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*Number 1 of 2024*

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**Policing, Security and Community Safety Act 2024**

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*Number 1 of 2024*

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**POLICING, SECURITY AND COMMUNITY SAFETY ACT 2024**

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[No. 1.]

*Policing, Security and  
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[2024.]

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Number 1 of 2024

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## **POLICING, SECURITY AND COMMUNITY SAFETY ACT 2024**

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An Act to make further and better provision in relation to An Garda Síochána and, in particular, to strengthen the governance of An Garda Síochána and to provide for clear and effective oversight and accountability of An Garda Síochána; to provide that An Garda Síochána shall have a Board to be known as *Bord an Gharda Síochána* and to provide for its functions; to provide for the independence of the Garda Commissioner in relation to the performance of his or her functions; to provide for the appointment of members of An Garda Síochána and members of garda staff; to improve the safety of, and the perception of safety in, communities through collaboration between relevant Departments of State and public service bodies at national and local level and to provide for community engagement in the prevention of crime and harm and for that purpose to provide for the establishment of a group to be known as *An Grúpa Stiúrtha Náisiúnta um Shábháilteacht Pobail* and to provide for its functions; to provide for the establishment of a body to be known as *An Oifig Náisiúnta um Shábháilteacht Pobail* and to provide for its functions; to provide for local community safety partnerships; to provide for the establishment of a body to be known as *An tÚdarás Póilíneachta agus Sábháilteachta Pobail* and to provide for its functions; to provide for the change of name of the body known as *Coimisiún Ombudsman an Gharda Síochána* or, in the English language, the Garda Síochána Ombudsman Commission, so that it shall be known as *Fiosrú - Oifig an Ombudsman Póilíneachta* and to amend and extend its functions; to provide for the appointment of *An tOmbudsman Póilíneachta* and *An Leas-Ombudsman Póilíneachta* or, in the English language, the Police Ombudsman and Deputy Police Ombudsman respectively; to provide for the establishment of a body to be known as *oifig an Scrúdaitheora Neamhspleách um Reachtaíocht Slándála* and to provide for its functions; to provide for the appointment of a person to be *An Scrúdaitheoir Neamhspleách um Reachtaíocht Slándála* or, in the English language, the Independent Examiner of Security Legislation; to provide for the repeal of the Garda Síochána Act 2005; to amend certain enactments; and to provide for related matters.

[7th February, 2024]

**Be it enacted by the Oireachtas as follows:**

## PART 1

## PRELIMINARY AND GENERAL

**Short title and commencement**

1. (1) This Act may be cited as the Policing, Security and Community Safety Act 2024.
- (2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

**Interpretation (General)**

2. (1) In this Act—

“Act of 1963” means the Official Secrets Act 1963;

“Act of 1975” means the Law Reform Commission Act 1975;

“Act of 2004”, other than in *section 263*, means the Public Service Management (Recruitment and Appointments) Act 2004;

“Act of 2005” means the Garda Síochána Act 2005;

“Act of 2014” means, other than in *section 38* and *Part 6*, the Companies Act 2014;

“at risk”, in relation to an individual, means an individual (including an individual aged under the age of 18 years) who is at risk, at a particular point in time, of harm and who requires, whether due to his or her personal characteristics or personal circumstances, assistance in protecting himself or herself from such harm at that time;

“Authority” has the meaning assigned to it by *section 121(1)*;

“Board” has the meaning assigned to it by *section 11*;

“chief executive of the Authority” has the meaning assigned to it by *section 129(1)*;

“Committee of Public Accounts” means the committee of Dáil Éireann established under the rules and Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General;

“company” means—

- (a) a company formed and registered under the Act of 2014, or
- (b) an existing company within the meaning of that Act;

“complaint” means a complaint (whether oral, in writing or electronic) made under *section 196(1)*;

“conduct code”, in relation to a member of garda staff, means the conduct code under which the Garda Commissioner may address misconduct by the member;

“conduct proceedings”—

- (a) in relation to a member of An Garda Síochána, means the taking of measures in relation to the member under the Conduct Regulations, and
- (b) in relation to a member of garda staff, means the taking of measures in accordance with the conduct code;

“Conduct Regulations” has the meaning assigned to it by *section 257(1)*;

“controlled drug” has the same meaning as it has in section 2 of the Misuse of Drugs Act 1977;

“Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“designated officer” means a person appointed under *section 177(1)* to be a designated officer for the purposes of any of the provisions of *Part 6*;

“Director” has the meaning assigned to it by *section 109(1)*;

“document” means anything in which information of any description is recorded, including any electronic document or document generated automatically and, without prejudice to the generality of the foregoing, includes—

- (a) anything on which there is writing,
- (b) a map, plan, graph, drawing or photograph,
- (c) a disc, tape, sound track, film, microfilm, negative or other device from which sounds, images or other data can be reproduced with or without the aid of other equipment, and
- (d) a reproduction (including enlarging) in permanent legible form, by a computer or other means, of information in non-legible form;

“enactment”, other than in *section 209*, has the same meaning as it has in the Interpretation Act 2005;

“Garda Commissioner”, other than in *Part 6*, means the Commissioner of An Garda Síochána;

“Independent Examiner” has the meaning assigned to it by *section 232(2)*;

“information” includes any representation of fact, whether in words or otherwise;

“information in non-legible form” includes information on a microfilm, microfiche, magnetic tape or disc;

“local authority” has the same meaning as it has in the Local Government Act 2001;

“member”, in relation to An Garda Síochána, means a member of any rank (including the Garda Commissioner) appointed, or deemed to have been appointed, under *Part 2*,

<sup>1</sup> OJ No. L119, 4.5.2016, p. 1

under an enactment repealed by this Act or under an enactment repealed by the Act of 2005, but does not include a member of garda staff;

“member of garda staff” means—

- (a) a person appointed under *subsection (1) or (2) of section 54*, or
- (b) a person designated by order of the Minister under *section 54(5)*;

“members of garda personnel”, other than in *Part 6*, has the meaning assigned to it by *section 44*;

“Minister” means the Minister for Justice;

“National Office” has the meaning assigned to it by *section 108(2)*;

“national strategy” has the meaning assigned to it by *section 106(1)* and includes a strategy revised in accordance with *subsection (7)* of that section;

“Office of the Police Ombudsman” means the body established under *section 64* of the Act of 2005 and continued in being by *section 170(1)*;

“officer of the Police Ombudsman” has the meaning assigned to it by *section 176(1)*;

“Oireachtas committee” means—

- (a) a committee appointed by either House of the Oireachtas or jointly by each House of the Oireachtas (other than the Committee of Public Accounts, the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann), or
- (b) a subcommittee of a committee specified in *paragraph (a)*;

“Performance Regulations” has the meaning assigned to it by *section 256(1)*;

“policing principles” shall be construed in accordance with *section 4*;

“policing priorities” has the meaning assigned to it by *section 61(1)*;

“policing services” does not include security services;

“prescribed” means prescribed by regulations;

“protected disclosure” has the same meaning as it has in the Protected Disclosures Act 2014;

“psychoactive substance” has the same meaning as it has in the Criminal Justice (Psychoactive Substances) Act 2010;

“public body” means—

- (a) a Minister of the Government,
- (b) a local authority,
- (c) a body (other than a company) established by or under an enactment, or



(d) a company established pursuant to a power conferred by or under an enactment, and financed wholly or partly by—

(i) moneys provided, or loans made or guaranteed, by a Minister of the Government, or

(ii) the issue of shares held by or on behalf of a Minister of the Government;

“public place” has the same meaning as it has in the Road Traffic Act 1961;

“regulations”, other than in *section 261*, means regulations made or continued in force under this Act;

“sample” means a sample of any of the following taken, or to be taken, from a person:

(a) urine;

(b) hair, other than pubic hair;

(c) oral fluid, including saliva;

(d) blood;

“security priorities” has the meaning assigned to it by *section 62(1)(a)*;

“security services”, other than in *Part 7*, shall be construed in accordance with *section 3*;

“senior designated officer” means a designated officer appointed under *section 177(2)* to be a senior designated officer for the purposes of any of the provisions of *Part 6*;

“senior member of garda staff”, other than in *section 57*, means a member of garda staff who is of a grade that is equivalent to, or higher than, the grade equivalent to the rank of chief superintendent;

“Service” means the Public Appointments Service;

“standards of professional behaviour” has the meaning assigned to it by *section 258(1)*;

“Steering Group” has the meaning assigned to it by *section 107(1)*;

“trainee” has the meaning assigned to it by *section 53(1)*;

“vulnerable”, in relation to an individual, means an individual—

(a) who is under the age of 18 years, or

(b) whose capacity to guard himself or herself against harm by another individual is significantly impaired through—

(i) a physical disability, illness or injury,

(ii) a disorder of the mind, whether as a result of mental illness or dementia, or

(iii) an intellectual disability.

- (2) Prior to the coming into operation of an order made by the Minister under *section 54(5)*, a reference in this Act—
- (a) to a member of garda staff, other than in *subsections (3) and (4)(a) of section 54* and *sections 58 and 258(3)*,
  - (b) to a member of garda personnel, other than in *section 258(1)*, and
  - (c) to a senior member of garda staff,
- shall be construed as including a reference to a person who, immediately before the coming into operation of *section 54*, was a member of the civilian staff (within the meaning of *section 19* of the Act of 2005) of An Garda Síochána.
- (3) A reference in this Act—
- (a) to the policing priorities shall, where the context admits, be construed as including a reference to the priorities relating to policing services determined by the Policing Authority (within the meaning of *Part 4*) under *section 20* of the Act of 2005 that were in operation immediately before the repeal of that section by *section 5*, until such time as the Authority determines policing priorities,
  - (b) to the security priorities shall, where the context admits, be construed as including a reference to the priorities relating to security services determined by the Minister under *section 20A* of the Act of 2005 that were in operation immediately before the repeal of that section by *section 5*, until such time as the Minister determines security priorities,
  - (c) to the strategic plan as laid under *section 64(1)* shall, where the context admits, be construed as including a reference to the strategy statement prepared under *section 21* of the Act of 2005 that was in operation immediately before the repeal of that section by *section 5*, until such time as the strategic plan is so laid,
  - (d) to the annual service plan as laid under *section 65(12) or 66(10)* shall, where the context admits, be construed as including a reference to the policing plan prepared under *section 22* of the Act of 2005 that was in operation immediately before the repeal of that section by *section 5*, until such time as the annual service plan is so laid,
  - (e) to the capital plan as laid under *section 69(1)* shall, where the context admits, be construed as including a reference to such plan for capital expenditure for An Garda Síochána that was in operation immediately before the coming into operation of that section, until such time as the capital plan is so laid, and
  - (f) to a code of ethics issued by the Authority under *section 78* shall, where the context admits, be construed as including a reference to the code established by the Policing Authority (within the meaning of *Part 4*) under *section 17* of the Act of 2005 in so far as the latter was operative immediately before the repeal of that section by *section 5* until such time as a code of ethics is so issued.

**Security services**

3. (1) In this Act, other than in *Part 7*, “security services”, subject to *subsection (2)*, means the services provided by An Garda Síochána in the performance of the functions referred to in *section 9* that are for the purposes of—
- (a) protecting the security of the State, including, but not limited to, the following:
    - (i) preventing, detecting and investigating offences under the Offences against the State Acts 1939 to 1998, the Criminal Law Act 1976, the Criminal Justice (Terrorist Offences) Act 2005 and the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010;
    - (ii) protecting the State from—
      - (I) espionage,
      - (II) sabotage,
      - (III) unlawful acts that subvert or undermine, or are intended to subvert or undermine, parliamentary democracy or the institutions of the State,
      - (IV) acts of foreign interference that are, or are intended to be, detrimental to the interests of the State and are clandestine or deceptive or involve a threat to any person, and
      - (V) acts contrary to the economic well-being of the State where such acts have an impact on national security interests,whether directed from, or committed or intended to be committed within, the State or not,
  - (b) identifying foreign capabilities, intentions or activities within or relating to the State that have an impact on the international well-being or economic well-being of the State, and
  - (c) cooperating with authorities in other states and international organisations aimed at preserving international peace, public order and security.
- (2) The reference in *subsection (1)* to the provision of security services by An Garda Síochána for the purposes of protecting the security of the State does not include the provision of such services in response to lawful advocacy, protest or dissent by any person.
- (3) Where a question or dispute arises as to whether a particular matter relates to policing services or security services, the question or dispute shall be submitted to the Minister for determination.
- (4) The determination by the Minister of the question or dispute referred to him or her under *subsection (3)* shall be final.

**Policing principles**

4. In this Act, “policing principles” means—

- (a) the principle that effective policing improves the safety of individuals, communities and localities,
- (b) the principle that policing services are to be provided—
  - (i) independently and impartially,
  - (ii) in a manner that protects and vindicates human rights, and
  - (iii) in a manner that supports the proper and effective administration of justice,
- (c) the principle that effective policing is dependent on—
  - (i) securing the support and confidence of the public, and
  - (ii) being accessible to, and engaging with, communities,
- (d) the principle that policing services are to be provided within a national framework while having a particular regard to communities, and
- (e) the principle that when providing policing services every member of garda personnel is required to act professionally, ethically, with integrity and in a manner that protects and vindicates human rights.

**Repeals**

5. The enactments specified in *column (3)* of *Schedule 1* are repealed to the extent specified in *column (4)* of that Schedule.

**Expenses**

6. The expenses incurred in respect of An Garda Síochána, the Authority and the Office of the Police Ombudsman and any other expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

## PART 2

## AN GARDA SÍOCHÁNA

## CHAPTER 1

*Preliminary and General (Part 2)***Definitions (Part 2)**

7. In this Part—

“audit committee” means the audit committee established under *section 74(1)*;

“capital expenditure” means expenditure to acquire a fixed asset or to significantly

extend the life of an existing fixed asset;

“committee of the Board” has the meaning assigned to it by *section 21(1)*;

“governance framework” has the meaning assigned to it by *section 71(1)*;

“performance targets” has the meaning assigned to it by *section 62(1)(b)*;

“Secretary” has the meaning assigned to it by *section 23(1)*.

### **Continuation of An Garda Síochána**

8. (1) The police service called, prior to the coming into operation of this section, the Garda Síochána, shall, on and after that coming into operation, be known as An Garda Síochána and shall continue in being under this Act.

(2) References in—

- (a) any enactment,
- (b) any legal proceedings pending, and
- (c) any other document,

before the coming into operation of this section to the Garda Síochána shall, on and after that coming into operation, be construed as references to An Garda Síochána.

(3) The Government may continue to maintain, equip and pay An Garda Síochána.

### **Function of An Garda Síochána**

9. (1) The function of An Garda Síochána is to provide policing services and security services, including vetting, for the State with the objective of—

- (a) preserving peace and public order,
- (b) protecting life and property,
- (c) protecting and vindicating the human rights of each individual,
- (d) protecting the security of the State,
- (e) preventing crime,
- (f) preventing harm to individuals, in particular individuals who are vulnerable or at risk,
- (g) bringing criminals to justice, including by detecting and investigating crime,
- (h) protecting and supporting victims of crime, and
- (i) regulating and controlling road traffic and improving road safety.

(2) For the purpose of achieving the objective referred to in *subsection (1)*, An Garda Síochána shall cooperate, as appropriate, with other Departments of State, agencies and bodies having, by law, responsibility for any matter relating to any aspect of that objective.

- (3) In addition to its function under *subsection (1)*, An Garda Síochána and members of garda personnel have such functions as are conferred on them by law including those relating to immigration.
- (4) This section does not affect any powers, immunities, privileges or duties that members of garda personnel have by virtue of any other enactment or at common law.
- (5) This section shall not be taken to confer on any person a right in law that he or she would not otherwise have to—
  - (a) require An Garda Síochána to perform a function or provide a service referred to in this section or to take, or desist from, any action, or
  - (b) seek damages for a member of garda personnel's performance of, or failure to perform, such function, his or her provision of, or failure to provide, such service, or his or her taking of, failure to take or failure to desist from taking, such action.

### **Prosecution of offences by members of An Garda Síochána**

10. (1) A member of An Garda Síochána in the course of his or her official duties shall not institute a prosecution except as provided under this section.
- (2) Subject to *subsection (4)*, any member of An Garda Síochána may institute or conduct prosecutions in a court of summary jurisdiction, but only in the name of the Director of Public Prosecutions.
- (3) Where a prosecution is instituted by a member of An Garda Síochána pursuant to *subsection (2)*, the prosecution may be conducted by that member or any other such member.
- (4) In deciding whether to institute and in instituting or conducting a prosecution, a member of An Garda Síochána shall comply with any applicable direction (whether of a general or specific nature) given by the Director of Public Prosecutions under *subsection (5)*.
- (5) The Director of Public Prosecutions may give, vary or rescind directions concerning the institution and conduct of prosecutions by members of An Garda Síochána.
- (6) Directions under *subsection (5)* may be of a general or specific nature and may, among other things, prohibit members of An Garda Síochána from—
  - (a) instituting or conducting prosecutions of specified types of offences or in specified circumstances, or
  - (b) conducting prosecutions beyond a specified stage of the proceedings.
- (7) Where a prosecution is instituted or conducted by a member of An Garda Síochána in the name of the Director of Public Prosecutions—
  - (a) the member is presumed, unless the contrary is proved, to have complied with this section and any applicable direction given by the Director of Public Prosecutions under this section, and

- (b) nothing done by the member in instituting or conducting the prosecution is invalid by reason only of the member's failure to comply with this section or such a direction.
- (8) Nothing in this section—
  - (a) precludes the Director of Public Prosecutions from, at any stage of the proceedings, assuming the conduct of a prosecution instituted by a member of An Garda Síochána, or
  - (b) authorises a member of An Garda Síochána to institute a proceeding without the consent of the Director of Public Prosecutions if an enactment prohibits the institution of that proceeding except by or with the Director of Public Prosecution's consent.
- (9) For the purpose of this section—
  - (a) a direction is of a general nature if it relates to a class of prosecutions, and
  - (b) a direction is of a specific nature if it relates to the prosecution of a person for a specific offence.

## CHAPTER 2

### *Board*

#### **Establishment of Board**

- 11.** An Garda Síochána shall have a Board to be known as *Bord an Gharda Síochána* (in this Act referred to as the “Board”).

#### **Functions of Board**

- 12.** (1) The Board shall have the following functions:
- (a) to oversee and approve the development of corporate strategy for An Garda Síochána in relation to major plans of action, risk policy, annual budgets and service plans;
  - (b) to promote high standards of corporate governance with particular regard to a code of ethics issued by the Authority under *section 78(1)* or issued by the Board under *section 79(3)*;
  - (c) to monitor the implementation of organisational performance;
  - (d) to oversee major capital expenditure and investment having regard to *section 68*;
  - (e) to ensure that arrangements established for the recruitment, appointment, training, development and management of the performance of members of garda personnel comply with best practice;
  - (f) to ensure, having regard to the resources expected to be available to An Garda Síochána, the integrity of An Garda Síochána's accounting and financial

reporting systems, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards;

- (g) to ensure that An Garda Síochána has appropriate policies, plans and actions in place to enable compliance with its obligations under section 42 of the Irish Human Rights and Equality Commission Act 2014;
  - (h) to establish arrangements for the management of the performance of the Garda Commissioner and to implement the necessary processes for the development and appraisal of that performance;
  - (i) to perform any other functions conferred on it by or under this Act or the regulations.
- (2) The Board shall have all such powers as are necessary or expedient for the performance of its functions.
  - (3) The Board may perform any of its functions through or by the Secretary or any member of the staff of the Board (within the meaning of *section 24*) duly authorised in that behalf by the Board.
  - (4) In *subsection (1)(a)*, “major plans of action” includes plans concerning the strategic direction of An Garda Síochána, the development of the capacity and capability of An Garda Síochána and of the members of garda personnel and the optimum use of the resources of An Garda Síochána but does not include operational policing plans, plans in relation to the provision of security services or plans for the management of major events.

#### **Provision of information to Board by Garda Commissioner**

- 13.** (1) Subject to *subsection (2)*, the Garda Commissioner shall provide the Board with all such information and other assistance as is necessary for the Board to perform its functions effectively.
- (2) The Garda Commissioner may exclude from information to be provided to the Board under *subsection (1)* any matter the disclosure of which, in his or her opinion, could be prejudicial to the security of the State.
  - (3) The Board and the Garda Commissioner shall, within 3 months of the coming into operation of this section, by written protocols, make arrangements in relation to the operation of *subsection (2)*.

#### **Accountability of Board to Minister**

- 14.** (1) The Board shall be accountable to the Minister for the performance of its functions.
- (2) The Board shall inform the Minister in writing of any matter that it considers requires his or her attention.



**Membership of Board**

15. (1) The Board shall comprise the following members:
- (a) a chairperson;
  - (b) 8 ordinary members.
- (2) The members of the Board shall be appointed by the Minister.
- (3) Subject to *subsections (4) and (11)* and *section 17(5)*, the Minister shall appoint the members of the Board from among such persons as are recommended by the Service in accordance with *section 16* for appointment as such members.
- (4) The Board shall be comprised of—
- (a) at least one member having sufficient experience and expertise relating to the matters specified in *paragraph (a) of section 16(3)*,
  - (b) at least one member having sufficient experience and expertise relating to the matters specified in *paragraph (b) of section 16(3)*, and
  - (c) at least one member having sufficient experience and expertise relating to the matters specified in *paragraph (c) of section 16(3)*.
- (5) The Minister shall, in so far as practicable, endeavour to ensure that among the members of the Board there is an equitable balance between men and women.
- (6) Subject to *subsection (7)*, the chairperson of the Board shall be appointed by the Minister from among the members of the Board.
- (7) The Minister may, before the coming into operation of this section, designate a person to be appointed as the first chairperson of the Board.
- (8) Where, immediately before the coming into operation of this section, a person stands designated under *subsection (7)*, that person shall, on such coming into operation, stand appointed as the first chairperson of the Board.
- (9) The Minister may, before the coming into operation of this section, designate persons to be appointed as the first ordinary members of the Board.
- (10) Where, immediately before the coming into operation of this section, a person stands designated under *subsection (9)*, that person shall, on such coming into operation, stand appointed as an ordinary member of the Board.
- (11) *Subsection (3)* shall not apply in respect of—
- (a) the designation of a person as the first chairperson of the Board under *subsection (7)*, or
  - (b) the designation of persons as the first ordinary members of the Board under *subsection (9)*.

