (a) from a Member State and planned to land in the State, or
- (b) from the State and planned to land in one or more than one Member State,

without any stop-overs in the territory of a third country;

“Minister” means the Minister for Justice, Home Affairs and Migration;

“notify” means notify in writing;

“PIU” means the Passenger Information Unit continued in being under *section 76*^{#6};

“PIU of another Member State” means the Passenger Information Unit established or designated by that other Member State in accordance with Article 4(1), and cognate words shall be construed accordingly;

“PNR data” means, subject to *subsections (2) to (6)*, the passenger name record data specified in *Schedule 2*^{#7} collected by an air carrier;

“PNR database” means the database maintained by the PIU for the storage of PNR data;

“prescribed” means prescribed by regulations made by the Minister;

“push method” means the method whereby PNR data is transferred by an air carrier into the PNR database;

“Regulations of 2018” means the European Union (Passenger Name Record Data) Regulations 2018 (S.I. No. 177 of 2018);

“serious crime”—

- (a) in *sections 85(2)*^{#8}, *91(1)*^{#9}, *91(2)*^{#9}, *93(1)*^{#10}, *93(3)*^{#10}, *93(4)*^{#10} and *97(7)*^{#11}, means—

- (i) an offence specified in *Schedule 3*^{#12} that is punishable by a custodial sentence or a detention order of a maximum period of at least 3 years, or
 - (ii) such other offence, within the meaning of Article 3(9), as may be prescribed by the Minister,

- (b) in *sections 88(9)*^{#13}, *92(1)*^{#14}, *92(5)*^{#14}, *92(8)*^{#14} and *94(1)*^{#15}, has the same meaning as it has in Article 3(9), and

- (c) in *sections 72*^{#4}, *89(1)*^{#16} and *97(1)*^{#11}, means an offence referred to in *paragraph*

(a) or (b), or both;

“terrorist offence”—

(a) in *sections 85(2)^{#8}, 91(1)^{#9}, 91(2)^{#9}, 93(1)^{#10}, 93(3)^{#10}, 93(4)^{#10} and 97(7)^{#11}* means—

(i) an offence under—

(I) section 21 or 21A of the Offences against the State Act 1939 (where committed by a terrorist group within the meaning of section 5(1) of the Criminal Justice (Terrorist Offences) Act 2005),

(II) section 6 of the Offences Against the State (Amendment) Act 1998 (where committed by a terrorist group within the meaning of section 5(1) of the Criminal Justice (Terrorist Offences) Act 2005), or

(III) section 6 or 13 of the Criminal Justice (Terrorist Offences) Act 2005, or

(ii) such other offence, within the meaning of Article 3(8), as may be prescribed by the Minister,

(b) in *sections 88(9)^{#13}, 92(1)^{#14}, 92(5)^{#14}, 92(8)^{#14} and 94(1)^{#15}* has the same meaning as it has in Article 3(8), and

(c) in *sections 72[#], 87(1)^{#17}, 89(1)^{#16} and 97(1)^{#11}*, means an offence referred to in *paragraph (a) or (b)*, or both.

(2) A reference in *paragraph 5 of Schedule 2^{#7}* to address and contact information (telephone number, email address) shall be taken to be a reference to the postal address, telephone number and email address of the air passenger on behalf of whom a reservation for a flight is made.

(3) A reference in *paragraph 6 of Schedule 2^{#7}* to all forms of payment information, including billing address shall be taken to be a reference to information relating to the payment methods for, and billing of, an air ticket, to the exclusion of any other information not directly related to a flight.

(4) A reference in *paragraph 8 of Schedule 2^{#7}* to frequent flyer information shall be taken to be a reference only to data relating to the status of the passenger concerned in the context of a customer loyalty programme of a given airline or a given group of airlines as well as the number identifying that passenger as a frequent flyer.

(5) A reference in *paragraph 12 of Schedule 2^{#7}* to general remarks (including all available information on unaccompanied minors under 18 years, such as name and gender of the minor, age, language(s) spoken, name and contact details of guardian on departure and relationship to the minor, name and contact details of guardian on arrival and relationship to the minor, departure and arrival agent) shall be taken to be a reference to the following information only:

(a) the name, gender and age of, and the languages spoken by, unaccompanied minor air passengers under 18 years,

(b) the name and contact details of the guardian on departure and his or her

relationship to the minor,

- (c) the name and contact details of the guardian on arrival and his or her relationship to the minor, and
 - (d) the departure and arrival agent.
- (6) A reference in *paragraph 18 of Schedule 2*^{#7} to any advance passenger information (API) data collected (including the type, number, country of issuance and expiry date of any identity document, nationality, family name, given name, gender, date of birth, airline, flight number, departure date, arrival date, departure port, arrival port, departure time and arrival time shall be taken to be a reference to the following information only:
- (a) API data (the type, number, country of issuance and expiry date of any identity document, nationality, family name, given name, gender, date of birth, airline, flight number, departure date, arrival date, departure port, arrival port, departure time and arrival time), and
 - (b) API data listed in Regulation 3(2) of the European Communities (Communication of Passenger Data) Regulations 2011 (S.I. No. 597 of 2011).
- (7) Unless the context otherwise requires—
- (a) a word or expression that is used in this Part and that is also used in the Directive has the same meaning in this Part that it has in the Directive, and
 - (b) a reference in this Part to a numbered Article is a reference to the Article so numbered of that Directive.”.

[^{#1} This is a reference to a part proposed to be inserted by amendment no. 63.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 74.]

[^{#3} This is a reference to a section proposed to be inserted by amendment no. 71.]

[^{#4} This is a reference to a section proposed to be inserted by amendment no. 64.]

[^{#5} This is a reference to a section proposed to be inserted by amendment no. 75.]

[^{#6} This is a reference to a section proposed to be inserted by amendment no. 68.]

[^{#7} This is a reference to a Schedule proposed to be inserted by amendment no. 102.]

[^{#8} This is a reference to a section proposed to be inserted by amendment no. 77.]

[^{#9} This is a reference to a section proposed to be inserted by amendment no. 83.]

[^{#10} This is a reference to a section proposed to be inserted by amendment no. 85.]

[^{#11} This is a reference to a section proposed to be inserted by amendment no. 89.]

[^{#12} This is a reference to a Schedule proposed to be inserted by amendment no. 103.]

[^{#13} This is a reference to a section proposed to be inserted by amendment no. 80.]

[^{#14} This is a reference to a section proposed to be inserted by amendment no. 84.]

[^{#15} This is a reference to a section proposed to be inserted by amendment no. 86.]

[^{#16} This is a reference to a section proposed to be inserted by amendment no. 81.]

[^{#17} This is a reference to a section proposed to be inserted by amendment no. 79.]

*64. In page 59, between lines 10 and 11, to insert the following:

“Application (Part 18^{#1})

72. This Part applies to the use, for the prevention, detection, investigation and prosecution of a terrorist offence or a serious crime, of PNR data of a passenger of—

- (a) an extra-EU flight, and
- (b) an intra-EU flight that is designated under *section 85^{#2}* or *87^{#3}* (in this Part referred to as a “designated intra-EU flight”).

[^{#1} This is a reference to a part proposed to be inserted by amendment no. 63.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 77.]

[^{#3} This is a reference to a section proposed to be inserted by amendment no. 79.]

*65. In page 59, between lines 10 and 11, to insert the following:

“Orders and regulations

73. (1) The Minister may by regulations provide for any matter referred to in this Part as prescribed or to be prescribed.

(2) An order or regulation under this Part may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the order or regulation.

(3) Every order and regulation made by the Minister under this Part shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

*66. In page 59, between lines 10 and 11, to insert the following:

“Revocation

74. Subject to *sections 76(1)^{#1}, 77(2)^{#2}, 78(1)^{#3}, 78(2)^{#3}, 78(3)^{#3}, 79(2)^{#4}, 82(1)^{#5}, 89(3)^{#6}* and *Chapter 7^{#7}*, the Regulations of 2018 are revoked.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 68.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 69.]

[^{#3} This is a reference to a section proposed to be inserted by amendment no. 70.]

[^{#4} This is a reference to a section proposed to be inserted by amendment no. 71.]

[^{#5} This is a reference to a section proposed to be inserted by amendment no. 74.]

[^{#6} This is a reference to a section proposed to be inserted by amendment no. 81.]

[^{#7} This is a reference to a Chapter proposed to be inserted by amendment no. 90.]

*67. In page 59, between lines 10 and 11, to insert the following:

“Service of notices and documents

75. A notice or other document that is required to be served on or given to a person under this Part shall be served on or given to the person in one of the following ways:
- (a) by electronic means, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given to, him or her in that manner;
 - (b) by delivering it to the person;
 - (c) by addressing it to the person and leaving it at the address where the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
 - (d) by sending it to the person by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.

CHAPTER 2

Passenger Information Unit”.

*68. In page 59, between lines 10 and 11, to insert the following:

“Continuation and functions of Passenger Information Unit

76. (1) Notwithstanding the coming into operation of *section 74*^[1], the unit established under Regulation 4(1) of the Regulations of 2018 and known as the Passenger Information Unit (in this Part referred to as the “PIU”) shall continue in being as a unit in the Department of Justice, Home Affairs and Migration, in accordance with the provisions of this Part.
- (2) The functions of the PIU shall include:
- (a) the collection of PNR data from air carriers, and the storage and processing of such data;
 - (b) the designation of intra-EU flights in accordance with *section 85*^[2];
 - (c) the transfer of PNR data, and the result of any processing of such data under *paragraph (a)*, to a competent authority, the PIU or competent authority of another Member State, a competent authority of a third country or Europol;
 - (d) the receipt of PNR data, and the result of any processing of such data, from the PIU of another Member State.”.

[¹ This is a reference to a section proposed to be inserted by amendment no. 66.]

[² This is a reference to a section proposed to be inserted by amendment no. 77.]

***69.** In page 59, between lines 10 and 11, to insert the following:

“Director of PIU

- 77.** (1) The Minister shall, subject to *subsection (2)*, appoint a person to be the Director of the PIU (in this Part referred to as the “Director”).
- (2) A person who, immediately before the coming into operation of *section 74#*, stands appointed as Director under Regulation 4(2) of the Regulations of 2018, shall, on such coming into operation, continue to be the Director.
- (3) The Director shall manage and control generally the staff, administration and business of the PIU.
- (4) The Minister shall nominate a person to perform the functions of the Director during any absence, incapacity or suspension from duty of the Director or during any vacancy in the office of Director.
- (5) The Director may delegate in writing any of his or her functions to a member of staff of the PIU and the member of staff be accountable to the Director for the performance of the function so delegated.
- (6) The Director may revoke a delegation made by him or her under *subsection (5)*.”.

[#This is a reference to a section proposed to be inserted by amendment no. 66.]

