



Bille an Gharda Síochána (Cumhachtaí), 2026
Garda Síochána (Powers) Bill 2026

Meabhrán Miniúcháin agus Airgeadais
Explanatory and Financial Memorandum



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EXPLANATORY AND FINANCIAL MEMORANDUM

The main purpose of the Bill is:

The main purpose of the Bill is to provide a modern, clear, and comprehensive statutory framework for Garda stop-and-search powers and the execution of search warrants. In doing so, it updates and aligns existing legislation, including the Criminal Law Act 1976 and the Criminal Justice Act 2007, and repeals the Criminal Justice (Miscellaneous Provisions) Act 1997, ensuring that the statutory framework is coherent, consistent, and responsive to evolving operational and legal requirements.

The Bill establishes enhanced procedures for the application, issuance, and execution of search warrants, including provisions tailored specifically to electronic devices and information systems, and mechanisms for addressing claims of privilege. These measures confer powers on the Gardaí to conduct search and seizure operations efficiently, while embedding robust safeguards designed to ensure transparency, accountability, and respect for constitutional rights.

In modernising and rationalising existing search-related powers, the Bill addresses the implications of recent Supreme Court decisions, including *Corcoran* and *Quirke*, thereby ensuring that statutory powers are exercised in accordance with judicial interpretation. It also strengthens procedural protections to support compliance with EU obligations concerning the rights of suspected and accused persons, reinforcing fairness, legal certainty, and the integrity of search operations.

By providing this updated framework, the Bill seeks to balance operational effectiveness with the protection of individual rights, underpinning public confidence in the lawful exercise of Garda powers.

Provisions of the Bill:

Part 1

Preliminary and General

Section 1- Short title and commencement

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

Section 2- Interpretation

Section 2 is a standard interpretative provision that defines key terms used throughout the Bill. It includes an “*electronic device*,” defined broadly to encompass any device capable of creating, storing or transmitting digital data, and an “*information system*,” described in similarly wide terms to cover interconnected devices that automatically process data along with the data associated with their operation.

The definitions of “*capture*”, “*digital forensic examination*” and “*privilege screening*” set out different levels of access to material or data, with the latter specifically applying to the review and handling of material or data that may be legally privileged.

Section 3-Repeal and transitional provision

Section 3 provides that section 10 of the Criminal Justice (Miscellaneous Provisions) Act 1997 is repealed. It also provides transitional arrangements to ensure continuity when the new search warrant framework comes into force. Search warrants issued under the repealed section 10 remain valid for their original duration, with the provisions of the repealed section continuing to apply to those warrants.

Section 4- Saver

This section provides that the powers given to a member of An Garda Síochána under this Act are additional to any powers they already have under other enactment or rule of law.

Section 5- Orders and regulations

Section 5 provides for the Minister for Justice to make regulations that are necessary for the operation of the Act and provides that any order or regulation made under the Act will be laid before the Houses of the Oireachtas.

Section 6- Expenses

Section 6 is a standard provision dealing with expenses incurred in the administration of the Act.

Part 2

Stop and Search

Section 7- Definitions (*Part 2*)

Section 7 defines “*relevant article*” broadly to cover items obtained unlawfully, prohibited substances, weapons, and other objects the possession of which is restricted or illegal under various statutes. The definition is designed to encompass a wide range of items that may be relevant in the context of searches.

Section 8- Power to require provision of information

Section 8 establishes the power for a member to require a person to give their name, address and date of birth where the member has reasonable grounds to suspect the person has committed an offence or is in possession of a relevant article.

Section 9- Power to stop and search for possession of relevant article

Section 9 empowers a member to stop and search a person or vehicle where they reasonably suspect they possess a relevant article. The power can be exercised in a public place or any place where the member has a right to be at the time.

