

DÁIL ÉIREANN

AN ROGHCHOISTE UM DHLÍ AGUS CEART, COSAINT AGUS COMHIONANNAS

SELECT COMMITTEE ON JUSTICE, DEFENCE AND EQUALITY

Dé Céadaoin, 12 Márta 2014

Wednesday, 12 March 2014

The Select Committee met at 9.30 a.m.

MEMBERS PRESENT:

Deputy Niall Collins,	Deputy Finian McGrath,
Deputy Marcella Corcoran Kennedy,	Deputy Jonathan O'Brien,*
Deputy Seán Kenny,	Deputy Alan Shatter (Minister for Justice and Equality).

* In the absence of Deputy Pádraig Mac Lochlainn.

DEPUTY DAVID STANTON IN THE CHAIR.

Criminal Justice (Forensic Evidence and DNA Database System) Bill 2013: Committee Stage

Chairman: This meeting has been convened to consider the Criminal Justice (Forensic Evidence and DNA Database System) Bill 2013. Apologies have been received from Deputies Anne Ferris and Pádraig Mac Lochlainn. Deputy Jonathan O'Brien who is very welcome is attending in substitution for Deputy Pádraig Mac Lochlainn. I welcome the Minister for Justice and Equality, Deputy Alan Shatter, and his officials.

I request that all mobile phones be switched off completely. If a mobile phone interrupts proceedings, I will ask the member to withdraw from the committee room to turn it off outside. I have received complaints from the broadcasting unit and others that they cannot pick up what members are saying because of telephone interruptions. I ask members to turn off their mobile phones completely or else withdraw from the room if they must use one.

Sections 1 to 32, inclusive, agreed to.

SECTION 33

Deputy Jonathan O'Brien: I move amendment No. 1:

In page 52, between lines 21 and 22, to insert the following:

“(2) Any conviction covered by the terms of the Good Friday Agreement 1998 is excluded for consideration under this section.”.

I am deputising for Deputy Pádraig Mac Lochlainn who cannot make the meeting. I believe this issue which relates to political prisoners who come under the terms of the Good Friday Agreement was discussed on Second Stage. The Bill allows for DNA samples to be taken from former offenders within the past ten years, which should mean that any political prisoner under the Good Friday Agreement will be excluded. However, the Bill states sentences must be expired. As there are a number of political prisoners under the Good Friday Agreement who are out on licence, technically their sentences have not expired, even though they have been released under the Agreement. This is an issue which needs to be addressed in the Bill.

Minister for Justice and Equality (Deputy Alan Shatter): Before I respond specifically to the amendment, I thank Deputies for their support for the Bill and their fortitude in dealing with what is already a very large Bill, to which I propose to add some additional sections. I also inform the select committee that I will bring forward some further amendments on Report Stage to deal with historical samples and DNA profiles, easing the burden on the Forensic Science Laboratory and improving continuity in the chain of evidence for forensic exhibits in criminal trials.

Turning to amendment No. 1, the former offenders regime in sections 33 and 34 is not a blanket provision covering all persons who fall within the ambit of the definition of former offenders in section 33; rather, the Garda Síochána will have to identify individuals who are covered by section 33, in respect of whom a garda not below the rank of superintendent is satisfied that it is in the interest of the protection of society and desirable for the purpose of assisting the Garda Síochána in the investigation of offences to have under section 34 a sample taken from the person for the purpose of generating and uploading that person's DNA profile to the DNA

database. That is the first hurdle to be jumped before a request is made to a person to provide a sample. It is not automatically an issue of obtaining samples.

There are a number of further safeguards. In the event that the person fails to comply with the request, the Garda Síochána may apply to the District Court for authorisation to send a notice to the person requiring him or her to attend for the taking of a sample. Even then if the person fails to co-operate, he or she cannot be forced to provide a sample, although the Bill provides that he or she may be prosecuted.

The former offender provisions are also subject to the ten year rule contained in section 33(3). Broadly, under that rule, a former offender may only be requested to provide a sample up to ten years after the sentence for the offence concerned has expired. The likelihood is that most former offenders covered by the Good Friday Agreement will be covered by this ten year rule given the passage of time since their release. That is the position from a practical standpoint. From a strictly legal standpoint, it would not be possible to make the amendment the Deputy proposes. In the first instance, it would result in the unequal treatment of two similarly situated individuals and as a result might be unconstitutional. Even if the proposal did not suffer from a possible constitutional impediment, it would be extremely difficult to ground such a provision as there is no statutory provision covering the release of prisoners under the Good Friday Agreement in this jurisdiction.

I understand where the Deputy is coming from, but his concerns are misplaced. I am satisfied that few, if any, of the cohort of former offenders about whom he is concerned are covered by the provisions of sections 33 and 34. Even if they are, they cannot be compelled to provide a DNA sample. I will not, therefore, accept the amendment the Deputy has proposed.

Deputy Jonathan O'Brien: I understand what the Minister has said. Deputy Pádraig Mac Lochlainn would like to focus on the ten year rule. The Minister has said the amendment will create an unequal situation between prisoners, but is it also the case that by not excluding prisoners who are out on licence as a result of the Good Friday Agreement, he is saying it is likely most of these individuals will be covered by the ten year rule but not all of them? Even in admitting this, some prisoners are being treated differently from others released under the Agreement. Some may come under the rule, but others may be outside it.

Deputy Alan Shatter: We are treating all individuals sentenced to terms of imprisonment equally. If ten years have elapsed since someone was imprisoned, this ceases to be relevant to him or her. All those who have served terms of imprisonment will be treated equally in that context. There is no legislation under the Good Friday Agreement relating to the circumstances I have described. Measures have been implemented and complied with as agreed, but I cannot take this any further beyond the response I have given which sets out clearly the different steps that can arise under this legislation and the circumstances in which protection is provided. I do not see this being an issue of particular concern in the context of the Bill's provisions, but I cannot distinguish in it between individuals who have served prison sentences and been released for less than ten years and others. There has to be a reason for someone seeking to obtain the DNA information. It cannot simply be a case of "Whoops! There is some and I want it." Specific provisions will apply to An Garda Síochána in seeking to ensure the appropriate steps are taken. A series of in-built protections apply in this regard. If someone falls into the category about which the Deputy is concerned, there are substantial reasons for concern that he or she is engaged in criminality and there is a reason to seek a DNA profile, in these circumstances someone should not be excluded from seeking it. The provision deals with issues that are in the public interest, treats people equally and tries to ensure safeguards are in place in order that the

possibility of obtaining a DNA profile is not abused in any circumstance. There have to be solid reasons for seeking it and, ultimately, if the individual who is requested to co-operate declines to do so, there can be a prosecution. However, in the context of the prosecution, clearly the court would have to be satisfied that it was reasonable for the Garda to seek the profile in the circumstances prescribed by the Bill.

I understand the Deputy's concerns, but the amendment is not necessary. Clearly, there are technical, legal reasons as to why it is not feasible to accept it.

Deputy Jonathan O'Brien: The Minister said the ten year rule applied from when somebody left prison. Is it ten years since somebody was released from prison or, as the Bill states, ten years since the sentence expired?

Deputy Alan Shatter: I am sorry; the Deputy is correct. It is ten years since the expiry of the sentence.

Amendment put and declared lost.

Section 33 agreed to.

Sections 34 to 95, inclusive, agreed to.

SECTION 96

Deputy Alan Shatter: I move amendment No. 2:

In page 111, line 14, to delete "The Minister may, by order" and substitute "The Minister may by order".

This amendment corrects the punctuation in the first sentence in the section in respect of the making of ministerial orders.

Amendment agreed to.

Section 96, as amended, agreed to.

Section 97 agreed to.

NEW SECTION

Chairman: Acceptance of amendment No. 3 involves the deletion of section 98. This is a new section.

Deputy Alan Shatter: I move amendment No. 3:

In page 112, between lines 2 and 3, to insert the following:

"98. (1) If, in relation to an intimate sample or a non-intimate sample taken from a person, the retention period under *section 76* is extended on one or more occasions under *section 77*, the Commissioner shall, upon the expiration of that period (as so extended), cause—

(a) the person from whom the sample concerned was taken, or

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- (b) if that person is a protected person or a child, a parent or guardian of the person or child, as the case may be, to be informed by notice in writing as soon as may be after the sample concerned has been destroyed under this Part of its destruction.
- (2) If, in relation to the DNA profile of a person that is entered in the reference index of the DNA Database System—
- (a) the retention period under *section 80* is extended on one or more occasions under *section 81*, or
- (b) a judge of the District Court makes an order under *section 93(1)* authorising the retention of the DNA profile in that System for such period as he or she considers appropriate, the Commissioner shall, upon the expiration of the period (as so extended) concerned, cause—
- (i) the person to whom the DNA profile relates, or
- (ii) if that person is a protected person or a child, a parent or guardian of the person or child, as the case may be, to be informed by notice in writing as soon as may be after the removal of the DNA profile from that System of its removal.
- (3) The Commissioner shall, in relation to a sample taken under *section 27, 29, 44, 48, 49 or 50*, cause—
- (a) the person from whom the sample was taken if he or she applied for or requested—
- (i) the destruction of the sample, or
- (ii) the destruction, or removal from the DNA Database System, of his or her DNA profile, or both,
- and
- (b) if appropriate, any other person who applied for or requested—
- (i) the destruction of the sample, or
- (ii) the destruction, or such removal, of the DNA profile, or both on behalf of the person referred to in *paragraph (a)* or the deceased person from whose body the sample was taken, as may be appropriate,
- to be informed by notice in writing as soon as may be after the sample has been destroyed under this Part of its destruction, or the destruction of the DNA profile in respect of the person of its destruction or its removal from the DNA Database System under this Part of its removal from that System, or both.
- (4) The Commissioner shall inform, or cause to be informed, by notice in writing a person from whom a sample was taken under *section 41, 42 or 45* as soon as may be after the sample has been destroyed under this Part of its destruction, or the removal of the DNA profile in respect of the person from the DNA Database System under this Part of its removal from that System, or both.
- (5) The Director of FSI shall inform, or cause to be informed, by notice in writing a

person from whom a sample was taken under *section 43* or *46* as soon as may be after the sample has been destroyed under this Part of its destruction, or the removal of the DNA profile in respect of the person from the DNA Database System under this Part of its removal from that System, or both.”.

Section 98 reflects the destruction arrangements contained in the 2010 Bill rather than those contained in the Bill, as drafted. To correct this, the section is being deleted and recast. It is proposed to confirm in writing for specific categories of persons that their DNA samples or profiles have been destroyed or removed from the DNA database. It is proposed under the new subsections (1) and (2) that those persons in respect of whom the retention period for samples or profiles is extended will be informed in writing of the ultimate destruction or removal of their samples or profiles, should that take place. This requirement will apply in all cases of extended retention, whether the person concerned appealed against such retention, and will act as an additional check or safeguard for this category of person.

It is also proposed under the new subsection (3) that certain other categories of persons be informed in writing by the Garda Commissioner of the destruction of their samples or profiles. The samples concerned must have been taken under sections 27, 29, 44 or 48 to 50, inclusive, and the specific categories of persons concerned are volunteers, persons whose samples were taken for elimination purposes, missing persons or their blood relatives or unknown deceased persons. The provision has already been specifically made in the Bill for application to be made by or on behalf of such categories of persons to have their sample destroyed or DNA profile destroyed or removed from the database. It makes sense, therefore, for it to be subsequently confirmed to such persons that their requests have been complied with.

Subsections (4) and (5) provide for written confirmation of destruction or removal to be given in respect of samples taken under sections 41 to 46, inclusive, or profiles generated from them. The samples and profiles in these cases specifically relate to those taken from Garda personnel, staff of the forensic science laboratory or other personnel, solely for illumination purposes. These provisions already exist in the current section 98 and subsections (2) and (3) are effectively just being renumbered.

Amendment agreed to.

Section 98 deleted.

Section 99 agreed to.

NEW SECTIONS

Chairman: Amendments Nos. 4 to 12, inclusive, are related and will be discussed together.

Deputy Alan Shatter: I move amendment No. 4:

In page 112, after line 33, to insert the following:

“ **100.** (1) Where a person is arrested for the purpose of being charged with a relevant offence, a member of the Garda Síochána may take, or cause to be taken, the fingerprints and palm prints of the person in a Garda Síochána station before he or she is charged with the relevant offence concerned.