***70.** In page 59, between lines 10 and 11, to insert the following:

“Staff of PIU

- 78.** (1) A person who, immediately before the coming into operation of *section 74#*, was a member of staff of the PIU shall, on such coming into operation, continue to be a member of staff of the PIU.
- (2) A person who, immediately before the coming into operation of *section 74#*, stands seconded to the PIU under an arrangement entered into under Regulation 4(3) of the Regulations of 2018 shall, on such coming into operation, remain seconded to the PIU for the remainder of the period of such secondment, subject to the same terms and conditions as applied to the secondment immediately before such coming into operation.
- (3) A person who, immediately before the coming into operation of *section 74#*, stands engaged by the PIU under Regulation 4(4) of the Regulations of 2018 for a period of temporary service with the PIU shall, on such coming into operation, continue to be engaged by the PIU for the remainder of that period, subject to the same terms and conditions as applied to the engagement immediately before such coming into operation.
- (4) The Director may enter into an arrangement with a competent authority for the secondment of a member of staff of the competent authority to the PIU.
- (5) The Director may enter into an arrangement to engage one or more than one person

(on contract or otherwise) for a period of temporary service with the PIU.”.

[#This is a reference to a section proposed to be inserted by amendment no. 66.]

*71. In page 59, between lines 10 and 11, to insert the following:

“Data protection officer

79. (1) Subject to *subsection (2)*, the Director shall appoint a person (in this Part referred to as the “data protection officer”) who shall be responsible for monitoring the processing of PNR data under this Part and for implementing data protection safeguards.
- (2) A person who, immediately before the coming into operation of *section 74*^{#1}, stands appointed as data protection officer under Regulation 14(1) of the Regulations of 2018 shall, on such coming into operation, continue as data protection officer as if he or she had been appointed under this section.
- (3) The functions of the data protection officer shall include the following:
- (a) informing the Director and staff of the PIU of their obligations in relation to the processing of PNR data under this Part and advising them in relation to those obligations;
 - (b) monitoring compliance by the Director and staff of the PIU with—
 - (i) their obligations under this Part in relation to the processing of PNR data, and
 - (ii) the policies of the PIU as data controller in relation to the protection of personal data, including audit activity;
 - (c) providing advice to the Director and staff of the PIU on awareness-raising activities, staff training and the allocation of responsibilities in relation to data protection;
 - (d) advising the Director and staff of the PIU in relation to, and monitoring the carrying out of, data protection impact assessments;
 - (e) acting as a contact point for persons both within and outside the PIU in respect of issues relating to the processing of PNR data by the PIU.
- (4) The PIU shall notify the data protection officer of—
- (a) a transfer of PNR data under *section 91(5)*^{#2}, *92(4)*^{#3}, *92(11)*^{#3}, *94(4)*^{#4}, *95(5)*^{#5} or *96(1)*^{#6} in advance of such transfer taking place, and
 - (b) a transfer notified to the PIU in accordance with *section 95(8)*^{#5}.
- (5) Where the data protection officer is informed by the PIU under *subsection (4)(a)* of a transfer of PNR data, the data protection officer shall, after the transfer has taken place, carry out a review of the transfer for the purpose of monitoring compliance by the PIU with the provisions of this Part concerning the processing of PNR data.
- (6) The Director shall—

- (a) ensure that the data protection officer is involved in an appropriate and timely manner in all matters relating to the protection of personal data,
- (b) support the data protection officer in performing the functions referred to in *subsection (3)* by providing him or her with access to processing operations and the resources necessary to carry out those functions, and
- (c) assist the data protection officer in maintaining his or her expert knowledge in relation to data protection.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 66.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 83.]

[^{#3} This is a reference to a section proposed to be inserted by amendment no. 84.]

[^{#4} This is a reference to a section proposed to be inserted by amendment no. 86.]

[^{#5} This is a reference to a section proposed to be inserted by amendment no. 87.]

[^{#6} This is a reference to a section proposed to be inserted by amendment no. 88.]

***72.** In page 59, between lines 10 and 11, to insert the following:

“Director to report statistical information to Minister

- 80.** (1) Subject to *subsection (3)*, the Director shall, on a yearly basis, and not later than 31 May in each year, submit to the Minister a report containing statistical information on PNR data provided to the PIU.
- (2) The statistics referred to in *subsection (1)* shall, at a minimum, cover—
- (a) the total number of passengers whose PNR data have been collected and exchanged by the PIU, and
 - (b) the number of passengers identified for further examination by a competent authority or a competent authority of another Member State.
- (3) The statistics provided under this Part shall not contain any personal data.”.

***73.** In page 59, between lines 10 and 11, to insert the following:

“Processing of PNR data by PIU

- 81.** (1) The PIU shall process PNR data for the purpose of the performance of its functions under this Part—
- (a) to the extent necessary and proportionate for that purpose, and
 - (b) in a manner that does not discriminate against a person on any grounds.
- (2) PNR data shall not be processed by the PIU in such a manner as to reveal the race, ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation of a person.
- (3) Where PNR data revealing the information referred to in *subsection (2)* are received by the PIU from an air carrier, they shall be deleted immediately.

- (4) Where PNR data collected by the PIU include data other than those specified in *Schedule 2*[#], such data shall be deleted immediately and permanently upon receipt.
- (5) The storage, processing and analysis of PNR data by the PIU shall be carried out exclusively within a secure location or locations within the State.
- (6) The PIU shall put in place and implement appropriate technical and organisational measures and procedures to ensure a high level of security for the PNR data appropriate to the risks represented by the processing and nature of such data.

CHAPTER 3

Competent authorities, Independent Authority and Data Protection Commission”.

[[#]This is a reference to a Schedule proposed to be inserted by amendment no. 102.]

***74.** In page 59, between lines 10 and 11, to insert the following:

“Competent authorities

- 82.** (1) Notwithstanding the coming into operation of *section 74*^{#1}, a competent authority referred to in Regulation 9 of the Regulations of 2018 and listed in *Schedule 4*^{#2}, shall continue to be a competent authority for the purposes of this Part and the Directive.
- (2) Subject to *subsection (3)*, the Minister may by order designate a body as a competent authority for the purposes of this Part.
- (3) The Minister shall not make an order under *subsection (2)* in respect of a body for which a Minister of the Government other than the Minister has responsibility and in whom functions, whether statutory or otherwise, in respect of the body are vested, other than with the consent of that Minister of the Government.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 66.]

[^{#2} This is a reference to a Schedule proposed to be inserted by amendment no. 104.]

***75.** In page 59, between lines 10 and 11, to insert the following:

“Designation and functions of Independent Authority

- 83.** (1) The Minister may by order designate a person (in this Part referred to as the “Independent Authority”) as the national authority for the purposes of the performance of the functions conferred on it by this Part.
- (2) The functions of the Independent Authority shall include—
- (a) the review of—
 - (i) in accordance with *section 86*^{#1}, the process for designation by the PIU of an intra-EU flight under *section 85*^{#2}, and
 - (ii) an authorisation for the transfer of PNR data under *section 96*^{#3},
 - and

(b) the approval of—

(i) an application for the transfer of PNR data under *section 91*^{#4}, *92*^{#5}, *94*^{#6} or *95*^{#7}, and

(ii) a request for PNR data under *subsection (1)* of *section 93*^{#8} to which *subsection (5)* of that section applies.

(3) The Independent Authority shall have all powers necessary or expedient for the performance of its functions under this Part.

(4) The Independent Authority shall be independent in the performance of its functions.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 78.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 77.]

[^{#3} This is a reference to a section proposed to be inserted by amendment no. 88.]

[^{#4} This is a reference to a section proposed to be inserted by amendment no. 83.]

[^{#5} This is a reference to a section proposed to be inserted by amendment no. 84.]

[^{#6} This is a reference to a section proposed to be inserted by amendment no. 86.]

[^{#7} This is a reference to a section proposed to be inserted by amendment no. 87.]

[^{#8} This is a reference to a section proposed to be inserted by amendment no. 85.]

***76.** In page 59, between lines 10 and 11, to insert the following:

“Data Protection Commission

84. The Data Protection Commission shall be responsible for advising on and monitoring the application of this Part within the State with a view to protecting fundamental rights in relation to the processing of personal data under this Part.

CHAPTER 4

Designation of intra-EU flights by PIU and Minister”.

***77.** In page 59, between lines 10 and 11, to insert the following:

“Designation by PIU of intra-EU flight

85. (1) Subject to *subsection (2)*, the PIU may designate in writing an intra-EU flight for the purposes of this Part for a period not exceeding 6 months from the date of designation.

(2) A designation under *subsection (1)* may only be made where the PIU carries out an assessment and determines, having due regard to the risks to the fundamental rights and freedoms of data subjects which may result from the designation, that—

(a) the designation is necessary and proportionate for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and

(b) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air.

(3) The PIU shall, before the expiry of the period of 6 months following the designation

of an intra-EU flight under *subsection (1)*, carry out an assessment for the purpose of determining whether the designation of the designated intra-EU flight concerned is, having due regard to the risks to the fundamental rights and freedoms of data subjects which may result from the designation, necessary and proportionate for the purpose referred to in *subsection (2)*.

- (4) Where, on the basis of an assessment under *subsection (3)*, the PIU determines that the continued designation of an intra-EU flight is necessary and proportionate for the purpose referred to in that subsection, the PIU may extend the designation of the intra-EU flight concerned for a further period not exceeding 6 months.
- (5) Where, on the basis of an assessment under *subsection (3)*, the PIU determines that the continued designation of an intra-EU flight is not necessary and proportionate for the purpose referred to in that subsection, the PIU shall not extend the designation of the intra-EU flight concerned.
- (6) Without prejudice to *subsection (3)*, the PIU may, at any time, where it consider it appropriate to do so, carry out an assessment of a designation in force under this section for the purpose referred to in that subsection.
- (7) Where, on the basis of an assessment carried out under *subsection (6)*, the PIU determines that the designation of an intra-EU flight is no longer necessary and proportionate for the purposes for which it was so designated, the PIU shall revoke the designation.”.