**Recommendations for appointment as members of Board**

16. (1) Subject to *section 15(11)*, the Minister shall invite the Service to undertake a selection competition for the purpose of identifying and recommending to the Minister persons who are suitable for appointment by the Minister as members of the Board.
- (2) Subject to *subsection (3)*, the Minister shall agree with the Service the selection criteria and process that are to apply to a selection competition under this section.
- (3) A person shall not be recommended by the Service for appointment by the Minister unless the Service is satisfied that the person has sufficient experience and expertise to enable them to make a substantial contribution to the effective and efficient operation of An Garda Síochána in matters connected with one or more of the following:
- (a) the functions of An Garda Síochána;
  - (b) organisational governance, management, data protection or public administration;
  - (c) financial matters including the allocation, management of, and accountability for, the effective use of financial resources.
- (4) The Service shall provide the Minister with particulars of the experience and expertise of each person whom it recommends under this section as suitable for appointment as a member of the Board.

**Terms of appointment and conditions of office of members of Board**

17. (1) Subject to *subsection (2)*, a member of the Board shall hold office, unless the member sooner dies, resigns, becomes disqualified or is removed from office, for such period, not exceeding 4 years from the date of his or her appointment, as the Minister shall determine.
- (2) Of the ordinary members of the Board that are first appointed under this Act—
- (a) 4 members shall hold office for a period of 4 years from the date of their respective appointments as such ordinary members, and
  - (b) 4 members shall hold office for a period of 3 years from the date of their respective appointments as such ordinary members.
- (3) Subject to *subsection (4)*, a member of the Board whose term of office expires by the effluxion of time shall be eligible for reappointment to the Board.
- (4) A person who is reappointed to the Board in accordance with *subsection (3)* shall not hold office for periods the aggregate of which exceeds 8 years.
- (5) Where it is proposed to reappoint a person as a member of the Board, it shall not be necessary for the person—
- (a) to participate in a selection competition undertaken by the Service under *section 16*, or

- (b) to be recommended by the Service in accordance with *section 16* for appointment.
- (6) The chairperson and ordinary members of the Board shall—
  - (a) hold office on such terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) as may be determined by the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, at the time of appointment or reappointment, and
  - (b) be paid out of moneys at the disposal of An Garda Síochána.
- (7) A member of the Board may resign from office by notice in writing addressed to the Minister and the resignation shall take effect on the date the Minister receives the notice, or, if a date is specified in the notice and the Minister agrees to that date, on that date.
- (8) Subject to *section 22(7)*, the Board may act notwithstanding one or more than one vacancy in its membership.

**Ineligibility for appointment, disqualification from office of member of Board, committee of Board or audit committee, cessation of membership, etc.**

- 18.** (1) A person shall not be eligible to be recommended for appointment or appointed as a member of the Board, a committee of the Board or the audit committee if he or she is—
- (a) a member of either House of the Oireachtas,
  - (b) entitled under the rules of procedure of the European Parliament to sit in that Parliament,
  - (c) a member of a local authority,
  - (d) a member of garda personnel,
  - (e) a member of the Authority, or
  - (f) the Police Ombudsman or the Deputy Police Ombudsman.
- (2) A person shall be disqualified from holding and shall cease to hold office as a member of the Board, a committee of the Board or the audit committee if he or she—
- (a) subject to *subsection (3)*, is adjudicated bankrupt,
  - (b) makes a composition or arrangement with his or her creditors,
  - (c) is convicted on indictment of an offence, or is convicted outside the State of an offence consisting of acts or omissions which would constitute an offence triable on indictment if done or made in the State,
  - (d) is convicted of an offence involving fraud or dishonesty,
  - (e) is sentenced by a court of competent jurisdiction to a term of imprisonment,

- (f) has a declaration under section 819 of the Act of 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
  - (g) is subject or is deemed to be subject to a disqualification order (within the meaning of Chapter 4 of Part 14 of the Act of 2014) whether by virtue of that Chapter or any other provision of that Act or a disqualification outside the State to like effect which corresponds to such a disqualification order.
- (3) A person shall be disqualified from holding office as a member of the Board, a committee of the Board or the audit committee under *paragraph (a) of subsection (2)* only for so long as he or she has not obtained a certificate of discharge from the bankruptcy.
- (4) Where a member of the Board, a committee of the Board or the audit committee is—
- (a) nominated as a member of Seanad Éireann,
  - (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,
  - (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to be a member of the European Parliament, or
  - (d) elected or co-opted as a member of a local authority,
- he or she shall thereupon cease to be a member of the Board, the committee of the Board or the audit committee, as the case may be.
- (5) Where a member of the Board does not, for a consecutive period of 6 months, attend a meeting of the Board, he or she shall, at the end of that period, cease to be a member of the Board unless he or she demonstrates to the satisfaction of the Minister that the failure was due to ill-health or other unavoidable cause.

### Removal of member of Board

19. The Minister may at any time remove from office a member of the Board if, in the Minister's opinion—
- (a) the member has become incapable through ill-health or otherwise of effectively performing his or her functions,
  - (b) the member has committed stated misbehaviour,
  - (c) the removal of the member is necessary for the effective and efficient performance by the Board of its functions,
  - (d) the member, in performing his or her functions under this Act, has—
    - (i) not maintained the proper standards of integrity, conduct and concern required under *section 79(1)*,
    - (ii) breached a code of ethics issued under *section 79(3)*, or

(iii) contravened, or failed to discharge a duty imposed by, a provision of the Ethics in Public Office Acts 1995 and 2001 that, by virtue of a regulation under section 3 of the Ethics in Public Office Act 1995, applies to him or her,

or

(e) the member, in performing his or her functions under this Act, has breached a code of conduct that has been drawn up under section 10(3) of the Standards in Public Office Act 2001 and that applies to the member.

### **Removal of all members of Board**

- 20.** (1) The Minister may remove all the members of the Board from office if—
- (a) the Board fails to achieve a quorum for 3 consecutive meetings,
  - (b) the Board does not comply with a judgment, order or decree of any court,
  - (c) the Board does not comply with any other requirement imposed on it by or under any enactment including this Act, or
  - (d) the Minister is of the opinion that the Board’s functions are not being performed in an effective and efficient manner.
- (2) Before removing all the members of the Board from office under *subsection (1)(d)*, the Minister may appoint a person—
- (a) to conduct an independent review of any matter giving rise to his or her opinion that the Board’s functions are not being performed in an effective and efficient manner, and
  - (b) to submit a report to the Minister of the findings of the review.
- (3) The Board and the Garda Commissioner shall cooperate with a review under *subsection (2)* and give the person conducting the review all reasonable assistance, including access to such premises, equipment and documents as the person may require for the purposes of the review.
- (4) A person appointed to conduct a review under *subsection (2)* shall be paid such remuneration and allowances for expenses incurred as the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, may determine.

### **Establishment of committees of Board**

- 21.** (1) The Board may, in addition to the audit committee, establish such and so many other committees as it thinks fit to assist and advise it in relation to the performance of any of its functions (in this Part referred to as a “committee of the Board”).
- (2) A committee of the Board—
- (a) shall consist of such number of members as the Board may determine, and
  - (b) may, subject to *section 18*, include persons who are not members of the Board.

- (3) In appointing the members of a committee of the Board, the Board shall have regard to the range of qualifications and experience necessary for the proper and effective performance of the functions of the committee.
- (4) The chairperson of a committee of the Board shall be appointed by the Board from among the members of the committee.
- (5) A member of a committee of the Board shall—
  - (a) hold office upon such terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) as may be determined by the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, and
  - (b) be paid out of moneys at the disposal of An Garda Síochána.
- (6) The Board may at any time remove a member of a committee of the Board for stated reasons.
- (7) The Board may determine the terms of reference and regulate the procedure of a committee of the Board.
- (8) The acts of a committee of the Board shall be subject to confirmation by the Board unless the Board otherwise determines.
- (9) A committee of the Board shall provide the Board with such information as the Board may from time to time require, in respect of the committee's activities and operations, for the purposes of the performance by the Board of its functions.
- (10) The Board may at any time dissolve a committee of the Board.
- (11) A committee of the Board may act notwithstanding one or more than one vacancy in its membership.

### **Meetings and procedures of Board**

- 22.** (1) The Board shall hold such and so many meetings as may be necessary for the performance of its functions but in each 2 month period of each year shall hold at least one meeting.
- (2) The Minister, in consultation with the chairperson of the Board, shall fix the date, time and place of the first meeting of the Board.
  - (3) The chairperson may call a meeting of the Board at any reasonable time.
  - (4) Any 5 members of the Board may call a meeting of the Board where the chairperson—
    - (a) refuses to call a meeting after being presented with a requisition for that purpose signed by not fewer than 5 members of the Board, or
    - (b) without refusing to call a meeting, does not call one within 7 days after being presented with the requisition.

- (5) The members present at a meeting called under *subsection (4)* shall choose one of their number to chair the meeting.
- (6) Subject to *subsection (5)*, at a meeting of the Board—
  - (a) the chairperson of the Board shall, where present, chair the meeting, or
  - (b) where and so long as the chairperson of the Board is not present or where that office is vacant, the other members of the Board who are present shall choose one of their number to chair the meeting.
- (7) The quorum for a meeting of the Board shall—
  - (a) where *subsection (4)* applies, be 4 ordinary members and the member chosen under *subsection (5)* to chair the meeting,
  - (b) where *subsection (6)(b)* applies, be 4 ordinary members and the member chosen under that subsection to chair the meeting, and
  - (c) in any other case, be 4 ordinary members and the chairperson.
- (8) Each member of the Board present at a meeting of the Board shall have a vote.
- (9) Every question at a meeting of the Board shall be determined by a majority of the votes of the members of the Board present and voting on the question, and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.
- (10) The Garda Commissioner shall not be a member of the Board or a committee of the Board but the Garda Commissioner may, in accordance with procedures specified by the Board or such a committee, attend meetings of the Board or the committee concerned, and may speak, and give advice, at such meetings.
- (11) In addition to a meeting with all participants physically present, the Board may hold or continue a meeting by the use of any means of communication by which all the participants can hear and be heard at the same time (in this section referred to as a “remote meeting”).
- (12) A member of the Board who participates in a remote meeting is taken for all purposes to have been present at the meeting.
- (13) Subject to this Act, the Board shall regulate its procedure by rules or otherwise.
- (14) Non-compliance with the rules of the Board shall not invalidate any decision of the Board.

**Secretary to Board**

- 23.** (1) The Board, having consulted with the Garda Commissioner, shall appoint a senior member of garda staff to be the Secretary to the Board (in this Part referred to as the “Secretary”).

- (2) The Board shall not appoint a person under this section unless the Board is satisfied that the person has the relevant skills and experience to perform the functions of the Secretary.
- (3) The Secretary shall hold office for such period as the Board may determine.

#### **Functions of Secretary to Board**

24. (1) The Secretary shall carry on and manage, and control generally, the administration of the Board and perform such other functions (if any) as may be determined by the Board.
- (2) The Secretary shall perform his or her functions under this section in accordance with such directions as may be given to him or her from time to time by the Board and shall be accountable to the Board for the performance of those functions.
- (3) The Secretary shall not, in the performance of his or her functions under this section, be subject to the direction and control of the Garda Commissioner pursuant to *paragraph (a) of section 56*.
- (4) The Secretary shall provide to the chairperson of the Board such information in relation to the performance of his or her functions under this section as the Board may require.
- (5) The Secretary may, with the consent of the Board, authorise a member of the staff of the Board to perform a specified function of the Secretary and such a member of the staff so authorised may perform the function accordingly.
- (6) The Board may designate a member of the staff of the Board to perform the functions of Secretary in the absence of the Secretary or where the office of Secretary is vacant, and a member of the staff of the Board so designated shall, in such absence or upon such office being vacant, perform those functions.
- (7) In this section, “member of the staff of the Board” means a member of garda staff assigned by the Garda Commissioner under *section 25(1)*.

#### **Secretariat, premises and staff of Board**

25. (1) The Garda Commissioner shall assign to the Board such and so many members of garda staff and other resources as the Board reasonably considers appropriate to perform the functions of a secretariat to the Board, including to the audit committee and any committees of the Board.
- (2) The Board may determine the duration of assignment under *subsection (1)* of members of garda staff.
- (3) Members of garda staff assigned under *subsection (1)* shall not, in the performance of their functions under this section, be subject to the direction and control of the Garda Commissioner pursuant to *paragraph (a) of section 56*.
- (4) The Garda Commissioner shall provide the Board with appropriate premises in which to perform its functions.



## CHAPTER 3

*Garda Commissioner and Deputy Garda Commissioner***Appointment of Garda Commissioner**

- 26.** (1) Subject to this section, the appointment of a person as the Garda Commissioner shall be made by the Government.
- (2) The Minister shall invite the Service to undertake a selection competition for the purpose of identifying and recommending to the Government a person for appointment as the Garda Commissioner.
- (3) Prior to inviting the Service to undertake a selection competition under *subsection (2)*, the Minister shall consult with—
- (a) the Board, and
  - (b) the Authority,
- with regard to the criteria relating to knowledge, ability and suitability for appointment as the Garda Commissioner (in this section referred to as the “selection criteria”) and the recruitment process for such appointment.
- (4) The Minister shall agree with the Service the selection criteria and the recruitment process that are to apply to a selection competition under this section, having regard to the views of the Board and the Authority obtained pursuant to *subsection (3)*.
- (5) A person shall not be recommended by the Service under this section unless the Service is satisfied that the person is suitable for appointment as the Garda Commissioner by reason of his or her possessing such relevant experience, qualifications, training and expertise as are appropriate having regard, in particular, to the functions of the Garda Commissioner under this Act.
- (6) The appointment of a person as the Garda Commissioner shall be for a period—
- (a) of 5 years, or
  - (b) ending on the date on which the person shall retire from the office of Garda Commissioner in accordance with any regulations made under *section 254*,
- whichever is the lesser period.
- (7) Notwithstanding *subsection (6)*, the Government may, having consulted with the Board and the Authority, extend the term of office of a Garda Commissioner for a further period—
- (a) not exceeding 2 years, or
  - (b) ending on the date on which the person shall retire from such office in accordance with any regulations made under *section 254*,
- whichever is the lesser period.

- (8) Subject to *subsection (9)*, a person appointed as the Garda Commissioner shall hold office on such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as may be determined by the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.
- (9) The person who, on the coming into operation of this section, holds the office of Garda Commissioner, shall be deemed to have been appointed under this section and shall continue in office in accordance with—
- (a) this Act,
  - (b) the regulations, and
  - (c) to the extent to which the terms and conditions of his or her appointment under the Act of 2005 are not inconsistent with this Act or the regulations, those terms and conditions.

#### **Appointment of Deputy Garda Commissioner**

27. (1) Subject to this section, the appointment of a person to the rank of Deputy Garda Commissioner shall be made by the Government.
- (2) The Minister shall invite the Service to undertake a selection competition for the purpose of identifying and recommending to the Government a person for appointment to the rank of Deputy Garda Commissioner.
- (3) Prior to inviting the Service to undertake a selection competition under *subsection (2)*, the Minister shall consult with—
- (a) the Board, and
  - (b) the Authority,
- with regard to the criteria relating to knowledge, ability and suitability for appointment to the rank of Deputy Garda Commissioner (in this section referred to as the “selection criteria”) and the recruitment process for such appointment.
- (4) The Minister shall agree with the Service the selection criteria and the recruitment process that are to apply to a selection competition under this section, having regard to the views of the Board and the Authority obtained in accordance with *subsection (3)*.
- (5) A person shall not be recommended by the Service under this section unless the Service is satisfied that the person is suitable for appointment to the rank of Deputy Garda Commissioner by reason of his or her possessing such relevant experience, qualifications, training and expertise as are appropriate having regard, in particular, to the functions that may be assigned to a member of that rank.
- (6) Subject to *subsection (7)*, a person appointed to the rank of Deputy Garda Commissioner holds office on such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as may be

determined by the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.

- (7) A person who, on the coming into operation of this section, holds the rank of Deputy Garda Commissioner, shall be deemed to have been appointed under this section and shall continue in office in accordance with—
- (a) this Act,
  - (b) the regulations, and
  - (c) to the extent to which the terms and conditions of his or her appointment under the Act of 2005 are not inconsistent with this Act or the regulations, those terms and conditions.

### **Power of Deputy Garda Commissioner to perform functions of Garda Commissioner**

- 28.** (1) Subject to this section, the appropriate Deputy Garda Commissioner may perform the functions of the Garda Commissioner during any period when the Garda Commissioner is unable to perform his or her functions.
- (2) The appropriate Deputy Garda Commissioner may perform the functions of the Garda Commissioner pursuant to *subsection (1)*—
- (a) for a period not exceeding 2 months, or
  - (b) for a period exceeding 2 months with the consent of the Minister.
- (3) Where—
- (a) more than one Deputy Garda Commissioner stands appointed under *section 27*, and
  - (b) the Deputy Garda Commissioner who would otherwise be the appropriate Deputy Garda Commissioner is unable to perform his or her functions,
- the next most senior Deputy Garda Commissioner in order of date of appointment to the rank of Deputy Garda Commissioner, shall be the appropriate Deputy Garda Commissioner for the period during which the Deputy Garda Commissioner referred to in *paragraph (b)* is unable to perform his or her functions.
- (4) Where—
- (a) the Garda Commissioner is unable to perform his or her functions, and
  - (b) each Deputy Garda Commissioner is likewise so unable,
- the Minister may designate an Assistant Garda Commissioner to perform the functions of the Garda Commissioner during the period that the Garda Commissioner and each Deputy Garda Commissioner are so unable (in this section referred to as the “designated Assistant Garda Commissioner”).
- (5) The designated Assistant Garda Commissioner may perform the functions of the Garda Commissioner pursuant to *subsection (4)*—

- (a) for a period not exceeding 2 months, or
  - (b) for a period exceeding 2 months with the consent of the Minister.
- (6) The Minister shall, prior to making a designation under *subsection (4)*, consult with—
- (a) the Board, and
  - (b) where practicable, the Garda Commissioner.
- (7) Where an appropriate Deputy Garda Commissioner or a designated Assistant Garda Commissioner performs the functions of the Garda Commissioner pursuant to *subsection (1) or (4)*, *sections 30, 31 and 32* shall apply in respect of such Deputy Garda Commissioner or Assistant Garda Commissioner as they apply in respect of the Garda Commissioner.
- (8) Where an appropriate Deputy Garda Commissioner or a designated Assistant Garda Commissioner is performing, or is to perform, the functions of the Garda Commissioner pursuant to *subsection (1) or (4)*, the Minister and the Authority shall, without delay, be so notified in writing by—
- (a) subject to *paragraph (b)*, the Garda Commissioner, or
  - (b) where the office of Garda Commissioner is vacant or the Garda Commissioner is unable to so notify, the appropriate Deputy Garda Commissioner or the designated Assistant Garda Commissioner, as the case may be.
- (9) A notification under *subsection (8)* shall specify—
- (a) the date from which the appropriate Deputy Garda Commissioner or designated Assistant Garda Commissioner commenced, or is to commence, performing the functions of the Garda Commissioner,
  - (b) the reason for which he or she is so performing those functions, and
  - (c) where known, the date on which he or she will cease to so perform the functions.
- (10) Where the Minister—
- (a) gives his or her consent to the performance of the functions of the Garda Commissioner by the appropriate Deputy Garda Commissioner for a period exceeding 2 months under *subsection (2)(b)*,
  - (b) makes a designation under *subsection (4)*, or
  - (c) gives his or her consent to the performance of the functions of the Garda Commissioner by the designated Assistant Garda Commissioner for a period exceeding 2 months under *subsection (5)(b)*,
- the Minister shall notify the Authority of such giving of consent or designation as soon as practicable thereafter.
- (11) In this section—
- (a) a reference to the Garda Commissioner being unable to perform his or her functions means—

- (i) the Garda Commissioner being absent, incapacitated or suspended from duty,  
or
  - (ii) the office of Garda Commissioner being vacant,
- (b) a reference to a Deputy Garda Commissioner being unable to perform his or her functions means—
- (i) the Deputy Garda Commissioner being absent, incapacitated or suspended from duty, or
  - (ii) the office, or each office, as the case may be, of Deputy Garda Commissioner being vacant,
- and
- (c) “appropriate Deputy Garda Commissioner” means—
- (i) where not more than one Deputy Garda Commissioner stands appointed pursuant to *section 27*, that Deputy Garda Commissioner, or
  - (ii) subject to *subsection (3)*, where more than one Deputy Garda Commissioner stands so appointed, the most senior Deputy Garda Commissioner in order of date of appointment to the rank of Deputy Garda Commissioner.