Section 10- Power to search vehicles and persons in vehicles for evidence of offence

Section 10 confers a power for a member to stop and search a vehicle and any persons in it where they reasonably suspect that an offence specified in *Schedule 1*, which includes specified serious or terrorist offences, has been, is being or is about to be committed, for evidence of that offence. This section also specifies that a member has the power to require the vehicle to stop for the purpose of carrying out the search,

Section 11- Search under section 9 or section 10: additional provisions

Section 11 provides additional provisions for searches under sections 9 or 10. These include empowering Gardaí to require a person to attend a Garda custody facility for the purpose of a search, and to impose a range of obligations during vehicle searches, such as restricting the removal of items, directing that the vehicle be moved to a suitable location and requiring the driver to remain with the vehicle. If a person is required not to remove any items from the vehicle, the search relating to that requirement must be conducted as soon as practicable. A driver who does not remain with the vehicle when required is treated as failing to comply with that requirement.

Section 12- Right to be informed of the reason for a search under section 9 or 10

Section 12 requires that before carrying out a search under sections 9 or 10, a member must inform the person or driver, as applicable, in simple and accessible language, that a search is about to take place, the reasons for the search, and the specific provision under which the search is being carried out.

Section 13- Record to be made of a search under section 9 or 10

Section 13 requires that a member conducting a search under section 9 or 10 must make a record of the search, including details such as the person's identifying details, the time and date, the reasons for the search, the legal provision relied upon and the outcome. This also empowers the person or driver to request a copy of the record from a superintendent, who must provide it as soon as practicable.

Section 14- Use of reasonable force (*Part 2*)

Section 14 provides that, when acting in the course of his or her duty under any provision of this Part, a member may use such force as is reasonably necessary to carry out his or her duty. This allows a member to compel a person to stop a vehicle or to enter, open, or inspect a vehicle or container where authorised under this part. The standard of force applied is the same as that recognised in section 18 of the Non-Fatal Offences Against the Person Act 1997.

Section 15- Offences (*Part 2*)

Section 15 sets out that a person who gives false identifying details in relation to a requirement under section 8, or who obstructs a member exercising powers under this Part, or fails to comply with a lawful requirement under this Part, shall be guilty of an offence. Such a person is liable on summary conviction to a class A fine or up to 12 months' imprisonment, or on indictment to a fine of up to €30,000 or up to 5 years' imprisonment.

Part 3

Search of Premises

Section 16- Definitions (*Part 3*)

Section 16 defines terms relevant to Part 3 on search warrants. Of particular importance, “*authorised member*” in relation to a search warrant means the applicant for the search and “*search warrant*” means a warrant issued under section 18.

Section 17- Application for search warrant

Section 17 enables a member of An Garda Síochána to apply to a District Court judge for a search warrant where they have reasonable grounds to suspect that evidence of an indictable offence, or certain summary offences, may be found at a particular place. An application under Section 17 requires a statement of grounds on which the application is made, address of the proposed place of search and other relevant information considered relevant to the granting of the application. An application may include a request to search an electronic device or information system, and where privileged material is anticipated, this should be specified, in line with the Supreme Court decision in *Corcoran*.

Section 18- Issue of search warrant: general provisions

Section 18 authorises a judge of the District Court, on application, to issue a search warrant for a specified place if satisfied that there are reasonable grounds to suspect that evidence of an indictable offence or a specified summary offence may be found there, and that issuing the warrant is necessary and proportionate. The warrant allows an authorised member, accompanied by such members of An Garda Síochána or other persons as considered necessary, to enter and search the place of search, search any person present, require persons to provide their name and address, request assistance to access material, and require the production of books, documents, or records under the person’s control. The warrant also authorises the seizure of material believed to be evidence of an offence, the making and retaining copies of seized materials, and the use of reasonable force if necessary. Powers under the warrant may be exercised at any time during its validity, which is generally 30 days for offences under the Misuse of Drugs Act 1977 and 7 days for other offences.

Section 19 - Search of electronic device or information system under search warrant

Section 19 provides that the warrant may authorise the member to do such of the following as is deemed necessary and proportionate by the issuing judge: to seize an electronic device or information system (EDIS); to operate, or cause to be operated, any EDIS found at the place; to capture data from an EDIS reasonably believed to contain evidence; to conduct a privilege screening or digital forensic examination (DFE) of data from an EDIS; to require a person to give passwords, pin codes, etc to access the EDIS or otherwise enable examination of the information. Authorisation may condition privilege screening or DFE on a section 29 authorisation. Where an EDIS is reasonably believed to contain evidence and the application did not request access, the warrant shall permit seizure and capture, but privilege screening or DFE may only be conducted pursuant to a section 29 authorisation.