*78. In page 59, between lines 10 and 11, to insert the following:

“Review by Independent Authority

86. (1) Subject to *subsection (5)*, the Independent Authority shall conduct a review of the process for designation of an intra-EU flight under *section 85#* in order to determine whether the PIU, in carrying out an assessment of an intra-EU flight under *subsection (2), (3)* and, where applicable, *(6)* of that section (in this section referred to as a “relevant assessment”), complied with those provisions.
- (2) In conducting a review under *subsection (1)*, the Independent Authority may—
- (a) consider the criteria applied by the PIU in determining whether the designation of an intra-EU flight is necessary and proportionate for the purpose referred to in *section 85(2)#*, and
 - (b) examine a relevant assessment carried out in respect of one, or more than one, intra-EU flight designated under *section 85#*, whether or not the designation is in force at the time of the review.
- (3) Without prejudice to *subsection (4)*, a review under *subsection (1)* shall be conducted—
- (a) in respect of the first review, not later than 12 months from the date on which the first intra-EU flight is designated under *section 85#* following the coming into operation of this Part, and

- (b) once in every 12 month period thereafter.
- (4) The Independent Authority may, at any time, conduct a review under *subsection (1)* where it has reasonable grounds for believing that a relevant assessment was not carried out by the PIU in accordance with *section 85#*.
- (5) Before commencing a review under *subsection (1)*, the Independent Authority shall notify the Director of its proposal to conduct the review, which notice shall specify—
 - (a) the matters referred to in *subsection (2)* to which the review shall relate,
 - (b) the date on which the review shall commence, which shall not be earlier than 10 working days from the date on which the notice is given, and
 - (c) any documents, records or other information within the possession or control of the PIU that are relevant to, or required for, the conduct of the review, including details of the criteria referred to at *subsection (2)(a)*.
- (6) The Independent Authority shall, as soon as practicable after the completion of a review under *subsection (1)*, notify the PIU of the outcome of the review.
- (7) Where the Independent Authority, having carried out a review under *subsection (1)*, determines that the PIU, in carrying out a relevant assessment, did not comply with the requirements of *section 85#*, the Independent Authority may issue a direction in writing to the Director specifying—
 - (a) the measures which the PIU is required to take in order to comply with the requirements of *section 85#* in the carrying out of a relevant assessment under that section, and
 - (b) the timeframe within which such measures are to be completed.
- (8) The Director shall comply with a direction issued under *subsection (7)*.
- (9) The Director shall, within the timeframe specified in the direction, notify the Independent Authority of the measures taken by the PIU to comply with the direction.
- (10) The Independent Authority may, where it is not satisfied that the Director has complied with a direction under *subsection (7)*, issue such further direction under that subsection as it considers appropriate.
- (11) A direction issued under *subsection (7)* may, where the Independent Authority considers it appropriate, require the PIU to revoke a designation of an intra-EU flight that is in force under *section 85#* at the time of the issuing of the direction.
- (12) The Independent Authority may communicate with the Minister on any matter concerning a review under this section, including where it considers that the PIU has failed to comply with a direction under *subsection (7)*.
- (13) The Minister may, where he or she receives a communication under *subsection (12)*, direct the PIU to comply with a direction issued under *subsection (7)* within such timeframe as the Minister may specify.”.

[#This is a reference to a section proposed to be inserted by amendment no. 77.]

*79. In page 59, between lines 10 and 11, to insert the following:

“Application to relevant judge by Minister for designation of all intra-EU flights

87. (1) The Minister may, where he or she is satisfied, on the basis of an assessment conducted in accordance with *subsection (2)*, that there exists a genuine and present or foreseeable threat related to a terrorist offence, make an application to a relevant judge for an order requiring the PIU to designate all intra-EU flights as designated intra-EU flights for such period as may be specified in the order.
- (2) Before making an application under *subsection (1)*, the Minister shall assess whether the threat referred to in that subsection exists and, for that purpose, shall—
- (a) have regard to the necessity and proportionality of the designation of all intra-EU flights for the purpose of the prevention, detection, investigation and prosecution of the terrorist offence, taking into account the risks to the fundamental rights and freedoms of data subjects which may result from the designation, and
 - (b) be satisfied of the existence of an objective link, whether of a direct or an indirect nature, between the offence and the carriage of passengers by air.
- (3) An application under *subsection (1)* shall—
- (a) be made *ex parte*,
 - (b) be upon information on oath specifying the grounds on which the order is sought, which information shall include the results of the assessment conducted under *subsection (2)*,
 - (c) specify the period of time, being a period not exceeding 12 months, for which the designation referred to in *subsection (1)* is, in the view of the Minister, necessary and proportionate for the purposes referred to in *subsection (2)*, and
 - (d) be heard otherwise than in public.
- (4) A relevant judge, as respects an application under *subsection (1)*, may make an order directing the PIU to designate all intra-EU flights as designated intra-EU flights only if satisfied that the making of the order is necessary for, and proportionate to, the purposes referred to in *subsection (2)*.
- (5) Where a relevant judge makes an order under *subsection (4)*, that order shall—
- (a) require the PIU to designate all intra-EU flights as designated intra-EU flights for such period as is specified in the order, and
 - (b) specify—
 - (i) the period for which the order shall have effect, and
 - (ii) any conditions and directions to which the designation is subject.
- (6) Where an order is made under *subsection (4)*, the Minister shall, without delay, arrange for—
- (a) service of the order on the PIU, and

- (b) publication of—
 - (i) the order in the national media, and
 - (ii) a notice of the making of the order in *Iris Oifigiúil*.
- (7) The President of the High Court shall, at the request of the Minister, designate one or more than one judge of the High Court to perform the functions of a relevant judge under this section, and a reference in this section to a “relevant judge” shall be construed as a reference to a judge so designated.

CHAPTER 5

Transfer and exchange of PNR data

***80.** In page 59, between lines 10 and 11, to insert the following:

“Obligations of air carriers regarding transfer of PNR data

- 88.** (1) An air carrier shall, in accordance with this section, transfer by the push method to the PNR database all PNR data which it has collected in the normal course of business in respect of passengers to be carried by the air carrier on an extra-EU flight or on a designated intra-EU flight.
- (2) Where a flight referred to in *subsection (1)* is code-shared between one or more air carriers, the air carrier which operates the flight shall transfer the PNR data of all passengers on the flight to the PIU in accordance with that subsection.
- (3) An air carrier shall, where an extra-EU flight has one or more stop-overs at airports of Member States, transfer the PNR data of all passengers, including those who disembark at the time of a stop-over, to the PIU.
- (4) An air carrier shall, where a designated intra-EU flight has one or more stop-overs at airports of Member States, transfer the PNR data of all passengers, including those who disembark at the time of a stop-over, to the PIU.
- (5) Where an air carrier collects API data in respect of passengers on an extra-EU flight or a designated intra-EU flight, the air carrier shall, whether or not it retains those data by the same technical means as for other PNR data, transfer that API data to the PIU by the push method and such data shall be considered as PNR data for the purposes of this Part.
- (6) Subject to *subsections (7) and (8)*, an air carrier shall transfer the PNR data referred to in *subsection (1)* to the PNR database—
- (a) 24 to 48 hours before a scheduled flight departure time, and
 - (b) immediately after flight closure, that is once the passengers have boarded the aircraft in preparation for departure and it is no longer possible for passengers to board or leave the flight.
- (7) An air carrier shall transfer the PNR data referred to in *subsection (1)* to the PNR database—

- (a) by electronic means using the common protocols and supported data formats adopted in accordance with Article 16(2), or
 - (b) in the event of technical failure or difficulty, by any other appropriate means ensuring the same level of technical and organisational security.
- (8) An air carrier may limit PNR data transferred under *paragraph (b) of subsection (6)* to an update of the PNR data already transferred under *paragraph (a) of that subsection*.
- (9) An air carrier shall, on a case-by-case basis, where requested by the PIU under *section 92(11)(a)#*, transfer PNR data to the PIU at times other than those provided for in *subsection (6)*—
 - (a) where access to that data is necessary in order to respond to a specific and actual threat related to a terrorist offence or serious crime, and
 - (b) the PIU has determined, in accordance with *section 92(8)#*, there is an objective link, whether of a direct or an indirect nature, between the offence or crime referred to in *paragraph (a)* and the carriage of passengers by air.
- (10) An air carrier shall use its best endeavours to ensure that any data collected by it that is not PNR data is not transferred to the PIU.
- (11) An air carrier that fails to comply with a requirement under this section, other than the requirement under *subsection (10)*, shall be guilty of an offence and shall be liable—
 - (a) on summary conviction, to a class A fine, or
 - (b) on conviction on indictment, to a fine not exceeding €250,000.
- (12) It shall be a defence for an air carrier charged with an offence under *subsection (11)* to show that it took all reasonable steps to ensure compliance with this section.
- (13) Proceedings for an offence under this section may be brought and prosecuted summarily by the Director.
- (14) Where an offence under *subsection (11)* is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
- (15) Where the affairs of a body corporate are managed by its members, *subsection (14)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.”.

[#This is a reference to a section proposed to be inserted by amendment no. 84.]

*81. In page 59, between lines 10 and 11, to insert the following:

“Assessment of passengers by PIU

89. (1) The PIU shall carry out an assessment of PNR data in respect of passengers on—

- (a) an extra-EU flight, or
- (b) a designated intra-EU flight,

prior to their scheduled arrival in, or departure from, the State for the purpose of identifying persons who require further examination by a competent authority or a competent authority in another Member State and, where relevant, by Europol, to determine whether such persons may be, or may have been, involved in a terrorist offence or serious crime, in respect of which there is an objective link, whether of a direct or an indirect nature, with the carriage of passengers by air.

(2) Subject to *subsection (3)*, the PIU may determine criteria (in this section referred to as “pre-determined criteria”) to be used in processing PNR data for the purpose of conducting an assessment under *subsection (1)* and, where such criteria are determined, they shall—

- (a) be targeted, proportionate and specific in nature,
- (b) be regularly reviewed in consultation with the competent authorities, and
- (c) not, in any circumstance, be based on the race, ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sexual life or sexual orientation of a person.

(3) Notwithstanding the coming into operation of *section 74#*, where immediately before the coming into operation of that section, pre-determined criteria referred to in Regulation 5 of the Regulations of 2018 are in use in conducting assessments under that Regulation, those criteria shall be considered to be pre-determined criteria for the purposes of this section until new criteria are established under *subsection (5)*.

(4) When carrying out an assessment under *subsection (1)*, the PIU may—

- (a) compare PNR data against databases relevant for the purpose referred to in that subsection, only where such databases are databases containing data on persons or objects sought or under alert, in accordance with European Union, international and national law and the laws of the State applicable to such databases, or
- (b) process PNR data against pre-determined criteria.

(5) The PIU may establish pre-determined criteria and may, from time to time, update those criteria.”.

[#This is a reference to a section proposed to be inserted by amendment no. 66.]

*82. In page 59, between lines 10 and 11, to insert the following:

“Transfer of PNR data to another Member State and to competent authority

90. (1) Where the PIU carries out an assessment under *section 89(1)#* and identifies a person who requires further examination by a competent authority in another Member State, the PIU shall, subject to *subsection (4)*, transfer the PNR data relating to that person and, where applicable, the result of the processing of such data by it, to the PIU of the Member State concerned for onward transfer to the competent authority in the Member State concerned.
- (2) Where the PIU carries out an assessment under *section 89(1)#* and identifies a person who requires further examination by a competent authority, the PIU shall, subject to *subsection (4)*, transfer the PNR data relating to that person and, where applicable, the result of the processing of such data by it, to the competent authority concerned.
- (3) Where the PIU of another Member State transfers PNR data, or the result of the processing of such data, or both, to the PIU for onward transfer by the PIU to a competent authority, the PIU shall, subject to *subsection (4)*, transfer the data and, where applicable, the result of the processing of such data, to the competent authority that is to carry out further examination of the data.
- (4) Where a person referred to in *subsection (1)* or *(2)* has been identified by the automated processing of PNR data, the PIU shall only transfer the PNR data relating to that person, in accordance with those subsections, where the PIU has carried out a review of the identification by non-automated means and has verified the identification of the person concerned.”.

[#This is a reference to a section proposed to be inserted by amendment no. 81.]