(2) The power conferred by *subsection (1)* shall not be exercised unless a member of

the Garda Síochána not below the rank of sergeant authorises it.

(3) The provisions of subsection (1A) of section 6 and section 6A of the Act of 1984 shall apply to fingerprints and palm prints taken pursuant to this section as they apply to

fingerprints and palm prints taken pursuant to the said section 6.

(4) A person who obstructs or attempts to obstruct a member of the Garda Síochána acting under the power conferred by *subsection (1)* shall be guilty of an offence and

shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

(5) The power conferred by this section is without prejudice to any other power exercisable by a member of the Garda Síochána to take, or cause to be taken, the

fingerprints and palm prints of a person.

(6) Sections 8 to 8I of the Act of 1984 shall, with the following and any other necessary modifications, apply to fingerprints and palm prints taken from a person pursuant to

this section as they apply to fingerprints and palm prints taken from a person pursuant to section 6 or 6A of that Act:

(a) references to an offence to which section 4 of the Act of 1984 applies shall be construed as references to a relevant offence;

(b) references to section 6 or 6A of the Act of 1984 shall be construed as references to this section; and

(c) references to the detention of the person under section 4 of the Act of 1984 shall be construed as references to the person being arrested for the purposes of being

charged with a relevant offence under this section.”.

A new Part 11 is being inserted into the Bill with a number of provisions relating to fingerprints, palm prints and photographs. The majority of Part 11 involves the insertion of new provisions amending section 8 of the Criminal Justice Act 1984, which currently deals with the retention and destruction of such identification evidence. The destruction arrangements for fingerprints, palm prints and photographs contained in section 8 are being aligned with those for DNA profiles contained in the Bill as published. In effect, the current process, which requires a person to apply to have his or her fingerprints destroyed, is being replaced with one that presumes on the destruction of the fingerprints within 12 months, unless the person is convicted of an offence. The remaining sections in this new Part arise from the need to apply to Part 11 the proposed new destruction arrangements to other relevant statutory provisions or from the relocation of those provisions relating to fingerprints, palm prints and photographs that are already in the Bill, so that all those provisions are together in the Bill. That will help make the provisions more readily understandable.

I propose to deal first with the most substantial amendment in this group - amendment No. 7 - on which many of the other amendments in this Part hang. The purpose of this amendment is to provide for the alignment of the retention and destruction arrangements for fingerprints, palm prints and photographs with those for samples and profiles already in the Bill. Depu-

ties will recall that the retention arrangements provided for in the Bill in relation to samples and profiles were framed in light of a judgment of the European Court of Human Rights in the case of *S & Marper v. the UK*. That case concerned a challenge to the indefinite retention regime in England and Wales that applied to the samples, profiles and fingerprints of persons who were not subsequently proceeded against or convicted. The court held that the “blanket and indiscriminate” nature of the arrangements failed to strike a fair balance between public and private interests, were a disproportionate interference with the right to privacy and could not be regarded as necessary in a democratic society. It is also likely that the same considerations apply to photographs, though these were not specifically dealt with in the Marper case.

Currently fingerprints, palm prints and photographs may be retained indefinitely, subject to persons who are not proceeded against within 12 months, are acquitted or against whom proceedings are dismissed or discontinued, having the right to apply to the Garda Commissioner for destruction. Such persons also have the right to appeal to the District Court and Circuit Court in the event of a refusal to destroy the identification evidence concerned.

I have decided that in all the circumstances, and taking particular account of the jurisprudence of the European Court of Human Rights, our default position on the retention of forensic evidence should be in favour of destruction, with the Garda Commissioner enabled to authorise retention, on a year-by-year basis, where a statutory test is met. This approach is consistent with my overarching aim in this Bill, outlined on Second Stage, to strike an appropriate balance between the use of identification evidence for the investigation of crime and protecting individuals’ personal rights.

Section 103 relates to the destruction of fingerprints, palm prints and photographs and substitutes a number of new sections for section 8 of the Criminal Justice Act 1984. The original section 8 is being replaced and new sections 8A to 8I are being added to that Act. The new section 8 provides for the automatic destruction of fingerprints, palm prints and photographs in certain circumstances, such as where the persons concerned are not proceeded against within 12 months, or are acquitted. These destruction arrangements are aligned with those already provided for in respect of biological samples and DNA profiles under sections 76 and 80, respectively, which the committee has already accepted.

Section 8A provides for the extension of the retention period under section 8 for fingerprints, palm prints and photographs in certain circumstances. This section broadly follows similar provisions already contained in the Bill in relation to the extension of the retention period for biological samples and DNA profiles. In cases where the Garda Commissioner determines that certain circumstances apply, having regard to specified matters, he may authorise the extension of the retention period for fingerprints, palm prints and photographs by a period of 12 months, or subsequent such periods where the statutory test continues to be met. In such cases, the Commissioner is required to inform the person concerned in writing that the authorisation has been given and of the person’s right to appeal that decision to the District Court. The Commissioner is required to give effect to the decision of that court. These are substantially better arrangements that exist within our current law in this area.

Section 8B provides for the destruction of fingerprints, palm prints and photographs in exceptional circumstances. These exceptional circumstances are the following: it is established after a detention during which the identification evidence was taken that no offence was in fact committed; that the identification evidence was taken on the basis of mistaken identity; or a court determines that the detention of the person from whom the fingerprint, palm print or photograph was taken was unlawful. Section 8C specifies the meaning of certain terms in this

new part. These relate to the dismissal of charges, quashing of convictions and determination of proceedings. It is a factual, interpretative provision intended to ensure clarity in this context.

Section 8D deals with the circumstances in which persons are to be informed of the destruction of their fingerprint, palm print or photograph. The section provides that written confirmation of destruction must be provided to persons in respect of whom the retention period for their fingerprints, palm prints or photographs was extended. This requirement follows the same approach taken for biological samples and DNA profiles under the revised section 98 that was discussed earlier, and will apply in all cases of extended retention, whether the person concerned appealed against such retention or not.

Section 8E provides that sections 8A, 8B, 8D, and 8H shall apply to the Garda Síochána Ombudsman Commission as well as the Garda Commissioner. This mirrors the approach already taken in respect of biological samples and DNA profiles in the Bill, and ensures that the same retention and destruction arrangements apply to all identification evidence taken by the Ombudsman commission in the course of its investigations. Section 98 of the Garda Síochána Act 2005 already provides that designated officers of the commission have the same powers as the Garda Síochána in respect of the taking of fingerprints, palm prints and photographs when investigating complaints that appear to involve offences. Section 8F allows the Garda Commissioner to delegate any of his or her functions under sections 8A, 8B, 8D and 8H. This section replicates and inserts into the Criminal Justice Act 1984 the powers of delegation currently provided in section 138 of the Bill, thus ensuring that they also apply to the Commissioner's powers in relation to fingerprints, palm prints and photographs.

Section 8G sets out the manner in which notices to be given to persons under sections 8A or 8D are required to be served. Section 8H provides that where a person is required under sections 8 to 8B to destroy a fingerprint, palm print or photograph, they shall ensure that every copy thereof and every record relating to these forms of identification evidence, insofar as they identify the person from whom they were taken, be destroyed. Section 8I provides that the retention, destruction and related arrangements contained in sections 8 to 8H shall apply to fingerprints, palm prints and photographs taken before or after the commencement of this section. This means that such identification evidence taken under existing statutory provisions prior to commencement of this section will be covered by the new retention and destruction arrangements. This ensures equality of treatment of persons who had their fingerprints, palm prints or photographs taken under statute before or after the commencement of this legislation.

I turn to the other amendments relating to fingerprints, palm prints and photographs. Now that I have dealt with the key amendment in the group, I will return to amendment No. 4 which essentially moves section 154 of the Bill into Part 11 as section 100. This section deals with the power of An Garda Síochána to take fingerprints and palm prints of persons arrested for the purpose of charge. At present such identification evidence can only be taken where persons are detained following arrest or conviction. A new subsection (6) has been added in order to apply the destruction arrangements set out in new sections being inserted into section 8 of the Criminal Justice Act 1984 which I outlined earlier.

Amendment No. 5 inserts section 101 which amends section 3(1) of the 1984 Act, inserting definitions of "Commissioner" and "photograph" into this interpretation section. These words are required to be defined as they are referred to in amendments now being made to the 1984 Act in relation to the destruction of fingerprints, palm prints and photographs.

Amendment No. 6 moves section 155 of the Bill into Part 11 as section 102.

Turning to amendments Nos. 8 to 12, inclusive, there is currently a range of legislative provisions that permit An Garda Síochána to take fingerprints, palm prints and photographs in certain situations and in respect of certain offences. It is necessary to amend these provisions, with necessary modifications, so as ensure the new retention and destruction arrangements apply across these provisions in a consistent and coherent manner.

Amendment No. 8 inserts section 104 which amends section 9 of the Criminal Justice Act 1984 in order to apply the new retention and destruction arrangements to fingerprints, palm prints and photographs taken from, or of, persons in custody under section 30 of the Offences against the State Act 1939. It also incorporates section 156 of the Bill which is being moved to Part 11. This applies certain other provisions of the 1984 Act to persons detained under the 1939 Offences against the State Act.

Amendment No. 9 inserts section 105 which amends section 28 of the Criminal Justice Act 1984 in order to apply the new retention and destruction arrangements in respect of fingerprints, palm prints or photographs taken from, or of, persons dealt with under the Probation of Offenders Act 1907, or convicted. Amendment No. 10 inserts section 106 which amends section 5 of the Criminal Justice (Drug Trafficking) Act 1996 so as to apply the new procedures for the retention and destruction of fingerprints, palm prints and photographs taken from, or of, persons detained under section 2 of the 1996 Act.

Amendment No. 11 inserts section 107 which amends section 12 of the Criminal Justice Act 2006 which relates to the power of An Garda Síochána to take photographs from arrested persons. Section 107 applies the new retention and destruction arrangements to such photographs.

Amendment No. 12 inserts section 108 which amends section 52 of the Criminal Justice Act 2007 so as to apply the new retention and destruction arrangements to fingerprints, palm prints and photographs taken from, or of, persons detained for offences relating to firearms and explosives.

In brief, it can be said this brings into a new part of the Bill very important measures relating to fingerprints, palm prints and photographs, making them accessible in one coherent Act rather than across several Acts and where there is a consistent approach to the retention of records, whether it relates to DNA or other identification material. It also provides for a greater balance of protection in the area of personal rights and, importantly, reflects the jurisprudence of the European Court of Justice. It is of substantial importance that we ensure our legislation is balanced in this context and reflects decisions made by the court.

I hope members will welcome the extensive amendments contained in Part 11 which are of particular importance to this area of law and provide the correct balance between assisting gardaí in undertaking investigations and accessing important identification information and, on the other side, providing greater safeguards for personal rights and provisions that will ensure information it is not necessary to retain can be destroyed.

Deputy Finian McGrath: I welcome what the Minister has said because it is important to have balance and safeguards. I support the amendments.

Chairman: Are there circumstances in which fingerprints and palm prints can be taken without a person's permission?

Deputy Alan Shatter: There are certain specific legislative provisions which enable gardaí to require that people co-operate in the taking of fingerprints in a range of serious offences that

are specified.

Chairman: If somebody is under the influence of alcohol or other substances, he or she may not be able to make a coherent decision. Has this been considered, for example, where somebody who is arrested, brought to a Garda station and asked for fingerprints starts to act up or become aggressive under the influence of some substance?

Deputy Alan Shatter: There is a broad range of circumstances in which gardaí can require an individual to co-operate in the taking of fingerprints, just as this legislation deals with circumstances in which an individual can be required to co-operate in the taking of a DNA sample. If someone is under the influence of drink or drugs in circumstances where the legislation applies, it does not remove his or her obligation to co-operate. In circumstances, for example, where there is a widespread investigation into some matter and members of the general public are invited to co-operate in assisting to provide samples – this would be more relevant to DNA samples than fingerprints – they cannot be compelled to do so. This is often done to eliminate relevant individuals. It has, however, been part of our law for some time that in a broad range of circumstances an individual can be required to provide fingerprints. If that provision was not in place, it would provide an easy avenue for individuals who have committed crimes to avoid facilitating Garda access to crucial information. Provisions for fingerprinting in this regard have been part of the law for decades and are not unusual.

Deputy Marcella Corcoran Kennedy: If a crime is of such severity that the evidence should be retained for future reference, is there flexibility to do this?