#### **Resignation of Garda Commissioner or Deputy Garda Commissioner**

29. (1) A person who holds the office of Garda Commissioner or Deputy Garda Commissioner may resign from office by notice in writing addressed to the Minister and copied to the Board and the resignation shall take effect on the date the Minister receives the notice or, if a date is specified in the notice and the Minister agrees to that date, on that date.
- (2) The Minister shall, as soon as practicable, inform the Authority of the resignation of a person under *subsection (1)*.

#### **Suspension from duty of Garda Commissioner or Deputy Garda Commissioner**

30. (1) Subject to this section, the Minister may suspend from duty a person who holds the office of Garda Commissioner or Deputy Garda Commissioner where—
- (a) the person is the subject of an investigation into allegations that he or she may have—
    - (i) committed an offence, or
    - (ii) behaved in a manner that would constitute serious misconduct,and
  - (b) the Minister is satisfied that, in the circumstances, the suspension of the person from duty is in the public interest.

- (2) Without prejudice to *subsection (1)*, the Board may recommend to the Minister the suspension from duty of a person who holds the office of Garda Commissioner or Deputy Garda Commissioner where—
  - (a) *subsection (1)(a)* applies to the person, and
  - (b) it is of the opinion that the suspension of the person from duty is in the public interest.
- (3) The Minister shall consider any recommendation made to him or her by the Board under *subsection (2)*.
- (4) The Minister shall, prior to suspending a person from duty under *subsection (1)*—
  - (a) notify the person in writing that the Minister is proposing to suspend the person from duty, and include in the notification a statement of his or her reasons for so proposing,
  - (b) provide the person with an opportunity to make submissions regarding the proposed suspension of that person from duty,
  - (c) consider any such submissions made by, or on behalf of, the person, and
  - (d) consult with the Board.
- (5) The Minister may terminate the suspension from duty of a person under *subsection (1)* where he or she is satisfied that *paragraph (a)* or *(b)* of that subsection no longer apply in respect of the person, having consulted in that regard with the Board.

### **Removal from office of Garda Commissioner or Deputy Garda Commissioner**

- 31.** (1) Without prejudice to the Performance Regulations and the Conduct Regulations and subject to this section, a person who holds the office of Garda Commissioner or Deputy Garda Commissioner may be removed from office by the Government for stated reasons, including where—
- (a) the person has failed to perform the functions of the office he or she holds with due diligence and effectiveness,
  - (b) in the case of the Garda Commissioner, he or she has failed to have due regard to one or more of the matters specified in *section 33(2)*,
  - (c) the person has engaged in conduct that brings discredit on the office or that may prejudice the proper performance of the functions of the office, or
  - (d) the removal of the person from office would, in the opinion of the Government, be in the best interests of An Garda Síochána.
- (2) The Board may, for the purposes of *subsection (1)*, recommend to the Government the removal from office of a person who holds the office of Garda Commissioner or Deputy Garda Commissioner, and the Government shall consider any such recommendation.

- (3) The Government may, where they consider it necessary or appropriate to do so for the purposes of *subsection (1)*, request the Chief Justice to invite a judge (while serving as a judge) to—
- (a) hold an inquiry into any matter giving rise to a proposal to remove a person from office under this section, and
  - (b) report to the Government on the findings of the inquiry.
- (4) The Chief Justice may invite—
- (a) a judge of the Supreme Court,
  - (b) with the consent of the President of the Court of Appeal, a judge of the Court of Appeal, or
  - (c) with the consent of the President of the High Court, a judge of the High Court,
- to hold an inquiry under this section and report to the Government on the findings of the inquiry and, if the invitation is accepted, the Chief Justice shall appoint the judge to hold the inquiry and so report (in this section and *section 32* referred to as an “appointed judge”).
- (5) The Government shall, prior to removing a person from office under this section—
- (a) notify the person in writing that the Government propose to consider removing the person from office, and include in the notification a statement of the reasons for doing so,
  - (b) where the Government appoint an appointed person to hold an inquiry into a matter giving rise to the proposal to remove the person from office—
    - (i) notify that person in writing of such appointment,
    - (ii) consider the report on the findings of the inquiry,
    - (iii) inform the Board of the findings of the inquiry and where they consider it appropriate, provide a copy of the report to the Board, and
    - (iv) provide a copy of the report to that person,
  - (c) provide the person with an opportunity to make submissions as to why he or she ought not to be removed from office,
  - (d) consider any such submissions made by, or on behalf of, the person, and
  - (e) consult with the Board.
- (6) On notifying a person pursuant to *subsection (5)(a)* that the Government intend to consider removing him or her from office, the Government may, where the person is not suspended pursuant to *section 30* and where they consider it appropriate, suspend the person from duty.
- (7) Subject to *subsection (8)*, the suspension from duty of a person under *subsection (6)* shall continue until the Government make a decision in relation to whether the person should be removed from office under this section.

- (8) Where a person is suspended from duty under *subsection (6)* and the Government are of the opinion that the steps required to be taken under *subsection (5)* have not been taken without undue delay, the suspension shall be terminated by the Government.
- (9) As soon as practicable after a person is removed from office under this section, the Minister shall cause a statement of the reasons for the removal to be laid before each House of the Oireachtas.

**Inquiry under *section 31(3)(a)***

- 32.** (1) An appointed judge may conduct an inquiry under *section 31(3)(a)* in the manner he or she thinks proper, whether by examining witnesses or otherwise, and may, in particular, conduct any proceedings relating to the inquiry otherwise than in public.
- (2) For the purpose of an inquiry under this section, the appointed judge has the powers, rights and privileges vested in a judge of the High Court on the hearing of an action, including the power to—
- (a) enforce the attendance of witnesses, and
  - (b) compel the production of records.
- (3) A person who does or omits to do anything that, if the inquiry were a court of law having the power to punish for contempt, would be contempt of such court, is guilty of an offence and is liable, on summary conviction, to a class C fine or to imprisonment for a term not exceeding 6 months, or both.
- (4) A statement or admission made by a person to an appointed judge in an inquiry under *section 31(3)(a)* shall not be admissible as evidence in proceedings brought against that person for an offence (other than an offence under *subsection (3)*).
- (5) The Minister may issue a directive to the Garda Commissioner, a Deputy Garda Commissioner or an Assistant Garda Commissioner requiring that person to take any lawful measures that appear to the person to be necessary or expedient for the purposes of—
- (a) preserving evidence relating to the matter the subject of the inquiry under *section 31(3)(a)*, and
  - (b) facilitating the appointed judge to obtain that evidence.

## CHAPTER 4

*Functions and duties of Garda Commissioner***Functions of Garda Commissioner**

- 33.** (1) Subject to this Act, the Garda Commissioner shall have the following functions:
- (a) to ensure that An Garda Síochána carries out its functions;
  - (b) to direct and control An Garda Síochána;



- (c) to carry on, manage and control generally the administration and business of An Garda Síochána, including by—
    - (i) being responsible for the allocation and deployment of resources available to him or her and determining the manner in which members of garda personnel are to be distributed and stationed throughout the State, and
    - (ii) arranging for the recruitment, training and appointment of members of garda personnel and the continuing professional development of such members;
  - (d) to seek to secure the continuous improvement of the policing and security of the State;
  - (e) to advise the Minister on policing and security matters;
  - (f) to assist and cooperate with the Authority and the Police Ombudsman in order to facilitate the performance by the Authority and the Police Ombudsman of their functions under this Act;
  - (g) to perform any other functions that are assigned to him or her by or under this Act or any other enactment.
- (2) In performing his or her functions, the Garda Commissioner shall seek to ensure that those functions are carried out with due regard to—
- (a) the policing principles,
  - (b) the objective of promoting effectiveness, efficiency and economy in An Garda Síochána,
  - (c) the obligations of An Garda Síochána under section 42 of the Irish Human Rights and Equality Commission Act 2014,
  - (d) the policing priorities,
  - (e) the security priorities,
  - (f) the strategic plan as laid under *section 64(1)*,
  - (g) the annual service plan as laid under *section 65(12)* or *66(10)*,
  - (h) the capital plan as laid under *section 69(1)*,
  - (i) the allocated resources,
  - (j) any relevant policies of the Minister or the Government, and
  - (k) any directive issued to him or her under *section 37(1)*.
- (3) The Garda Commissioner shall, to the extent practicable, ensure that members of garda personnel stationed in a part of a Garda Síochána division that includes a Gaeltacht area are sufficiently competent in the Irish language to enable them to use it with facility in carrying out their duties.
- (4) Where the Garda Commissioner made a determination under section 33(1) of the Act of 2005 prior to the repeal of that section by *section 5* and which determination is in

force immediately before such repeal, the determination shall be deemed to be a determination made by the Garda Commissioner pursuant to the performance of his or her functions under *subsection (1)(c)(i)*.

- (5) In this section, “Gaeltacht area” means an area for the time being determined to be a Gaeltacht area by order made under section 2 of the Ministers and Secretaries (Amendment) Act 1956 and continued to be such an area under section 7(1) of the Gaeltacht Act 2012.

#### **Independence and accountability of Garda Commissioner**

34. (1) Subject to this Act, the Garda Commissioner shall be independent in the performance of his or her functions.
- (2) The Garda Commissioner shall be accountable to the Board for the performance of his or her functions.

#### **Duty of Garda Commissioner to account to Government and Minister and to provide material to Attorney General**

35. (1) The Garda Commissioner shall account fully to the Government and the Minister through the Secretary General of the Department of Justice in relation to matters connected with the provision of policing services and security services by An Garda Síochána.
- (2) The Garda Commissioner’s duty under *subsection (1)* includes the duty to provide, at the request of the Secretary General of the Department of Justice, any document in the power or control of An Garda Síochána, including material in the form of Garda records, statements made by members of garda personnel and by other persons and reports.
- (3) The Garda Commissioner shall provide the Attorney General with all of the material specified in *subsection (2)* that is required by the Attorney General in connection with the conduct of legal proceedings on behalf of the State.

#### **Duty of Garda Commissioner to provide information to Minister**

36. (1) The Garda Commissioner shall keep the Minister and the Secretary General of the Department of Justice fully informed of the following:
- (a) matters relating to significant developments concerning—
- (i) the preservation of peace and public order in the State,
  - (ii) the protection of life and property in the State, or
  - (iii) the protection of the security of the State;
- (b) significant developments that might reasonably be expected to adversely affect public confidence in An Garda Síochána;

- (c) significant developments that might reasonably be expected to adversely affect the performance of An Garda Síochána;
  - (d) matters relevant to the accountability of the Government to the Houses of the Oireachtas;
  - (e) any other matters that, in the Commissioner's opinion, should be brought to the Minister's attention.
- (2) Whenever required by the Minister, the Garda Commissioner shall submit to the Minister a report on any matters connected with the provision of policing services or security services by An Garda Síochána or the performance of such of the Commissioner's functions as may be specified by the Minister.
- (3) A report under *subsection (2)* shall—
- (a) address matters of general or specific concern that are specified in the Minister's requirement, and
  - (b) be made in the form and within such period as may be specified in the requirement.
- (4) Where and in so far as a report under *subsection (2)* relates to matters concerning policing services, the Minister shall inform the Authority of those matters.
- (5) The Minister may publish all or part of a report submitted under *subsection (2)*.

### Directives from Minister

37. (1) Subject to *subsection (6)*, the Minister may, with the approval of the Government, issue to the Garda Commissioner written directives concerning any matter relating to An Garda Síochána.
- (2) The Authority may recommend to the Minister that a directive concerning a specified matter relating to policing services be issued under *subsection (1)*.
- (3) The Garda Commissioner shall, in performing his or her functions under this Act, comply with any directive issued to him or her under *subsection (1)*.
- (4) Subject to *subsection (5)*, as soon as practicable after issuing a directive under *subsection (1)*, the Minister shall cause a copy of the directive to be laid before each House of the Oireachtas.
- (5) Where the Minister is of the opinion that to cause a copy of a directive to be laid before each House of the Oireachtas in accordance with *subsection (4)* might prejudice the security of the State or impede the prevention, investigation or prosecution of an offence, the Minister shall cause a written statement indicating that such a directive has been issued to be laid before each House.
- (6) The Minister's power under *subsection (1)* shall not be exercised to limit the independence of a member of An Garda Síochána in performing functions relating to the investigation of a specific offence or the prosecution of an offence as authorised by *section 10*.

- (7) The Garda Commissioner shall inform the Minister of the measures taken by the Commissioner to comply with a directive issued under *subsection (1)* and supply that information within such period as may be specified by the Minister.
- (8) Where and in so far as information supplied to the Minister by the Garda Commissioner under *subsection (7)* relates to matters concerning policing services, the Minister shall supply that information to the Authority.

### Provision of material to State Claims Agency

- 38.** (1) Subject to *subsection (2)*, the Garda Commissioner shall, at the request of the State Claims Agency, provide the State Claims Agency with any document in the power or control of An Garda Síochána, including material in the form of Garda records, statements made by members of garda personnel and by other persons and reports, that is required by the State Claims Agency for the purposes of, or in connection with, legal claims or prospective legal claims against or on behalf of a State authority.
- (2) The Garda Commissioner shall exclude from any document to be provided to the State Claims Agency under *subsection (1)* any matter the provision of which, in his or her opinion—
- (a) might prejudice the security of the State,
  - (b) might facilitate the commission of an offence, prejudice a criminal investigation or prosecution, or endanger the life or safety of any person, or
  - (c) would not, for any other reason, be in the public interest.
- (3) In this section—
- “Act of 2000” means the National Treasury Management Agency (Amendment) Act 2000;
- “Act of 2014” means the National Treasury Management Agency (Amendment) Act 2014;
- “legal claim” means—
- (a) a claim (within the meaning of Part 2 of the Act of 2000) the management of which stands delegated to the State Claims Agency under section 9(1) of that Act,
  - (b) a claim for costs (within the meaning of Part 5 of the Act of 2014) the management of which stands delegated to the State Claims Agency under section 34(1) of that Act, or
  - (c) a counterclaim (within the meaning of Part 2 of the Act of 2000);
- “State authority”—
- (a) in the case of a legal claim to which *paragraph (a)* or *(c)* of the definition of “legal claim” applies, has the same meaning as it has in Part 2 of the Act of 2000, and

- (b) in the case of a legal claim to which *paragraph (b)* of the definition of “legal claim” applies, has the same meaning as it has in Part 5 of the Act of 2014.

### **Delegation of functions of Garda Commissioner**

- 39.** (1) Subject to *subsection (2)* and such limitations, restrictions or conditions as may be contained in regulations (if any) under *section 254(1)(n)*, the Garda Commissioner may, in writing, delegate any of his or her functions to members of garda personnel specified in the delegation—
- (a) in the case of members who are members of An Garda Síochána, by rank or name, and
  - (b) in the case of members who are members of garda staff, by grade, position, name or otherwise.
- (2) Where a delegation under this section relates to the performance of a function assigned to the Garda Commissioner by or under any enactment, other than this Act, the Garda Commissioner shall not exercise the power under this section to delegate the function without the prior consent of the Minister in writing in relation to that function.
- (3) 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 Garda Commissioner at any time.
- (4) The delegation of a function under this section does not preclude the Garda Commissioner from performing the function.
- (5) Where the Garda Commissioner’s functions are delegated to a person under this section, any references to the Garda Commissioner shall be construed as references to that person.
- (6) 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 Garda Commissioner.
- (7) A delegation under this section shall not cease to have effect by reason only of a change in the person lawfully acting as, or performing the functions of, the Garda Commissioner.

### **Powers of Garda Commissioner relating to contracts, bank accounts, etc.**

- 40.** (1) Subject to this Act and such limitations, restrictions or conditions as may be contained in regulations (if any) under *section 254(1)(o)*, the Garda Commissioner may, for the purposes of performing his or her functions in relation to the administration and business of An Garda Síochána—

- (a) enter into a contract on behalf of An Garda Síochána with any person or body concerning any matter arising in relation to those functions,
  - (b) with the prior consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, operate in the State, or elsewhere, bank accounts of any description, and
  - (c) do any other thing necessary for enabling the Garda Commissioner to perform those functions.
- (2) Subject to the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, the power conferred by *subsection (1)(a)* includes the power to enter into a contract relating to land or an interest in land or any other property.
  - (3) The Garda Commissioner may sue and be sued in the name of his or her office.
  - (4) A contract entered into under this section by a person holding the office of Garda Commissioner is binding on and enforceable by that person and his or her successors in office, but neither that person nor any successor in office is personally liable on the contract.
  - (5) *Subsection (4)* applies whether or not the contract was entered into pursuant to a power delegated under *section 39*.
  - (6) Notwithstanding *subsection (1)(b)*, the Garda Commissioner does not have power to borrow money by means of a bank overdraft or otherwise.

#### **Power of Garda Commissioner to appoint consultants and advisers**

41. The Garda Commissioner, with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, may engage such consultants or advisers as the Commissioner considers necessary to assist in the performance of his or her functions and the functions of An Garda Síochána under this Act.

#### **Arrangements for obtaining views of public**

42. (1) The Garda Commissioner shall make arrangements for obtaining the views of the public about matters concerning policing services and An Garda Síochána.
- (2) Before making any arrangements under this section, the Garda Commissioner shall consult with the Minister and the Authority in relation to any proposed arrangements.

#### **Provision of services for certain events, etc.**

43. (1) The Garda Commissioner may, at the request of a person, provide and charge for services for events on private property or in areas open to the public or for services referred to in *subsection (3)*, where—

- (a) it is in the public interest and consistent with the functions of An Garda Síochána to provide the services, and
  - (b) the Garda Commissioner is satisfied that the person has paid or will pay to him or her the charges for the services.
- (2) The types of events for which services may be provided under this section include the following:
- (a) sports fixtures;
  - (b) concerts;
  - (c) festivals and exhibitions;
  - (d) meetings and conferences;
  - (e) the making of films, videos, television programmes and advertisements;
  - (f) appearances by individuals or groups of individuals likely to attract large numbers of people.
- (3) Services relating to the protection, whether by means of police escorts or otherwise, of persons or property at risk of harm while in transit within the State may be provided under this section subject to such circumstances which, and the extent to which, such services may be provided as may be contained in regulations (if any) under *section 254(1)(p)*.
- (4) Having taken such costs as may be specified in regulations (if any) under *section 254(1)(q)* into account, the Garda Commissioner may set charges for services provided under this section that are sufficient to cover the costs of providing those services.
- (5) The Garda Commissioner may recover as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable, any amount due under this section.

## CHAPTER 5

### *Garda personnel*

#### **Garda personnel**

- 44.** The personnel of An Garda Síochána shall be comprised of the following members (in this Act referred to as “members of garda personnel”):
- (a) members of An Garda Síochána;
  - (b) members of garda staff.

**Ranks, numbers in each rank, terms and conditions**

45. (1) Subject to regulations (if any) made under *subsection (2)*, the members of An Garda Síochána shall be divided into the following ranks:
- (a) Garda Commissioner;
  - (b) Deputy Garda Commissioner;
  - (c) Assistant Garda Commissioner;
  - (d) chief superintendent;
  - (e) superintendent;
  - (f) inspector;
  - (g) sergeant;
  - (h) garda;
  - (i) reserve garda.
- (2) The Minister may, subject to *section 252(2)*, make regulations—
- (a) to add a rank, below that of Assistant Garda Commissioner, to the ranks specified in *subsection (1)*, or
  - (b) to remove any rank, below that of Assistant Garda Commissioner, specified in *subsection (1)* or added under *paragraph (a)*.
- (3) There shall be one, or such greater number of, persons, of each of the ranks (other than the rank of Garda Commissioner) specified in *subsection (1)* or added under *subsection (2)(a)* as may be determined—
- (a) in the case of the rank of Deputy Garda Commissioner, by the Government with due regard to the views of the Garda Commissioner, and
  - (b) in any other case, by the Garda Commissioner with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.
- (4) The Garda Commissioner shall, with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine the terms and conditions (including terms and conditions relating to remuneration and allowances) of members of An Garda Síochána, other than the Garda Commissioner or a Deputy Garda Commissioner, appointed under this Act.
- (5) The Garda Commissioner shall, for the purposes of *subsection (3)(b)* and *section 54(4)(b)*, keep under review the personnel needs of An Garda Síochána.

**Solemn declaration**

46. The appointment of a person as a member of An Garda Síochána on or after the coming into operation of this section has effect only where the person makes a declaration orally



and in writing before a Peace Commissioner in the form specified in *Schedule 2*.

**Appointment of persons to rank of Assistant Garda Commissioner or chief superintendent**

47. (1) The Garda Commissioner may, following a selection competition undertaken for that purpose by the Service, appoint, with the approval of the Board, and in accordance with such matters as may be contained in regulations in relation to such appointments, persons to the rank of Assistant Garda Commissioner or chief superintendent.
- (2) A person who, on the coming into operation of this section, holds the office of Assistant Garda Commissioner or chief superintendent, shall be deemed to have been appointed under this section and shall continue in office in accordance with—
- (a) this Act,
  - (b) the regulations, and
  - (c) to the extent to which the terms and conditions of his or her appointment under the Act of 2005 are not inconsistent with this Act or the regulations, those terms and conditions.