*83. In page 59, between lines 10 and 11, to insert the following:

“Request by competent authority for PNR data

91. (1) A competent authority is entitled—
- (a) to request, under *subsection (2)*, and receive, under *section 90(2)#¹*, PNR data, and the result of the processing of such data by the PIU, from the PIU, and
- (b) to request, under *section 93(3)#²*, PNR data, and the result of the processing of such data by the PIU of another Member State, from that PIU,
- in order to examine that data and take appropriate action for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime.
- (2) Where a request is received by the PIU from a competent authority for PNR data, or the result of the processing of such data by the PIU, or both, the PIU shall, subject to *section 96#³*, make an application to the Independent Authority for approval to transfer the data requested to the competent authority concerned where on the basis of the request—

- (a) the PIU considers there are reasonable grounds for believing that—
 - (i) the transfer of the data requested is necessary for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air, and
- (b) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (3) An application under *subsection (2)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.
- (4) Following receipt of an application under *subsection (2)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—
 - (a) decide, on the basis of the application, whether to approve the transfer of the PNR data, and, where applicable, the result of the processing of such data, and
 - (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.
- (5) Where, under *subsection (4)*, the Independent Authority approves the transfer of the data requested, the PIU shall, as soon as practicable after receipt of the notification under *paragraph (b)* of that subsection, transfer the data to the competent authority concerned.
- (6) Subject to *subsection (7)*, PNR data, and the result of the processing of such data by the PIU, transferred to a competent authority under *subsection (5)*, may be processed by the competent authority only for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime.
- (7) Where evidence of an offence, other than the one referred to in *subsection (6)*, is detected during the processing of data referred to in that subsection, that subsection shall not affect law enforcement or judicial powers to process that data for purposes relating to that other offence.
- (8) A competent authority shall not take any decision that produces an adverse legal effect on a person or significantly affects the person—
 - (a) only by reason of the automated processing of PNR data, or
 - (b) on the basis of the race or ethnic origin, political opinions, religion or

philosophical beliefs, trade union membership, health, sexual life or sexual orientation of the person.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 82.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 85.]

[^{#3} This is a reference to a section proposed to be inserted by amendment no. 88.]

***84.** In page 59, between lines 10 and 11, to insert the following:

“Request from other Member State for PNR data

- 92.** (1) Where a request is received by the PIU from the PIU of another Member State for PNR data, or the result of the processing of such data by the PIU, or both, the PIU shall, subject to *section 96*^{#1}, make an application to the Independent Authority for approval to transfer the data requested, to the PIU of the other Member State where, on the basis of the request—
- (a) the PIU considers there are reasonable grounds for believing that—
 - (i) the transfer of the data requested is necessary for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air, and
 - (b) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (2) An application under *subsection (1)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.
- (3) Following receipt of an application under *subsection (1)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—
- (a) decide, on the basis of the application, whether to approve the transfer of the PNR data and, where applicable, the result of the processing of such data, and
 - (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.
- (4) Where, under *subsection (3)*, the Independent Authority approves the transfer of the data requested, the PIU shall, as soon as practicable after receipt of the notification under *paragraph (b)* of that subsection, transfer the data to the PIU of the other

Member State.

- (5) Where, in the case of an emergency, a competent authority of another Member State submits to the PIU a direct request for PNR data, or the result of the processing of such data by the PIU, or both, the PIU shall, subject to *section 96*^{#1}, make an application to the Independent Authority for approval to transfer the data requested to the competent authority of the other Member State where, on the basis of the request—
- (a) the PIU considers there are reasonable grounds for believing that—
 - (i) the circumstances set out in the request constitute an emergency and the transfer of the data requested is necessary for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,and
 - (b) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (6) An application under *subsection (5)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.
- (7) *Subsections (3) and (4)* shall apply to an application under *subsection (5)* as they apply to an application under *subsection (1)*, subject to the modification that a reference in *subsections (3) and (4)* to *subsection (1)* shall be construed as a reference to *subsection (5)*.
- (8) Where, in exceptional circumstances, a request is received by the PIU from the PIU of another Member State to obtain PNR data from an air carrier at a time other than that provided for in *section 88(6)*^{#2}, the PIU shall, subject to *section 96*^{#1}, make an application to the Independent Authority for approval to transfer the PNR data to the PIU of the Member State concerned where, on the basis of the request—
- (a) the PIU considers there are reasonable grounds for believing that—
 - (i) the transfer of the PNR data requested is necessary for the purpose of responding to a specific and actual threat related to a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,

and

(b) the PIU—

- (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
- (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.

(9) An application under *subsection (8)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.

(10) Following receipt of an application under *subsection (8)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—

- (a) decide, on the basis of the application, whether to approve the transfer of the PNR data, and
- (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.

(11) Where, under *subsection (10)*, the Independent Authority approves the transfer of the PNR data requested, the PIU shall as soon as practicable after receipt of the notification under *paragraph (b)* of that subsection—

- (a) request the air carrier to transfer the PNR data to the PIU in accordance with *section 88(7)*[#], and
- (b) provide the PNR data to the PIU of the Member State concerned.”.

[[#] This is a reference to a section proposed to be inserted by amendment no. 88.]

[[#] This is a reference to a section proposed to be inserted by amendment no. 80.]

***85.** In page 59, between lines 10 and 11, to insert the following:

“Requests by PIU or competent authority to PIU of another Member State for PNR data

93. (1) Subject to *subsection (5)*, the PIU may make a request for PNR data, or the result of the processing of such data by the PIU of another Member State, or both, to that PIU where the PIU considers—

- (a) there are reasonable grounds for believing that—
 - (i) the transfer of the data to the PIU, is necessary for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature between the offence or crime and the carriage of passengers by air,

and

- (b) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (2) A request under *subsection (1)* may be for one or more of the PNR data elements listed in *Schedule 2*#, as are considered necessary by the PIU for the purpose referred to in that subsection, and shall include the reasons for the request.
- (3) In cases of emergency, a competent authority may make a request for PNR data, or the result of the processing of such data by the PIU of another Member State, or both, directly to that PIU, where the competent authority considers—
 - (a) there are reasonable grounds for believing that—
 - (i) the circumstances set out in the request constitute an emergency and the transfer of the data to the competent authority is necessary for the preventing, detecting, investigating and prosecuting a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,and
 - (b) the competent authority—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (4) In exceptional circumstances, the PIU may request the PIU of another Member State to request an air carrier to transfer PNR data to the PIU of that Member State at a time other than the time the air carrier normally transfers PNR data to the PIU of the other Member State concerned, and transmit the data to the PIU, where the PIU considers—
 - (a) there are reasonable grounds for believing that—
 - (i) the transfer of the data to the PIU is necessary for the purpose of responding to a specific and actual threat related to a terrorist offence or serious crime, and
 - (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,and

- (b) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (5) Where, in the case of a request referred to in *subsection (1)*, it is a requirement in the Member State to which the request referred to in that subsection is made that, before such a request is made to the PIU in that Member State, a court or other independent authority in the requesting Member State provide approval for the transfer of the PNR data, and, where applicable, the result of the processing of such data, the PIU shall make an application to the Independent Authority for approval to have the data transferred to it by the PIU of the other Member State.
- (6) An application under *subsection (5)* shall be in writing, submitted by electronic means, and shall contain a copy of the request which the PIU proposes to make to the PIU of the other Member State.
- (7) Following receipt of an application under *subsection (5)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—
 - (a) decide, on the basis of the application, whether to approve the transfer of the PNR data and, where applicable, the result of the processing of such data, to the PIU, and
 - (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.
- (8) Where, under *subsection (7)*, the Independent Authority approves the transfer of data by the PIU of the other Member State, the PIU shall, when making a request under *subsection (1)* to which *subsection (5)* applies, notify the PIU of that other Member State of the decision of the Independent Authority.”.

[#This is a reference to a Schedule proposed to be inserted by amendment no. 102.]

***86.** In page 59, between lines 10 and 11, to insert the following:

“Request by Europol to PIU for PNR data

- 94.** (1) Where a request for PNR data, or the result of the processing of such data by the PIU, or both, is received by the PIU from Europol, having been submitted by Europol to the PIU in accordance with Article 10, the PIU shall, subject to *section 96#*, make an application to the Independent Authority for approval to transfer the data to Europol where, on the basis of the request—
- (a) the PIU considers there are reasonable grounds for believing that—
 - (i) the transfer of the data requested will substantially contribute to the

prevention, detection or investigation of a terrorist offence or serious crime,
and

- (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,

and

- (b) the PIU—

- (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or

- (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.

- (2) An application under *subsection (1)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.

- (3) Following receipt of an application under *subsection (1)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—

- (a) decide, on the basis of the application, whether to approve the transfer of the PNR data and, where applicable, the result of the processing of such data, to Europol, and

- (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.

- (4) Where, under *subsection (3)*, the Independent Authority approves the transfer of the data requested, the PIU shall, as soon as practicable after receipt of the notification under *paragraph (b)* of that subsection, transfer the data to Europol in accordance with Article 10(4).”.

[#This is a reference to a section proposed to be inserted by amendment no. 88.]

***87.** In page 59, between lines 10 and 11, to insert the following:

“Transfer of data to competent authority of third country

- 95.** (1) Where a request is received by the PIU from a competent authority of a third country for PNR data, or the result of the processing of such data by the PIU, or both, the PIU may, subject to *section 96*^{#1}, make an application to the Independent Authority for approval to transfer the data to the competent authority of the third country concerned, where, on the basis of the request—

- (a) the PIU considers there are reasonable grounds for believing that—

- (i) the transfer of the data requested is necessary for the purpose of preventing, detecting, investigating and prosecuting a terrorist offence or serious crime in a Member State or the third country making the request, and

- (ii) there is an objective link, whether of a direct or an indirect nature, between the offence or crime and the carriage of passengers by air,
- (b) the PIU is satisfied that the circumstances referred to in *subsection (2)* apply, and
- (c) the PIU—
 - (i) where the request relates to a request for PNR data relating to a serious crime, has a reasonable suspicion that a person, to whom the PNR data, the subject of the request, relates, is involved in any way with the crime, or
 - (ii) where the request relates to a request for PNR data relating to a terrorist offence, infers that the PNR data, the subject of the request, could contribute effectively to the combatting of the offence.
- (2) The circumstances referred to in *subsection (1)* are that—
 - (a) the transfer is consistent with the law of the State in relation to data protection,
 - (b) subject to *subsection (6)*, where the data that are sought in the request under *subsection (1)* were obtained by the PIU from the PIU of another Member State, the other Member State has given its prior consent to the transfer.

and

 - (c) the third country concerned agrees that it will only transfer the PNR data that is the subject of the request to another third country where—
 - (i) such transfer is strictly necessary for the purpose of the prevention, detection, investigation and prosecution of a terrorist offence or serious crime in a Member State or the third country making the request, in respect of which offence or crime there is an objective link, whether of a direct or an indirect nature, with the carriage of passengers by air, and
 - (ii) having received the express written authorisation of the Director.
- (3) An application under *subsection (1)* shall be in writing, submitted by electronic means, and shall contain a copy of the request referred to in that subsection.
- (4) Following receipt of an application under *subsection (1)*, the Independent Authority shall review the application and, as soon as practicable and in any event not later than 96 hours after receiving the application, shall—
 - (a) decide, on the basis of the application, whether to approve the transfer of the PNR data and, where applicable the result of the processing of such data, and
 - (b) notify the PIU of the decision of the Independent Authority and the reasons for that decision.
- (5) Where, under *subsection (4)*, the Independent Authority, approves the transfer of the data requested, the PIU shall, as soon as practicable after receipt of the notification under *paragraph (b)* of that subsection, transfer the data to the competent authority of the third country.
- (6) For the purposes of *subsection (2)(b)*, in exceptional circumstances, the PIU may,

where PNR data is obtained by it from another Member State, permit the transfer of that data to a competent authority of a third country without the prior consent of the other Member State from which the PNR data were obtained, only if—

- (a) the transfer is essential in order to respond to a specific and actual threat related to a terrorist offence or serious crime in a Member State or third country, and
 - (b) the prior consent of the Member State concerned cannot be obtained in good time.
- (7) Where *subsection (6)* applies in respect of a transfer of data under *subsection (5)*, the PIU shall, without delay, notify the PIU of the Member State from which the PNR data were originally obtained and make a record of the notification.
- (8) Where the PIU is notified by a PIU of another Member State that there has been a transfer, by that PIU, to a third country of PNR data—
- (a) that was originally obtained from the PIU, and
 - (b) without the prior consent of the PIU,

the PIU shall make a record of the notification and shall notify the data protection Officer for the purposes of *section 79(5)*[#].