Deputy Alan Shatter: There are circumstances in which it can be specified that information should be retained, but it has to fit within the provisions prescribed in the legislation. It cannot be a question of retaining it because one wants to retain it. There have to be serious reasons for retaining information beyond the expiry periods.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 5:

In page 112, after line 33, to insert the following:

“Amendment of section 3(1) of Act of 1984

101. Section 3(1) of the Act of 1984 is amended by the insertion of the following definitions:

“ ‘Commissioner’ means the Commissioner of the Garda Síochána;

‘photograph’ includes a negative or any other image howsoever produced of a photograph;”.”

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 6:

In page 112, after line 33, to insert the following:

“Amendment of section 6A of Act of 1984

102. Section 6A of the Act of 1984 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) Without prejudice to the generality of section 6, a member of the Garda Síochána and the member or members of the Garda Síochána assisting that member may, where—

(a) a person is detained under section 4, and

(b) he or she fails or refuses to allow his or her photograph or fingerprints and palm prints to be taken pursuant to section 6, use such force as is reasonably considered necessary—

(i) to take the photograph or fingerprints and palm prints, or

(ii) to prevent them from being lost, damaged or otherwise being made imperfect, or both.”,

(b) in subsection (3), by the substitution of “Where it is intended to exercise the power conferred by subsection (1), one of the members of the Garda Síochána concerned shall inform the person” for “Where a member of the Garda Síochána intends to exercise a power conferred by subsection (1), he or she shall inform the person”,

(c) in subsection (4), by the substitution of “a member of the Garda Síochána not below the rank of inspector and that member shall determine the number of members of the Garda Síochána that is reasonably necessary for the purposes of subsection (1)” for “a member of the Garda Síochána not below the rank of inspector”, and

(d) in subsection (5), by the substitution of “recorded by electronic or similar means” for “video-recorded”.”.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 7:

In page 112, after line 33, to insert the following:

“Destruction of fingerprints, palm prints and photographs

103. The Act of 1984 is amended by the substitution of the following sections for section 8:

“Destruction of fingerprints, palm prints and photographs

8. (1) A fingerprint, palm print or photograph of a person taken in pursuance of the powers conferred by section 6 or 6A shall, if not previously destroyed, be destroyed in accordance with this section and sections 8A to 8I.

(2) Subject to section 8A, a fingerprint, palm print or photograph of a person referred to in subsection (1) shall, if not previously destroyed, be destroyed in any of the following circumstances not later than the expiration of the period of 3 months from the date on which such circumstances first apply to the person:

(a) where proceedings for an offence to which section 4 applies—

(i) are not instituted against the person within the period of 12 months from the date of the taking of the fingerprint, palm print or photograph concerned, and the failure to institute such proceedings within that period is not due to the fact that he or she has absconded or cannot be found, or

(ii) have been instituted and—

(I) the person is acquitted of the offence,

(II) the charge against the person in respect of the offence is dismissed under section 4E of the Criminal Procedure Act 1967, or

(III) the proceedings for the offence are discontinued;

(b) the person is the subject of an order under section 1(1) of the Probation of Offenders Act 1907 in respect of the offence concerned in connection with which the fingerprint, palm print or photograph concerned was taken and he or she has not been convicted of an offence to which section 4 applies during the period of 3 years from the making of the order under that Act;

(c) subject to subsection (3), the person is the subject of an order under section 1(2) of the Probation of Offenders Act 1907 in respect of the offence concerned in connection with which the fingerprint, palm print or photograph concerned was taken and he or she has not been convicted of an offence to which section 4 applies during the period of 3 years from the making of the order under that Act;

(d) the person's conviction for the offence concerned in connection with which the fingerprint, palm print or photograph concerned was taken is quashed;

(e) the person's conviction for the offence concerned in connection with which the fingerprint, palm print or photograph concerned was taken is declared to be a miscarriage of justice under section 2 of the Criminal Procedure Act 1993.

(3) Subsection (2)(c) shall not apply to an order under section 1(2) of the Probation of Offenders Act 1907 discharged on the appeal of a person against conviction for the offence concerned if on appeal his or her conviction is affirmed.

(4) For the purposes of this section the "retention period", in relation to a fingerprint, palm print or photograph, means the period from the taking of the fingerprint, palm print or photograph, as the case may be, from a person to the latest date for the destruction of that fingerprint, palm print or photograph under subsection (2).

Extension of retention period under section 8 for fingerprints, palm prints and photographs in certain circumstances

8A. (1) A fingerprint, palm print or photograph taken from or of a person shall not be destroyed under section 8 in any case in which the Commissioner determines that any of the following circumstances apply:

(a) a decision has not been taken whether or not to institute proceedings against the person for the offence concerned in connection with which the fingerprint, palm

print or photograph concerned was taken;

(b) the investigation of that offence has not been concluded;

(c) the fingerprint, palm print or photograph concerned, and the results of any examination or analysis of it, are likely to be required for the prosecution of an offence connected with the event, incident or circumstances the subject of the offence concerned—

(i) for use as evidence in such proceedings,

(ii) for disclosure to, or use by, a defendant in such proceedings, or

(iii) to support the admissibility of any evidence on which the prosecution may seek to rely in such proceedings;

(d) having regard to the matters specified in subsection (2), the Commissioner believes it is necessary to retain the fingerprint, palm print or photograph concerned in connection with the investigation of the offence concerned taking account of all the circumstances of the case and the reasons why—

(i) proceedings for that offence have not been instituted against the person, or

(ii) if such proceedings have been instituted against the person, they were determined without he or she being convicted of the offence concerned or he or she being the subject of an order under section 1(1) of the Probation of Offenders Act 1907;

(e) there are reasonable grounds for believing that the fingerprint, palm print or photograph of the person may be required in connection with the investigation of an offence to which section 4 applies, other than the offence in connection with which the fingerprint, palm print or photograph was taken, which the person is suspected of having committed.

(2) The matters referred to in subsection (1)(d) to which the Commissioner shall have regard are the following:

(a) whether the person concerned has any previous conviction for an offence similar in nature or gravity to the offence concerned in connection with which the fingerprint, palm print or photograph concerned was taken from or of him or her;

(b) the nature and seriousness of that offence;

(c) whether any alleged victim, or any intended victim, of that offence was—

(i) a child,

(ii) a vulnerable person, or

(iii) associated with the person, at the time of the commission, or alleged commission, of that offence; and

(d) any other matter that the Commissioner considers appropriate for the purposes of the determination.

(3) If, in relation to a fingerprint, palm print or photograph taken from or of a person, the Commissioner determines that one of the paragraphs of subsection (1) applies, then, he or she may, during the retention period referred to in section 8, give an authorisation to extend that period by a period of 12 months.

(4) The Commissioner may, while an authorisation under subsection (3) or this subsection, as may be appropriate, is still in force, give an authorisation under this subsection to extend the retention period on a second or further occasion for a period of 12 months commencing on the expiration of the period of 12 months to which the authorisation previously given relates if he or she determines that one of the paragraphs of subsection (1) applies.

(5) Whenever the Commissioner gives an authorisation under subsection (3) or (4), he or she shall, in relation to a fingerprint, palm print or photograph taken from or of a person that is the subject of the authorisation, cause the person to be informed by notice in writing that the authorisation has been given under subsection (3) or (4), as may be appropriate, the date on which that authorisation was given and of the right of appeal under subsection (6).

(6) The person to whom the authorisation concerned relates (in this section called ‘the appellant’) may, within the period of 3 months from the date of the notice under subsection (5) concerned, appeal to the District Court against that authorisation.

(7) An appeal under subsection (6) shall—

- (a) be on notice to the Commissioner, and
- (b) be heard otherwise than in public.

(8) If, on an appeal under subsection (6), the District Court—

- (a) confirms the authorisation concerned, or
- (b) allows the appeal, the Commissioner shall give effect to the decision of the Court.

(9) The jurisdiction conferred on the District Court by this section shall be exercised by a judge of the District Court who is assigned to the district court district in which the appellant ordinarily resides or, if the appellant does not ordinarily reside in the State, by a judge of the District Court who is assigned to the district court district in which the fingerprint, palm print or photograph concerned was taken.

(10) The District Court may make such order as to costs as it considers appropriate on an appeal under subsection (6).

(11) In this section—

‘child’ means a person who has not attained the age of 18 years;

‘civil partner’ has the meaning it has in section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘cohabitant’, in relation to a person, means another person who is neither mar-

ried to the person nor a civil partner of the person who is living with the person as a husband or wife, or as a civil partner, of the person;

‘vulnerable person’ means a person, other than a child, whose capacity to guard himself or herself against violence, exploitation or abuse, whether physical, sexual or emotional, by another person is significantly impaired through—

- (a) a physical disability, illness or injury,
- (b) a disorder of the mind, whether as a result of mental illness or dementia, or
- (c) an intellectual disability.

(12) For the purposes of this section a person shall be regarded as associated with another person if—

- (a) he or she is a spouse or a former spouse of the person,
- (b) he or she is a civil partner or a former civil partner of the person,
- (c) he or she is a cohabitant or a former cohabitant of the person,
- (d) he or she is a relative of the person, or
- (e) he or she has or has had an intimate personal relationship with the person for a significant period of time.

(13) Nothing in this section shall—

- (a) prevent or restrict the exercise of powers conferred by section 6 or 6A, or
- (b) pending the conclusion of proceedings under this section, prevent or restrict the use of the fingerprint, palm print or photograph concerned for the purposes of—
 - (i) this Act,
 - (ii) a criminal investigation, or
 - (iii) other proceedings.

Destruction of fingerprints, palm prints and photographs in exceptional circumstances

8B. (1) Notwithstanding sections 8 and 8A, if the Commissioner is satisfied that exceptional circumstances exist that justify the destruction of a fingerprint, palm print or photograph of a person, the fingerprint, palm print or photograph concerned shall be destroyed as soon as practicable after the application of those circumstances in relation to that fingerprint, palm print or photograph becomes known.

(2) The exceptional circumstances referred to in subsection (1) are the following:

- (a) it is established, at any time after the detention of the person concerned under section 4 for the purposes of the investigation of an offence to which that section applies during which the fingerprint, palm print or photograph concerned was taken, that no such offence was committed;

(b) it is established that the detention of the person concerned under section 4 for the purposes of the investigation of an offence to which that section applies during which the fingerprint, palm print or photograph concerned was taken was on the basis of the mistaken identity of the person concerned as the perpetrator of that offence; or

(c) it is determined by a court that the detention of the person concerned under section 4 for the purposes of the investigation of an offence to which that section applies during which the fingerprint, palm print or photograph concerned was taken was unlawful.

Dismissal of charges, quashing of convictions and determination of proceedings

8C. (1) For the purposes of section 8, a charge against a person in respect of an offence to which section 4 applies shall be regarded as dismissed when—

- (a) the time for bringing an appeal against the dismissal has expired,
- (b) any such appeal has been withdrawn or abandoned, or
- (c) on any such appeal, the dismissal is upheld.

(2) In sections 8 and 8A, references to a conviction of a person for an offence to which section 4 applies shall be construed as including references to a conviction of the person for such an offence after a retrial for that offence.

(3) In section 8, a reference to a conviction of a person for an offence to which section 4 applies being quashed shall, subject to subsection (4), be construed as a reference to where a court hearing an appeal against the conviction makes an order quashing the conviction and, if the court is the Court of Criminal Appeal, either—

- (a) it does not order the person to be re-tried for the offence concerned, or
- (b) it does not substitute for the verdict a verdict of guilty of another offence that is an offence to which section 4 applies.

(4) A conviction of a person for an offence to which section 4 applies shall not be regarded as quashed for the purposes of section 8 if an appeal is contemplated, or taken, under section 23 of the Criminal Procedure Act 2010 or, on hearing the appeal, the Supreme Court quashes the acquittal of the person or reverses the decision of the Court of Criminal Appeal, as the case may be, and orders the person to be re-tried for the offence.

(5) In section 8A, references to the proceedings in respect of an offence being determined shall be construed as references to where those proceedings are finally determined (including any appeal, whether by way of case stated or otherwise, rehearing or retrial).