**Suspension from duty, removal from office, of Assistant Garda Commissioner or chief superintendent**

48. (1) The Garda Commissioner may, in accordance with such procedures and in such circumstances as may be specified in regulations in relation to such suspension, suspend from duty a person who holds the office of Assistant Garda Commissioner or chief superintendent.
- (2) Without prejudice to the Performance Regulations and the Conduct Regulations and subject to this section, a person who holds the office of Assistant Garda Commissioner or chief superintendent may be removed from office by the Garda Commissioner, with the approval of the Board, for stated reasons, including where—
- (a) the person has failed to perform the functions of the office he or she holds with due diligence and effectiveness,
  - (b) the person has engaged in conduct that brings discredit on the office or that may prejudice the proper performance of the functions of the office, or
  - (c) the removal of the person from office would, in the opinion of the Garda Commissioner, be in the best interests of An Garda Síochána.
- (3) The Garda Commissioner may, where he or she considers it necessary or appropriate to do so for the purposes of *subsection (2)*, and with the approval of the Board, appoint a person (in this section and *section 49* referred to as an “appointed person”) to—
- (a) hold an inquiry into any matter giving rise to a proposal to remove a person from office under this section, and

- (b) report to the Garda Commissioner on the findings of the inquiry.
- (4) The Garda Commissioner shall, prior to removing a person from office under this section—
- (a) notify in writing the person that the Commissioner proposes to consider removing the person from office, and include in the notification a statement of the reasons for doing so,
  - (b) where he or she appoints an appointed person to hold an inquiry into a matter giving rise to the proposal to remove the person from office—
    - (i) notify in writing that person of such appointment,
    - (ii) consider the report on the findings of the inquiry,
    - (iii) inform the Board of the findings of the inquiry and where they consider it appropriate, provide a copy of the report to the Board, and
    - (iv) provide a copy of the report to that person,
  - (c) provide the person with an opportunity to make submissions as to why he or she ought not to be removed from office, and
  - (d) consider any such submissions made by, or on behalf of, the person.
- (5) On notifying a person under *subsection (4)(a)* that the Garda Commissioner proposes to consider removing him or her from office, the Garda Commissioner may, where the person is not suspended pursuant to *subsection (1)* and where he or she considers it appropriate, suspend the person from duty.
- (6) Subject to *subsection (7)*, the suspension from duty of a person under *subsection (5)* shall continue until the Garda Commissioner makes a decision in relation to whether the person should be removed from office under this section.
- (7) Where a person is suspended from duty under *subsection (5)* and the Garda Commissioner is of the opinion that the steps required to be taken under *subsection (4)* have not been taken without undue delay, the suspension shall be terminated by the Garda Commissioner.

**Inquiry under *section 48(3)(a)***

49. (1) For the purposes of an inquiry under *section 48(3)(a)*, the appointed person may do such of the following as he or she considers appropriate:
- (a) direct a person, by notice delivered to him or her, to provide any information, document or thing that is specified in the notice and is relevant to, and required for the purposes of, the inquiry;
  - (b) direct any person, by notice delivered to him or her, to produce at the time and place specified in the notice, a document or thing specified in the notice that is relevant to, and required for the purposes of, the inquiry and is in the person's power or control;

- (c) summon witnesses to attend the inquiry;
  - (d) direct a witness to answer a question put to him or her at the inquiry;
  - (e) give any other direction that appears to the appointed person to be necessary, just and reasonable for the purposes of the inquiry;
  - (f) administer oaths and affirmations to witnesses and examine witnesses attending the inquiry.
- (2) Where a person (the “first named person”) fails or refuses to comply with, or disobeys, a direction or summons under *subsection (1)*, the High Court may, on application by the appointed person concerned and on notice to the first named person—
- (a) order the first named person to comply with the direction or, in the case of a summons, to attend the inquiry, and
  - (b) make such other order (if any) as it considers necessary and just to enable the direction to have full effect or, in the case of a summons, to ensure the attendance at the inquiry.
- (3) A person who—
- (a) is the subject of a direction by notice under *paragraph (a) or (b) of subsection (1)* and who, without lawful excuse, refuses or fails to comply with a direction under the paragraph concerned,
  - (b) fails, without lawful excuse, to attend an inquiry in response to a summons under *subsection (1)(c)*,
  - (c) refuses to answer a question that the appointed person may lawfully direct him or her to answer under *subsection (1)(d)*, or
  - (d) does or omits to do any other thing that, if the inquiry were a court of law having the power to punish for contempt, would be contempt of such court,
- is guilty of an offence and is liable, on summary conviction, to a class C fine or to imprisonment for a term not exceeding 6 months, or both.
- (4) A statement or admission made by a person pursuant to a direction under *subsection (1)* or an order under *subsection (2)* shall not be admissible as evidence in proceedings brought against that person for an offence (other than an offence under *subsection (3)*).
- (5) The Garda Commissioner may issue a directive to members of garda personnel requiring them to take any lawful measures that appear to them to be necessary or expedient for the purposes of—
- (a) preserving evidence relating to the matter the subject of the inquiry under *section 48(3)(a)*, and
  - (b) facilitating the appointed person to hold the inquiry to obtain that evidence.

**Appointment of persons to, suspension of persons from, ranks below rank of chief superintendent**

50. (1) The Garda Commissioner may appoint, in accordance with such matters as may be contained in regulations in relation to such appointments, persons to any rank below the rank of chief superintendent.
- (2) A person who, on the coming into operation of this section, holds a rank below the rank of chief superintendent, shall be deemed to have been appointed under this section and shall continue in office in accordance with—
- (a) this Act,
  - (b) the regulations, and
  - (c) to the extent to which the terms and conditions of his or her appointment are not inconsistent with this Act or the regulations, those terms and conditions.
- (3) The Garda Commissioner may, in accordance with such procedures and in such circumstances as may be specified in regulations in relation to such suspension, suspend from duty a person who is a member of any rank below the rank of chief superintendent.

**Dismissal for reasons of public confidence of members below the rank of chief superintendent**

51. Without prejudice to the Performance Regulations and the Conduct Regulations, the Garda Commissioner may dismiss from An Garda Síochána a member below the rank of chief superintendent where—
- (a) by reason of the member's conduct (which includes any act or omission) the Garda Commissioner is of the opinion that—
    - (i) the member's continued membership would undermine public confidence in An Garda Síochána, and
    - (ii) the dismissal of the member is necessary to maintain that confidence,
  - (b) the member has been informed of the basis for the Garda Commissioner's opinion under *paragraph (a)*,
  - (c) the member has been provided with an opportunity to make submissions as to why he or she ought not to be dismissed, and
  - (d) the Garda Commissioner has considered any submissions made by, or on behalf of, the person under *paragraph (c)*, and remains of his or her opinion.

**Powers of persons appointed to rank of reserve garda**

52. (1) Subject to *subsection (2)*, a person appointed under *section 50* to the rank of reserve garda has, while on duty, the same powers, immunities, privileges and duties as a person appointed under that section to the rank of garda.

- (2) The Garda Commissioner may, having consulted with the Authority and the Minister, determine the range of powers to be exercised, and duties to be carried out, by members of An Garda Síochána of the rank of reserve garda.
- (3) A member of An Garda Síochána of the rank of reserve garda is a volunteer and does not perform his or her functions as such a member under a contract of employment.

#### **Admission of trainees**

- 53.** (1) The Garda Commissioner may, in accordance with regulations (if any) under *section 254(1)(c)*, arrange for the admission of such numbers of persons as trainees (in this Act referred to as a “trainee”) as he or she considers appropriate with a view to the appointment under *section 50*, and enrolment, of such persons as members of An Garda Síochána.
- (2) The conditions of service of a trainee shall be governed by a contract of training (which shall not be a contract of employment) entered into between the Garda Commissioner and the trainee.
  - (3) A person who was admitted as a trainee within the meaning of, and in accordance with, the Garda Síochána (Admissions and Appointments) Regulations 2013 (S.I. No. 470 of 2013) and who, at the time of the coming into operation of this section, remains in training—
    - (a) shall be deemed to have been admitted as a trainee under *subsection (1)*, and
    - (b) shall continue in such training in accordance with—
      - (i) this Act,
      - (ii) the regulations, and
      - (iii) to the extent to which the terms and conditions of his or her admission in accordance with the Garda Síochána (Admissions and Appointments) Regulations 2013 are not inconsistent with this Act or the regulations, those terms and conditions.

#### **Appointment of members of garda staff**

- 54.** (1) Subject to this section, the Garda Commissioner may appoint persons as members of garda staff.
- (2) Senior members of garda staff shall be appointed by the Garda Commissioner with the approval of the Board.
  - (3) Members of garda staff shall be recruited in accordance with the Act of 2004.
  - (4) The Garda Commissioner, with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, shall determine—
    - (a) the terms and conditions of employment (including terms and conditions relating to remuneration and allowances) of members of garda staff, and

- (b) the grades of garda staff and the numbers in each grade.
- (5) Subject to *subsections (6) and (8)*, every member of the civilian staff of An Garda Síochána who is a civil servant of the Government immediately before the coming into operation of this section and who is designated by order of the Minister for the purposes of this section shall, on being so designated, become a member of garda staff.
- (6) Before making an order under *subsection (5)*, the Minister shall—
  - (a) notify in writing any recognised trade union or staff association concerned of the Minister’s intention to do so, and
  - (b) consider, within such time as may be specified in the notification under *paragraph (a)*, any representations made by that trade union or staff association in relation to the matter.
- (7) The Minister shall, not less than 24 months after the coming into operation of this section, make an order under *subsection (5)*.
- (8) *Schedule 3* applies to civilian staff who become members of garda staff pursuant to an order under *subsection (5)*.

### **Superannuation (Part 2)**

- 55.** (1) The Garda Commissioner shall, with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, make a scheme or schemes for the granting of superannuation benefits to or in respect of any person appointed as a member of garda staff or any person who, on becoming a member of garda staff, does not become a member of the Single Public Service Pension Scheme.
- (2) A scheme under this section shall fix the time and conditions of retirement of all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes and different times and conditions may be fixed in respect of different classes of persons.
  - (3) The Garda Commissioner may, with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, make a scheme amending a scheme under this section including a scheme under this subsection.
  - (4) A scheme under this section shall, if approved by the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, be carried out by the Garda Commissioner in accordance with its terms.
  - (5) A scheme under this section shall include a provision for appeals from a decision relating to a superannuation benefit under the scheme.
  - (6) Where any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable pursuant to a scheme or schemes under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for

Public Expenditure, National Development Plan Delivery and Reform, whose decision shall be final.

- (7) No superannuation benefits shall be granted by the Garda Commissioner to or in respect of a person on ceasing to be a member of the garda staff otherwise than—
- (a) in accordance with a scheme or schemes under this section, or
  - (b) with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.
- (8) A scheme under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
- (9) *Subsection (8)* shall, with all necessary modifications, apply to an amendment to a scheme under this section as it applies to a scheme under this section.
- (10) In this section—
- “amending”, in relation to a scheme under this section, includes revoking the scheme;
- “superannuation benefit” means any pension, gratuity or other allowance payable to or in respect of a person ceasing to be a member of garda staff.

### **Direction and control of An Garda Síochána**

**56.** Members of garda personnel shall—

- (a) be subject to the direction and control of the Garda Commissioner in carrying out their functions (including any functions held by virtue of the member’s particular rank or grade),
- (b) carry out lawful orders, and
- (c) perform all appointed duties and attend to all matters within the scope of the member’s office or area of responsibility in a lawful, professional, punctual and prompt manner.

### **Duty of members of garda personnel to account**

- 57.** (1) A member of garda personnel shall, when directed to do so by a more senior member of garda personnel, account for any act done, or omission made, by the first mentioned member while on duty.
- (2) A failure by a member of garda personnel to comply with a direction under *subsection (1)* shall be the subject of disciplinary action in accordance with the Conduct Regulations or the conduct code applicable to the member concerned, as the case may be.

- (3) A statement or admission made by a member of garda personnel pursuant to a direction under *subsection (1)* shall not be admissible as evidence in proceedings brought against that member for an offence.
- (4) Upon the giving of a direction under *subsection (1)* to a member of garda personnel, the more senior member of garda personnel concerned shall inform the member concerned—
  - (a) that a failure to comply with the direction may lead to dismissal from An Garda Síochána, and
  - (b) of the effect of *subsection (3)*.
- (5) In this section, “more senior member of garda personnel” means—
  - (a) in the case of a member of An Garda Síochána, a member of An Garda Síochána of a higher rank or a member of garda staff of a grade equivalent to a higher rank, and
  - (b) in the case of a member of garda staff, a member of garda staff of a higher grade or a member of An Garda Síochána of a rank equivalent to a higher grade.

#### **Undertaking by members of garda staff**

- 58.** (1) Subject to *subsection (3)*, a member of garda staff shall, before beginning his or her duties as a member of garda staff, give an undertaking that he or she will faithfully perform those duties.
- (2) An undertaking by a member of garda staff under *subsection (1)* shall be given and recorded in such manner as the Garda Commissioner may from time to time determine.
  - (3) *Subsection (1)* shall not apply to a person who becomes a member of garda staff pursuant to an order under *section 54(5)*.

#### **Representative associations**

- 59.** (1) Subject to *section 252(2)*, the Minister may make regulations providing for the establishment of one or more than one association, for all or any one or more than one of the ranks of An Garda Síochána below the rank of Assistant Garda Commissioner, for the purpose of representing members of An Garda Síochána in all matters affecting their welfare and efficiency (including pay, pensions and conditions of service).
- (2) An association established in accordance with *subsection (1)*—
    - (a) shall be independent of, and not associated with, any person or body outside An Garda Síochána, and
    - (b) without prejudice to *paragraph (a)*, may employ persons who are not members of An Garda Síochána.
  - (3) A member of An Garda Síochána shall not be or become a member of any trade union or association, other than an association established in accordance with



*subsection (1)*, any object of which is to control or influence the pay, pensions or conditions of service of An Garda Síochána.

- (4) Where any question arises regarding whether any body or association is a trade union or association to which *subsection (3)* applies, the question shall be determined by the Minister whose determination shall be final.
- (5) The Minister may, notwithstanding *subsection (2)*, authorise in writing an association established in accordance with *subsection (1)* to be associated with a person or body outside An Garda Síochána in such cases and in such manner and subject to such conditions or restrictions as he or she may specify.
- (6) The Minister may vary or withdraw an authorisation under *subsection (5)*.
- (7) An association established in accordance with *subsection (1)* for the purpose of representing members of An Garda Síochána holding the rank of garda may include a trainee and a person deemed to have been admitted as a trainee under *section 53(3)* as a trainee.
- (8) A reference in this Act to an association established in accordance with *subsection (1)* shall be construed as including a reference to—
  - (a) an association established under section 18(1) of the Act of 2005,
  - (b) an association established under section 14 of the Police Forces Amalgamation Act 1925, and
  - (c) an association established under section 13 of the Garda Síochána Act 1924.

### **Proof of membership, rank or grade in An Garda Síochána**

- 60.** In legal proceedings, a person purporting to be a member of An Garda Síochána of any rank or a member of garda staff of any grade shall be, in the absence of evidence to the contrary, presumed to be a member of An Garda Síochána of that rank or a member of garda staff of that grade, as the case may be.

## CHAPTER 6

### *Governance and accountability of An Garda Síochána*

#### **Setting of priorities by Authority for policing services**

- 61.** (1) The Authority shall, with the approval of the Minister, determine priorities for An Garda Síochána in performing its functions relating to policing services (in this Act referred to as “policing priorities”).
- (2) Before determining policing priorities, the Authority shall consult with—
- (a) the Garda Commissioner,
  - (b) the National Office, and
  - (c) such other persons as the Authority considers appropriate.

- (3) When determining policing priorities, the Authority shall have regard to the policing principles.
- (4) Where the Minister approves the determination of policing priorities, he or she shall notify the Authority in writing of that approval and, at the same time, give the Authority a copy of the policing priorities as so approved.
- (5) The Authority shall, as soon as practicable after it receives a notification under *subsection (4)*, cause a copy of the policing priorities to be provided to the Minister, the Garda Commissioner and the Board.
- (6) The Minister shall, as soon as practicable after he or she receives a copy of the policing priorities under *subsection (5)*, cause a copy of the policing priorities to be laid before each House of the Oireachtas.
- (7) The Authority shall ensure that, as soon as practicable after a copy of the policing priorities is laid under *subsection (6)*, the policing priorities are published on a website maintained by or on behalf of the Authority or in such other manner as the Authority considers appropriate.
- (8) The Authority shall, from time to time as it thinks appropriate, review the policing priorities and make such revisions thereto as it thinks fit.
- (9) In this Part, unless the context otherwise requires, references—
  - (a) to the determination of such priorities shall be construed as including references to the revision of such priorities, and
  - (b) to such priorities shall be construed as including references to such priorities as so revised.

### **Determination of priorities by Minister for security services**

- 62.** (1) The Minister may—
- (a) determine priorities for An Garda Síochána in performing its functions relating to security services (in this Act referred to as “security priorities”), and
  - (b) specify levels of performance (in this Part referred to as “performance targets”) by An Garda Síochána in respect of each priority referred to in *paragraph (a)* by which the effectiveness of An Garda Síochána in meeting each such priority can be measured by the Minister.
- (2) Before determining security priorities under *subsection (1)(a)* or specifying performance targets under *subsection (1)(b)*, the Minister shall consult with—
- (a) the Garda Commissioner, and
  - (b) such other persons as the Minister considers appropriate.
- (3) The Minister shall provide the Garda Commissioner with details in writing of the security priorities determined under *subsection (1)(a)* and the performance targets specified under *subsection (1)(b)*.

- (4) Subject to *subsection (5)*, the Minister shall, as soon as practicable after he or she determines security priorities and specifies performance targets under *paragraph (a)* or *paragraph (b)* of *subsection (1)*, cause a copy of the priorities and targets—
- (a) to be laid before each House of the Oireachtas, and
  - (b) to be published on a website maintained by or on behalf of the Minister or in such other manner as the Minister considers appropriate.
- (5) The Minister may exclude from the copy of the security priorities and performance targets to be laid before each House of the Oireachtas under *subsection (4)(a)* or published under *subsection (4)(b)*, any matter that, in his or her opinion—
- (a) would be prejudicial to the interests of the security of the State, or
  - (b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.
- (6) The Garda Commissioner shall, in such form and within such time as may be specified by the Minister, inform the Minister of the measures taken to achieve the performance targets and the outcome of those measures.
- (7) The Minister may, from time to time as he or she thinks appropriate, review the security priorities and the performance targets, or both, and make such revisions thereto as he or she thinks fit.
- (8) In this Part, unless the context otherwise requires, references—
- (a) to the determination of such priorities shall be construed as including references to the revision of such priorities,
  - (b) to the specification of such targets shall be construed as including references to the revision of such targets, and
  - (c) to such priorities or targets, or both, as the case may be, shall be construed as including references to such priorities or targets, or both, as the case may be, as so revised.

### Strategic plan

63. (1) Subject to *subsection (2)*, the Garda Commissioner shall, at the request of the Board and in accordance with this section, within 6 months after the coming into operation of *section 11* and not later than the expiration of each subsequent 3 year period following that coming into operation, prepare and submit to the Minister a strategic plan for An Garda Síochána in respect of the period of 3 years immediately following the year in which the plan is so submitted.
- (2) A strategic plan shall not be submitted to the Minister unless it has been adopted by the Board.
- (3) A strategic plan shall—

- (a) be prepared in such form and manner as may be in accordance with any directions issued by the Minister,
  - (b) specify in relation to the period to which the plan relates—
    - (i) the main objectives (including the reasons for each objective) of An Garda Síochána,
    - (ii) the strategies that will be pursued in order to achieve the main objectives,
    - (iii) where reasonably practicable, the outcomes by which the achievement of the main objectives may be measured,
    - (iv) the uses for which the Garda Commissioner proposes to apply the resources of An Garda Síochána, and
    - (v) any other information connected with the functions of An Garda Síochána which the Board or the Garda Commissioner considers appropriate,and
  - (c) except in the case of the first such plan, include a review and evaluation of the performance by An Garda Síochána of its functions under this Act in the previous 3 years.
- (4) The Garda Commissioner shall, before preparing a strategic plan, consult with such persons as he or she considers appropriate.
- (5) In preparing a strategic plan, the Garda Commissioner shall have regard to—
- (a) the views of such persons as may be consulted under *subsection (4)*,
  - (b) such views of the Authority as may be provided under *section 122(2)(p)*,
  - (c) the policies of the Government or any Minister of the Government to the extent that those policies may affect, or relate to, the functions of An Garda Síochána,
  - (d) the policing principles,
  - (e) the policing priorities,
  - (f) the security priorities,
  - (g) the national strategy, and
  - (h) the resources reasonably and prudently expected to be available to An Garda Síochána for the period to which the plan relates and the need to ensure the most effective and efficient use of those resources.
- (6) The Minister shall, within 3 months of a strategic plan being submitted to him or her under *subsection (1)*—
- (a) approve the plan without amendment, or
  - (b) having consulted with the Board, issue to the Board such directions regarding amendments to the plan as the Minister considers necessary.

- (7) The Minister, within 3 months of a strategic plan being submitted to him or her under *subsection (1)*—
- (a) where the plan is amended in accordance with any directions that the Minister may give under *subsection (6)(b)*, shall approve it, or
  - (b) where the plan is not amended in accordance with any directions that may be given by the Minister under *subsection (6)(b)*, may refuse to approve it.
- (8) A strategic plan may be amended—
- (a) by the Minister at any time having consulted with the Board, or
  - (b) by the Board where—
    - (i) the Board submits an amendment to the Minister for his or her approval, and
    - (ii) the amendment is approved by the Minister.
- (9) *Subsections (3) to (5)* shall apply with the necessary modifications in respect of an amendment by the Board under *subsection (8)(b)* of a strategic plan.
- (10) Nothing in a strategic plan shall be taken to prevent or limit the performance by the Garda Commissioner or the Board of their respective functions under this Act.