- (9) PNR data shall be transferred under this section by the PIU to the competent authority of a third country only in accordance with the provisions of this Part and upon ascertaining that the use the recipients intend to make of the PNR data is consistent with the conditions and safeguards contained in this Part.

- (10) In this section—

“serious crime” means—

- (a) where it relates to an offence in a Member State, an offence referred to in *paragraph (b)* of the definition of “serious crime”, and
- (b) where it relates to an offence in a third country, an offence in the third country equivalent to that referred to in *paragraph (a)*;

“terrorist offence” means—

- (a) where it relates to an offence in a Member State, an offence referred to in *paragraph (b)* of the definition of “terrorist offence”, and
- (b) where it relates to an offence in a third country, an offence in the third country equivalent to that referred to in *paragraph (a)*.¹

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 88.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 71.]

***88.** In page 59, between lines 10 and 11, to insert the following:

“Disclosure of PNR data in case of duly justified urgency

- 96.** (1) Where—

(a) but for this section, the PIU would, in respect of a request under *section 91(2)*^{#1}, *92(1)*^{#2}, *92(5)*^{#2}, *92(8)*^{#2}, *94(1)*^{#3} or *95(1)*^{#4}, otherwise be satisfied to bring an application to the Independent Authority under the subsection concerned for approval to transfer data, and

(b) where the circumstances specified in *subsection (2)* apply in respect of the request,

the Director shall authorise the transfer of the data, or the result of the processing of such data, or both, which is the subject of that request, in accordance with this section.

(2) The circumstances referred to in *subsection (1)* are that the Director is satisfied, on the basis of the request, that it is likely that, before approval for the transfer of the data concerned could be obtained from the Independent Authority under the subsection concerned, the prevention, detection, investigation and prosecution of a terrorist offence or serious crime, to which the request relates, would be impeded.

(3) Where the Director authorises the transfer of PNR data under *subsection (1)*, he or she shall, as soon as practicable, and in any event not later than 24 hours after he or she issues the authorisation, apply to the Independent Authority for review of the authorisation.

(4) An application under *subsection (3)* shall—

(a) be made in writing, and

(b) specify the grounds on which the authorisation under *subsection (1)* was issued.

(5) Following receipt of an application under *subsection (3)*, the Independent Authority, as soon as practicable, and in any event not later than 72 hours after receiving the application shall—

(a) review the grounds for the authorisation issued under *subsection (1)* for the purpose of determining whether it was necessary for, and proportionate to, the purposes for which it was issued,

(b) determine, on the basis of the review carried out under *paragraph (a)*, whether to affirm or revoke the authorisation, and

(c) notify the PIU of its decision and the reasons for that decision.

(6) Where the Independent Authority revokes an authorisation under *subsection (5)*, the notice referred to in *paragraph (c)* of that subsection shall direct the Director to, without delay, notify the person specified in *subsection (7)* that—

(a) the data transferred pursuant to the authorisation should be deleted, and

(b) that the use or further use of that data by the person is prohibited.

(7) The person referred to in *subsection (6)* is—

(a) in the case of a transfer of data to a competent authority pursuant to a request under *section 91(2)*^{#1}, the competent authority concerned,

- (b) in the case of a transfer of data to the PIU of another Member State pursuant to a request under *section 92(1)*^{#2} or *(8)*^{#2}, or a competent authority of another Member State pursuant to a request under *section 92(5)*^{#2}, the PIU of the Member State or competent authority of the Member State concerned,
 - (c) in the case of a transfer of data to Europol pursuant to a request under *section 94(1)*^{#3}, Europol, and
 - (d) in the case of a transfer of data to a competent authority of a third country pursuant to a request under *section 95*^{#4}, the competent authority of the third country that made the request under that section.
- (8) Where the Independent Authority revokes an authorisation under *subsection (4)*, the Authority may, where it considers it appropriate to do so, refer the matter to the Data Protection Commission.

CHAPTER 6

Retention of PNR data and documentation".

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 83.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 84.]

[^{#3} This is a reference to a section proposed to be inserted by amendment no. 86.]

[^{#4} This is a reference to a section proposed to be inserted by amendment no. 87.]

***89.** In page 59, between lines 10 and 11, to insert the following:

“Period of data retention and depersonalisation

97. (1) PNR data transferred by an air carrier or by the PIU of another Member State to the PIU may be retained in the PNR database—

- (a) for an initial period of 6 months from the date of the transfer, and
- (b) after the expiration of the period referred to in *paragraph (a)*, for a further period not exceeding 4 years and 6 months, where—

- (i) the PIU has determined, having processed the PNR data in accordance with this Part during that initial period of 6 months—

- (I) that there exists, in respect of the data, objective evidence of a risk related to a terrorist offence or serious crime, and

- (II) there is an objective link, whether of a direct or an indirect nature, between the offence or crime referred to in *clause (I)* and the carriage of passengers by air,

and

- (ii) the data are depersonalised in accordance with *subsection (3)*.

(2) Where the PIU does not make a determination referred to in *subsection (1)(b)(i)* during the period referred to in that provision in respect of PNR data, the PNR data concerned shall be deleted permanently.

- (3) PNR data shall be depersonalised through masking out the following data elements which could serve to identify directly a passenger to whom the PNR data relates:
 - (a) passenger name or names, including the—
 - (i) names of other passengers on the passenger name record, and
 - (ii) number of passengers on the passenger name record travelling together;
 - (b) address and contact information;
 - (c) all forms of payment information, including billing address, to the extent that it contains any information which could serve to identify directly the passenger to whom the PNR data relate or any other persons;
 - (d) frequent flyer information;
 - (e) any general remarks relating to the PNR data to the extent that they contain any information which could serve to identify directly the passenger to whom the PNR data relate;
 - (f) any API data that have been collected.
- (4) Where an assessment is carried out under *section 89(1)*^{#1} and the result of that assessment is the identification of a person who requires further examination by a competent authority or a competent authority in another Member State (in this section referred to as a “positive match”), that result shall only be retained by the PIU for as long as is necessary to—
 - (a) transfer the PNR data relating to that person and, where applicable, the result of the processing of such data by the PIU, to the PIU of the Member State concerned under *section 90(1)*^{#2}, or
 - (b) transfer the PNR data relating to that person and, where applicable, the result of the processing of such data by the PIU, to the competent authority concerned under *section 90(2)*^{#2}.
- (5) Where an assessment is carried out under *section 89(1)*^{#1} by automated processing and results in a positive match, which, following an individual review by non-automated means in accordance with *section 90(4)*^{#2}, is proven not to be a positive match (in this section referred to as a “false positive match”), the result of the automated processing and the result of the review by non-automated means may be retained by the PIU, for the purpose of avoiding future false positive matches in respect of the person, for a period not exceeding 6 months from when the PNR data were received by the PIU.
- (6) PNR data retained in accordance with *subsection (1)* shall be deleted permanently upon the expiration of the period of 5 years from the date they were transferred to the PIU.
- (7) PNR data, or the result of the processing of such data, or both, that have been transferred to a competent authority by the PIU shall be deleted permanently by the competent authority—

- (a) upon the expiration of a period of 5 years from the date they were transferred to the competent authority, or
- (b) where the data were retained by the competent authority for the purpose of the prevention, detection, investigation and prosecution of a terrorist offence or serious crime and proceedings for such offence are brought against any person, on the day on which final judgment is given in the proceedings,

whichever occurs later.

- (8) The Director shall ensure that all PNR data retained by the PIU in accordance with this section are kept securely and that only such persons as are authorised in writing by him or her shall be permitted to have access to such data.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 81.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 82.]

***90.** In page 59, between lines 10 and 11, to insert the following:

“Maintenance of documentation and retention of records

98. (1) The PIU shall maintain documentation relating to all of its systems and procedures relating to the processing of personal data under this Part, which documentation shall contain at a minimum—

- (a) the name and contact details of members of staff of the PIU authorised to process PNR data and, where applicable, levels of access authorised to that data;
- (b) details of the requests made to the PIU by competent authorities and PIUs of other Member States under this Part;
- (c) details of all requests from, and transfers to, a competent authority of a third country of PNR data, or the result of the processing of such data by the PIU.

(2) The PIU shall keep records of the processing operations involving the collection, consultation, disclosure and erasure of PNR data.

(3) Records kept under *subsection (2)* in relation to the consultation and disclosure of PNR data shall include, in particular, details of—

- (a) the purpose, date and time of the processing operation concerned, and
- (b) in so far as is possible—
 - (i) the identity of the staff member of the PIU who consulted or disclosed the PNR data, and
 - (ii) in the case of data that is disclosed, the identity of the recipients of such data.

(4) Records kept under *subsection (2)* shall be—

- (a) used by the PIU solely for the purposes of verification, self-monitoring, ensuring data integrity and security and auditing, and
- (b) subject to *subsection (5)*, kept for a period of 5 years.

- (5) Where records kept under *subsection (2)* contain PNR data, that PNR data shall be retained in accordance with *section 97*[#].
- (6) The PIU shall, on request of the Data Protection Commission, make available to the Commission all documentation and records required to be maintained under this section.
- (7) The Director shall ensure that all documentation created by or on behalf of, and maintained by, the PIU in relation to processing systems and procedures, and all records kept by the PIU in accordance with this section, are kept securely and that only such persons as are authorised in writing by him or her shall be permitted to have access to such documentation or records.

CHAPTER 7

Transitional provisions: Regulations of 2018[”].

[[#]This is a reference to a section proposed to be inserted by amendment no. 89.]