Circumstances in which person to be informed of destruction of fingerprint, palm print or photograph

8D. If, in relation to a fingerprint, palm print or photograph taken from or of a person under section 6 or 6A, the retention period under section 8 is extended on one or more occasions under section 8A, the Commissioner shall, upon the expiration of that period (as so extended), cause the person from or of whom the fingerprint, palm print or photograph was taken to be informed by notice in writing as soon as may be after the

fingerprint, palm print or photograph has been destroyed of its destruction.

Application of certain sections to Garda Síochána Ombudsman Commission

8E. The references in sections 8A, 8B, 8D and 8H to the Commissioner shall, for the purposes of the application of those sections to the Garda Síochána Ombudsman Commission, be construed as references to the Garda Síochána Ombudsman Commission.

Delegation of functions of Commissioner under certain sections

8F. (1) The Commissioner may, in writing, delegate any of his or her functions under sections 8A, 8B, 8D and 8H to—

(a) members of the Garda Síochána specified by rank or name, or

(b) members of the civilian staff of the Garda Síochána by grade, position, name or otherwise.

(2) A delegation under this section may—

(a) relate to the performance of a function either generally or in a particular case or class of case or in respect of a particular matter,

(b) be made subject to conditions or restrictions, and

(c) be revoked or varied by the Commissioner at any time.

(3) The delegation of a function under this section does not preclude the Commissioner from performing the function.

(4) Where the functions of the Commissioner under a provision of sections 8A, 8B, 8D and 8H are delegated to a person, any references in that provision to the Commissioner shall be construed as references to that person.

(5) An act or thing done by a person pursuant to a delegation under this section has the same force and effect as if done by the Commissioner.

Service of notices

8G. A notice that is required to be sent or given to a person under section 8A or 8D may be sent or given to the person in one of the following ways:

(a) by delivering it to the person or his or her solicitor;

(b) by addressing it to the person and leaving it at the address at which he or she ordinarily resides or, in a case in which an address for service has been furnished, at that address or by addressing it to his or her solicitor and leaving it at the solicitor's office;

(c) by sending it to the person by post in a prepaid registered letter to the address at which he or she ordinarily resides or, in a case in which an address for service has been furnished, to that address or to his or her solicitor at the solicitor's office.

Records

8H. (1) Subject to subsection (2), a person who is required under sections 8 to 8B to destroy, or cause to be destroyed, a fingerprint, palm print or photograph shall ensure that the fingerprint, palm print or photograph, every copy thereof and every record relating to the fingerprint, palm print or photograph insofar as it identifies the person from or of whom the fingerprint, palm print or photograph has been taken, are destroyed.

(2) Subsection (1) shall operate in a manner that permits the Commissioner to retain such records as may be required by him or her to show that section 8D has been complied with.

(3) In this section ‘record’, in relation to a fingerprint, palm print or photograph, includes a copy of a record.

Application of sections 8 to 8H

8I. Sections 8 to 8H shall apply to a fingerprint, palm print or photograph of a person taken in pursuance of the powers conferred by section 6 or 6A whether taken before or after the commencement of this section.”.”.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 8:

In page 112, after line 33, to insert the following:

“Amendment of section 9 of Act of 1984

104. Section 9 of the Act of 1984 is amended by—

(a) the substitution of “Sections 5, 6A, 18, 19 and 19A, subsections (8), (8A) and (8B) of section 4 and subsections (1A), (2) and (3) of section 6” for “Sections 4(8), 4(8A), 4(8B), 5, 6(2), 6(3), 6A, 18, 19 and 19A”,

(b) the designation of that section (as amended by paragraph (a)) as subsection (1), and

(c) the addition of the following subsection:

“(2) Sections 8 to 8I shall, with the following and any other necessary modifications, apply to fingerprints, palm prints and photographs, as may be appropriate, taken from or of a person pursuant to section 30 of the Act of 1939 or section 7 of the Criminal Law Act 1976 as they apply to fingerprints, palm prints and photographs taken from or of a person pursuant to section 6 or 6A:

(a) references to an offence to which section 4 applies shall be construed as references to an offence to which section 4 applies or an offence in connection with which a person may be arrested and detained under section 30 of the Act of 1939;

(b) references to section 6 or 6A shall be construed as references to section 30 of the Act of 1939 and section 7 of the Criminal Law Act 1976; and

(c) references to the detention of the person under section 4 shall be con-

strued as references to the detention of the person under section 30 of the Act of 1939.”.”.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 9:

In page 112, after line 33, to insert the following:

“Amendment of section 28 of Act of 1984

105. Section 28 of the Act of 1984 is amended by the substitution of the following subsection for subsection (3):

“(3) Sections 8 to 8I shall, with the following and any other necessary modifications, apply to fingerprints, palm prints or photographs taken from or of a person pursuant to this section as they apply to fingerprints, palm prints or photographs taken from or of a person pursuant to section 6 or 6A:

(a) references to an offence to which section 4 applies shall be construed as references to an indictable offence;

(b) references to section 6 or 6A shall be construed as references to this section; and

(c) references to the detention of the person under section 4 shall be construed as references to the person being at a place, or attending at a Garda Síochána station, for the purpose of having his or her fingerprints, palm prints or photograph taken by a member of the Garda Síochána.”.”.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 10:

In page 112, after line 33, to insert the following:

“Amendment of section 5 of Act of 1996

106. Section 5 of the Act of 1996 is amended by—

(a) the substitution of “Sections 5, 6A, 18, 19 and 19A, subsections (4), (7), (8), (8A), (8B) and (11) of section 4 and subsections (1) to (4) of section 6 of the Act of 1984” for “Sections 4(4), 4(7), 4(8), 4(8A), 4(8B), 4(11), 5, 6(1) to (4), 6A, 8, 18, 19 and 19A of the Act of 1984”,

(b) the designation of that section (as amended by paragraph (a)) as subsection (1),and

(c) the addition of the following subsection:

“(2) Sections 8 to 8I of the Act of 1984 shall, with the following and any other necessary modifications, apply to fingerprints, palm prints and photographs taken from or of a person detained under section 2 as they apply to fingerprints, palm prints and photographs taken from or of a person detained under section 4 of the Act of 1984:

(a) references to an offence to which section 4 of the Act of 1984 applies shall be construed as references to an offence to which section 4 of the Act of 1984 applies or a drug trafficking offence; and

(b) references to the detention of the person under section 4 of the Act of 1984 shall be construed as references to the detention of the person under section 2.”.”.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No.11:

In page 112, after line 33, to insert the following:

“Amendment of section 12 of Criminal Justice Act 2006

107. Section 12 of the Criminal Justice Act 2006 is amended by the substitution of the following subsection for subsection (4):

“(4) Sections 8 to 8I of the Act of 1984 shall, with the following and any other necessary modifications, apply to photographs taken of a person pursuant to this section as they apply to photographs taken of a person pursuant to section 6 or 6A of the Act of 1984:

(a) references to an offence to which section 4 of the Act of 1984 applies shall be construed as references to an offence in respect of which a person may be arrested by a member of the Garda Síochána under any power conferred on him or her by law;

(b) references to section 6 or 6A of the Act of 1984 shall be construed as references to this section; and

(c) references to the detention of the person under section 4 of the Act of 1984 shall be construed as references to the arrest of the person by a member of the Garda Síochána under any power conferred on him or her by law.”.”.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 12:

In page 112, after line 33, to insert the following:

“Amendment of section 52 of Act of 2007

108. Section 52 of the Act of 2007 is amended by—

(a) the substitution of “Sections 5, 6A, 18, 19 and 19A, subsections (4), (7), (8), (8A), (8B) and (11) of section 4 and subsections (1) to (4) of section 6 of the Act of 1984” for “Sections 4(4), 4(7), 4(8), 4(8A), 4(8B), 4(11), 5, 6(1) to (4), 6A, 8, 18, 19 and 19A of the Act of 1984”;

(b) the designation of that section (as amended by paragraph (a)) as subsection (1), and

(c) the addition of the following subsection:

“(2) Sections 8 to 8I of the Act of 1984 shall, with the following and any other necessary modifications, apply to fingerprints, palm prints and photographs taken from or of a person detained under section 50 as they apply to fingerprints, palm prints and photographs taken from or of a person detained under section 4 of the Act of 1984:

(a) references to an offence to which section 4 of the Act of 1984 applies shall be construed as references to an offence to which section 4 of the Act of 1984 applies or an offence to which section 50 applies; and

(b) references to the detention of the person under section 4 of the Act of 1984 shall be construed as references to the detention of the person under section 50.””.

Amendment agreed to.

SECTION 100

Chairman: Amendments Nos. 13, 14 and 21 to 26, inclusive, are related and will be discussed together.

Deputy Alan Shatter: I move amendment No. 13:

In page 113, line 17, to delete “*section 118(2)*” and substitute “*section 117(2)*”.

The purpose of the substantial amendments in this group, amendments Nos. 21 to 26, inclusive, with which I will deal first, is to delete the provisions of Chapter 4 of the Bill and replace them with new provisions to more fully provide for the data protection requirements of Chapter 6 of Council Decision 2008/615/JHA of 23 June 2008. Usually referred to as the Prum Council decision, it regulates the automated searching or comparison of DNA and fingerprint databases and the exchange of the results of such searches or comparisons by the member states and Norway and Iceland as well as dealing with the exchange of DNA profiles following a request pursuant to Article 7. Where a member state is requested to provide a DNA profile, and that profile is not available, Article 7 requires the requested state to obtain the profile.

Giving effect to the data protection provisions of the Prum decision requires both the modification of the existing data protection law as contained in the Data Protection Act 1988 and some additional new provisions. The modifications are contained in amendment No. 22 and the new provisions are contained in amendments Nos. 23 to 26. There is also a new data protection provision to be inserted into Chapter 5 in relation to mutual assistance but I will come to that later.

I will briefly outline the content of amendments Nos. 21 to 26. Amendment No. 21 replaces section 113 of the Bill, as published, with a new section 113. The section provides definitions of the key terms used in the chapter, many of which are assigned the meanings they are given in the Data Protection Act 1998, as amended. Amendment No. 22 provides for a new section 114 which sets out a number of modifications which are needed to ensure that the data protection measures in the Prum Council decision are fully applied to the processing of data supplied or received under Chapters 2 and 3 or pursuant to an Article 7 request. I will describe each of the seven modifications in turn.

The first modification provided by subsection (2)(a) inserts in the interpretation section of the Data Protection Act a small number of additional definitions. The second modification provided by subsection (2)(b) is to section 2 of the Data Protection Act and inserts additional subsections after subsection (1), the main effect of which is to ensure compliance by the data controller with the rules in respect of the correction and destruction of inaccurate or incorrectly supplied data as set out in section 116 of the Bill.

The third modification provided by subsection (2)(c) is to section 2C of the Data Protection Act. This is a substitution of subsection (1) necessitated to incorporate the security measures mandated by Article 29 of the Council decision. Fourth, subsection (2)(d) modifies section 4 of the Data Protection Act to ensure that a data subject whose data are processed under Chapter 2 or 3 of this Act, or under an Article 7 request, may access information on data held about him or her, as provided in section 4, regardless of any exemption from this right of access contained in section 5 of the Act.

The fifth modification provided by subsection (2)(e) to section 7 of the Data Protection Act addresses the duty of care owed by a data controller and a data subject's right to damages as set out in Article 31 of the Council decision. The sixth modification provided by subsection (2)(f) to section 8 of the Data Protection Act is to ensure that the exemption in that section that applies to data processed for the investigation of crime cannot override the data protection requirements of the Prum Council decision as provided for in this Part.

The final modification provided by subsection (2)(g) is to section 9 of the Data Protection Act and appoints the Data Protection Commissioner to be the competent data protection authority in the State for the purposes of a European Union or international instrument and sets out some specific monitoring functions accordingly.

Amendment 23 inserts section 115 which sets out the limited purposes for which DNA and dactyloscopic data, and related reference data, supplied to or received from a designated state can be processed. The purposes are: comparing the data in order to find out whether there is a match of the data on the relevant database system in the State; providing automated responses to the designated state that supplied the data; entering a note of a match on the DNA database system; and creating the required records of the supply and receipt of data.

Data supplied by a designated state must be destroyed once a response is issued to the designated state unless there is a need to retain the data for mutual legal assistance purposes under the Criminal Justice (Mutual Assistance) Act 2008 or for the creation of required records. The limitations on processing are to ensure the data protection rights of an individual, whose DNA or fingerprints etc. are the subject of a search or comparison, are protected and that the data may not be processed for any other purpose other than those permitted by the European Union or international instrument under which the search or comparison occurred.