#### **Publication and implementation of strategic plan**

- 64.** (1) Subject to *subsection (3)*, the Minister shall, as soon as practicable, cause a copy of a strategic plan to be laid before each House of the Oireachtas—
- (a) after the plan is approved by the Minister under *subsection (6)(a)* or *(7)(a)* of *section 63*,
  - (b) where the plan is amended by the Minister in accordance with *section 63(8)(a)*, after such amendment, and
  - (c) where the plan is amended by the Board in accordance with *section 63(8)(b)*, after such amendment is approved by the Minister under *subparagraph (ii)* of that section.
- (2) The Garda Commissioner shall ensure that, as soon as practicable after a copy of a strategic plan is laid before each House of the Oireachtas, the plan as laid is published on a website maintained by or on behalf of An Garda Síochána or in such other manner as the Minister may specify.
- (3) The Minister may exclude from the copy of a strategic plan to be laid before each House of the Oireachtas under *subsection (1)* or published under *subsection (2)* any matter that, in his or her opinion—
- (a) would be prejudicial to the interests of the security of the State, or
  - (b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

- (4) The Board, in consultation with the Garda Commissioner, shall provide the Minister with reports on the implementation of the strategic plan—
- (a) as part of the annual report (within the meaning of *section 70*), and
  - (b) in such other manner and at such intervals as the Minister may direct.

### Annual service plan

- 65.** (1) The Garda Commissioner shall, before the expiry of the specified period in any year, prepare an annual service plan for An Garda Síochána for the following year and submit it to the Minister for approval with or without amendment.
- (2) Subject to *subsection (5)*, an annual service plan prepared by the Garda Commissioner shall not be submitted to the Minister under *subsection (1)* unless it has been adopted by the Board.
- (3) An annual service plan shall—
- (a) be prepared in such form and manner as may be in accordance with any directions issued by the Minister,
  - (b) set out the type, and volume, of services to be provided by An Garda Síochána for the period to which the plan relates,
  - (c) set out the objectives to be achieved through the services to be provided and contain estimates of the financial resources required to meet each such objective,
  - (d) set out the performance targets to be achieved in relation to each objective referred to in *paragraph (c)*,
  - (e) set out any capital expenditure proposed by An Garda Síochána,
  - (f) set out estimates of the income and expenditure of An Garda Síochána for the period to which the plan relates,
  - (g) be consistent with the resources reasonably and prudently expected to be available to An Garda Síochána for the period to which the plan relates,
  - (h) set out estimates of the number of garda personnel for the period to which the plan relates and the services to which the plan relates,
  - (i) be consistent with any directives issued by the Minister under *section 37*, and
  - (j) contain such other information as the Minister may specify.
- (4) When preparing an annual service plan, the Garda Commissioner shall—
- (a) ensure that the plan is not inconsistent with—
    - (i) the policing priorities,
    - (ii) the security priorities,
    - (iii) the strategic plan as laid under *section 64(1)*, and

- (iv) any directive issued by the Minister under *section 37*,  
and
- (b) have due regard to—
  - (i) such views of the Authority as may be provided under *section 122(2)(q)*,
  - (ii) the policies and objectives of the Government or any Minister of the Government to the extent that those policies may affect, or relate to, the functions of An Garda Síochána, and
  - (iii) the requirement to exercise the highest standards of prudent and effective financial and budgetary management, including with regard to the achievement of value for money and recognition of the importance of operating within authorised financial and staffing resources.
- (5) Where the Garda Commissioner fails to submit an annual service plan adopted by the Board to the Minister before the expiry of the specified period, the Minister may, in writing, issue a direction to the Garda Commissioner to prepare and submit an annual service plan to him or her not later than—
  - (a) 10 days after the date on which the Minister issues the direction to the Garda Commissioner, or
  - (b) such earlier date as may be specified in the direction.
- (6) An annual service plan submitted to the Minister by the Garda Commissioner pursuant to *subsection (5)* shall be deemed to have been adopted by the Board.
- (7) The Minister shall, not later than 28 days after the submission to him or her of an annual service plan under this section—
  - (a) approve the plan,
  - (b) approve the plan with such amendments as the Minister, having consulted with the Garda Commissioner, may determine, or
  - (c) issue a direction to the Garda Commissioner under *subsection (8)* to amend the plan.
- (8) The Minister may direct the Garda Commissioner to amend an annual service plan where, in the opinion of the Minister, the plan—
  - (a) is not in compliance with *subsection (3)*, or
  - (b) has been prepared by the Garda Commissioner without properly taking into account the matters referred to in *subsection (4)*.
- (9) The Garda Commissioner shall comply with a direction issued to him or her under this section.
- (10) The Minister shall, not later than 14 days after the submission to him or her of an annual service plan amended in accordance with a direction under this section, approve the plan.

- (11) Where an annual service plan is the subject of a direction issued under this section to amend it, the Minister may refuse to approve the plan unless it is amended in accordance with the direction.
- (12) Subject to *subsection (14)*, the Minister shall, as soon as practicable, cause a copy of an annual service plan to be laid before each House of the Oireachtas—
- (a) after the plan is approved by the Minister under *paragraph (a) or (b) of subsection (7)*, or
  - (b) where the plan is amended pursuant to a direction issued under *subsection (8)*, after such amendment.
- (13) The Garda Commissioner shall ensure that, as soon as practicable after a copy of an annual service plan is laid before each House of the Oireachtas, the plan as laid is published on a website maintained by or on behalf of An Garda Síochána or in such other manner as the Minister may specify.
- (14) The Minister may exclude from the copy of an annual service plan to be laid before each House of the Oireachtas under *subsection (12) or section 66(10)* any matter that, in his or her opinion—
- (a) would be prejudicial to the interests of the security of the State, or
  - (b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.
- (15) In this section, “specified period”, in relation to a year, means—
- (a) the period ending 42 days after the date of publication by the Government of the Estimates for Public Services (within the meaning of section 17 of the Ministers and Secretaries (Amendment) Act 2011) for that year, or
  - (b) such other period as the Minister may allow.

**Amendment of annual service plan following approval under *section 65***

66. (1) The Minister may, after approving an annual service plan under *section 65*, direct the Garda Commissioner to submit an amended annual service plan and shall specify in the direction the manner in which the plan is to be amended.
- (2) *Subsections (2) to (9) of section 65* shall apply with the necessary modifications in respect of a direction by the Minister under *subsection (1)*.
- (3) The Garda Commissioner may, subject to *subsections (4) and (5)*, amend an annual service plan that has been laid before each House of the Oireachtas under *subsection (10)*.
- (4) *Subsections (2) to (4) of section 65* shall apply with the necessary modifications in respect of an amendment of an annual service plan in accordance with *subsection (3)*.



- (5) The Garda Commissioner shall, as soon as practicable and in any event not later than 5 days after the adoption of an amended annual service plan by the Board, submit the plan to the Minister.
- (6) The Minister may, within 21 days after receiving an annual service plan amended in accordance with *subsection (3)*—
  - (a) direct the Garda Commissioner to further amend the plan specifying the manner in which the plan is to be amended, or
  - (b) notify the Garda Commissioner that he or she intends to amend the plan in consultation with him or her.
- (7) The Garda Commissioner shall comply with a direction issued to him or her under *subsection (6)(a)*.
- (8) Unless a direction or notification under *subsection (6)* is issued by the Minister within the period specified in that subsection, the annual service plan as amended in accordance with *subsection (3)* shall be deemed to have been approved by the Minister immediately before the end of that period.
- (9) Where the Minister issues a direction in accordance with *subsection (6)(a)*, any amendment of an annual service plan by the Garda Commissioner in accordance with *subsection (3)* shall have no effect until it is approved by the Minister.
- (10) Subject to *section 65(14)*, the Minister shall, as soon as practicable, cause a copy of an annual service plan amended in accordance with this section to be laid before each House of the Oireachtas—
  - (a) where the plan is amended pursuant to a direction under *subsection (1)*, after such amendment, or
  - (b) where the plan is amended in accordance with *subsection (3)*—
    - (i) after such amendment is approved by the Minister, or
    - (ii) where *subsection (8)* applies, after the expiry of the period referred to in that section.
- (11) The Garda Commissioner shall ensure that, as soon as practicable after a copy of an annual service plan is laid before each House of the Oireachtas under *subsection (10)*, the plan as laid is published on a website maintained by or on behalf of An Garda Síochána or in such other manner as the Minister may specify.

### **Implementation of annual service plan**

67. (1) The Garda Commissioner shall manage the services set out in an annual service plan, as laid under *section 65(12)* or *section 66(10)*, so as to ensure that those services are delivered, in so far as practicable, in accordance with the plan and in a manner that does not exceed the resources available to An Garda Síochána for the period to which the plan relates.

- (2) The Garda Commissioner shall, as soon as practicable after he or she forms the opinion that any actions, proposed actions, omissions or proposed omissions by him or her will have the effect of An Garda Síochána exceeding the resources available to it for the period to which an annual service plan relates, so inform the Board and the Minister.

### Capital plan

68. (1) The Minister may, having consulted with the Minister for Public Expenditure, National Development Plan Delivery and Reform, request the Garda Commissioner to submit to him or her for approval a plan for capital expenditure for An Garda Síochána.
- (2) A capital plan shall—
- (a) be prepared in such form and contain such information, and
  - (b) relate to such period,
- as may be specified by the Minister.
- (3) In preparing a capital plan, the Garda Commissioner shall have regard to—
- (a) the resources reasonably expected to be available to An Garda Síochána for the period to which the plan relates, and
  - (b) any priorities of relevance to such a plan that may be determined by the Minister for the period to which the plan relates.
- (4) The Garda Commissioner shall not submit a capital plan to the Minister unless it has been adopted by the Board.
- (5) A capital plan shall be submitted to the Minister within the specified period.
- (6) If the Garda Commissioner fails to submit a capital plan to the Minister within the specified period, the Minister may, in writing, issue a direction to the Garda Commissioner to prepare and submit a capital plan to him or her not later than—
- (a) 10 days after the date on which the Minister issues the direction to the Garda Commissioner, or
  - (b) such earlier date as may be specified in the direction.
- (7) The Garda Commissioner shall comply with a direction issued to him or her under this section.
- (8) A capital plan submitted to the Minister by the Garda Commissioner pursuant to a direction under *subsection (6)* shall be deemed to have been adopted by the Board.
- (9) The Minister shall, not later than 21 days after receiving a capital plan under *subsection (1)* or pursuant to a direction under *subsection (6)*—
- (a) approve the plan,

- (b) approve the plan with such amendments as the Minister, having consulted with the Garda Commissioner, may determine, or
  - (c) issue a direction to the Garda Commissioner under *subsection (10)* to amend the plan.
- (10) The Minister may direct the Garda Commissioner to amend a capital plan submitted to him or her under this section where, in the opinion of the Minister, the plan—
- (a) is not in compliance with *subsection (2)*, or
  - (b) has been prepared by the Garda Commissioner without sufficient regard to the matters referred to in *subsection (3)*.
- (11) The Minister may at any time direct the Garda Commissioner to amend a capital plan.
- (12) The Garda Commissioner may, with the approval of the Board and subject to the prior consent of the Minister, amend a capital plan.
- (13) In this section, “specified period” means—
- (a) 21 days after the Garda Commissioner receives a request from the Minister under *subsection (1)*, or
  - (b) such longer period as the Minister may specify.

#### **Publication and implementation of capital plan**

69. (1) Subject to *subsection (3)*, the Minister shall, as soon as practicable, cause a copy of a capital plan to be laid before each House of the Oireachtas—
- (a) after the plan is approved by the Minister under *paragraph (a)* or *(b)* of *section 68(9)*, and
  - (b) where the plan is amended—
    - (i) pursuant to a direction under *subsection (10)* or *(11)* of *section 68*, or
    - (ii) by the Garda Commissioner in accordance with *section 68(12)*,after such amendment.
- (2) The Garda Commissioner shall ensure that, as soon as practicable after a copy of a capital plan is laid before each House of the Oireachtas, the plan as laid is published on a website maintained by or on behalf of An Garda Síochána or in such other manner as the Minister may specify.
- (3) The Minister may exclude from the copy of a capital plan to be laid before each House of the Oireachtas any matter that, in his or her opinion—
- (a) would be prejudicial to the interests of the security of the State, or
  - (b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

- (4) The Garda Commissioner shall take steps to ensure that the capital expenditure under a capital plan as laid under *subsection (1)* does not exceed the resources available to An Garda Síochána for such expenditure for the period to which the plan relates.
- (5) The Garda Commissioner shall, as soon as practicable after he or she forms the opinion that any actions, proposed actions, omissions or proposed omissions by him or her will have the effect of An Garda Síochána exceeding the resources available to it for the period to which a capital plan relates, so inform the Board and the Minister.

### Annual report

- 70.** (1) The Garda Commissioner shall, not later than 4 months after the end of each year, prepare and submit to the Minister a report on the performance of An Garda Síochána during the preceding year (in this section referred to as an “annual report”).
- (2) An annual report shall not be submitted to the Minister unless it has been adopted by the Board.
  - (3) An annual report shall, in respect of the year to which it relates, include—
    - (a) a general statement of the services provided and activities undertaken by An Garda Síochána,
    - (b) a report on the implementation of the strategic plan as laid under *section 64(1)*,
    - (c) a report on the implementation of the annual service plan as laid under *section 65(12)* or *66(10)*, including the achievement of the performance targets,
    - (d) a report on the implementation of the capital plan as laid under *section 69(1)*,
    - (e) a statement of An Garda Síochána’s arrangements for implementing and maintaining adherence to its governance framework,
    - (f) a report on the implementation of any directives issued by the Minister under *section 37*, and
    - (g) any other matters that the Board thinks fit.
  - (4) Subject to *subsection (6)*, the Minister shall, as soon as practicable after a copy of the annual report is submitted to him or her under *subsection (1)*, cause a copy of it to be laid before each House of the Oireachtas.
  - (5) The Garda Commissioner shall ensure that, as soon as practicable after a copy of the annual report is laid before each House of the Oireachtas, the report as laid is published on a website maintained by or on behalf of An Garda Síochána or in such other manner as the Minister may specify.
  - (6) The Minister may exclude from the copy of the annual report to be laid before each House of the Oireachtas any matter that, in his or her opinion—
    - (a) would be prejudicial to the interests of the security of the State, or
    - (b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

**Governance framework for An Garda Síochána**

71. (1) The Board shall, as soon as practicable after the coming into operation of *section 11*, submit to the Minister for his or her approval a framework (in this Part referred to as a “governance framework”) that includes an outline of—
- (a) the guiding principles applicable to An Garda Síochána as a public body having functions relating to policing services and security services,
  - (b) the managerial, organisational and governance structures of An Garda Síochána, including the roles and responsibilities of the Board and the Garda Commissioner,
  - (c) the processes and guidelines to be followed to ensure compliance with the reporting requirements imposed on the Garda Commissioner by or under this Act or any other enactment, and
  - (d) the internal controls in An Garda Síochána, including its procedures relating to internal audits, risk management, public procurement, financial reporting and protected disclosures.
- (2) In preparing, or making any revisions to, the governance framework, the Board shall—
- (a) consult with the Garda Commissioner, and
  - (b) have regard to any directives issued by the Minister under *section 37*.
- (3) The Minister shall, as soon as practicable after a governance framework is submitted to him or her under *subsection (1)*, approve, with or without modifications, the governance framework.
- (4) The Board shall review the governance framework periodically and at such times as may be specified by the Minister.
- (5) The Board shall, as soon as practicable, after the approval by the Minister under *subsection (3)* of the governance framework, arrange for the publication of the framework on a website maintained by or on behalf of An Garda Síochána or in such other manner as the Minister may specify.
- (6) In this section, unless the context otherwise requires, references—
- (a) to the preparation of a governance framework shall be construed as including references to the preparation of revisions to such a framework, and
  - (b) to the governance framework shall be construed as including references to such framework as so revised.

**Accountability of Garda Commissioner for accounts of An Garda Síochána**

72. (1) The Garda Commissioner shall be the accounting officer in relation to the appropriation accounts of An Garda Síochána for the purposes of the Comptroller and Auditor General Acts 1866 to 1998.

- (2) Whenever required to do so by the Committee of Public Accounts, the Garda Commissioner shall give evidence to it on the following matters:
- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or record of account subject to audit by the Comptroller and Auditor General;
  - (b) the economy and the efficiency of An Garda Síochána in using its resources;
  - (c) the systems, procedures and practices employed by An Garda Síochána for evaluating the effectiveness of its operations;
  - (d) any matter affecting An Garda Síochána that is referred to in—
    - (i) a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or
    - (ii) any other report of the Comptroller and Auditor General that is laid before Dáil Éireann in so far as the report relates to a matter specified in *paragraph (a), (b) or (c)*.
- (3) In carrying out duties under *subsection (2)*, the Garda Commissioner shall not—
- (a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy,
  - (b) discuss matters relating to the security of the State,
  - (c) provide information, other than financial information, relating to specific criminal investigations or prosecutions except an investigation or prosecution relating to money or assets for which he or she is the accounting officer, or
  - (d) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of any person.

#### **Attendance of Garda Commissioner before other Oireachtas committees**

73. (1) Subject to *subsection (2)*, the Garda Commissioner shall, at the request in writing of an Oireachtas committee, attend before it to give account for the general administration of An Garda Síochána.
- (2) The Garda Commissioner shall not be required to give account before an Oireachtas committee for any matter which is, has been, or may at a future time be, the subject of proceedings before a court or tribunal in the State.
- (3) The Garda Commissioner shall, where of the opinion that *subsection (2)* applies to a matter about which he or she is requested to give account before an Oireachtas committee, inform the committee of that opinion and the reasons for the opinion.
- (4) The information required under *subsection (3)* shall be given to the Oireachtas committee in writing unless it is given when the Garda Commissioner is before the committee.

- (5) Where, on being informed of the Garda Commissioner's opinion about the matter, the Oireachtas committee decides not to withdraw its request relating to the matter, the High Court may, on application under *subsection (6)*, determine whether *subsection (2)* applies to the matter.
- (6) The Garda Commissioner or the Oireachtas committee may apply in a summary manner to the High Court for a determination under *subsection (5)*, but only where the application is made within 21 days after the date on which the Garda Commissioner is informed of the committee's decision not to withdraw its request.
- (7) Pending the determination under *subsection (5)* of an application under *subsection (6)*, the Garda Commissioner shall not attend before the Oireachtas committee to give account for the matter that is the subject of the application.
- (8) Where the High Court determines under *subsection (5)* that *subsection (2)* applies to the matter, the Oireachtas committee shall withdraw its request in so far as it relates to the matter, but where the Court determines that *subsection (2)* does not apply, the Garda Commissioner shall attend before the committee to give account for the matter.
- (9) In carrying out duties under this section, the Garda Commissioner shall not—
  - (a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy,
  - (b) discuss matters relating to the security of the State,
  - (c) provide information relating to specific criminal investigations or prosecutions, or
  - (d) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of any person.
- (10) With the permission of the chairperson of an Oireachtas committee making a request under *subsection (1)*—
  - (a) the chairperson of the Board, or
  - (b) a member of garda personnel nominated by the Garda Commissioner,may attend before the committee in place of the Garda Commissioner to give an account of the general administration of An Garda Síochána, and in that case a reference in *subsections (2) to (9)* to the Garda Commissioner shall be construed as a reference to the person attending in his or her place.

#### **Audit committee**

- 74.** (1) As soon as practicable after the coming into operation of *section 11*, the Board shall establish a committee to be known as the audit committee to perform the functions specified in *section 75*.
- (2) The audit committee shall be appointed by the Board and shall comprise the following members:

- (a) not fewer than 3 of the members of the Board;
  - (b) not fewer than 4 other persons who, in the opinion of the Board, have the relevant skills and experience to perform the functions of the committee, at least one of whom shall hold a professional qualification in accountancy or auditing.
- (3) The chairperson of the audit committee shall be appointed by the Board from among the persons appointed under *subsection (2)(b)*.
- (4) A member of the audit committee shall—
- (a) hold office upon such terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) as may be determined by the Minister with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, and
  - (b) be paid out of moneys at the disposal of An Garda Síochána.
- (5) The Board may at any time remove a member of the audit committee for stated reasons.
- (6) The Board may determine the terms of reference and regulate the procedure of the audit committee.
- (7) A member of the audit committee may resign from the committee by notice in writing addressed to the Board and the resignation shall take effect on the date the Board receives the notice, or, if a date is specified in the notice and the Board agrees to that date, on that date.
- (8) The audit committee shall provide the Board with such information as the Board may from time to time require, in respect of the committee's activities and operations, for the purposes of the performance by the Board of its functions.
- (9) The audit committee may act notwithstanding one or more than one vacancy in its membership.