***91.** In page 59, between lines 10 and 11, to insert the following:

“Interpretation (*Part 18*^{#1}, *Chapter 7*^{#2})

99. A reference in this Chapter to a numbered Regulation is a reference to that Regulation so numbered in the Regulations of 2018.”.

[^{#1} This is a reference to a Part proposed to be inserted by amendment no. 63.]

[^{#2} This is a reference to a Chapter proposed to be inserted by amendment no. 90.]

***92.** In page 59, between lines 10 and 11, to insert the following:

“Transitional arrangements in relation to assessment of PNR data by PIU

100. (1) Where, before the date of coming into operation of *section 74*^{#1}, the PIU has commenced but not completed an assessment referred to in Regulation 5(1)(a), the assessment shall, on or after that date, be completed under *section 89*^{#2} and the provisions of this Part shall apply accordingly to that assessment.

(2) Where—

(a) before the coming into operation of *section 74*^{#1}, the PIU has carried out an assessment referred to in Regulation 5(1)(a) and has identified a person who requires further examination, and

(b) on that date, the PIU has not transmitted the PNR data or the result of the processing of such data in accordance with Regulation 6(1) or (2),

the assessment shall, on and after that date, be taken to be an assessment carried out under *section 89(1)*^{#2} and the provisions of this Part shall apply accordingly.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 66.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 81.]

***93.** In page 59, between lines 10 and 11, to insert the following:

“Transitional provisions: transfers of PNR data to the PIU

101. (1) Where—

(a) before the date of coming into operation of *section 74*^{#1}, an air carrier has transferred to the PIU—

(i) PNR data, in accordance with Regulation 10(1) or (2), or

(ii) API data, in accordance with Regulation 10(3),

and

(b) on that date, an assessment referred to in Regulation 5(1)(a) has not been commenced by the PIU, or has been commenced but has not been completed,

the transfer of the data by the air carrier to the PIU shall, on and after that date, be taken to be a transfer—

(i) in the case of PNR data referred to in *subsection (1)(a)(i)*, *section 88(1)*^{#2}, and

(ii) in the case of API data referred to in *subsection (1)(a)(ii)*, *section 88(5)*^{#2},

and the provisions of this Part shall apply accordingly.

(2) Where—

(a) before the date of coming into operation of *section 74*^{#1}, PNR data relating to a person, or the result of the processing of those data, have been transmitted to the PIU by the PIU of another Member State under Regulation 6(3), and

(b) on that date, the data have not been transmitted by the PIU to the relevant competent authority (within the meaning of the Regulations of 2018),

the data shall, on and after that date, be taken to be data received by the PIU under *section 90(3)*^{#3} and the provisions of this Part shall apply accordingly.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 66.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 80.]

[^{#3} This is a reference to a section proposed to be inserted by amendment no. 82.]

***94.** In page 59, between lines 10 and 11, to insert the following:

“Transitional provisions: requests to PIU for PNR data

102. (1) Where—

(a) before the date of coming into operation of *section 74*^{#1}, a request is received by the PIU for PNR data, or the result of the processing of such data, from—

(i) the PIU of another Member State, under paragraph (1) of Regulation 7, or

(ii) a competent authority of another Member State under paragraph (4) of that Regulation,

and

- (b) on that date, the PNR data, or the result of the processing of such data, have not been transmitted to the PIU of the other Member State, or the competent authority of the other Member State, as the case may be, on foot of the request,

the request shall, on and after that date, be taken to be—

- (i) in the case of a request referred to in *paragraph (a)(i)*, a request received under *section 92(1)*^{#2}, and
- (ii) in the case of a request referred to in *paragraph (a)(ii)*, a request submitted under *section 92(5)*^{#2},

and the provisions of this Part shall apply accordingly.

(2) Where—

- (a) before the date of coming into operation of *section 74*^{#1}, a request is received by the PIU for PNR data, or the result of the processing of such data, from—

- (i) a PIU of another Member State, under paragraph (2) of Regulation 7, or
- (ii) a competent authority of another Member State, under paragraph (5) of that Regulation,

and

- (b) on that date, an application has not been made to the District Court under paragraph (2) or paragraph (5), as the case may be, of that Regulation,

the request shall, on and after that date, be taken to be—

- (i) in the case of a request referred to in *paragraph (a)(i)*, a request received under *section 92(1)*^{#2}, and
- (ii) in the case of a request referred to in *paragraph (a)(ii)*, a request submitted under *section 92(5)*^{#2},

and the provisions of this Part shall apply accordingly.

(3) Where before the date of coming into operation of *section 74*^{#1}—

- (a) a request is received by the PIU for PNR data, or the result of the processing of such data, from—

- (i) a PIU of another Member State, under paragraph (2) of Regulation 7, or
- (ii) a competent authority of another Member State, under paragraph (5) of that Regulation,

and

- (b) an application has been made to the District Court under paragraph (2) or paragraph (5), as the case may be, of that Regulation, but has not been determined by that Court that date,

then on or after that date, that application shall be determined by the District Court in

accordance with the Regulations of 2018 and, where the District Court approves the transmission of the data concerned, the PIU shall transfer the full data to the PIU of the other Member State, or the competent authority of the other Member State, as the case may be, in accordance with that Regulation.

(4) Where—

- (a) before the date of coming into operation of *section 74*¹, the transmission of data has been approved by the District Court under paragraph (2) or (5) of Regulation 7, and
- (b) on that date, the data have not been transferred under the paragraph concerned following such approval,

then on or after that date, the PIU shall transfer the full data to the PIU of the other Member State, or the competent authority of the other Member State, as the case may be, in accordance with that Regulation.

(5) Where—

- (a) before the date of coming into operation of *section 74*¹, a request is received under paragraph (7) of Regulation 7 by the PIU from the PIU of another Member State to obtain PNR data from an air carrier, and
- (b) on that date, the PIU has not requested the air carrier concerned to transfer the requested data to the PIU,

the request shall be taken to be a request under *section 92(8)*² and the provisions of this Part shall apply accordingly.

(6) Where—

- (a) before the date of coming into operation of *section 74*¹, a request is received under Regulation 8(1) by the PIU from Europol for PNR data, or the result of the processing of such data, and
- (b) on that date, the data have not been transferred to Europol,

the request shall, on and after that date, be taken to be a request received by the PIU under *section 94(1)*³, and the provisions of this Part shall apply accordingly.

(7) Where—

- (a) before the date of coming into operation of *section 74*¹, a request is received under paragraph (2) of Regulation 8 by the PIU from Europol for PNR data, or the result of the processing of such data, and
- (b) on that date, an application has not been made to the District Court under that Regulation,

the request shall, on and after that date, be taken to be a request received by the PIU under *section 94(1)*³ and the provisions of this Part shall apply accordingly.

(8) Where—

- (a) before the date of coming into operation of *section 74*¹, a request is received

under paragraph (2) of Regulation 8 by the PIU from Europol for PNR data, or the result of the processing of such data, and

- (b) on that date, an application has been made to the District Court under that Regulation but has not been determined by that Court,

then, on or after that date, that application shall be determined by the District Court in accordance with the Regulations of 2018, and where the District Court approves the transmission of the data concerned, the PIU shall transmit the full data to Europol in accordance with that Regulation.

(9) Where—

- (a) before the date of coming into operation of *section 74*^{#1}, the transmission of data has been approved by the District Court under paragraph (2) of Regulation 8, and
- (b) on that date, the data have not been transmitted under that provision following such approval,

then, on or after that date, the PIU shall transmit the full data to Europol in accordance with that Regulation.

(10) Where—

- (a) before the date of coming into operation of *section 74*^{#1}, a request is received under paragraph (2) of Regulation 9 by the PIU from a competent authority for PNR data, or the result of the processing of such data, and
- (b) on that date, an application has not been made to the District Court under that Regulation,

the request shall, on and after that date, be taken to be a request made under *section 91(2)*^{#4} and the provisions of this Part shall apply accordingly.

(11) Where before the coming into operation of *section 74*^{#1}—

- (a) a request is received under paragraph (2) of Regulation 9 by the PIU from a competent authority for PNR data, or the result of the processing of such data, and
- (b) an application has been made to the District Court under that Regulation but has not been determined by that Court,

then, on or after that date, that application shall be determined by the District Court in accordance with the Regulations of 2018, and where the District Court approves the transmission of the data concerned, disclosure of the full PNR data may be made in accordance with that Regulation.

(12) Where—

- (a) before the date of coming into operation of *section 74*^{#1}, the transmission of data has been approved by the District Court under paragraph (2) of Regulation 9, and
- (b) on that date, the data have not been disclosed under that provision following such approval,

then, on or after that date, disclosure of the full PNR data may be made in accordance with that Regulation.

(13) Where—

- (a) before the date of coming into operation of *section 74*^{#1}, a request has been received by the PIU under paragraph (1) of Regulation 16 from a third country for PNR data, or the result of the processing of such data, and
- (b) on that date, the PNR data, or the result of the processing of such data, have not been transmitted to the third country,

the request shall, on and after that date, be taken to be a request received by the PIU under *section 95(1)*^{#5} and the provisions of this Part shall apply accordingly.

(14) Where—

- (a) before the date of coming into operation of *section 74*^{#1}, a request is received by the PIU under paragraph (2) of Regulation 16 from a third country for PNR data, or the result of the processing of such data, and
- (b) on that date, an application has not been made to the District Court under that Regulation,

the request shall, on and after that date, be taken to be a request received by the PIU under *section 95(1)*^{#5} and the provisions of this Part shall apply accordingly.

(15) Where—

- (a) before the date of coming into operation of *section 74*^{#1}, a request is received by the PIU under paragraph (2) of Regulation 16 from a third country for PNR data, or the result of the processing of such data, and
- (b) on that date, an application has been made to the District Court under that Regulation but has not been determined by that Court,

then, on or after that date, that application shall be determined by the District Court in accordance with the Regulations of 2018, and where the District Court approves the transmission of the data concerned, the PIU shall transmit the full data to the third country concerned in accordance with that Regulation.

(16) Where—

- (a) before the date of coming into operation of *section 74*^{#1}, the transmission of data has been approved by the District Court under paragraph (2) of Regulation 16, and
- (b) on that date, the data have not been transmitted under that provision following such approval,

then, on or after that date, the PIU shall transmit the full data to the third country concerned in accordance with that Regulation.

(17) Where—

- (a) before the date of coming into operation of *section 74*^{#1}, a transfer of PNR data

to a third country has taken place pursuant to paragraph (3) of Regulation 16 without the prior consent of the Member State from which the PNR data were obtained, and

- (b) on that date, the PIU has not informed the PIU of the Member State concerned of the transfer,

the PNR data shall, on and after that date, be taken to have been transferred in accordance with *section 95(6)*^{#5}, and the provisions of this Part shall apply accordingly.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 66.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 84.]

[^{#3} This is a reference to a section proposed to be inserted by amendment no. 86.]

[^{#4} This is a reference to a section proposed to be inserted by amendment no. 83.]

[^{#5} This is a reference to a section proposed to be inserted by amendment no. 87.]