Amendment No. 24 inserts section 116 which sets down in subsections (1) to (5) obligations on a national contact point or a data controller in the case of an Article 7 request, to take certain actions where it comes to his or her attention that the data supplied for processing or received as a result of processing, are incorrect or are data that should not have been supplied to the national contact point or data controller concerned. The section provides for communication of the existence of the error between the national contact points or data controllers in the states concerned, so that the data involved can be corrected, in the case of incorrect data, or destroyed in the case of data that should not have been provided in the first place.

Subsections (6) and (7) provide that data must be destroyed in any event once the time mandated by the state in which the data originated expires. Subsection (8) provides for an exception to the requirement to destroy the data in cases where to destroy the data would be detrimental to the interests of the data subject. Subsection (9) provides for action to be taken where a data subject contests the accuracy of data and it is not possible to establish its accuracy.

Amendment No. 25 inserts section 117 which provides for the appointment of authorised officers by the national contact points. Authorised officers are those members of staff of the forensic science laboratory or the Garda technical bureau who will operate the systems for searching and comparing DNA and dactyloscopic data. Authorised officers are appointed in writing and their authorisation ceases by default once they are no longer working for the national contact point to which they were appointed. The authorisation can also be revoked by the national contact point. The section also provides for details of the authorised officers to be provided to the Data Protection Commissioner or the data protection authority in a designated state on request.

Amendment No. 26 inserts section 118 which prescribes the requirements for the creation of records that are necessary in relation to the automated processing under Chapters 2 and 3. The Prum decision sets down the information that needs to be recorded and the format of the records. The purpose of these records is to facilitate the Data Protection Commissioner in monitoring and checking the security or legality of the processing of personal data. The recorded information should include a description of the data concerned, the date and time it was supplied and a means of identifying the national contact points or authorised officers involved in the supply or receipt.

The use of these records is restricted to monitoring data protection and ensuring the data is secure. A two year mandatory time limit applies for the retention of the records created. The Data Protection Commissioner, for the purpose of his or her functions under the Act, shall be provided with the records on request. There is an obligation on the national contact points to conduct random checks of the records for the purpose of ensuring the lawfulness of the supply and receipt by them of data. I will shortly propose a similar amendment in Chapter 5 in relation to recording of Article 7 requests.

Amendments Nos. 13 and 14 are minor, technical amendments arising from the re-numbering of section 118 as section 117 and are consequential to amendment No. 25.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 14:

In page 113, line 20, to delete “*section 118(1)*” and substitute “*section 117(1)*”.

Amendment agreed to.

Chairman: Amendments Nos. 15 to 19, inclusive, 35, 36, 39 and 40 are related and will be discussed together by agreement.

Deputy Alan Shatter: I move amendment No. 15:

In page 113, between lines 29 and 30, to insert the following:

“ “Council Framework Decision” means Council Framework Decision 2009/905/JHA of 30 November 2009 on Accreditation of forensic service providers carrying out

laboratory activities;”.

As you indicated, Chairman, I propose to deal with amendments Nos. 15 to 19, 35, 36, 39 and 40 together. This group of amendments arises from the need to give effect to the elements of a Council framework decision on the accreditation of forensic service providers carrying out laboratory activities which require legislation. The purpose of the Council framework decision is to ensure mutual recognition by member states’ authorities of laboratory activities carried out by a forensic service provider of another member state where that provider is accredited to the required standard. Put simply, it ensures that this State will deal only with accredited laboratories in other EU member states and equally provides assurance to other member states that Forensic Science Ireland, as it is to be known once the Bill is enacted, is accredited and meets the same exacting standards.

It is to be noted that the Prüm Council decision requires member states to take the necessary measures to guarantee the integrity of DNA profiles made available or sent for comparison to other member states and to ensure that those measures comply with international standards. Under it, as it is currently numbered in the Bill, is the overall interpretation section for this part of the Bill dealing with international co-operation. A number of small amendments are being made to this section, arising from the inclusion of the Council framework decision on accreditation within the framework of this part of the Bill.

Amendments Nos. 15, 17 and 18 insert a definition of the Council framework decision and other references to it as required. Amendment No. 16 slightly amends the definition of dactyloscopic data in order to take account of the fact that it is defined slightly differently under new provisions being introduced to give effect to the Council framework decision. Amendment No. 19 refers to the text of the framework decision, which for convenience of reference is being appended to the Bill. A new chapter 8, dealing with the recognition of accredited forensic science providers, is being inserted into this part. This comprises two new sections. Amendment No. 35 inserts section 135, relating to the interpretation of this chapter and clarifies the meaning of certain words and phrases used in the following section.

Amendment No. 36 inserts section 136. It provides that the results of an accredited forensic provider carrying out laboratory activities in a member state shall be recognised by the authorities in the state which are responsible for the prevention, detection and investigation of criminal offences as being as reliable as the results of an accredited forensic service provider carrying out laboratory activities in the state. The section also clarifies that the laboratory activities referred to are those that result in the generation of DNA profiles or fingerprint or palm print data.

I should mention that our forensic science laboratory has already the level of accreditation required under the Council framework decision. The Garda technical bureau, which is the repository for fingerprints and palm prints, is working towards achieving this level of accreditation and aims to achieve it by the end of this year, or early next year at the latest.

Amendment No. 39 inserts the Council framework decision on accreditation of forensic service providers into the Bill in the form of a new Schedule 4. The final amendment in this group, amendment No. 40, amends the Long Title of the Bill to provide for giving effect to the Council framework decision on accreditation of forensic service providers.

Chairman: Are there any questions or comments?

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 16:

In page 113, line 30, after “data” ” to insert “, other than in *Chapter 8*”.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 17:

In page 115, line 29, after “instrument” to insert “or the Council Framework Decision”.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 18:

In page 115, line 31, after “instrument” to insert “or the Council Framework Decision, as the case may be”.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 19:

In page 115, between lines 36 and 37, to insert the following:

“(7) The text of the Council Framework Decision in the English language is for convenience of reference set out in *Schedule 4**.”.

Amendment agreed to.

Section 100, as amended, agreed to.

Amendment No. 20 not moved.

Sections 101 to 112, inclusive, agreed to.

NEW SECTION

Deputy Alan Shatter: I move amendment No. 21:

In page 122, between lines 11 and 12, to insert the following:

“Definitions (*Chapter 4*)

113. In this Chapter —

“Act of 1988” means the Data Protection Act 1988;

“Article 7 request” means a request made or received under Chapter 3 of Part 5 of the Act of 2008 pursuant to Article 7 of the Council Decision or that Article insofar as it is applied by Article 1 of the Agreement with Iceland and Norway;

“blocking”, in relation to data, has the meaning it has in section 1(1) of the Act of 1988;

“data”, “data controller”, “data subject” and “personal data” have the meanings they have in section 1(1) of the Act of 1988;

“data protection authority”, in relation to a designated state, means the authority in that designated state that is designated by that designated state to be the independent data protection authority of that designated state for the purposes of a European Union or international instrument;

“processing”, in relation to data, has the meaning it has in section 1(1) of the Act of 1988 and shall include the sending or receipt, as the case may be, of a notification under *section 104(2), 105(3), 106(2), 107(3), 110(2) or 111(2)*.”.

Amendment agreed to.

Section 113 deleted.

NEW SECTION

Deputy Alan Shatter: I move amendment No. 22:

In page 122, between lines 21 and 22, to insert the following:

“Application of Act of 1988

114. (1) The Act of 1988 shall, with the modifications specified in *subsection (2)* and any other necessary modifications, apply to the processing of personal data supplied or received pursuant to —

- (a) *Chapter 2*,
- (b) *Chapter 3*, or
- (c) an Article 7 request,

and, for the purposes of the foregoing application of the Act of 1988, references in it to that Act or the provisions of that Act shall, unless the context otherwise requires, be construed as including references to —

- (i) *Chapter 2* or the provisions of that Chapter,
- (ii) *Chapter 3* or the provisions of that Chapter, and
- (iii) Chapter 3 of Part 5 of the Act of 2008 insofar as that Chapter applies to an Article 7 request or the provisions of that Chapter insofar as they apply to such a request.

(2) The modifications of the Act of 1988 referred to in subsection (1) are the following, namely —

- (a) in section 1(1), the insertion of the following definitions:

“ ‘Act of 2008’ means the Criminal Justice (Mutual Assistance) Act 2008;

‘Act of 2014’ means the *Criminal Justice (Forensic Evidence and DNA Database System) Act 2014*;

‘Agreement with Iceland and Norway’, ‘Council Decision’, ‘dactyloscop-

ic data’, ‘designated state’, ‘European Union or international instrument’, ‘Member State’ and ‘relevant European Union or international instrument’ have the meanings they have in *section 100* of the *Act of 2014*;

‘Article 7 request’ means a request made or received under Chapter 3 of Part 5 of the Act of 2008 pursuant to Article 7 of the Council Decision or that Article insofar as it is applied by Article 1 of the Agreement with Iceland and Norway;

‘Central Authority’ has the meaning it has in section 2(1) of the Act of 2008;

‘data protection authority’, in relation to a designated state, means the authority in that designated state that is designated by that designated state to be the independent data protection authority of that designated state for the purposes of a European Union or international instrument;

‘DNA’ means deoxyribonucleic acid;

‘national contact point’, in relation to a relevant European Union or international instrument, has the meaning it has in *section 100* of the *Act of 2014*;

‘processing’ has the meaning it has in this Act and shall include the sending or receipt, as the case may be, of a notification under *section 104(2), 105(3), 106(2), 107(3), 110(2) or 111(2)* of the *Act of 2014*.”,

(b) in section 2, the insertion of the following subsections after subsection (1):

“(1A) A data controller (including a national contact point) shall in order to comply with subsection (1)(b) as respects personal data kept by him or her also comply with *section 116** of the *Act of 2014* in respect of those data.

(1B) For the purposes of subparagraphs (i) and (ii) of subsection (1)(c), the processing of personal data supplied or received pursuant to —

(a) *Chapter 2 of Part 11* of the *Act of 2014*, or

(b) *Chapter 3* of that Part of that Act,

is deemed to be a purpose compatible with the purpose for which those data were obtained.”,

(c) in section 2C, the substitution of the following subsection for subsection (1):

“(1) In determining appropriate security measures for the purposes of section 2(1)(d) (but without prejudice to the generality of that provision), a data controller —

(a) shall, in relation to the processing of personal data supplied or received pursuant to —

(i) *Chapter 2 of Part 11* of the *Act of 2014*, or

(ii) *Chapter 3* of that Part of that Act,

comply with the technical specifications of the automated search and comparison procedure required by the relevant European Union or international instrument, and

(b) shall ensure that the measures provide a level of security appropriate to —

(i) the harm that might result from unauthorised or unlawful processing, accidental or unlawful destruction or accidental loss of, or damage to, or accidental alteration of, the data concerned,

and

(ii) the nature of the data concerned.”,

(d) in section 4, the addition of the following subsection:

“(14) Notwithstanding section 5, this section applies to the processing of personal data supplied or received pursuant to —

(a) *Chapter 2 of Part 11 of the Act of 2014,*

(b) *Chapter 3 of that Part of that Act, or*

(c) *an Article 7 request.*”,

(e) in section 7—

(i) the proviso shall not apply to a data controller in respect of personal data received or obtained by him or her from a body in a designated state pursuant to a European Union or international instrument,

(ii) the designation of the section (as modified by *subparagraph (i)*) as subsection (1) of that section, and

(iii) the addition of the following subsections:

“(2) A data controller shall not use the inaccuracy of personal data received by him or her from a body in a designated state pursuant to a European Union or international instrument as a ground to avoid or reduce his or her liability to the data subject concerned under subsection (1).

(3) Where —

(a) the Minister or the Commissioner of the Garda Síochána pays damages to a data subject under this section for damage caused to the data subject by reason of inaccurate data received by the national contact point in relation to DNA data or the national contact point in relation to dactyloscopic data, as may be appropriate, from a body in a designated state pursuant to *Chapter 2 or 3 of Part 11 of the Act of 2014,* or

(b) the Minister, the Commissioner of the Garda Síochána or the Director of Public Prosecutions pays damages to a data subject under this section for damage caused to the data subject by reason of inaccurate data

received by the Central Authority, the Garda Síochána or the Director of Public Prosecutions, as may be appropriate, from a body in a Member State or Iceland or Norway pursuant to an Article 7 request,

the Minister, the Commissioner of the Garda Síochána or the Director of Public Prosecutions, as the case may be, may seek a refund of the amount that he or she paid in damages to the data subject concerned from the body in the designated state concerned.