Section 20 - Search warrant may authorise examination of material subject to privilege referred to in section 2(2)(b) in certain circumstances

Section 20 provides an application may include a request to seize, capture, and examine, material that is apprehended to be the subject of privilege referred to in *section 2(2)(b)*, where necessary to protect the life or personal safety of a person or critical infrastructure.

Section 21 - Right to be informed of search pursuant to search warrant

Section 21 sets out that an authorised member shall, before or as soon as practicable after entering a place under a search warrant, show a copy of the warrant to the occupier or person in control of the property and provide a notice explaining the powers under the warrant, the rights and obligations of the occupier or owner of any seized property, the seizure procedure, the use of reasonable force if necessary, and the procedures under sections 24 and 25. If the occupier or person in control is not present at the place of search and is therefore not shown the warrant or provided with a copy of the notice, they may request to view a copy of the warrant, to receive a copy of the notice, or both, from a superintendent within 7 days, and the superintendent must comply as soon as practicable. Where the occupier or person in control is absent or refuses the warrant or notice, the authorised member shall leave a notification, and An Garda Síochána must inform them of their entitlement if contacted.

Section 22 - Exercise of powers under search warrant

Section 22 provides authorised members with extended existing powers of seizure under a search warrant, allowing members to take material that contains seizable material mixed with material that cannot be seized. This includes circumstances where potentially privileged and non-privileged material are comprised together, and it is not reasonably practicable on site to separate them or determine what may lawfully be taken.

Section 23 - Treatment of material seized under search warrant

Section 23 sets out the rules for handling material seized under a search warrant, requiring confidential treatment and the return or deletion of material when it is no longer required, except where doing so could compromise national security, prejudice a criminal investigation or criminal proceedings in the State, or jeopardise the safety of a person.

Section 24 -Determination as to privilege

Section 24 provides a framework for the handling of material that may be subject to privilege. A “*relevant person*” is defined under this section as a person who is compelled to disclose information or whose possession is seized, or in the case of data captured in accordance with this part, the person in whose possession the EDIS concerned was at the time of search.

This section applies where material has been the subject of a privilege screening or examination, is apprehended to be privileged, and an authorised member wishes to access it as evidence of or relating to an offence. In such cases, the relevant person may, and otherwise the authorised member shall, within 14 days after disclosure, seize, or complete a privilege screening, apply to the High Court for a determination as to whether the material is privileged. Late applications are permitted where the court is satisfied that they were made without undue delay after the authorised member first became aware that the material was likely to include privileged material.

Applications under this section must be made by motion on notice and may, if directed by the court, be heard in private. The relevant person must provide a written statement identifying material they consider

privileged. Pending a final determination, the court may issue interim or interlocutory directions, including preserving the material in a secure manner and appointing a suitably qualified and independent person to examine the material and prepare a report for the court.

The court shall determine whether the material is privileged and may, where appropriate, direct that the authorised member is authorised to examine the material. If the court determines that material is privileged and does not allow examination, the authorised member must return the material to the relevant person or, if the material was captured electronically under a search warrant, delete it and notify the relevant person. The Minister may, by regulation, set requirements for appointment of persons assisting the court under this section.

Section 25 - Agreement by parties as to privilege

Section 25 sets out that within the 14-day period, the member and the relevant person may consult for a specified ‘suspensive period’ with the purpose of reaching an agreement as to privilege. During this period, neither party may seek a determination from the High Court, and any existing privilege application under section 24(2) is suspended.