### Functions of audit committee

75. (1) The audit committee shall, on and after the relevant day, have the following functions:
- (a) to advise the Garda Commissioner on governance and financial matters relating to his or her functions under this Act and any other enactment;
  - (b) to report in writing at least once in every year to the Garda Commissioner on the matters referred to in *paragraph (a)* and on the activities of the committee in the previous year and provide a copy of that report to the Board and the Minister;
  - (c) to advise the Board on governance and financial matters relating to its functions;
  - (d) to report in writing at least once in every year to the Board on the matters referred to in *paragraph (c)* and provide a copy of that report to the Minister.
- (2) The functions of the audit committee under *paragraphs (a) and (c) of subsection (1)* shall include the provision of advice regarding the following matters:



- (a) the proper implementation of Government guidelines on governance and financial issues;
- (b) compliance by An Garda Síochána with—
  - (i) *section 67* and *subsections (4) and (5) of section 69*, and
  - (ii) any other obligations imposed by law relating to governance and financial matters;
- (c) compliance by the Garda Commissioner with *section 40*;
- (d) the appropriateness, effectiveness and efficiency of the procedures of An Garda Síochána relating to—
  - (i) public procurement,
  - (ii) seeking sanction for expenditure and compliance with that sanction,
  - (iii) the acquisition, holding and disposal of assets,
  - (iv) risk management,
  - (v) financial reporting,
  - (vi) internal audits,
  - (vii) the prevention of fraud,
  - (viii) the prevention of corruption,
  - (ix) protected disclosures, and
  - (x) such other matters as the Board may determine.
- (3) Subject to *subsection (7)*, the audit committee shall meet at least 4 times in each year and may invite any person it considers appropriate (whether that person is or is not a member of garda personnel) to attend a meeting of the committee.
- (4) The Garda Commissioner shall—
  - (a) ensure that the audit committee is provided with An Garda Síochána's audit reports, audit plans and monthly reports on expenditure, and
  - (b) where he or she has reason to suspect that any material misappropriation of the money for which he or she is accounting officer or any fraudulent conversion or misapplication of An Garda Síochána's property may have taken place, report that matter to the audit committee as soon as practicable.
- (5) The Garda Commissioner shall furnish to the audit committee information, on any financial matter or procedure necessary for the performance of its functions when requested to do so by the audit committee, including where such information relates to—
  - (a) any contract that the Garda Commissioner proposes to enter into involving expenditure of an amount in excess of a threshold specified by the committee, or

- (b) any legal proceedings or prospective legal proceedings against the Garda Commissioner that may give rise to potential financial liability.
- (6) The audit committee may, on its own initiative or at the request of the Board, review the effectiveness of the audit committee and make a report thereon to the Board.
- (7) A meeting of the former audit committee held in the same year as the year in which the relevant day falls shall count as a meeting of the audit committee for the purposes of *subsection (3)*.
- (8) In this section and *section 76*—
  - “former audit committee” means the audit committee established pursuant to section 44 of the Act of 2005;
  - “relevant day” means the day on which the audit committee is established by the Board under *section 74*.

#### **Provisions supplementary to *section 75***

- 76.** (1) On the relevant day the former audit committee shall stand dissolved.
- (2) Anything commenced and not completed immediately before the relevant day by or under the authority of the former audit committee may, in so far as it relates to a function of the audit committee, be carried on or completed on or after that day by the audit committee.
  - (3) Every document granted or made, by the former audit committee, if and in so far as it was operative immediately before the relevant day, shall have effect on and after that day as if it had been granted or made by the audit committee.
  - (4) Each record held by the former audit committee immediately before the relevant day shall, on that day, stand transferred to the audit committee and shall, on and after that day, be the property of the audit committee and be regarded as being held by the audit committee.

#### **Statistical information**

- 77.** (1) The Garda Commissioner shall ensure that, in respect of each specified period, statistical information concerning offences, criminal proceedings and the state of crime in the State is compiled and stored.
- (2) The Garda Commissioner shall make information compiled in accordance with *subsection (1)* available to the Minister and the Central Statistics Office at such times and in such manner as the Minister may require.
  - (3) In this section, “specified period” means—
    - (a) the period beginning 1 January 2024 and ending 3 months after that date, and
    - (b) each subsequent period of 3 months beginning on the day after the end of the previous period.

## CHAPTER 7

*Codes of ethics, standards of integrity, unauthorised disclosure of information***Code of ethics for members of garda personnel**

78. (1) The Authority shall issue a code of ethics that includes—
- (a) standards of conduct and practice for members of garda personnel, and
  - (b) provisions to encourage and facilitate the reporting by members of garda personnel of wrongdoing in An Garda Síochána.
- (2) The Authority shall, before issuing a code of ethics under this section, consult with the following in relation to the content of the code:
- (a) the Minister;
  - (b) the Minister for Public Expenditure, National Development Plan Delivery and Reform;
  - (c) the Garda Commissioner;
  - (d) the Board;
  - (e) the associations established in accordance with *section 59(1)*;
  - (f) any recognised trade union or staff association representing members of garda staff;
  - (g) the Irish Human Rights and Equality Commission;
  - (h) the Standards in Public Office Commission;
  - (i) the Police Ombudsman;
  - (j) any other person or body appearing to the Authority to have an interest in the matter.
- (3) In preparing a code of ethics under this section, the Authority shall have regard to—
- (a) the policing principles,
  - (b) the standards, practices and procedures applicable to the conduct of police officers and police staff in Member States of the European Union other than the State, and the United Kingdom, and
  - (c) any relevant recommendations of the Council of Europe.
- (4) The Authority may amend a code of ethics issued under this section and references in this section to issuing a code of ethics shall, unless the context otherwise requires, be construed as including references to amending such a code.
- (5) The Authority may revoke a code of ethics issued under this section.
- (6) Whenever the Authority issues a code of ethics under this section, the Authority shall provide the Minister with a copy of the code so issued and the Minister shall, as soon

as practicable after he or she receives it, cause a copy of it to be laid before each House of the Oireachtas.

- (7) The Authority shall publish a code of ethics issued under this section on a website maintained by or on behalf of the Authority or in such other manner as the Authority considers appropriate.
- (8) The Garda Commissioner shall take such steps as are necessary to ensure—
  - (a) that all members of garda personnel have read and understood a code of ethics issued under this section, and
  - (b) that a record is kept of the steps taken under *paragraph (a)* in relation to each member of garda personnel.

**Standards of integrity, codes of ethics for members of Board or committee, advisers or consultants, etc.**

79. (1) In performing functions under this Act—

- (a) a person engaged by the Garda Commissioner under *section 41* as a consultant or adviser,
  - (b) subject to *subsection (2)*, an employee or contractor of a person referred to in *paragraph (a)*, or
  - (c) a member of the Board, a committee of the Board or the audit committee,
- shall maintain proper standards of integrity, conduct and concern for the public interest.
- (2) *Subsection (1)* applies to an employee or contractor of a person referred to in *paragraph (a)* of that subsection in respect only of the duties of employment or the contract, as the case may be, relating to the purposes for which the Garda Commissioner has engaged that person.
  - (3) For the purposes of *subsection (1)*, the Board shall issue a code of ethics for the guidance of persons to whom that subsection applies.
  - (4) A code of ethics issued under *subsection (3)* shall set out the standards of integrity and conduct to be maintained by the persons to whom it applies in performing their functions under this Act.
  - (5) A person to whom a code of ethics issued under *subsection (3)* applies shall act in accordance with the code in performing his or her functions under this Act.
  - (6) Where a person is an employee of a person engaged by the Garda Commissioner under *section 41* as a consultant or adviser, his or her terms and conditions shall be deemed to include the requirements that apply to the employer under *subsection (5)*.
  - (7) Subject to *subsection (8)*, the Board shall, as soon as practicable after issuing a code of ethics under *subsection (3)*, make the code available to persons to whom *subsection (1)* applies.

- (8) The Garda Commissioner shall provide a copy of a code of ethics issued under *subsection (3)* to a person engaged by him or her as a consultant or adviser under *section 41* and the person so engaged shall make that copy available to his or her employees or contractors to whom *subsection (1)(b)* applies.
- (9) A document purporting to be a code of ethics issued under *subsection (3)* is, in the absence of evidence to the contrary, to be taken to be such a code and shall be admissible as such in any proceedings before a court or other tribunal.
- (10) Any provision of a code of ethics issued under *subsection (3)* that appears to a court or other tribunal to be relevant to a question in proceedings before the court or tribunal, as the case may be, may be taken into account by it in determining the question.

### Confidentiality of certain information (*Part 2*)

80. (1) A person who is or was—

- (a) a member of garda personnel,
- (b) a member of the Board, a committee of the Board or the audit committee,
- (c) under contract with the Garda Commissioner pursuant to *section 40(1)(a)* or engaged by him or her pursuant to *section 41*, or
- (d) an employee or a contractor of a person to whom *paragraph (c)* applies,

shall not disclose, in or outside the State, unless he or she is required or permitted by law or duly authorised by the Garda Commissioner in furtherance of his or her functions, any information obtained in the course of carrying out the duties of that person's office, employment, contract or other arrangement, whether obtained before or after the repeal of the Act of 2005 by *section 5*, where that disclosure is likely to have a harmful effect and the person knows or believes that the disclosure is likely to have such an effect.

- (2) For the purpose of this section, the disclosure of information referred to in *subsection (1)* is likely to have a harmful effect where it is likely to—
  - (a) facilitate the commission of an offence,
  - (b) prejudice the safekeeping of a person in legal custody,
  - (c) impede the prevention, detection or investigation of an offence,
  - (d) impede the apprehension or prosecution of a suspected offender,
  - (e) prejudice the security of any system of communication of An Garda Síochána,
  - (f) result in the identification of a person—
    - (i) who is a witness in a criminal proceeding or who has given information in confidence to a member of garda personnel, and

- (ii) whose identity is not, at the time of the disclosure, a matter of public knowledge,
  - (g) result in the publication of information that—
    - (i) relates to a person who is a witness to, or a victim of, an offence, and
    - (ii) is of such a nature that its publication would be likely to discourage the person to whom the information relates or any other person from giving evidence or reporting an offence,
  - (h) result in the publication of personal information (within the meaning of the Freedom of Information Act 2014) relating to a person that constitutes an unwarranted and serious infringement of that person’s right to privacy,
  - (i) reveal information provided in confidence by another state, an international organisation, another police service or an intelligence service, or
  - (j) affect adversely the international relations or interests abroad of the State, including those with Northern Ireland.
- (3) For the purpose of this section, a person is presumed, unless the contrary is proved, to know that disclosure of information referred to in *subsection (1)* is likely to have a harmful effect if a reasonable person would, in all of the circumstances, be aware that its disclosure could have that effect.
- (4) In any proceedings for an offence under this section, it shall be a defence to show that the disclosure was—
- (a) made to—
    - (i) the Minister,
    - (ii) the Attorney General,
    - (iii) the Director of Public Prosecutions,
    - (iv) the Chief State Solicitor,
    - (v) the Criminal Assets Bureau,
    - (vi) the Comptroller and Auditor General or the staff of the Office of the Comptroller and Auditor General,
    - (vii) the Police Ombudsman, the Deputy Police Ombudsman or an officer of the Police Ombudsman,
    - (viii) the Authority,
    - (ix) the Revenue Commissioners,
    - (x) the State Claims Agency,
    - (xi) the Child and Family Agency,
    - (xii) a member of either of the Houses of the Oireachtas where relevant to the proper discharge of the member’s functions,

- (xiii) a court, or
  - (xiv) a tribunal appointed under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011, a commission of investigation established under the Commissions of Investigation Act 2004 or a committee (within the meaning of section 2 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013) for the purposes of a Part 2 inquiry (within the meaning of that section) under that Act,
  - (b) made in the course of, and in accordance with, the duties of that person's office or employment or his or her duties under a contract or other arrangement to work with or for An Garda Síochána, or
  - (c) reasonably believed by the person who made the disclosure to be required or permitted by law, duly authorised by the Garda Commissioner in furtherance of his or her functions or made in accordance with *paragraph (a) or (b)*.
- (5) A person who contravenes *subsection (1)* is guilty of an offence and is liable—
- (a) on summary conviction, to a class C fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.
- (6) A person who contravenes *subsection (1)* and who receives any gift, consideration or advantage as an inducement to disclose the information to which the contravention relates or as a reward for, or otherwise on account of, the disclosure of that information, is guilty of an offence and is liable—
- (a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €75,000 or imprisonment for a term not exceeding 7 years, or both.
- (7) In any proceedings for an offence under this section, it shall not be necessary to prove that the disclosure had a harmful effect.
- (8) The provisions of this section are in addition to, and not in substitution for, the provisions of the Act of 1963.

## CHAPTER 8

*Special inquiries relating to administration, operation, practice or procedure of An Garda Síochána or conduct of members of garda personnel***Interpretation (Part 2) (Chapter 8)**

**81.** (1) In this Chapter—

“appointed person” has the meaning assigned to it by *section 82(1)(b)*;

“final report” has the meaning assigned to it by *section 82(1)(c)*;

“inquiry” means an inquiry ordered by the Minister under *section 82(1)*;

“interim report” has the meaning assigned to it by *section 88(1)*;

“legal costs” means fees, disbursements, charges and expenses included in a bill of costs in respect of a practising barrister or practising solicitor, or both (within the meaning of the Legal Services Regulation Act 2015);

“replacement appointed person” has the meaning assigned to it by *section 89(1)*.

- (2) Where an order under *section 89(1)* is made, a reference in this Chapter to an appointed person shall be construed as including a reference to a replacement appointed person.

### **Special inquiries relating to administration, operation, practice or procedure of An Garda Síochána or conduct of members of garda personnel**

- 82.** (1) The Minister may, subject to this Chapter, with respect to any matter considered by him or her to be of significant public concern—
- (a) order an inquiry into any aspect of the administration, operation, practice or procedure of An Garda Síochána or the conduct of members of garda personnel,
  - (b) appoint a person to conduct the inquiry (in this Chapter referred to as an “appointed person”), and
  - (c) direct that, on the conclusion of the inquiry, an appointed person shall make a report thereon (in this Chapter referred to as a “final report”) to the Minister.
- (2) The Authority shall, where it is satisfied that an inquiry into a matter relating to policing services is required, request the Minister to order an inquiry.
- (3) Where the Authority requests the Minister under *subsection (2)* to order an inquiry and the Minister does not so order, the Minister shall inform the Authority of his or her reasons for not doing so.
- (4) The Minister shall not, other than where the Authority has made a request under *subsection (2)*, order an inquiry unless he or she has consulted with the Authority as to whether such an inquiry is necessary.
- (5) The Minister shall not appoint a person under *subsection (1)(b)* unless the Minister is satisfied that the person has such skills, experience, qualifications, training and expertise as are appropriate to conduct an inquiry.
- (6) Subject to this Chapter, an appointed person shall be independent in the performance of his or her functions under this Chapter.
- (7) The power under *subsection (1)(a)* to order an inquiry is without prejudice to any power conferred by this Act or any other enactment in relation to inquiries or investigations howsoever called.



**Terms of reference of special inquiries**

- 83.** (1) Subject to this section, the Minister shall specify the terms of reference of an inquiry in an order under *section 82(1)(a)*.
- (2) Before specifying the terms of reference of an inquiry, the Minister may consult with such persons as he or she thinks fit.
- (3) Where the matter that is the subject of an inquiry relates to policing services, the Minister shall consult with the Authority before specifying the terms of reference of the inquiry.
- (4) The terms of reference of an inquiry shall, as appropriate and to the extent possible, specify the aspect of the administration, operation, practice or procedure of An Garda Síochána or the conduct of members of garda personnel to be inquired into with a view to ensuring that the scope of the inquiry is described precisely.
- (5) The Minister shall, where he or she is, under *subsection (1)*, specifying the terms of reference of an inquiry, have regard to the objectives of having the inquiry conducted and the final report submitted—
- (a) as expeditiously as a proper consideration of the matters the subject of the inquiry permits, and
- (b) in accordance with *section 86*.
- (6) The Minister may by order, made at any time before the submission of the final report, amend the terms of reference of an inquiry for the purpose of clarifying, limiting or extending the scope of the inquiry.
- (7) An appointed person shall provide the Minister with all the information required by the Minister for the purposes of the performance of his or her functions under *subsection (6)* and *section 84(4)*.
- (8) *Subsections (2) to (5)* shall apply with the necessary modifications in relation to an amendment under *subsection (6)* of the terms of reference of an inquiry.

**Timeframe of special inquiries**

- 84.** (1) An order under *section 82(1)(a)* shall be accompanied by a statement in writing by the Minister specifying the timeframe for the submission of the final report to the Minister.
- (2) The Minister shall, before preparing a statement under *subsection (1)*, consult with the appointed person concerned.
- (3) An appointed person shall, subject to this Chapter, conduct an inquiry in relation to which he or she has been appointed under *section 82(1)* and make the final report in relation thereto to the Minister, within the timeframe specified by the Minister in a statement under *subsection (1)*.
- (4) The Minister may extend the timeframe specified in a statement under *subsection (1)* for the submission of a final report in relation to an inquiry—

- (a) where he or she has, under *section 83(6)*, amended the terms of reference of the inquiry, or
  - (b) at the request of the appointed person,  
where the Minister is satisfied, having regard to the objectives of having the inquiry conducted and the final report submitted as expeditiously as a proper consideration of the matters the subject of the inquiry permits, that there is good reason for so doing.
- (5) The Minister shall, before extending the timeframe under *subsection (4)* for the submission of a final report, consult with the appointed person concerned.
- (6) Where an appointed person requests that the timeframe for submitting his or her final report be extended under *subsection (4)(b)*, he or she shall, when so requesting, submit an interim report to the Minister with the request.

### **Powers of appointed person**

85. (1) For the purposes of an inquiry, an appointed person may do one or more of the following:
- (a) direct a person, by notice delivered to him or her, to provide any information, document or thing that is specified in the notice and is relevant to, and required for the purposes of, the inquiry;
  - (b) direct any person, by notice delivered to him or her, to produce at the time and place specified in the notice, any document or thing specified in the notice that is relevant to, and required for the purposes of, the inquiry and is in the person's power or control;
  - (c) summon witnesses to attend the inquiry;
  - (d) direct a witness to answer a question put to him or her at the inquiry;
  - (e) give any other direction that appears to the appointed person to be necessary, just and reasonable for the purposes of the inquiry;
  - (f) administer oaths and affirmations to witnesses and examine witnesses attending the inquiry.
- (2) A person—
- (a) to whom a direction is given under *paragraph (a), (b), (d) or (e) of subsection (1)* shall—
    - (i) cooperate with the inquiry, and
    - (ii) comply fully with the direction,or
  - (b) on whom a summons is served under *subsection (1)(c)* shall—
    - (i) cooperate with the inquiry,

- (ii) attend on such date and at such time and place as may be specified in the summons, and
  - (iii) answer fully and truthfully any question put to him or her by the appointed person.
- (3) Where, in the opinion of an appointed person, there has been an inexcusable delay on the part of a person in complying with a direction given under *paragraph (a), (b), (d) or (e) of subsection (1)*, the appointed person shall—
- (a) where the delay is on the part of a member of garda personnel, report the delay to the Garda Commissioner,
  - (b) where the delay is on the part of a member of the Authority, report the delay to the chief executive of the Authority, or
  - (c) where the delay is on the part of any other person who is an employee or representative of any other public body, report the delay to the chief executive officer, howsoever called, of the body.
- (4) A failure or refusal by a member of garda personnel to comply with a direction given under *paragraph (a), (b), (d) or (e) of subsection (1)* or a summons under *paragraph (c) of that subsection* may be the subject of action in accordance with the Conduct Regulations or the conduct code.
- (5) Where a person fails or refuses to comply with, or disobeys, a direction or summons under *subsection (1)*, the High Court may, on application by the appointed person and on notice to the member of garda personnel, member of the Authority or other person, as the case may be—
- (a) order the person in relation to whom the application was made to comply with the direction or, in the case of a summons, to attend the inquiry, and
  - (b) make such other order (if any) as it considers necessary and just to enable the direction to have full effect or, in the case of a summons, to ensure the attendance at the inquiry.
- (6) Where a person fails or refuses to comply with an order under *subsection (5)*, the court may treat the failure for all purposes as if it were contempt of court.
- (7) A statement or admission made by a person pursuant to a direction or summons under *subsection (1)* shall not be admissible as evidence in proceedings brought against that person for an offence.

### **Conduct of special inquiries**

- 86.** (1) An inquiry shall be inquisitorial in nature.
- (2) An appointed person shall conduct an inquiry—
- (a) as informally as practicable and consistent with fair procedures, and

- (b) with as much expedition as a proper consideration of the matters the subject of the inquiry permits.
- (3) An inquiry shall be conducted otherwise than in public unless an appointed person is of the opinion that it is desirable in the interests of the inquiry and fair procedures to conduct all or part of the inquiry in public.
- (4) In conducting an inquiry, an appointed person shall, to the greatest possible extent that is consistent with the proper performance of his or her functions under this Chapter—
  - (a) seek the voluntary cooperation of persons whose evidence is sought by him or her in relation to any matter within the terms of reference of the inquiry, and
  - (b) facilitate such cooperation.
- (5) *Subsection (4)* shall not to be taken to limit in any way the powers of an appointed person under this Chapter.

#### **Rules and procedures of special inquiries**

- 87.** (1) The Minister may, having regard to the need for an inquiry to be conducted in a timely, efficient and effective manner and in accordance with fair procedures, prescribe rules or procedures for the conduct of inquiries.
- (2) Subject to any rules or procedures prescribed by the Minister under *subsection (1)*, an appointed person shall determine his or her own rules and procedures for the conduct of an inquiry.
- (3) Without prejudice to the generality of *subsection (1)*, the Minister may, having consulted with the Minister for Public Expenditure, National Development Plan Delivery and Reform, prescribe rules relating to the payment by the Minister to a witness at an inquiry of the reasonable legal costs and expenses associated with legal representation necessarily incurred by the witness in connection with the inquiry.
- (4) For the purposes of *subsection (3)*, legal costs and expenses associated with legal representation are necessarily incurred by a witness in connection with an inquiry where—
  - (a) the good name or conduct of the witness is called into question by any evidence received by an appointed person, or
  - (b) other personal or property rights of the witness are at risk of being jeopardised as a result of any evidence received by an appointed person.
- (5) Rules prescribed under *subsection (3)* may—
  - (a) restrict the types of legal services or fees for which payment may be made in accordance with those rules, and
  - (b) otherwise limit (including by specifying maximum amounts) the extent to which legal costs and expenses associated with legal representation may be paid.