***95.** In page 59, between lines 10 and 11, to insert the following:

“Transitional provisions: requests by PIU for PNR data

103. (1) Where—

- (a) before the date of coming into operation of *section 74*^{#1}, a request is made by the PIU to the PIU of another Member State under paragraph (8) or (10) of Regulation 7, and
- (b) on that date, the data requested have not been transferred to the PIU by the PIU of the other Member State concerned,

the request shall, on and after that date, be taken to be—

- (i) in the case of a request under paragraph (8) of that Regulation, a request under *section 93(1)*^{#2}, and
- (ii) in the case of a request under paragraph (10) of that Regulation, a request under *section 93(4)*^{#2},

and the provisions of this Part shall apply accordingly.

(2) Where—

- (a) before the date of coming into operation of *section 74*^{#1}, a request is made by a competent authority to the PIU of another Member State under paragraph (9) of Regulation 7, and
- (b) on that date, the PNR data requested have not been transferred to the competent authority by the PIU of the Member State concerned,

the request shall, on and after that date, be taken to be a request under *section 93(3)*^{#2}, and the provisions of this Part shall apply accordingly.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 66.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 85.]

*96. In page 59, between lines 10 and 11, to insert the following:

“Transitional provisions: retention of PNR data

104. (1) PNR data that is, immediately before the date of coming into operation of *section 74*^{#1}, lawfully retained in a database of the PIU, may, on the coming into operation of that section, continue to be retained under *section 97*^{#2}, subject to the modifications that, in the case of data continued to be retained pursuant to this section—

(a) a reference in *section 97(1)(a)*^{#2} to an initial period of 6 months from the date of the transfer shall be taken to be a reference to the balance of an initial period of 6 months from the date of the transfer of the PNR data concerned to the PIU under the Regulations of 2018, and

(b) a reference in *section 97(1)(b)*^{#2} to a further period not exceeding 4 years and 6 months shall be taken to be a reference to the balance of a period, not exceeding 4 years and 6 months commencing on the date of the expiration of the initial period of 6 months from the date of the transfer of the PNR data under the Regulations of 2018.

(2) PNR data that is, immediately before the date of coming into operation of *section 74*^{#1}, lawfully retained by a competent authority, in accordance with Regulation 11 shall, on the coming into operation of that section, continue to be retained by that competent authority under *subsection (7) of section 97*^{#2}, subject to the modification that, in the case of data continued to be retained pursuant to this section, a reference in *paragraph (a) of that subsection* to a period of 5 years shall be taken to be a reference to the balance of the period of 5 years referred to in Regulation 11(3)(a).

(3) Where immediately before the date of coming into operation of *section 74*^{#1} the result of an assessment of passengers under Regulation 5(1)(a) has been retained for the purpose referred to in that provision, the PIU may, on and after that date, continue to retain that result under *subsection (4) of section 97*^{#2} for as long as is necessary for the purpose referred to in *paragraphs (a) or (b)*, as the case may be, of that subsection.

(4) Where the result of automated processing has been proven to be negative as referred to in Regulation 11(6) and that result is, immediately before the coming into operation of *section 74*^{#1}, retained by the PIU in accordance with that provision for a period of less than 6 months, that result may, on the coming into operation of that section, continue to be retained by the PIU under *section 97(5)*^{#2}—

(a) for the balance of that 6 month period, and

(b) for the purposes referred to in that subsection.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 66.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 89.]

***97.** In page 59, between lines 10 and 11, to insert the following:

“Transitional provisions: retention of documentation and records

- 105.** (1) Documentation maintained by the PIU under paragraph (1) of Regulation 12 immediately prior to the date of coming into operation of *section 74*^{#1} shall, on and after that date, continue to be maintained by the PIU in accordance with *section 98*^{#2}.
- (2) Records that are lawfully kept by the PIU under paragraph (2) of Regulation 12 immediately prior to the date of coming into operation of *section 74*^{#1} shall, on and after that date, be kept for the balance of the period of 5 years referred to in paragraph (4)(b) of that Regulation in accordance with *section 98*^{#2}, subject to the modification that, in the case of records continued to be kept pursuant to this section, a reference in *section 98(4)*^{#2} to a period of 5 years shall be taken to be a reference to the balance of the period of 5 years referred to in paragraph (4)(b) of Regulation 12.”.

[^{#1} This is a reference to a section proposed to be inserted by amendment no. 66.]

[^{#2} This is a reference to a section proposed to be inserted by amendment no. 90.]

98. In page 59, between lines 10 and 11, to insert the following:

“Declaration of intention of Oireachtas

71. It is declared and acknowledged by the Oireachtas that, in relation to all persons—

- (a) who have a relevant conviction or other determination, and
- (b) who would be entitled to a certificate of disregard under this Part if an application were made (regardless of whether such an application is in fact made)—
 - (i) that the conviction or other determination, and the prosecution and proceedings giving rise to it, were improperly discriminatory, contrary to human dignity, and an infringement of personal privacy and autonomy, and
 - (ii) that all such persons should be regarded generally as exonerated in respect of those convictions and determinations.”.

—Senators Laura Harmon, Nessa Cosgrove.

***99.** In page 60, to delete lines 20 and 21 and substitute the following:

“75. Schedule 5 to the Social Welfare Consolidation Act 2005 is amended in paragraph 1(4) by—

- (a) the substitution of “An Garda Síochána,” for “An Garda Síochána and the Defence Forces in respect of their own members,” and
- (b) the insertion, after “the Companies Registration Office,” of the following:

“the Courts Service,
the Defence Forces in respect of its own members,

the Director of Public Prosecutions,”.”.

***100.** In page 60, after line 32, to insert the following:

“Amendment of Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020

78. The Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 is amended—

(a) in section 11, by the substitution of the following subsection for subsection (3):

“(3) A direction under subsection (1) or (2) may include such ancillary or consequential directions as the court concerned considers appropriate.”,

(b) in section 20(2)—

(i) in paragraph (b), by the substitution of “in such manner as may be specified in the rules,” for “in such manner as may be specified in the rules, and”, and

(ii) by the insertion of the following paragraph after paragraph (b):

“(ba) in relation to the transmission of a document referred to in paragraph (b) or (c) of subsection (1), require that the identity of the person receiving such a document be verified, including by the provision of the personal public service number (also within the said meaning) issued to the person, in such manner as may be specified in the rules, and”,

and

(c) in section 26, by the substitution of the following subsection for subsection (3):

“(3) A direction under subsection (1) or (2) may include such ancillary or consequential directions as the court concerned considers appropriate.”.”.

***101.** In page 60, after line 32, to insert the following:

“Amendment of Criminal Justice (Perjury and Related Offences) Act 2021

79. The Criminal Justice (Perjury and Related Offences) Act 2021 is amended—

(a) in section 1—

(i) in subsection (1), by the insertion of the following definitions:

“ ‘Act of 2026’ means the *Criminal Law, Civil Law and Defence (Miscellaneous Provisions) Act 2026*;

‘section 73# statement of truth’ has the same meaning as it has in section 73# of the Act of 2026;”,

and

- (ii) in subsection (2), by the substitution of “Section 21(3) of the Act of 2020 and *section 73(3)* of the Act of 2026” for “Section 21(3) of the Act of 2020”,
- (b) in section 2—
 - (i) in subsection (1)—
 - (I) in paragraph (b), by the deletion of “or”,
 - (II) in paragraph (c), by the substitution of “section 21 of the Act of 2020, or” for “section 21 of the Act of 2020”, and
 - (III) by the insertion of the following paragraph after paragraph (c):
 - “(d) in a *section 73#* statement of truth made in place of an affidavit in accordance with *section 73#* of the Act of 2026,”,
 - and
 - (ii) in subsection (2), by the substitution of “paragraph (a), (b), (c) or (d)” for “paragraph (a), (b) or (c)”,
 - and
 - (c) in section 6(1), by the insertion of the following paragraph after paragraph (b):
 - “(ba) a *section 73#* statement of truth made in place of a statutory declaration in accordance with *section 73#* of the Act of 2026;”.’.”.

[#This is a reference to a section proposed to be inserted by amendment no. 62.]

***102.** In page 66, after line 20, to insert the following:

“SCHEDULE 2
PASSENGER NAME RECORD (PNR) DATA

1. PNR record locator
2. Date of reservation/issue of ticket
3. Date(s) of intended travel
4. Name(s)
5. Address and contact information (telephone number, email address
6. All forms of payment information, including billing address
7. Complete travel itinerary for specific PNR
8. Frequent flyer information
9. Travel agency/travel agent
10. Travel status of passenger, including confirmations, check in status, no-show or go-show information
11. Split/divided PNR information

12. General remarks (including all available information on unaccompanied minors under 18 years, such as name and gender of the minor, age, language(s) spoken, name and contact details of guardian on departure and relationship to the minor, name and contact details of guardian on arrival and relationship to the minor, departure and arrival agent)
13. Ticketing field information, including ticket number, date of ticket, issuance and one-way tickets, automated ticket fare quote fields
14. Seat number and other seat information
15. Code share information
16. All baggage information
17. Number and other names of travellers on the PNR
18. Any advance passenger information (API) data collected (including the type, number, country of issuance and expiry date of any identity document, nationality, family name, given name, gender, date of birth, airline, flight number, departure date, arrival date, departure port, arrival port, departure time and arrival time)
19. All historical changes to the PNR data listed in numbers 1 to 18.”.

***103.** In page 66, after line 20, to insert the following:

“SCHEDULE 3
SERIOUS CRIME

1. General

An offence under—

sections 2(1), (2), (3), (4) and (6) of the Criminal Law (Jurisdiction) Act 1976 (No. 14 of 1976) to the extent that the offence in the Schedule of that Act related to the alleged offence is one listed in *Schedule 3#* of this Act

section 11 of the Criminal Justice (Terrorist Offences) Act 2005 (No. 2 of 2005) to the extent that the offence in Part 1 or Part 2 of Schedule 6 of that Act related to the alleged offence is one listed in *Schedule 3#* of this Act

section 71 of the Criminal Justice Act 2006 (No. 26 of 2006) to the extent that it relates to the alleged offence of conspiracy to commit an offence listed in *Schedule 3#* of this Act and the offence is one for which a person may be punished by imprisonment for a term of 3 years or more

2. Participation in a criminal organisation

An offence under—

section 21 or 21A of the Offences against the State Act 1939 (No. 13 of 1939)

section 6 of the Offences Against the State (Amendment) Act 1998 (No. 39

of 1998)

section 72 or 73 of the Criminal Justice Act 2006 (No. 26 of 2006)

3. Trafficking in human beings

An offence under—

section 9 of the Criminal Law (Sexual Offences) Act 1993 (No. 20 of 1993)

section 3 of the Child Trafficking and Pornography Act 1998 (No. 22 of 1998)

section 2, 4 or 5 of the Criminal Law (Human Trafficking) Act 2008 (No. 8 of 2008)

section 5 of the Criminal Justice (Public Order) Act 2011 (No. 5 of 2011)

section 38 of the Domestic Violence Act 2018 (No. 6 of 2018)

section 6, 7, 8 or 14 (other than subsection (8)(c) of that section) of the Criminal Justice (Smuggling of Persons) Act 2021 (No. 42 of 2021)