The suspensive period lasts for the duration specified in the undertaking or until an agreement is reached. The suspensive period continues until either the specified time expires or an agreement is reached, whichever occurs first. Either party may terminate the agreement before the end of the suspensive period and, if the undertaking is terminated or the suspensive period expires without an agreement, the suspension on determination proceedings ceases to apply, and the 14-day period continues, excluding the time of the suspensive period. Any agreement should specify in writing the material that the parties agree is not privileged. Once an agreement is reached, the specified material is deemed not privileged, the relevant person cannot seek a determination regarding it, the member may access it without a determination, and it may be retained and used in criminal proceedings.

Section 26 - Extension of period of validity of search warrant

Section 26 authorises the applicant, during the period of validity of a search warrant, to apply to a District Court judge for an order extending its validity. The judge may grant an extension of up to 7 days if satisfied it is necessary and proportionate, with a maximum of 3 extensions per warrant. Nothing in this section precludes a judge from issuing a fresh warrant under section 17 in relation to the same place of search. Typically drug offence search warrants have a validity period of 30 days, with 7 days for all other search warrants.

Section 27 - Application for authorisation in urgent circumstances

Section 27 provides that a member of An Garda Síochána may apply to a superior officer, who must be independent of the investigation, for an authorisation to exercise specified powers at a particular place when there are reasonable grounds to suspect that evidence of an indictable offence or a summary offence listed in *Schedule 2* may be found. The application must include the grounds for suspicion and, if electronic devices or information systems are involved, a statement explaining why relevant data may be present.

The specified powers are those set out in section 18(2) in relation to a place and section 19(1) in relation to electronic devices or information systems, in relation to electronic devices, provided any privilege screening or forensic examination is carried out only in accordance with section 29.

A superior officer may issue the authorisation if satisfied it is necessary, proportionate, and urgent. The authorisation, which lasts 24 hours and must be addressed to the member who applied for it. Sections 21 to 25, which apply to search warrants, also apply to authorisations under this section with necessary modifications. The superior officer must record in writing the grounds for issuing the authorisation at the time or as soon as reasonably practicable.

Section 28 - Provision of information and obstruction (*Part 3*)

Section 28 authorises a member, acting in the course of his or her duty under any provision of this Part or under the authority of a search warrant, to require a person they reasonably suspect of committing or having committed an offence to provide their name, address, and date of birth. A person who gives false or misleading information, obstructs a member, or fails to comply with a reasonable requirement commits an offence and is liable on summary conviction to a class A fine or up to 12 months' imprisonment, or on indictment to a fine of up to €30,000 or up to 5 years' imprisonment, or both.

Part 4

Application for access to electronic device or information system

Section 29 - Application for access to electronic device or information system

Section 29 permits a member of An Garda Síochána to apply to a District Court judge for an authorisation where there are reasonable grounds to suspect that evidence of an indictable offence or certain summary offences may be found on a specified electronic device or information system that has been lawfully seized under Part 2 or Part 3. Applications must be made in writing or electronically, on oath, and include the grounds for the application, a description of the device or system, any relevant information regarding privileged material, and other details the applicant considers relevant.

A judge may request further information and may issue an authorisation if satisfied that there are reasonable grounds that the authorisation is necessary and proportionate. An authorisation may permit the authorised member to capture data and to carry out either a digital forensic examination, or a privilege screening of the data. It may also permit the member to require persons with access to the device or system to provide passwords, biometric data, or other information necessary to examine the data.

While acting under this section or an authorisation, a member may require a person suspected of committing an offence to provide their name, address, and date of birth. Providing false information, obstructing a member, or failing to comply with a reasonable requirement under this section constitutes an offence.

Part 5

Persons in Garda Custody

Section 30 - Interpretation (*Part 5*)

This section sets out the main definitions necessary for the right to consult and have a solicitor present, at interview, while in Garda Custody, and "Electronic recording" to facilitate the electronic recording of interviews. This is a move from handwritten interview notes.

Section 31 - Access to legal practitioner

Provision is made for the right to consult with a legal practitioner prior to interview and the right to have a solicitor attend at interview. The custody officer will inform the person in custody of what the right entails, and how it may be exercised. Where a person in custody waives one or both of these rights, the custody officer will inform him or her of the implications, and that they are not precluded from availing of the rights, at a later time.