(4) Where—

(a) a body in a designated state applies to the national contact point in relation to DNA data or the national contact point in relation to dactyloscopic data for a refund of damages paid by it, or on its behalf, on foot of a decision or finding of a court or other tribunal or the data protection authority in that designated state for damage caused to a data subject by reason of inaccurate data sent by the national contact point concerned to that body pursuant to *Chapter 2 or 3 of Part 11 of the Act of 2014*, or

(b) a body in a Member State or Iceland or Norway applies to the Minister or the Director of Public Prosecutions for a refund of damages paid by it, or on its behalf, on foot of a decision or finding of a court or other tribunal or the data protection authority in that Member State or Iceland or Norway, as the case may be, for damage caused to a data subject by reason of inaccurate data sent by the Minister or the Director of Public Prosecutions, as the case may be, to that body pursuant to an Article 7 request,

the Minister or the Commissioner of the Garda Síochána, as may be appropriate, in the circumstances referred to in paragraph (a), or the Minister or the Director of Public Prosecutions, as may be appropriate, in the circumstances referred to in paragraph (b), shall refund to the body in the designated state concerned the amount paid in damages by it, or on its behalf, to the data subject concerned.”,

(f) section 8(b) —

(i) insofar as it relates to the purpose of detecting or investigating offences, shall not apply to the processing of data pursuant to *Chapter 2*,

(ii) insofar as it relates to the purpose of preventing, detecting or investigating offences, shall not apply to the processing of personal data pursuant to *Chapter 3*, or

(iii) insofar as it relates to the purpose of detecting or investigating offences or apprehending or prosecuting offenders, shall not apply to the processing of personal data pursuant to an Article 7 request,

which are or have been supplied by or to a data controller in the State pursuant to a European Union or international instrument, and

(g) in section 9, the insertion of the following subsection after subsection (1D):

“(1E) (a) The Commissioner shall be the competent data protection authority in the State for the purposes of a European Union or international instrument.

(b) The lawfulness of the processing of personal data supplied or received pursuant to —

(i) *Chapter 2 of Part 11 of the Act of 2014,*

(ii) *Chapter 3 of that Part of that Act, and*

(iii) *an Article 7 request,*

shall be monitored by the Commissioner.

(c) The performance by the Commissioner of his or her function under paragraph (b) shall include the carrying out of random checks on the processing of personal data referred to in that paragraph.

(d) The Commissioner may request the data protection authority of a designated state to perform its functions under the law of that designated state with regard to checking the lawfulness of the processing of personal data supplied by the State to that designated state pursuant to the relevant European Union or international instrument.

(e) The Commissioner may receive information from the data protection authority of a designated state arising from the performance by it of the functions referred to in paragraph (d) with regard to the processing of the personal data concerned.

(f) The Commissioner shall, at the request of the data protection authority of a designated state, perform his or her functions under paragraphs (a) to (c) of this subsection and he or she shall furnish information to that authority with regard to the processing of the personal data the subject of the request.”.”.

Amendment agreed to.

Section 114 deleted.

NEW SECTION

Deputy Alan Shatter: I move amendment No. 23:

In page 122, between lines 28 and 29, to insert the following:

“Purposes for which data may be processed

115. (1) Subject to *subsection (3)*, data supplied by the national contact point of a designated state under *section 104, 105 or 110* may be processed only where it is necessary to do so for any of the following purposes:

(a) comparing DNA profiles or dactyloscopic data, as the case may be, under those sections to ascertain whether there is a match between them;

(b) providing responses, in an automated way or by such other means as is permitted by the relevant European Union or international instrument, to

that national contact point in relation to searches or comparisons under those sections;

(c) if appropriate, entering a note of a match of DNA profiles in the DNA Database System under *section 104(3)* or *105(4)*;

(d) recording the supply and receipt of the data under *section 118**.

(2) Data supplied by the national contact point of a designated state shall, if not previously destroyed, be destroyed immediately after the provision of a response referred to in *subsection (1)(b)* in relation to the data, unless further processing of the data is necessary —

(a) in connection with a request for assistance under Chapter 3 of Part 5 of the Act of 2008 if a match of DNA profiles or dactyloscopic data, as the case may be, was found, or

(b) for the purposes of recording the supply and receipt of the data under *section 118**.

(3) Data received by a national contact point pursuant to *section 106(2)*, *107(3)* or *111(2)* may be processed only for the following purposes and otherwise shall be destroyed immediately after they are received:

(a) if a match of DNA profiles or dactyloscopic data, as the case may be, is found, preparing and making a request for assistance under section 77 of the Act of 2008;

(b) if appropriate, entering a note of a match of DNA profiles in the DNA Database System under *section 106(3)* or *107(4)*;

(c) recording the supply and receipt of the data under *section 118*.*”.

Amendment agreed to.

Section 115 deleted.

NEW SECTION

Deputy Alan Shatter: I move amendment No. 24:

In page 123, between lines 1 and 2, to insert the following:

“Correction of inaccurate data, destruction of incorrectly supplied data and storage of data

116. (1) Whenever, whether on notification from a data subject or otherwise, it comes to the attention of a national contact point that data supplied under *Chapter 2* or *3* are either incorrect or should not have been supplied, the national contact point shall, as soon as practicable, inform the national contact point of the designated state concerned that received the data of that fact and request that national contact point to correct or destroy, as may be appropriate, the data concerned.

(2) Whenever, whether on notification from a data subject or otherwise, it comes to the attention of a data controller that data supplied pursuant to an Article 7 request are either incorrect or should not have been supplied, the data controller shall, as soon as practicable, inform the authority in the Member State concerned or Iceland or Norway, as the case may be, that received the data of that fact and request that authority to correct or destroy, as may be appropriate, the data concerned.

(3) If —

(a) a national contact point receives data under *Chapter 2* or *3* without requesting them, or

(b) a data controller receives data pursuant to an Article 7 request without requesting them,

the national contact point or the data controller, as the case may be, shall immediately check whether the data are necessary for the purpose for which they were supplied by the national contact point of the designated state concerned or the authority in the Member State concerned or Iceland or Norway, as may be appropriate.

(4) Whenever, whether on notification from a data subject or otherwise, it comes to the attention of a national contact point that data received under *Chapter 2* or *3* are either incorrect or should not have been supplied, the national contact point shall, after consultation with the national contact point of the designated state that supplied the data, correct or destroy, as may be appropriate, the data concerned.

(5) Whenever, whether on notification from a data subject or otherwise, it comes to the attention of a data controller that data received pursuant to an Article 7 request are either incorrect or should not have been supplied, the data controller shall, after consultation with the authority in the Member State concerned or Iceland or Norway, as the case may be, that supplied the data, correct or destroy, as may be appropriate, the data concerned.

(6) Subject to *subsection (8)*, a national contact point shall destroy data received pursuant to *Chapter 2* or *3* when they are no longer required for the purpose for which they were supplied and, in any event, shall do so not later than the expiration of the maximum period (if any) prescribed by the law of the designated state concerned and specified by the national contact point of that designated state at the time the data were supplied.

(7) Subject to *subsection (8)* and notwithstanding section 77(7) of the Act of 2008, a data controller shall destroy data received pursuant to an Article 7 request when they are no longer required for the purpose for which they were supplied and, in any event, shall do so not later than the expiration of the maximum period (if any) prescribed by the law of the Member State concerned or Iceland or Norway, as the case may be, and specified by the authority in that Member State or Iceland or Norway, as the case may be, at the time the data were supplied.

(8) Where, under *subsection (6)* or *(7)*, a national contact point or a data controller, as the case may be, reasonably believes that the destruction of the data concerned would prejudice the interests of the data subject, the data shall instead be blocked and those data may be supplied or otherwise further processed only for a purpose relating to the protection of those interests.

(9) (a) If a data subject contests the accuracy of data supplied or received pursuant to *Chapter 2* or *3* and the accuracy of those data cannot be ascertained, the national contact point shall, as soon as reasonably practicable, inform the data subject accordingly.

(b) If the data subject so requests, the national contact point shall note on those data that the accuracy of them cannot be ascertained, and such a note may be removed only if —

(i) the data subject consents to its removal, or

(ii) the Data Protection Commissioner or the Circuit Court, on application made to the Commissioner or the Court in that behalf, is satisfied that the note may be removed.”.

Amendment agreed to.

Section 116 deleted.

NEW SECTION

Deputy Alan Shatter: I move amendment No. 25:

In page 123, between lines 15 and 16, to insert the following:

“Authorised officers

117. (1) The national contact point in relation to DNA data may appoint in writing a member of the staff of FSI to be an authorised officer for DNA data for the purposes of *sections 106* and *107* and this Chapter.

(2) The national contact point in relation to dactyloscopic data may appoint in writing a member of the Garda Síochána, or a member of the civilian staff of the Garda Síochána, who is assigned to duties in the Technical Bureau of the Garda Síochána to be an authorised officer for dactyloscopic data for the purposes of *section 111* and this Chapter.

(3) An appointment to be an authorised officer for DNA data may be revoked in writing by the national contact point in relation to DNA data and, in any event, such an appointment shall cease upon the person ceasing to be a member of the staff of FSI.

(4) An appointment to be an authorised officer for dactyloscopic data may be revoked in writing by the national contact point in relation to dactyloscopic data and, in any event, such an appointment shall cease upon the person ceasing to be assigned to duties in the Technical Bureau of the Garda Síochána.

(5) The national contact point in relation to DNA data may provide particulars of the authorised officers for DNA data to the Data Protection Commissioner and shall do so if so requested by the Data Protection Commissioner.

(6) The national contact point in relation to DNA data shall provide particulars of the authorised officers for DNA data to the national contact point in relation to DNA data of a designated state or the data protection authority in a designated state or both, if requested to do so by such national contact point or data protection authority, as the case may be.

(7) The national contact point in relation to dactyloscopic data may provide particulars of the authorised officers for dactyloscopic data to the Data Protection Commissioner and shall do so if so requested by the Data Protection Commissioner.

(8) The national contact point in relation to dactyloscopic data shall provide particulars of the authorised officers for dactyloscopic data to the national contact point in relation to dactyloscopic data of a designated state or the data protection authority in a designated state or both, if requested to do so by such national contact point or data protection authority, as the case may be.”.

Amendment agreed to.

Section 117 deleted.

NEW SECTION

Deputy Alan Shatter: I move amendment No. 26:

In page 123, between lines 28 and 29, to insert the following:

“Recording of automated supply of data

118. (1) The national contact point in relation to DNA data shall record, in accordance with *subsection (3)*, the supply and receipt of data, including whether or not a match of DNA profiles is found, pursuant to *sections 104, 105, 106 and 107*.

(2) The national contact point in relation to dactyloscopic data shall record, in accordance with *subsection (3)*, the supply and receipt of data, including whether or not a match of dactyloscopic data is found, pursuant to *sections 110 and 111*.

(3) The recording of the supply and receipt of data under *subsection (1) or (2)* shall be in a permanent legible form or be capable of being converted into a permanent legible form and shall include the following particulars in relation to the data:

(a) a description of the data supplied or received;

(b) the date and time of the supply or receipt of the data;

(c) the name or reference code of the national contact point concerned and the name or reference code of the national contact point of the designated state concerned;

and

(d) in the case of data supplied pursuant to *section 106, 107 or 111* —

(i) the reason for the search or comparison concerned,

(ii) the identifier of the authorised officer for DNA data or the authorised officer for dactyloscopic data, as the case may be, who supplied the data for the purpose of conducting the search or comparison concerned, and

(iii) the identifier of the authorised officer for DNA data or the authorised officer for dactyloscopic data, as the case may be, who authorised the conduct of

the search or comparison concerned.

(4) Records created under this section may be used only for the purposes of monitoring data protection and ensuring data security.

(5) The national contact point in relation to DNA data and the national contact point in relation to dactyloscopic data shall —

(a) retain the records created under this section for a period of 2 years from the time of their creation, and

(b) immediately after that period, destroy those records.

(6) Whenever requested to do so by the Data Protection Commissioner, the national contact point in relation to DNA data and the national contact point in relation to dactyloscopic data shall furnish the records created under this section to the Data Protection Commissioner as soon as practicable, but in any event not later than 4 weeks, after the receipt of a request to do so.