- (6) Before evidence is given by a witness to an inquiry, an appointed person shall provide the witness with a copy of any rules prescribed under *subsection (3)*.

### **Reports of special inquiries**

- 88.** (1) An appointed person shall, where so requested by the Minister, make a report prior to the final report (in this Chapter referred to as an “interim report”) to the Minister at such intervals as may be specified in the request.
- (2) The Minister may request an interim report on the general progress of an inquiry or on a particular aspect of an inquiry.
- (3) The Minister may, having consulted with an appointed person, publish all or such part of a final report or an interim report as he or she considers appropriate.

### **Appointment of replacement appointed person**

- 89.** (1) Where—
- (a) an appointed person (in this section referred to as an “original appointed person”) is not in a position to continue to conduct an inquiry, or
- (b) the Minister is of the opinion that the original appointed person will not be in a position to submit his or her final report to the Minister within the timeframe specified by the Minister under *subsection (1)* of *section 84* or as extended by the Minister under *subsection (4)* of that section, as the case may be, and there is no good reason for an extension, or further extension, of the timeframe concerned,
- the Minister may by order remove the original appointed person and appoint a person (in this Chapter referred to as a “replacement appointed person”) in the place of the original appointed person to continue the conduct of the inquiry.
- (2) Without prejudice to *section 88(1)*, an original appointed person shall provide the Minister with all the information required by the Minister for the purposes of the performance of his or her functions under this section.
- (3) *Section 82(5)* shall apply to an appointment under *subsection (1)*.
- (4) Where a replacement appointed person is appointed under *subsection (1)*, the appointment shall not affect the validity of anything previously done under this Chapter by the original appointed person.

### **Transitional provisions relating to special inquiries under Act of 2005**

- 90.** (1) Where, before the coming into operation of *section 5*, an inquiry has commenced under *section 42* of the Act of 2005 and has not been completed on the date of such coming into operation, the person appointed to conduct the inquiry under the said *section 42* shall be deemed to have been appointed under *section 82(1)(b)* and the provisions of this Chapter shall apply to that inquiry subject to any necessary modifications.

- (2) This Chapter applies even if the matter considered by the Minister to be of significant public concern arose before the passing of this Act.

## CHAPTER 9

*International service and cooperation with police services, law enforcement agencies or other relevant person outside State***Interpretation (Part 2) (Chapter 9)****91.** (1) In this Chapter—

“Chief Constable” means the Chief Constable of the Police Service of Northern Ireland;

“disciplinary sanction” means—

- (a) a written warning,
- (b) temporary reduction in pay not exceeding 2 weeks’ pay,
- (c) a final written warning, or
- (d) dismissal;

“eligible member”, in relation to international service, means a member of An Garda Síochána who has offered in writing to be available during a specified period for such service and whose offer has been accepted by the Garda Commissioner;

“international organisation” includes—

- (a) the United Nations,
- (b) the Organisation for Security and Co-operation in Europe,
- (c) the European Union or any institution or body of the European Union, and
- (d) any force or mission organised by, or operating with the mandate of, an international organisation specified in *paragraph (a), (b) or (c)*;

“international service” means service outside the State for a purpose specified in—

- (a) *paragraph (a), (b) or (c) of subsection (1) of section 92*, or
- (b) *paragraph (a), (b), (c), (d) or (e) of subsection (2) of that section*.

- (2) The text of the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland on Police Co-operation, done at Belfast on 29 April 2002 and the text of the amendment to that Agreement which entered in force on 19 April 2010 are set out in *Schedule 4* for convenience of reference.

**International service**

- 92.** (1) Subject to *subsection (3)*, the Garda Commissioner shall assign eligible members of An Garda Síochána, in such numbers and of such rank as the Government may determine, for service outside the State—
- (a) to carry out duties of a police character with an international organisation,
  - (b) to advise others on, or to monitor their performance of, such duties, or
  - (c) to participate in a special intervention unit (within the meaning of section 94B of the Act of 2008) in a member state (within the meaning of that Act).
- (2) Subject to *subsection (3)*, the Garda Commissioner may assign eligible members of An Garda Síochána for service outside the State—
- (a) to carry out liaison duties with Europol or, subject to the agreement of the Government, with law enforcement agencies of states other than the State,
  - (b) as members of a joint investigation team (within the meaning of the Criminal Justice (Joint Investigation Teams) Act 2004),
  - (c) in connection with the making of a controlled delivery (within the meaning of Chapter 4 of Part 6 of the Act of 2008) outside the State pursuant to a request under section 89 of that Act,
  - (d) with the consent of the Minister, on secondment to an international organisation, or
  - (e) with the consent of the Minister and the Minister for Foreign Affairs, as members of an Irish diplomatic mission.
- (3) An eligible member shall be assigned under this section only for the period specified by the member in his or her offer to be available for international service.
- (4) This Act, the regulations and the Garda Síochána (Compensation) Act 2022 shall continue to apply to members while on international service.
- (5) Nothing in this section shall prevent a member of An Garda Síochána stationed in the State from travelling outside the State in the course of carrying out his or her duties.
- (6) Where a member of An Garda Síochána was assigned for service outside the State pursuant to section 51 of the Act of 2005 prior to the repeal of that section by *section 5* and the person remains so assigned on the date of coming into operation of this section, he or she shall be deemed to have been assigned for service outside the State under this section.
- (7) In this section, “Act of 2008” means the Criminal Justice (Mutual Assistance) Act 2008.

**Power to enter into agreements with other law enforcement agencies, relevant persons or bodies outside State**

93. (1) The Garda Commissioner may, with the prior consent of the Government, on behalf of An Garda Síochána enter into an agreement with—
- (a) a police service or other law enforcement agency outside the State, or
  - (b) a relevant person or body,
- for the purpose of facilitating the performance by each party to the agreement of their respective functions.
- (2) An agreement under *subsection (1)* may provide for—
- (a) cooperation between the parties,
  - (b) the exchange of information between the parties,
  - (c) without prejudice to *section 92, 94 or 95*, the secondment of personnel to and from An Garda Síochána, or
  - (d) such other matters as the Garda Commissioner thinks fit.
- (3) Subject to the Data Protection Regulation and the Data Protection Acts 1988 to 2018, the Garda Commissioner may, pursuant to and in accordance with the terms of an agreement under *subsection (1)*, provide information to, and receive information from, the other party to the agreement.
- (4) Where the Garda Commissioner entered into an agreement—
- (a) under *section 28* of the Act of 2005 with a police service or other law enforcement agency outside the State, or
  - (b) under *section 28A* of the Act of 2005 with a relevant person or body (within the meaning of that section),
- prior to the repeal of those sections by *section 5*, as the case may be, the agreement shall be deemed to have been entered into under this section.
- (5) In this section (other than in *subsection (4)(b)*), “relevant person or body” means a person or body outside the State in whom, or in which, functions are vested under the law of a place other than the State that are equivalent, or similar, to the functions of—
- (a) the Police Ombudsman under this Act or any other enactment,
  - (b) the Authority under this Act or any other enactment,
  - (c) a coroner under the Coroners Acts 1962 to 2020,
  - (d) a commission of investigation under the Commissions of Investigation Act 2004,
  - (e) a tribunal of inquiry under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011, or
  - (f) the Criminal Assets Bureau.



**Secondment from Police Service of Northern Ireland to certain ranks of An Garda Síochána**

94. (1) Subject to *section 46*, the Garda Commissioner may, at the request of the Chief Constable—
- (a) appoint a member of the Police Service of Northern Ireland as a member of An Garda Síochána of a rank not above that of superintendent for a period not exceeding 3 years, or
  - (b) subject to the approval of the Board, appoint such a member of the Police Service of Northern Ireland as a member of An Garda Síochána of a rank of Assistant Garda Commissioner or chief superintendent for such period.
- (2) A person appointed under this section shall, during such appointment—
- (a) in accordance with *section 56*, be under the direction and control of the Garda Commissioner, and
  - (b) subject to *subsection (3)*, have the powers, immunities, privileges and duties of a member of An Garda Síochána of the rank to which he or she was appointed.
- (3) The Garda Síochána (Compensation) Act 2022 shall not apply in relation to a person appointed under this section.
- (4) The Garda Commissioner may, subject to *subsection (5)*, terminate an appointment under this section.
- (5) The Garda Commissioner shall not terminate an appointment to which *subsection (1)(b)* applies without the approval of the Board.
- (6) Where a member of the Police Service of Northern Ireland was appointed to An Garda Síochána pursuant to *section 53* of the Act of 2005 prior to the repeal of that section by *section 5* and the person remains so appointed on the date of coming into operation of this section, he or she shall be deemed to have been appointed to An Garda Síochána under this section for the unexpired portion of the period left to run of the appointment under the said *section 53*.

**Secondment from An Garda Síochána to Police Service of Northern Ireland**

95. (1) The Garda Commissioner may, on application by a member of An Garda Síochána, arrange with the Chief Constable for the member's secondment to the Police Service of Northern Ireland for a period not exceeding 3 years.
- (2) The Garda Commissioner may terminate a secondment under *subsection (1)*.
- (3) During a period of secondment under *subsection (1)*—
- (a) the member shall continue to be paid as a member of An Garda Síochána, but shall not be subject to the direction or control of the Garda Commissioner or be entitled to exercise in the State any of such a member's powers,
  - (b) the member's service shall be regarded as service with An Garda Síochána for pension, promotion and seniority purposes, and

- (c) the member is entitled to claim compensation under the Garda Síochána (Compensation) Act 2022 for injuries inflicted as a result of a malicious incident within the meaning of that Act in the course of, or in relation to, the carrying out of his or her duties with the Police Service of Northern Ireland as if he or she had not been seconded and the injuries had been received in the course of, or in relation to, the carrying out of his or her duties as a member of An Garda Síochána.
- (4) Where a member of An Garda Síochána was seconded to the Police Service of Northern Ireland pursuant to section 54 of the Act of 2005 prior to the repeal of that section by *section 5* and the person remains so seconded on the date of coming into operation of this section, he or she shall be deemed to have been seconded to the Police Service of Northern Ireland under this section for the unexpired portion of the period left to run of the secondment under the said section 54.

### **Breach of standards of professional behaviour by seconded members of An Garda Síochána**

96. (1) A member of An Garda Síochána who, while on secondment to the Police Service of Northern Ireland under *section 95*, does or omits to do any act the doing or omission of which by a member of that service would constitute a breach of the Police Service of Northern Ireland standards of professional behaviour is liable on the expiry or termination of the period of secondment to the imposition of a disciplinary sanction by the Garda Commissioner in respect of the breach.
- (2) The imposition of a disciplinary sanction under *subsection (1)* may be based on—
    - (a) a finding under the law and procedure for the time being applicable in relation to the investigation of breaches of the Police Service of Northern Ireland standards of professional behaviour by members of the Police Service of Northern Ireland, that the member of An Garda Síochána concerned is in breach of such standards,
    - (b) a decision on any appeal against or review of the finding,
    - (c) any relevant court proceedings, or
    - (d) any related documents.
  - (3) Before imposing any disciplinary sanction under *subsection (1)*, the Garda Commissioner shall—
    - (a) send a copy of the findings to the member of An Garda Síochána concerned, and
    - (b) provide that member with an opportunity to make submissions, within a specified period, as to why the action should not be taken against him or her.
  - (4) Without prejudice to the generality of *subsections (2)* and *(3)*, the Minister may, subject to *section 252(2)*, having consulted with the Garda Commissioner, make regulations providing for the procedures under which a disciplinary sanction may be imposed against a member of An Garda Síochána under *subsection (1)*.
  - (5) In any proceedings—

- (a) a document purporting to be a finding or decision mentioned in *subsection (2)* is evidence, unless the contrary is proved, of the finding or decision, and
  - (b) a document purporting to be a report of court proceedings or a related document mentioned in that subsection is evidence, unless the contrary is proved, of the matters referred to in the report or related document.
- (6) In this section, “breach of the Police Service of Northern Ireland standards of professional behaviour” means an act or omission that if done or made by a member of the Police Service of Northern Ireland could be the subject of a disciplinary sanction by the authorities in Northern Ireland.

### **Breach of standards of professional behaviour by seconded members of Police Service of Northern Ireland**

97. (1) For as long as a person appointed as a member of An Garda Síochána under *section 94* is a member of the Police Service of Northern Ireland, an investigation under *Part 6* and any investigation or proceeding under the Conduct Regulations in relation to that person may proceed regardless of whether he or she remains a member of An Garda Síochána.
- (2) No disciplinary sanction may be imposed on a person referred to in *subsection (1)* under this Act or the regulations.
- (3) Notwithstanding *subsection (2)*, where a person referred to in *subsection (1)* is the subject of an investigation or proceedings under the Conduct Regulations, the Garda Commissioner may transmit to the Chief Constable any findings made in the course of such an investigation or proceedings or such material connected thereto as he or she considers appropriate.
- (4) The Garda Commissioner shall inform the Minister of any transmission of documents under *subsection (3)*.

## CHAPTER 10

### *Offences of causing disaffection, impersonation*

#### **Causing disaffection**

98. (1) A person is guilty of an offence if he or she induces, or does any act calculated to induce, any member of An Garda Síochána to withhold his or her services or to commit a breach of the standards of professional behaviour.
- (2) A person guilty of an offence under *subsection (1)* is liable—
- (a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.

**Offence of impersonating member of An Garda Síochána**

- 99.** (1) A person is guilty of an offence if he or she—
- (a) impersonates a member of An Garda Síochána, or
  - (b) makes any statement or does any act calculated falsely to suggest that he or she is such a member.
- (2) A person guilty of an offence under *subsection (1)* is liable—
- (a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.

**Other offences relating to impersonation**

- 100.** (1) A person is guilty of an offence if he or she, not being a member of An Garda Síochána—
- (a) has in his or her possession any article of garda uniform or any equipment supplied to a member of An Garda Síochána and is not able satisfactorily to account for such possession,
  - (b) puts on or wears—
    - (i) without the Garda Commissioner's permission, any article of garda uniform of any rank or member of An Garda Síochána, or
    - (ii) without reasonable excuse, any imitation of such article or uniform,
  - or
  - (c) for the purpose of doing or procuring to be done any act that he or she would not by law be entitled to do or procure to be done of his or her own authority, assumes the name, designation or description of any rank of or any member of An Garda Síochána.
- (2) A person is guilty of an offence if he or she, without lawful authority, has in his or her possession or uses in connection with any trade, business, calling or profession or for any other purpose any article, equipment or vehicle containing or having on it any distinctive badge or crest so closely resembling the badge or crest of An Garda Síochána as to be likely to deceive.
- (3) A person is guilty of an offence if he or she, without lawful authority, drives a mechanically propelled vehicle in a public place to which is fitted a lamp that is capable of showing a flashing light in blue which is visible outside of the vehicle and is such as to be likely to deceive another person that the vehicle is being used by a member of An Garda Síochána in the course of the performance of his or her duties.
- (4) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.
- (5) Nothing in this section prevents the wearing of any uniform or dress in—
- (a) a performance in a theatre, on film or on television or other media, or
  - (b) with the prior approval of the Garda Commissioner, a public place in the course of making a film, television or other media production.
- (6) Nothing in this section prevents the driving of any mechanically propelled vehicle, with the prior approval of the Garda Commissioner, in a public place in the course of making a film, television or other media production.
- (7) In this section and in *section 101*, “mechanically propelled vehicle” has the same meaning as it has in the Road Traffic Act 1961.

## CHAPTER 11

*Miscellaneous (Part 2)***Liability for certain acts of members of An Garda Síochána**

- 101.** (1) Where a member of An Garda Síochána commits an actionable wrong in the course of performing the member’s functions under this Act—
- (a) the Garda Commissioner is liable to an action for damages in respect of damage resulting from the wrong as if the Garda Commissioner were the employer of the member, and
  - (b) the member is, for the purposes of such liability, deemed to be the servant of the Garda Commissioner in so far as the member was acting in the course of performing his or her functions under this Act.
- (2) In proceedings brought against the Garda Commissioner by virtue of this section, the plaintiff need not name as a defendant the member or members of An Garda Síochána alleged to have committed the actionable wrong.
- (3) Nothing in this section affects any right of the Garda Commissioner to—
- (a) join an individual member as a defendant to proceedings in respect of an actionable wrong to which this section applies, or
  - (b) recover contribution or seek indemnity from an individual member of An Garda Síochána who is, or who if sued at the time of the commission of that wrong would have been, liable in respect of the same damage.
- (4) This section applies to proceedings initiated after the coming into operation of this section, regardless of whether the actionable wrong to which the proceedings relate was committed prior to or after such coming into operation.

- (5) This section does not apply to a wrong committed by the use of a mechanically propelled vehicle belonging to the State.
- (6) Notwithstanding the repeal of section 48 of the Act of 2005 by *section 5*, proceedings to which the said section 48 applied that have been initiated, and have not been concluded, prior to such repeal, shall not be affected by such repeal.
- (7) In this section—
- “actionable wrong” means a tort or breach of a constitutional right, whether or not the wrong is also a crime and whether or not the wrong is intentional;
- “damage” includes loss of property, loss of life and personal injury;
- “damages” includes exemplary damages and aggravated damages;
- “personal injury” includes any disease and any impairment of a person’s physical or mental condition.

#### **Legal aid for members of An Garda Síochána**

- 102.** (1) The Garda Commissioner may contribute to the legal costs of a member of An Garda Síochána who is charged with a criminal offence where—
- (a) any of the acts that are alleged to constitute the offence were directly related to the performance of the member’s functions,
- (b) the Garda Commissioner is of the opinion that the financial circumstances of the member are such that those costs would result in undue hardship, and
- (c) subject to *subsection (2)*, the contribution does not exceed the sum that would be payable if a legal aid certificate were granted in respect of the applicable court proceedings.
- (2) Where a member of An Garda Síochána is charged with a criminal offence on foot of a private prosecution, the Garda Commissioner may make a contribution not exceeding the legal costs incurred by the member notwithstanding that the amount of the contribution may exceed the sum payable if a legal aid certificate were granted in respect of the applicable court proceedings.
- (3) For the purposes of *subsections (1) and (2)*, where the member charged with a criminal offence is the Garda Commissioner, then references to the Garda Commissioner in those subsections shall be construed as references to the Board.
- (4) In this section—
- “legal aid certificate” has the same meaning as it has in section 9(2) of the Criminal Justice (Legal Aid) Act 1962;
- “legal costs” means any fees, costs or other expenses properly incurred by a member of An Garda Síochána in preparing and conducting—
- (a) the member’s defence to the offence charged, and

- (b) where applicable, the member’s appeal or case stated in relation to that offence;
- “private prosecution” means a prosecution instituted by a common informer under the common law.

### PART 3

#### COMMUNITY SAFETY

#### **Definitions (*Part 3*)**

**103.** In this Part—

“administrative area” has the same meaning as it has in section 2(1) of the Local Government Act 2001;

“area-based neighbourhood community safety forum” means a forum established in accordance with regulations made under *section 115(a)*;

“designated committee of the Government” has the meaning assigned to it by *section 105*;

“education and training board” means an education and training board established under section 9 of the Education and Training Boards Act 2013;

“establishment day of the National Office” means the day appointed under *section 108(1)*;

“functional area”, in relation to a safety partnership, means the administrative area, or part thereof, of the local authority in relation to which the safety partnership is established;

“Irish Prison Service” means the prison service of the Department of Justice which is charged with the management of prisons within the meaning of section 2 of the Prisons Act 2007;

“joint policing committee” means a committee established under section 36 of the Act of 2005;

“local community safety plan” has the meaning assigned to it by *section 116(1)(b)*;

“local policing forum” means a local policing forum established by a joint policing committee in accordance with guidelines issued under section 35 of the Act of 2005;

“other relevant Ministers” means—

- (a) the Minister for Children, Equality, Disability, Integration and Youth,
- (b) the Minister for Education,
- (c) the Minister for Further and Higher Education, Research, Innovation and Science,
- (d) the Minister for Health,

- (e) the Minister for Housing, Local Government and Heritage,
- (f) the Minister for Rural and Community Development,
- (g) the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, and
- (h) such other Ministers of the Government as may be prescribed by the Minister;

“Probation Service” means those officers of the Minister assigned to perform functions in the part of the Department of State for which the Minister is responsible commonly known by that name;

“public service body” means—

- (a) the Child and Family Agency,
- (b) the Commissioners of Public Works in Ireland,
- (c) a Department of State,
- (d) an education and training board,
- (e) An Garda Síochána,
- (f) the Health Service Executive,
- (g) the Irish Prison Service,
- (h) a local authority,
- (i) the Probation Service, or
- (j) a body that has been designated under *section 104* as a public service body;

“safety partnership” has the meaning assigned to it by *section 114(1)*.

### **Designation of public service body**

- 104.** (1) Subject to this section, the Minister may by order designate a body, whether created by or under any enactment or not, as a public service body for the purposes of such provisions of this Part as may be specified in the designation.
- (2) The Minister may make an order designating a body under *subsection (1)* only where he or she is satisfied that—
- (a) some or all of the functions of the body are relevant to improving community safety, and
  - (b) it is desirable that the body would cooperate with other public service bodies to improve community safety.
- (3) The Minister shall not make an order under *subsection (1)* in respect of a body for which a Minister of the Government other than the Minister has responsibility and in whom functions, whether statutory or otherwise, in respect of the body are vested, other than with the consent of that Minister of the Government.