Section 32 - Entitlement to consult with legal practitioner

Further to section 31, a person in custody has the right to consult privately with a solicitor, either in person or by telephone, prior to a garda interview.

Section 33 - Entitlement of legal practitioner of person in custody to be present at interview

The section provides for the solicitor of a person in custody to be present at their garda interview/s.

Section 34 - Interview of person in custody

Section 34 provides that a person in custody may generally be interviewed, only after they have consulted a legal practitioner, and where they are represented, only if that legal practitioner is present.

These requirements do not apply if the person has waived their right to consult a legal practitioner, or has consented to be interviewed without their legal practitioner present, provided such waiver or consent has not been revoked. In certain circumstances, an interview may proceed without legal consultation or without the presence of a legal practitioner if a member not below the rank of inspector authorises it. Such authorisation may be given only where the inspector reasonably believes that delaying questioning would pose serious risks, as specified in section 34(4). The authorising member must be independent of the investigation.

Any such authorisation must be notified to the person and recorded in the custody record.

Section 35 - Waiver, consent etc. by person in custody

Section 35 sets out how a person in custody, other than a child, can waive entitlements or consent to an interview without a legal representative, including deemed waivers or consents and the ability to revoke them, with all such actions recorded in the custody record.

Section 36 - Application of Part to other persons

Section 36 provides that this Part also applies, with necessary modifications, to any person in Garda custody who is not covered by section 31(1).

Section 37 - Custody record

Section 37 provides for the custody record to be maintained in electronic form, a move away from the current practice of handwritten format.

Section 38 - Electronic Recording of Interviews

Section 38 provides that where a person is being interviewed for serious offences as set out in *Schedule 3*, then the interview must be recorded electronically. All other interviews may be recorded electronically, as is the current practice. This section will eliminate the need for contemporaneous notes of interviews and shorten the time interviews will take. Where the recording equipment fails, the interview may proceed with a written note as before.

Part 6

Miscellaneous Provisions

Section 39 - Obligation to administer caution

Section 39 sets out the circumstances in which a Garda must administer a caution, including on arrest, before an interview, or when charging a person. It requires that the caution be given strictly in its prescribed form, though statements made before it can be given are still admissible. A caution must then be administered as soon as possible.

Section 40 - Amendment of section 9 of Criminal Law Act 1976

Section 40 amends Section 9 of the Criminal Law Act 1976 by adding a reference to misconduct by members of An Garda Síochána, ensuring the section explicitly applies to Garda misconduct and supporting accountability.

Section 41 - Amendment of section 50 of Criminal Justice Act 2007

Section 41 updates section 50(1) of the 2007 Act by revising wording and expanding the list of offences to which the section applies.

Financial Implications

This legislation does not place any obligations on An Garda Síochána to expend funds. It merely provides them with powers to engage in certain activities, should funding be agreed. Before An Garda Síochána, can evaluate the costs associated with any new expenditure, they first need to be granted the related power.

There is no increase in the cost of device examination from an equipment, licencing or personnel perspective. An Garda Síochána do not pay on a per device basis, examination is conducted on equipment that is licenced an annual basis, that does not take into account the number of examinations conducted.

Currently, there are additional costings in Garda time, relating to procedure to obtain warrants etc. The Bill clarifies and standardises, how search warrants are to be sought and the prior approval of the Courts to access, electronic devices seized, will speed up the pre and post search warrant process, thus yielding savings in Garda and Court time.

Electronic recording of interviews will result in shorter garda interviews, and savings in Garda time, with the removal of the requirement for a garda to make a contemporaneous handwritten note, of every interview questions asked and answers given, in every interview. The costs associated with acquiring and storing magnetic tapes for Garda interviews, will be eliminated, and greatly assist AGS, who are finding it extremely difficult and costly to source these tapes.

It is not envisaged that there would be any significant expenditure in 2026 and approval from the Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation will be sought before there is any commitment to outlay monies.

However, it is not possible to be specific on costs until a replacement electronic recording system has been selected and sent for tender.

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