4. Sexual exploitation of children and child pornography

An offence under—

section 6 of the Criminal Law (Sexual Offences) Act 1993 (No. 20 of 1993)

section 2, 3, 4 or 5 of the Sexual Offences (Jurisdiction) Act 1996 (No. 38 of 1996) in so far as it relates to any offence specified in the Schedule of that Act that carries a maximum term of imprisonment of at least 3 years

section 3, 4, 4A, 5, 5A or 6 of the Child Trafficking and Pornography Act 1998 (No. 22 of 1998)

section 249(1) of the Children Act 2001 (No. 24 of 2001)

section 176(2) of the Criminal Justice Act 2006 (No. 26 of 2006)

section 2, 3 or 3A of the Criminal Law (Sexual Offences) Act 2006 (No. 15 of 2006)

section 3, 4, 5, 6, 7, 8 or 42 of the Criminal Law (Sexual Offences) Act 2017 (No. 2 of 2017)

5. Illicit trafficking in narcotic drugs and psychotropic substances

An offence under—

section 3 (other than in the case of a first or second offence as provided for by section 27(1)), 15, 15A, 15B, 17, 19 or 21 (in so far as it relates to any offence specified in section 27 of that Act that carries a maximum term of imprisonment of at least 3 years) of the Misuse of Drugs Act 1977 (No. 12 of 1977)

section 34 of the Criminal Justice Act 1994 (No. 15 of 1994)

section 3(1), 3(2), 4, 5(1), 8(6) or 10(8) of the Criminal Justice (Psychoactive Substances) Act 2010 (No. 22 of 2010)

section 14 of the Customs Act 2015 (No. 18 of 2015)

6. Illicit trafficking in weapons, munitions and explosives

An offence under—

section 4, 5, 31, 40, 43 or 81 of the Explosives Act 1875 (38 & 39 Vict.) c. 17

section 2, 3, 4(1) or 5 of the Explosive Substances Act 1883 (46 & 47 Vict.) c. 3

section 2, 15, 16 or 17 of the Firearms Act 1925 (No. 17 of 1925)

section 27A or 27B of the Firearms Act 1964 (No. 1 of 1964)

section 4 of the Firearms (Proofing) Act 1968 (No. 20 of 1968)

section 7, 8 or 12 of the Firearms and Offensive Weapons Act 1990 (No. 12 of 1990)

section 3 of the Chemical Weapons Act 1997 (No. 28 of 1997)

section 6 or 9 of the Cluster Munitions and Anti-Personnel Mines Act 2008 (No. 20 of 2008)

section 14 of the Customs Act 2015 (No. 18 of 2015)

7. Corruption

An offence under—

section 5, 6, 7, 9 or 10 of the Criminal Justice (Corruption Offences) Act 2018 (No. 9 of 2018)

section 42A of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

8. Fraud, including that against the financial interests of the European Union

Conspiracy to defraud

An offence under—

section 119 of the Registration of Title Act 1964 (No. 16 of 1964)

section 2 of the Criminal Damage Act 1991 (No. 31 of 1991)

section 1078 of the Taxes Consolidation Act 1997 (No. 39 of 1997)

section 102 (other than subsections (1) and (2) of that section) of the Finance Act 1999 (No. 2 of 1999)

section 4, 6, 7, 9, 10, 11, 25, 26, 27, 28, 29, 42, 42A, 42B(3), 45 (in so far as it relates to an offence under section 42, 42A or 42B(3)) or 51 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

section 119 of the Finance Act 2001 (No. 7 of 2001)

section 6 of the Competition Act 2002 (No. 14 of 2002) being an offence involving an agreement, decision or concerted practice to which section 8(1) applies

subsection (3) or (4) of section 78 and section 78A of the Finance Act 2005 (No. 5 of 2005)

section 251, 252 (other than an offence under section 252(1)(d)), 253, 254, 255, 262 or 262A of the Social Welfare Consolidation Act 2005 (No. 26 of 2005)

section 17 or 19 of the Criminal Justice Act 2011 (No. 22 of 2011)

section 82, 87(5), 101, 102(3), 102(5), 286, 294, 324, 330, 387, 388, 389, 406, 507, 716, 717, 718, 719, 720(1), 721, 722, 767(4), 776, 876, 877, 878, 1148, 1200 or 1260 of the Companies Act 2014 (No. 38 of 2014)

section 14 of the Customs Act 2015 (No. 18 of 2015)

section 15A of the Assisted Decision-Making (Capacity) Act 2015 (No. 64 of 2015)

section 5 of the Markets in Financial Instruments Act 2018 (No. 25 of 2018)

section 26(1) of the Garda Síochána (Compensation) Act 2022 (No. 33 of 2022)

9. Laundering of the proceeds of crime and counterfeiting of currency, including the euro

An offence under—

section 33, 34, 35, 36, 37 or 38 (in so far as it relates to an offence under section 33, 34, 35, 36 or 37) of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

section 7, 8, 9, 10, 30A, 30B, 33A(3), 36A, 38, 38A, 39, 40C, 54, 57, 57A, 59, 108A or 109A of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010)

10. Computer-related crime / cybercrime

An offence under—

section 2, 3 or 4 of the Criminal Damage Act 1991 (No. 31 of 1991)

section 9 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

section 2, 3, 4, 5 or 6 of the Criminal Justice (Offences Relating to Information Systems) Act 2017 (No. 11 of 2017)

section 8 of the Criminal Law (Sexual Offences) Act 2017 (No. 2 of 2017)

11. Environmental crime, including illicit trafficking in endangered animal species and in

endangered plant species and varieties

An offence under—

section 3 or 4 of the Local Government (Water Pollution) Act 1977 (No. 1 of 1977)

section 32 (other than an offence under subsection (6) where the offence consists of a contravention of regulations under subsection (4) of that section) of the Waste Management Act 1996 (No. 10 of 1996)

section 71B of the Animal Health and Welfare Act 2013 (No. 15 of 2013)

12. Facilitation of unauthorised entry and residence

An offence under—

section 6, 7, 8 or 14 (other than subsection (8)(c) of that section) of the Criminal Justice (Smuggling of Persons) Act 2021 (No. 42 of 2021)

13. Murder, grievous bodily injury

Murder

Manslaughter

An offence under—

section 4, in relation to conspiracy to murder, of the Offences against the Person Act 1861 (24 & 25 Vict.) c.100

section 53 of the Road Traffic Act 1961 (No. 24 of 1961) where the alleged contravention of subsection (1) causes death or serious bodily harm to another person

section 4(a) and (b) of the Criminal Justice Act 1990 (No. 16 of 1990)

section 3A, 4, 4A, 5, 6, 7(1), 8, 12, 13, 13A or 14 of the Non-Fatal Offences against the Person Act 1997 (No. 26 of 1997)

section 2 or 3 of the Criminal Justice (United Nations Convention Against Torture) Act 2000 (No. 11 of 2000)

section 2, 3 or 4 of the Criminal Justice (Female Genital Mutilation) Act 2012 (No. 11 of 2012)

14. Illicit trade in human organs and tissue

An offence under section 2 or 4 of the Criminal Law (Human Trafficking) Act 2008 (No. 8 of 2008)

15. Kidnapping, illegal restraint and hostage-taking

An offence under—

section 15, 16 or 17 of the Non-Fatal Offences against the Person Act 1997 (No. 26 of 1997)

section 9 of the Criminal Justice (Terrorist Offences) Act 2005 (No. 2 of 2005)

section 38 of the Domestic Violence Act 2018 (No. 6 of 2018)

16. Organised and armed robbery

An offence under—

section 26 of the Firearms Act 1964 (No. 1 of 1964)

section 4, 12, 13, 14, 15, 17 or 18 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

section 71A, 72 or 73 of the Criminal Justice Act 2006 (No. 26 of 2006)

17. Illicit trafficking in cultural goods, including antiques and works of art

An offence under section 4, 12, 13, 14, 15, 17 or 18 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

18. Counterfeiting and piracy of products

An offence under—

section 92 of the Trade Marks Act 1996 (No. 6 of 1996)

section 140 or 141 of the Copyright and Related Rights Act 2000 (No. 28 of 2000)

section 33, 34, 35, 36, 37 or 38 (in so far as it relates to an offence under section 33, 34, 35, 36 or 37) of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

19. Forgery of administrative documents and trafficking therein

An offence under section 25, 26, 27, 28 or 29 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

20. Illicit trafficking in hormonal substances and other growth promoters

An offence under—

Regulation 34 of the European Communities (Control of Animal Remedies and their Residues) Regulations 2009 (S. I. No. 183 of 2009)

21. Illicit trafficking in nuclear or radioactive materials

An offence under—

section 38 of the Radiological Protection Act 1991 (No. 9 of 1991)

section 2 of the Biological Weapons Act 2011 (No. 13 of 2011)

22. Rape

An offence under—

section 2, 3 or 4 of the Criminal Law (Rape) (Amendment) Act 1990 (No. 32

of 1990)

section 22 of the Sex Offenders Act 2001 (No. 18 of 2001)

section 21 or 22 of the Criminal Law (Sexual Offences) Act 2017 (No. 2 of 2017)

23. Crimes within the jurisdiction of the International Criminal Court

An offence under section 7, 8 or 11 of the International Criminal Court Act 2006 (No. 30 of 2006)

24. Unlawful seizure of aircraft/ships

An offence under—

section 11 of the Air Navigation and Transport Act 1973 (No. 29 of 1973)

section 3 of the Air Navigation and Transport Act 1975 (No. 9 of 1975)

section 10 of the Criminal Law (Jurisdiction) Act 1976 (No. 14 of 1976)

section 2 of the Maritime Security Act 2004 (No. 29 of 2004)

25. Sabotage

An offence under—

section 1 of the Treason Act 1939 (No. 10 of 1939)

section 2 of the Criminal Damage Act 1991 (No. 31 of 1991)

section 166, 167 or 168 of the Electoral Reform Act 2022 (No. 30 of 2022)

section 24, 25(8), 26(2) or 29(6) of the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 (No. 4 of 2023)

26. Trafficking in stolen vehicles

An offence under—

section 112(2) (inserted by section 3 of the Road Traffic (Amendment) Act 1984 (No. 16 of 1984)) of the Road Traffic Act 1961 (No. 24 of 1961)

section 10 of the Criminal Law (Jurisdiction) Act 1976 (No. 14 of 1976)

section 4, 14, 17 or 18 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

27. Industrial espionage

An offence under—

section 4, 9, or 15 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001)

section 2, 3, 4, 5 or 6 of the Criminal Justice (Offences Relating to Information Systems) Act 2017 (No. 11 of 2017)".

[#This is a reference to the Schedule proposed to be inserted by this amendment.]

***104.** In page 66, after line 20, to insert the following:

“SCHEDULE 4

Section 81(1)#

COMPETENT AUTHORITIES

Minister for Justice, Home Affairs and Migration

An Garda Síochána

Office of the Revenue Commissioners

Minister for Social Protection

Permanent Defence Force”.

[#This is a reference to a section proposed to be inserted by amendment no.73.]