(7) The national contact point in relation to DNA data and the national contact point in relation to dactyloscopic data shall —

(a) using the records created under this section, carry out random checks on the lawfulness of the supply and receipt by them of data,

(b) retain the results of those random checks for a period of 18 months from the time they were carried out for the purposes of inspection by the Data Protection Commissioner, and

(c) immediately after that period, destroy those results.

(8) In this section —

“identifier”, in relation to an authorised officer, means the user identification or user certificate that is assigned to the authorised officer for the purposes of a European Union or international instrument;

“reference code”, in relation to a national contact point, means the reference code that is assigned to the national contact point for the purposes of a European Union or international instrument.”.”.

Amendment agreed to.

Section 118 deleted.

Section 119 agreed to.

SECTION 120

Chairman: Amendments Nos. 27, 31 and 32 are related and will be discussed together.

Deputy Alan Shatter: I move amendment No. 27:

In page 125, between lines 17 and 18, to insert the following:

“ ‘data controller’ has the meaning it has in section 1(1) of the Data Protection Act 1988;”.

In addition to the data protection provisions introduced in Chapter 4, these amendments to the Criminal Justice (Mutual Assistance) Act 2008 provide for the data protection requirements as set out in article 30 of the Prum Council decision insofar as that article applies to article 7 data. Article 30 of the Prum decision requires member states to record the supply and receipt of non-automated data, namely, data which is supplied or received pursuant to a request under article 7 of Prum. Article 7 requires member states to obtain a DNA profile where that profile is not otherwise available. In Ireland, the obligation to record the data in accordance with article 30 will be a function of the central authority under the Mutual Assistance Act.

Amendment No. 31 introduces a new section 79C to the Mutual Assistance Act. In addition to specifying what information should be recorded by the central authority, the new section also sets out the purpose for which the recorded information is kept as well as the length of time for which such records must be retained. In regard to the former, the keeping of the records is for the purpose of monitoring data protection and ensuring data security and the central authority shall, when requested, make the records available to the Data Protection Commissioner. In addition, the central authority will be required to use the records created to carry out random checks for the purpose of reviewing the lawfulness of the supply and receipt of data – comparable to an internal audit.

As for the destruction of the records, the provision requires that the records must be destroyed after two years, whereas the results of the random checks must be destroyed after 18 months. Finally, subsection (7) of the new section ensures that any information supplied or received by a data controller, which could be the Garda Commissioner, Forensic Science Laboratory or the DPP, relating to a request pursuant to article 7 must be notified to the central authority for the purpose of maintaining the records under this section. It is not envisaged that this would arise regularly but there are provisions in the Mutual Assistance Act which permit, in urgent cases, direct communication between, for instance, the DPP and another state.

Amendment No. 27 defines “data controller” by reference to the Data Protection Acts and is consequent to amendment No. 31. Amendment No. 32 amends section 107 of the Mutual Assistance Act. That section confirms the application of the Data Protection Acts 1988 and 2003 to mutual assistance. That section will now be amended to confirm that the modifications to the Data Protection Acts introduced in Chapter 4 of this Bill, and which I have already spoken to, apply to requests pursuant to article 7 of the Prum Council decision.

Amendment agreed to.

Section 120, as amended, agreed to.

NEW SECTION

Deputy Alan Shatter: I move amendment No. 28:

In page 126, between lines 25 and 26, to insert the following:

“Amendment of section 77(5) of Act of 2008

121. Section 77(5) of the Act of 2008 is amended by—

- (a) the deletion of “and” at the end of paragraph (b),

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

“(ba) in the case of a request pursuant to Article 7 of the 2008 Council Decision, or that Article insofar as it is applied by Article 1 of the 2009 Agreement with Iceland and Norway, for the DNA profile of a person who is suspected of having committed the offence concerned whose DNA profile is not in the possession of the appropriate authority, a statement issued by the Commissioner of the Garda Síochána or the Director of Public Prosecutions, as may be appropriate, confirming that the requirements for the taking of a DNA sample from the person under the law of the State would be complied with if the person were in the State, and”.”.

This amendment amends section 77 of the Criminal Justice (Mutual Assistance) Act 2008. Section 77 concerns requests from Ireland to another state for assistance in obtaining identification evidence. The provision will be amended to include requests to EU member states for DNA profiles, pursuant to Article 7 of the 2008 Council Decision, where the request, as stated, is required to obtain a profile where that profile is not already in the possession of the authorities of that state. In making such a request Ireland will confirm the domestic requirements for the taking of a DNA sample would be complied with if the person were in the State. Regarding requests to Ireland seeking assistance in obtaining DNA profiles, pursuant to Article 7, the required amendments to the Criminal Justice (Mutual Assistance) Act are already contained in the Bill.

Amendment agreed to.

Section 121 agreed to.

SECTION 122

Chairman: Amendments Nos. 29, 30, 33 and 34 are related and will be discussed together.

Deputy Alan Shatter: I move amendment No. 29:

In page 128, lines 3 and 4, to delete “section 8 of the Criminal Justice Act 1984” and substitute the following:

“any statutory provision providing for the destruction of fingerprints, palm prints or photographs of persons”.

These four amendments essentially all arise from the introduction of the new destruction arrangements for fingerprints, palm prints and photographs. As I have explained in the context of earlier amendments, the previous procedure whereby persons had to apply to have their identification evidence destroyed has been replaced by a presumption of destruction. Section 122 is being amended in two places to take account of the new destruction arrangements for fingerprints, palm prints and photographs in the context of mutual assistance requests. The amendment of section 79(1) of the Criminal Justice (Mutual Assistance) Act reflects the replacement of section 8 of the Criminal Justice Act 1984 with the new destruction arrangements for fingerprints, palm prints and photographs provided for in the Bill. It covers all relevant statutory provisions being amended in this regard.

The amendment of section 79(9)(d) of the Criminal Justice (Mutual Assistance) Act 2008 reflects the deletion of section 8(11) of the Criminal Justice Act 1984 relating to information giving and instead inserts a reference to a new section, 8H, of that Act relating to a requirement to ensure the new destruction arrangements for fingerprints, palm prints and photographs are complied with.

Two amendments are also being made to the International Criminal Court Act 2006 for the same reasons I have outlined with regard to the previous two amendments to the Criminal Justice (Mutual Assistance) Act 2008. The new destruction arrangements being introduced for fingerprints, palm prints and photographs are reflected in the two amendments to section 127 of the Bill which amends section 50(1) and (11)(c) of the International Criminal Court Act.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 30:

In page 129, line 9, to delete “section 8(11)” and substitute “section 8H”.

Amendment agreed to.

Section 122, as amended, agreed to.

Sections 123 and 124 agreed to.

NEW SECTIONS

Deputy Alan Shatter: I move amendment No. 31:

In page 140, between lines 5 and 6, to insert the following:

“Recording of supply and receipt of data for requests pursuant to Article 7 of 2008 Council Decision or that Article as applied by 2009 Agreement with Iceland and Norway

125. The Act of 2008 is amended by the insertion of the following section after section 79B (inserted by *section 124*):

“79C. (1)The Central Authority shall record, in accordance with subsection (2),the supply and receipt of data—

(a) in the case of requests under section 77, and

(b) in the case of requests referred to in section 78, that are made pursuant to Article 7 of the 2008 Council Decision or that Article insofar as it is applied by Article 1 of the 2009 Agreement with Iceland and Norway.

(2) The recording of the supply and receipt of data under subsection (1) shall be in a permanent legible form or be capable of being converted into a permanent legible form and shall include the following particulars in relation to the data:

(a) a description of the data supplied or received;

(b) the reason for the request concerned;

(c) the date the data were supplied or received;

(d) the name or reference code of the Central Authority and the name or reference code of the appropriate authority within the meaning of section 77 concerned or of the authority which supplied or received the data, as the case may be.

(3) Records created under this section may be used only for the purposes of monitoring data protection and ensuring data security.

(4) The Central Authority shall—

(a) retain the records created under this section for a period of 2 years from the time of their creation, and

(b) immediately after that period, destroy those records.

(5) Whenever requested to do so by the Data Protection Commissioner, the Central Authority shall furnish the records created under this section to the Data Protection Commissioner as soon as practicable, but in any event not later than 4 weeks, after the receipt of a request to do so.

(6) The Central Authority shall—

(a) using the records created under this section, carry out random checks on the lawfulness of the supply and receipt of data,

(b) retain the results of those random checks for a period of 18 months from the time that they were carried out for the purposes of inspection by the Data Protection Commissioner, and

(c) immediately after that period, destroy those results.

(7) A data controller who supplies or receives data—

(a) in the case of requests under section 77, or

(b) in the case of requests referred to in section 78, that are made pursuant to Article 7 of the 2008 Council Decision, or that Article insofar as it is applied by Article 1 of the 2009 Agreement with Iceland and Norway, shall furnish such of the particulars specified in subsection (2) in relation to those data as the data controller has, as soon as reasonably practicable, to the Central Authority for the purposes of enabling the Central Authority to comply with this section.

(8) In this section ‘reference code’, in relation to the Central Authority or other authority, means the reference code that is assigned to the Central Authority or that other authority, as the case may be, for the purposes of the 2008 Council Decision or the 2009 Agreement with Iceland and Norway.”.”.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 32:

In page 140, between lines 5 and 6, to insert the following:

“Amendment of section 107 of Act of 2008

126. Section 107 of the Act of 2008 is amended by the addition of the following subsection:

“(4) This section is without prejudice to the application of *Chapter 4 of Part 11* of the *Act of 2014* to requests made or received under Chapter 3 of Part 5 pursuant to Article 7 of the 2008 Council Decision or that Article insofar as it is applied by Article 1 of the 2009 Agreement with Iceland and Norway.”.

Amendment agreed to.

Sections 125 and 126 agreed to.

SECTION 127

Deputy Alan Shatter: I move amendment No. 33:

In page 144, lines 22 and 23, to delete “section 8 of the Criminal Justice Act 1984” and substitute the following:

“any statutory provision providing for the destruction of fingerprints, palm prints or photographs of persons”.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 34:

In page 145, line 12, to delete “section 8(11)” and substitute “section 8H”.

Amendment agreed to.

Section 127, as amended, agreed to.

Sections 128 to 133, inclusive, agreed to.

NEW SECTION

Deputy Alan Shatter: I move amendment No. 35:

In page 151, between lines 24 and 25, to insert the following:

“CHAPTER 8

Recognition of accredited forensic service providers carrying out laboratory activities

Definitions (Chapter 8)

135. In this Chapter—

“accredited”, in relation to a forensic service provider carrying out laboratory activities, means the forensic service provider is accredited by a national accreditation body as complying with the standard EN ISO/IEC 17025 entitled “General requirements for the competence of testing and calibration laboratories”

“dactyloscopic data” means fingerprint images, images of fingerprint latents, palm

prints, palm print latents and templates of such images (coded minutiae);

“forensic service provider” means any organisation, whether public or private, that carries out laboratory activities at the request of competent law enforcement or judicial authorities in the State or a Member State;

“Irish National Accreditation Board” means the committee commonly known by that name established pursuant to section 10 of the Industrial Development Act 1993;

“laboratory activities” means measures taken in a laboratory when locating and recovering traces on items, as well as developing, analysing and interpreting forensic evidence, with a view to providing expert opinions or exchanging forensic evidence;

“national accreditation body” means—

(a) in the case of the State, the Irish National Accreditation Board, and

(b) in the case of a Member State, the sole body in the Member State that performs accreditation with authority derived from the Member State in accordance with

Regulation (EC) No. 765/2008;

“results”, in relation to laboratory activities, means any analytical outputs and directly associated interpretation.”.

Amendment agreed to.

Section 134 agreed to.

NEW SECTION

Deputy Alan Shatter: I move amendment No. 36:

In page 151, between lines 24 and 25, to insert the following:

“Recognition of accredited forensic service providers carrying out laboratory activities in Member States

136. (1) The results of an accredited forensic service provider carrying out the laboratory activities referred to in *subsection (2)* in a Member State shall be recognised by the authorities in the State which are responsible for the prevention, detection and investigation of criminal offences as being as reliable as the results of an accredited

forensic service provider carrying out such laboratory activities in the State.

(2) The laboratory activities to which *subsection (1)* applies are those that result in the generation of—

(a) DNA profiles, or

(b) dactyloscopic data.”.

Amendment agreed to.

Sections 135 to 143, inclusive, agreed to.

SECTION 144

Deputy Alan Shatter: I move amendment No. 37:

In page 157, line 38, to delete “Director General of the Irish Youth Justice Service” and substitute “National Director of the Irish Youth Justice Service”.

This is a minor amendment to section 144 to correct an error in a reference to the head of the Irish Youth Justice Service whose title should read “National Director”, rather than “Director General”.

Amendment agreed to.

Section 144, as amended, agreed to.

Sections 145 to 153, inclusive, agreed to.

NEW SECTION

Deputy Alan Shatter: I move amendment No. 38:

In page 162, between lines 4 and 5, to insert the following:

“Amendment of section 6(4) of Act of 1984

154. Section 6(4) of the Act of 1984 is amended by the substitution of “a class A fine” for “a fine not exceeding €3,000”.”.

This amendment involves the insertion of a new section 154 which amends section 6(4) of the Criminal Justice Act 1984 in order to bring the fine level for obstruction offences in that subsection into line with those contained in sections 146 and 154 of this Bill concerning the taking of samples, fingerprints and palm prints of the persons arrested for the purpose of charge. Persons who commit each offence will now be liable, on summary conviction, to a class A fine, a fine of up to €5,000 in all such cases. As I mentioned, the previous section 154 has been relocated to section 100 in the new Part 11 dealing with fingerprints, palm prints and photographs and amended to take account of the new destruction arrangements for such identification evidence.

Amendment agreed to.

Section 154 deleted.

Sections 155 and 156 deleted.

Section 157 agreed to.

Schedules Nos. 1 to 3, inclusive, agreed to.

NEW SCHEDULE

Deputy Alan Shatter: I move amendment No. 39:

In page 192, after line 26, to insert the following:

“SCHEDULE 4

Section 100

TEXT OF COUNCIL FRAMEWORK DECISION 2009/905/JHA OF 30 NOVEMBER 2009

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 30(1)(a) and (c) and Article 34(2)(b) thereof,

Having regard to the initiative of the Kingdom of Sweden and the Kingdom of Spain,

Having regard to the opinion of the European Parliament,

Whereas:

(1) The European Union has set itself the objective of maintaining and developing the Union as an area of freedom, security and justice; a high level of safety is to be provided by common action among the Member States in the field of police and judicial cooperation in criminal matters.

(2) That objective is to be achieved by preventing and combating crime through closer cooperation between law enforcement authorities in the Member States, while respecting the principles and rules relating to human rights, fundamental freedoms and the rule of law on which the Union is founded and which are common to the Member States.

(3) Exchange of information and intelligence on crime and criminal activities is crucial for the possibility for law enforcement authorities to successfully prevent, detect and investigate crime or criminal activities. Common action in the field of police cooperation under Article 30(1) (a) of the Treaty entails the need to process relevant information which should be subject to appropriate provisions on the protection of personal data.

(4) The intensified exchange of information regarding forensic evidence and the increased use of evidence from one Member State in the judicial processes of another highlights the need to establish common standards for forensic service providers.

(5) Information originating from forensic processes in one Member State may currently be associated with a level of uncertainty in another Member State regarding the way in which an item has been handled, what methods have been used and how the results have been interpreted.

(6) In point 3.4(h) of the Council and Commission Action Plan implementing The Hague Programme on strengthening freedom, security and justice in the European Union Member States stressed the need for a definition of the quality standards of forensic laboratories by 2008.

(7) It is particularly important to introduce common standards for forensic service providers relating to such sensitive personal data as DNA profiles and dactyloscopic data.

(8) Pursuant to Article 7(4) of Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border coop-

eration, particularly in combating terrorism and cross-border crime, Member States shall take the necessary measures to guarantee the integrity of DNA profiles made available or sent for comparison to other Member States and to ensure that these measures comply with international standards, such as EN ISO/IEC 17025 ‘General requirements for the competence of testing and calibration laboratories’ (hereinafter ‘EN ISO/IEC 17025’).

(9) DNA profiles and dactyloscopic data are not only used in criminal proceedings but are also crucial for the identification of victims, particularly after disasters.

(10) The accreditation of forensic service providers carrying out laboratory activities is an important step towards a safer and more effective exchange of forensic information within the Union.

(11) Accreditation is granted by the national accreditation body which has exclusive competence to assess if a laboratory meets the requirements set by harmonised standards. An accreditation body derives its authority from the State. Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products contains detailed provisions on the competence of such national accreditation bodies. Inter alia, Article 7 of that Regulation regulates cross-border accreditation in cases where accreditation may be requested from another national accreditation body.

(12) The absence of an agreement to apply a common accreditation standard for the analysis of scientific evidence is a deficiency that should be remedied; it is, therefore, necessary to adopt a legally binding instrument on the accreditation of all forensic service providers carrying out laboratory activities. Accreditation offers the necessary guarantees that laboratory activities are performed in accordance with relevant international standards, in particular EN ISO/IEC 17025, as well as relevant applicable guidelines.

(13) An accreditation standard allows any Member State to require, if it wishes, complementary standards in laboratory activities within its national jurisdiction.

(14) Accreditation will help establish mutual trust in the validity of the basic analytic methods used. However, accreditation does not state which method to use, only that the method used has to be suitable for its purpose.

(15) Any measure taken outside a laboratory is beyond the scope of this Framework Decision. For example, the taking of dactyloscopic data or measures taken at the scene of incident, the scene of crime or forensic analyses carried out outside laboratories are not included in its scope.

(16) This Framework Decision does not aim to harmonise national rules regarding the judicial assessment of forensic evidence.

(17) This Decision does not affect the validity, established in accordance with national applicable rules, of the results of laboratory activities carried out prior to its implementation, even if the forensic service provider was not accredited to comply with EN ISO/IEC 17025,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1

Objective

1. The purpose of this Framework Decision is to ensure that the results of laboratory activities carried out by accredited forensic service providers in one Member State are recognised by the authorities responsible for the prevention, detection and investigation of criminal offences as being equally reliable as the results of laboratory activities carried out by forensic service providers accredited to EN ISO/IEC 17025 within any other Member State.

2. This purpose is achieved by ensuring that forensic service providers carrying out laboratory activities are accredited by a national accreditation body as complying with EN ISO/IEC 17025.

Article 2

Scope

This Framework Decision shall apply to laboratory activities resulting in:

- (a) DNA-profile; and
- (b) dactyloscopic data.

Article 3

Definitions

For the purposes of this Framework Decision:

(a) ‘laboratory activity’ means any measure taken in a laboratory when locating and recovering traces on items, as well as developing, analysing and interpreting forensic evidence, with a view to providing expert opinions or exchanging forensic evidence;

(b) ‘results of laboratory activities’ means any analytical outputs and directly associated interpretation;

(c) ‘forensic service provider’ means any organisation, public or private, that carries out forensic laboratory activities at the request of competent law enforcement or judicial authorities;

(d) ‘national accreditation body’ means the sole body in a Member State that performs accreditation with authority derived from the State as referred to in Regulation (EC) No 765/2008;

(e) ‘DNA-profile’ means a letter or number code which represents a set of identification characteristics of the non-coding part of an analysed human DNA sample, i.e. the particular molecular structure at the various DNA locations (loci);

(f) ‘dactyloscopic data’ means fingerprint images, images of fingerprint latents, palm prints, palm print latents and templates of such images (coded minutiae).

Article 4

Accreditation

Member States shall ensure that their forensic service providers carrying out laboratory activities are accredited by a national accreditation body as complying with EN ISO/IEC 17025.

Article 5

Recognition of results

1. Each Member State shall ensure that the results of accredited forensic service providers carrying out laboratory activities in other Member States are recognised by its authorities responsible for the prevention, detection, and investigation of criminal offences as being equally reliable as the results of domestic forensic service providers carrying out laboratory activities accredited to EN ISO/IEC 17025.

2. This Framework Decision does not affect national rules on the judicial assessment of evidence.

Article 6

Costs

1. Each Member State shall bear any public costs resulting from this Framework Decision in accordance with national arrangements.

2. The Commission shall examine the means to provide financial support from the general budget of the European Union for national and transnational projects intended to contribute to the implementation of this Framework Decision, inter alia for the exchange of experience, dissemination of know-how and proficiency testing.

Article 7

Implementation

1. Member States shall take the necessary steps to comply with the provisions of this Framework Decision in relation to DNA-profiles by 30 November 2013.

2. Member States shall take the necessary steps to comply with the provisions of this Framework Decision in relation to dactyloscopic data by 30 November 2015.

3. Member States shall forward to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national laws the obligations imposed on them under this Framework Decision by 30 May 2016 at the latest.

4. On the basis of the information referred to in paragraph 3 and other information provided by the Member States on request, the Commission shall, before 1 July 2018, submit a report to the Council on the implementation and application of this Framework Decision.

5. The Council shall, by the end of 2018, assess the extent to which Member States have complied with this Framework Decision.

Article 8

Entry into force

This Framework Decision shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.

Done at Brussels, 30 November 2009.

For the Council

The President

B. ASK”.

Amendment agreed to.

TITLE

Deputy Alan Shatter: I move amendment No. 40:

In page 12, line 3, after “2006;” to insert the following:

“to give effect to Council Framework Decision 2009/905/JHA of 30 November 2009 on Accreditation of forensic service providers carrying out laboratory activities;”.

Amendment agreed to.

Title, as amended, agreed to.

Chairman: I thank the Minister and his officials for their work on this complicated, technical and important Bill.

Deputy Alan Shatter: I thank the select committee for its co-operation in completing Committee Stage of this ground-breaking and important legislation. This is the most important legislation that will be enacted during this Dáil’s lifetime. It will provide assistance for members of An Garda Síochána in the investigation of crime and bringing individuals before the courts who have committed crimes. It will ensure maximum use is made of identification evidence. It will also ensure that where an allegation is made, an individual cannot be wrongly convicted. The existence of DNA databases in other countries has proved during the years to be of great assistance in identifying instances of miscarriage of justice. This will be an important tool in helping An Garda Síochána in fighting crime. In putting in place the required resources it is important that we can fully co-operate with other European Union colleagues in the fight against international crime. It will ensure those involved in cross-border crime will know there is the maximum co-operation between police forces across Europe and that we can access information held in other member states.

I pay tribute to my officials and those from the Office of the Attorney General who have done enormous work in the preparation of the Bill and the drafting of crucial amendments. It is complex legislation, but it is also human rights legislation as it seeks to ensure victims of crime know we have the necessary 21st century and state-of-the-art facilities in Forensic Science Ireland to facilitate investigations. It also reflects the human rights judgments and jurisprudence of the European Court of Human Rights in this area in that information will be properly used and retained and destroyed when no longer required.

I pay tribute to those who work in Forensic Science Ireland who do tremendous work. It is given very limited public recognition, but the work it does is crucial and central to the investigation of crime. Its work in seeking to ensure the necessary infrastructure and expertise

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are in place to provide for the DNA database is of great importance. DNA evidence is used extensively in the investigation of crime and has proved to be extremely useful in identifying the perpetrators of crime. A DNA database will be a significantly important additional tool for An Garda Síochána. It is, therefore, in the public interest that this legislation be enacted. I hope it will be through both Houses before the summer break.

I appreciate that much of what we have dealt with today is complex and technical. It is important in enacting legislation that we update related criminal law legislation to ensure consistency of approach to DNA profiling and samples, fingerprints, photographs, etc. We have gone through this complex legislation with great speed. It is an important day in the life of the select committee that we have got to this point in completing the legislative process. I look forward to taking Report Stage without undue delay.

Chairman: I also thank the Minister's officials, Mr. Richard Fallon, Mr. Gerry Browne and Ms Clare Dowling, for the work they have done on the Bill. I can appreciate how technical and difficult it is. I also welcome Dr. Sheila Willis and Dr. Maureen Smyth from Forensic Science Ireland to the gallery. The work the service does is very much appreciated.

Bill reported with amendments.

Message to Dáil

Chairman: In accordance with Standing Order 87, the following message will be sent to the Dáil:

The Select Committee on Justice, Defence and Equality has completed its consideration of the Criminal Justice (Forensic Evidence and DNA Database System) Bill 2013 and has made amendments thereto.

The select committee adjourned at 11 a.m. *sine die*.