**Designation of committee of Government**

**105.** The Taoiseach may, for the purposes of this Part, by order designate a committee of the Government (in this Part referred to as the “designated committee of the Government”), being a committee appointed by the Government whose membership consists of—

- (a) members of the Government, or
- (b) one or more members of the Government together with either or both of the following:
  - (i) one or more Ministers of State;
  - (ii) the Attorney General.

**National strategy for improving community safety**

**106.** (1) The Minister and the other relevant Ministers—

- (a) shall, not later than 12 months after the coming into operation of this section, prepare and submit to the Government for approval, and
- (b) may, having regard to a review under *subsection (2)*, at any time thereafter, revise and so submit,

a national strategy for improving community safety (in this Act referred to as the “national strategy”).

(2) The Minister and the other relevant Ministers shall review the national strategy not less than once in every period of 6 years following the date on which that national strategy was approved by the Government.

(3) A national strategy prepared or revised in accordance with *subsection (1)* shall—

- (a) contain—
  - (i) a policy framework, and
  - (ii) a programme of actions,to support public service bodies and communities working together in a coordinated manner to improve community safety, and
- (b) include provisions for the purposes of—
  - (i) promoting multi-disciplinary approaches and collaboration between public service bodies to improve community safety,
  - (ii) promoting engagement by communities in the development and implementation of strategies to improve community safety in their localities, and
  - (iii) supporting cohesion with other national and local strategies relevant to community safety.

- (4) The Minister shall, prior to the preparation or revision of a national strategy under *subsection (1)*, consult in relation to the content of the strategy with—
  - (a) the Authority, and
  - (b) such persons or groups representing community interests as he or she considers appropriate.
- (5) The Minister shall, prior to the submission of a national strategy to the Government for approval under *subsection (1)*—
  - (a) publish, in such manner as he or she considers appropriate, a draft of the national strategy,
  - (b) publish a notice, on the internet and in more than one national newspaper, inviting members of the public and any interested parties to make submissions in writing to the Minister in relation to the national strategy within such period (not exceeding 2 months from the date of the publication of the notice or, if the notice is published on the internet and in the newspaper on different days, not exceeding 2 months from the date of the later publication of the notice) as may be specified in the notice, and
  - (c) have regard to any submissions made in accordance with a notice published under *paragraph (b)*.
- (6) The Government may approve, with such modifications as they consider appropriate, a national strategy submitted to them under this section.
- (7) The Government may, at any time, revise a national strategy approved by them under *subsection (6)*.
- (8) The Minister shall cause a national strategy to be laid before each House of the Oireachtas as soon as practicable after it is approved or revised by the Government.
- (9) The Minister shall ensure that, as soon as practicable after a national strategy is laid before each House of the Oireachtas, the national strategy is published on a website maintained by or on behalf of the Minister or in such other manner as the Minister considers appropriate.
- (10) A Minister of the Government shall, in so far as is practicable, perform his or her functions in a manner consistent with the national strategy.
- (11) *Subsection (10)* shall not be taken to confer on any person a right in law that he or she would not otherwise have to require a Minister to take any steps or to seek damages for the failure to take such steps.
- (12) In this section, “national newspaper” means a newspaper published and circulating generally in the State.

### Steering Group

- 107.** (1) As soon as may be after the coming into operation of this section, the Minister shall establish a group which shall be known as *An Grúpa Stiúrtha Náisiúnta um*

*Shábháilteacht Pobail* (in this Act referred to as the “Steering Group”) to perform the functions conferred on it by this Act or any other enactment.

- (2) The Steering Group shall have the following functions:
- (a) to promote and monitor compliance by public service bodies with their duties under this Act;
  - (b) to foster collaboration between public service bodies in the provision of services to improve community safety;
  - (c) to provide direction to the National Office in relation to the implementation of the national strategy;
  - (d) to monitor the implementation of the national strategy;
  - (e) to address obstacles to timely progress on the implementation of the national strategy;
  - (f) to review and evaluate the effectiveness of the national strategy;
  - (g) to oversee the National Office in the performance of its functions;
  - (h) to review and evaluate the effectiveness of the National Office in the performance of its functions;
  - (i) to approve annual programmes of work prepared by the National Office pursuant to *section 108(3)(b)*;
  - (j) to provide to the designated committee of the Government such information and reports on the implementation of the national strategy and any other matters relating to the functions of the Steering Group as may be requested from time to time by the committee;
  - (k) to provide to the Minister such information and advice with regard to matters connected with improving community safety as may be requested from time to time by the Minister;
  - (l) to establish such subgroups of the Steering Group as it considers necessary to support the implementation of the national strategy.
- (3) The Steering Group shall have all such powers as are necessary or expedient for the performance of its functions.
- (4) The Steering Group shall consist of the following members:
- (a) a chairperson who shall be appointed by the Minister having consulted with the other relevant Ministers;
  - (b) the following ordinary members, each of whom shall be appointed by the Minister having consulted with the other relevant Ministers:
    - (i) an officer of the Minister;
    - (ii) an officer of each of the other relevant Ministers;

- (iii) representatives from such public service bodies as may be prescribed in accordance with *subsection (6)(a)*;
  - (iv) a representative of the Authority;
  - (v) such other persons as the Minister considers appropriate;
- (c) the Director, who shall be an *ex officio* member.
- (5) The Minister shall, having consulted with the other relevant Ministers, make regulations concerning the operation and procedures of the Steering Group.
- (6) Without prejudice to the generality of *subsection (5)*, regulations made under that subsection may—
- (a) prescribe the public service bodies from which representatives may be appointed to the Steering Group pursuant to *subsection (4)(b)(iii)*,
  - (b) prescribe the experience, expertise or other criteria to apply in respect of persons who may be appointed to the Steering Group pursuant to *subsection (4)(b)(v)*,
  - (c) make provision in relation to the terms and conditions of office of the chairperson and ordinary members of the Steering Group,
  - (d) make provision in relation to the procedures to apply to the conduct of the business of the Steering Group, or
  - (e) make provision in relation to the procedures to apply to subgroups of the Steering Group established pursuant to *subsection (2)(l)*, including in relation to the membership and terms of reference of such subgroups.
- (7) The Steering Group shall, not later than 2 months after the end of each calendar year, prepare and submit to the Minister a report on the performance of its functions during the preceding year or, in the case of the first such report, the performance of its functions since the date it was established up to and including 31 December of the preceding year.
- (8) A report under *subsection (7)* shall be prepared in such form and contain such information as may be specified from time to time by the Minister.
- (9) The Minister shall cause a copy of a report under *subsection (7)* to be laid before each House of the Oireachtas as soon as practicable after he or she receives it.
- (10) The Steering Group shall ensure that, as soon as practicable after a copy of the report under *subsection (7)* is laid before each House of the Oireachtas, the report is published on a website maintained by or on behalf of the National Office or in such other manner as the Minister may specify.
- (11) The Steering Group shall, where requested by the Minister to do so, provide the Minister with a report on any matter connected with the functions of the Steering Group as may be specified by the Minister in the request.
- (12) A report under *subsection (11)* shall be in such form and be made within such period as the Minister may specify.

- (13) The Steering Group shall report to the designated committee of the Government for such purposes, and at such intervals, as may be requested by the committee.

**National Office**

- 108.** (1) The Minister, having consulted with the Minister for Rural and Community Development, shall, by order, appoint a day to be the establishment day of the National Office for the purposes of this Part.
- (2) There shall stand established on the establishment day of the National Office a body which shall be known as *An Oifig Náisiúnta um Shábháilteacht Pobail* (in this Act referred to as the “National Office”) to perform the functions conferred on it by this Act or any other enactment.
- (3) The National Office shall have the following functions:
- (a) to provide support to public service bodies in the implementation of the national strategy and to foster collaboration between those bodies in the provision of services to improve community safety;
  - (b) to prepare annual programmes of work to support the implementation of the national strategy;
  - (c) to provide training, guidance and support to safety partnerships in their operation and in the performance of their functions;
  - (d) to monitor the implementation of the national strategy;
  - (e) to monitor the implementation of local community safety plans;
  - (f) to conduct or commission research and evaluations relating to any of the functions of the National Office and the operation of safety partnerships;
  - (g) to promote public awareness of issues affecting community safety and the work of the National Office;
  - (h) to provide such information and reports as are requested by the Minister, the Steering Group and the designated committee of the Government;
  - (i) to provide such other support as the Steering Group may require to perform its functions.
- (4) The National Office shall have all such powers as are necessary or expedient for the performance of its functions.
- (5) Any function of the National Office may be performed through or by the Director or any member of the staff of the National Office duly authorised in that behalf by the Director.

**Director of National Office**

- 109.** (1) The Minister shall, having consulted with the Minister for Rural and Community Development, appoint a person to be the Director of the National Office (in this Act referred to as the “Director”).
- (2) The Minister may, before the establishment day of the National Office, designate a person to be appointed as the first Director.
- (3) Where, immediately before the establishment day of the National Office, a person stands designated under *subsection (2)*, that person shall, on that day, stand appointed as the first Director.
- (4) A person appointed as the Director shall—
- (a) hold office under a contract of service in writing (which contract may be renewed) for such period as is specified in the contract and subject to such terms and conditions (including terms and conditions relating to remuneration) as are determined by the Minister with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, and
  - (b) be paid out of moneys at the disposal of the National Office.
- (5) The Director shall—
- (a) have such experience, qualifications, training and expertise as is appropriate for the appointment, and
  - (b) be appointed by the Minister following a selection competition undertaken in accordance with the Act of 2004.
- (6) The Director shall not hold any other office or occupy any position in respect of which remuneration is payable, or carry on any business, trade or profession, without the consent of the Minister.
- (7) The Director shall have the following functions:
- (a) to implement the policies and decisions of the Steering Group;
  - (b) to carry on and manage, and control generally, the staff, administration and business of the National Office;
  - (c) to perform such other functions (if any) as may be determined by the Steering Group or as may be authorised under this Act or any other enactment.
- (8) The Director shall provide to the Steering Group or the Minister such information, including financial information, in relation to the performance of his or her functions referred to in *subsection (7)* as the Steering Group or the Minister may require.
- (9) The Director shall be accountable to—
- (a) the Minister for the performance of the Director’s functions, and
  - (b) the Steering Group for the performance of the functions of the National Office.

- (10) The Director may be removed or suspended from office by the Minister for stated reasons.
- (11) Where the Director—
- (a) dies, resigns or is removed from office, or
  - (b) is for any reason temporarily unable to continue to perform his or her functions, the Minister, in consultation with the Steering Group, may designate such member or members of the staff of the National Office as he or she considers appropriate to perform the functions of the Director until—
    - (i) where *paragraph (a)* applies, a new Director is appointed in accordance with this section,
    - (ii) where *paragraph (b)* applies, the Director is able to resume the performance of his or her functions, or
    - (iii) the Minister decides to revoke or alter a designation made under this subsection.

#### **Attendance of Director before Oireachtas committees**

- 110.** (1) Subject to *subsection (2)*, the Director shall, at the request in writing of an Oireachtas committee, attend before it to give account for the general administration of the National Office.
- (2) The Director shall not be required to give account before an Oireachtas committee for any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.
- (3) The Director shall, where of the opinion that *subsection (2)* applies to a matter about which he or she is requested to give an account before an Oireachtas committee, inform the committee of that opinion and the reasons for the opinion.
- (4) The information required under *subsection (3)* shall be given to the Oireachtas committee in writing unless it is given when the Director is before the committee.
- (5) Where, on being informed of the Director's opinion about the matter, the Oireachtas committee decides not to withdraw its request relating to the matter, the High Court may, on application under *subsection (6)*, determine whether *subsection (2)* applies to the matter.
- (6) The Director or the Oireachtas committee may apply in a summary manner to the High Court for a determination under *subsection (5)*, but only where the application is made within 21 days after the date on which the Director is informed of the committee's decision not to withdraw its request.
- (7) Pending the determination under *subsection (5)* of an application under *subsection (6)*, the Director shall not attend before the Oireachtas committee to give account for the matter that is the subject of the application.

- (8) Where the High Court determines under *subsection (5)* that *subsection (2)* applies to the matter, the Oireachtas committee shall withdraw its request in so far as it relates to the matter, but where the Court determines under *subsection (5)* that *subsection (2)* does not apply, the Director shall attend before the committee to give account for the matter.
- (9) In carrying out duties under this section, the Director shall not—
- (a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy, or
  - (b) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of any person.

### **Staff of National Office**

- 111.** (1) The Director may, having consulted with the Steering Group and with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, appoint such and so many persons to be members of the staff of the National Office as he or she may determine.
- (2) The terms and conditions of service of a member of the staff of the National Office, and the grade at which he or she serves, shall be such as may be determined from time to time by the Director with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform.
- (3) There shall be paid by the Minister to the members of the staff of the National Office such remuneration and allowances as, from time to time, the Director, with the approval of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, determines.

### **Superannuation (Part 3)**

- 112.** (1) The National Office shall, with the approval of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, make a scheme or schemes for the granting of superannuation benefits to or in respect of any person appointed Director or any person who, on becoming a member of staff of the National Office, does not become a member of the Single Public Service Pension Scheme.
- (2) A scheme under this section shall fix the time and conditions of retirement of all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes and different times and conditions may be fixed in respect of different classes of persons.
- (3) The National Office may, with the approval of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, make a scheme amending a scheme under this section including a scheme under this subsection.
- (4) A scheme under this section shall, if approved by the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, be carried out by the National Office in accordance with its terms.



- (5) A scheme under this section shall include a provision for appeals from a decision relating to a superannuation benefit under the scheme.
- (6) Where any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable pursuant to a scheme or schemes under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Public Expenditure, National Development Plan Delivery and Reform, whose decision shall be final.
- (7) No superannuation benefits shall be granted by the National Office to or in respect of a person on ceasing to be the Director or a member of the staff otherwise than—
  - (a) in accordance with a scheme or schemes under this section, or
  - (b) with the approval of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform.
- (8) A scheme under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
- (9) *Subsection (8)* shall, with all necessary modifications, apply to an amendment to a scheme under this section as it applies to a scheme under this section.
- (10) In this section—

“amending”, in relation to a scheme under this section, includes revoking the scheme;

“superannuation benefit” means any pension, gratuity or other allowance payable to or in respect of a person ceasing to be the Director or a member of the staff of the National Office.

#### **Provision of services to National Office**

- 113.** The Minister shall, having consulted with the other relevant Ministers and with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, provide the National Office with such funds, premises, facilities and services as may be necessary for the proper functioning of the office.

#### **Regulations concerning safety partnerships**

- 114.** (1) The Minister, having consulted with the other relevant Ministers, shall make regulations concerning the establishment and operation of local community safety partnerships (in this Part referred to as a “safety partnership”).
- (2) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may make provision for the following:
- (a) the establishment of one or more safety partnerships in the administrative area of each local authority;

- (b) the dissolution of safety partnerships;
- (c) the membership of safety partnerships, including—
  - (i) the sectors to be represented in the membership, including the proportion of such membership to be represented by each such sector,
  - (ii) requirements for gender balance and diversity in the membership, and
  - (iii) the appointment of—
    - (I) members of the local authority nominated for that purpose,
    - (II) representatives of public service bodies nominated for that purpose,
    - (III) representatives of local community and voluntary bodies involved in activities related to community safety, and
    - (IV) such other persons (including persons representing local community interests) as may be specified in the regulations;
- (d) subject to *subsection (3)*, the election of a chairperson and vice-chairperson of a safety partnership, and the procedures to apply to ensure fairness and equity in the election process;
- (e) the selection procedures to apply to the appointment of the persons specified in *clauses (III) and (IV) of paragraph (c)(iii)* so as to ensure fairness and equity in the appointment process;
- (f) the terms and conditions of office of the chairperson, vice-chairperson and other members of safety partnerships;
- (g) the procedures to apply in relation to the conduct of the business of safety partnerships, including the procedures to apply to ensure fairness and equity in the decisions of safety partnerships;
- (h) the circumstances in which meetings of safety partnerships may be held, including the holding of meetings in public;
- (i) the resources to be made available to safety partnerships;
- (j) the procedures to apply where safety partnerships are carrying out their function under *section 116(1)(a)*;
- (k) the procedures to apply where safety partnerships are carrying out their function under *section 116(1)(h)*;
- (l) the establishment, dissolution, membership, procedures, maintenance and functions of such committees as safety partnerships may consider necessary;
- (m) the attendance of representatives of the Authority at meetings of safety partnerships and their committees for the purposes of the performance by the Authority of its functions;

- (n) the convening by the Authority of meetings of the chairpersons and vice-chairpersons of safety partnerships where such meetings would assist the Authority in the performance of its functions;
  - (o) the cooperation of safety partnerships with other safety partnerships, public service bodies, Local Community Development Committees established pursuant to section 49A of the Local Government Act 2001 and such other persons as the Minister may require;
  - (p) the dissolution of joint policing committees.
- (3) Regulations under *subsection (1)* shall not, insofar as they make provision for the election of a chairperson and vice-chairperson of a safety partnership, make provision that precludes the election of members of local authorities as such a chairperson or vice-chairperson.

### **Regulations concerning area-based neighbourhood community safety fora**

**115.** The Minister, having consulted with the other relevant Ministers, may make regulations concerning the following:

- (a) the establishment, dissolution, membership, procedures, maintenance and operation by a safety partnership of area-based neighbourhood community safety fora within the functional area of the safety partnership;
- (b) the dissolution of local policing fora;
- (c) without prejudice to *paragraph (b)*, the continued operation of—
  - (i) a local policing forum as an area-based neighbourhood community safety forum within the administrative area of the local authority in relation to which the local policing forum was established, or
  - (ii) a class of such local policing fora as area-based neighbourhood community safety fora;
- (d) any necessary transitional measures related to the continued operation referred to in *paragraph (c)*, including the specification of a revised geographic area of a local policing forum so continued as an area-based neighbourhood community safety forum.

### **Functions of safety partnerships**

**116.** (1) A safety partnership shall have the following functions:

- (a) to act as a forum for the discussion of community safety concerns and for the development, coordination and implementation of coherent and integrated approaches to improving community safety at a local level;
- (b) to develop and adopt, on a 3 yearly basis, a plan to improve community safety in its functional area (in this Part referred to as a “local community safety plan”)

having regard to the national strategy and in accordance with any guidance in that regard which may be issued by the National Office;

- (c) to undertake public consultation for the purpose of identifying local community safety objectives and priorities to inform the development of a local community safety plan;
  - (d) to implement or arrange for the implementation of a local community safety plan;
  - (e) to monitor and review, on an ongoing basis, the implementation of a local community safety plan, including its performance against any benchmarks or indicators of performance set out in the plan or other relevant indicators;
  - (f) to undertake a review of a local community safety plan at least once within the lifecycle of the plan and, after any such review, amend the plan as appropriate;
  - (g) to collaborate and coordinate with relevant stakeholders in relation to actions under a local community safety plan, a Local Economic and Community Plan made pursuant to section 66B of the Local Government Act 2001 and any other plans relevant to its functional area;
  - (h) where a local policing plan relevant to the functional area of the safety partnership is being, or has been, prepared, to provide views on such preparation or on the progress of the implementation of any such plan to the relevant divisional officer for the Garda Síochána division or part thereof to which the plan relates;
  - (i) to host public meetings concerning matters relating to community safety in its functional area;
  - (j) to coordinate and support area-based neighbourhood community safety fora in its functional area where appropriate;
  - (k) to provide such information as may be requested by the National Office from time to time;
  - (l) to prepare and submit to the National Office an annual report and such other reports as the National Office may request, relating to the performance of its functions, in such form and within such period as the National Office may specify.
- (2) A safety partnership, a committee of a safety partnership or an area-based neighbourhood community safety forum shall not consider matters relating to a specific criminal investigation or prosecution or matters relating to the security of the State.
- (3) A statement that, in the course of a discussion at a meeting of a safety partnership, a committee of a safety partnership or an area-based neighbourhood community safety forum, is made in any form and without malice by a member of the partnership, committee or forum or by a person attending the meeting at the request of the partnership, committee or forum is privileged for the purposes of the law of

defamation and so is any subsequent publication without malice of the statement made.

(4) In this section—

“local policing plan” means a plan prepared by An Garda Síochána for the provision of policing services in a Garda Síochána division, or part thereof;

“relevant divisional officer” means a chief superintendent who is for the time being in charge of a Garda Síochána division.

### **Staffing of safety partnerships**

- 117.** (1) The chief executive of a local authority shall assign such and so many employees of the local authority to assist a safety partnership in the performance of its functions as he or she may determine.
- (2) The chief executive of a local authority shall, from amongst the persons assigned pursuant to *subsection (1)* to assist a safety partnership, designate a person to be the manager of the safety partnership and the person so designated shall carry out, manage and control generally the administration and business of the partnership and arrange for the provision of appropriate administrative, secretarial and other support for the safety partnership.

### **Duties of public service bodies**

- 118.** (1) A public service body shall, in performing its functions, take all reasonable steps to improve community safety, including through the prevention of crime and through the prevention of harm to individuals, in particular those who are vulnerable or at risk.
- (2) A public service body shall, having regard to the functions and size of the body and the resources available to it—
- (a) set out in its strategic plan (howsoever called) an assessment of the issues affecting community safety it believes to be relevant to the functions of the body and the policies, plans and actions in place or proposed to be put in place to address those issues, and
  - (b) report on developments and achievements in that regard in its annual report (howsoever called).
- (3) Public service bodies shall cooperate with each other, as appropriate, in the performance of their functions for the purposes of improving community safety, including through the prevention of crime and through the prevention of harm to individuals, in particular those who are vulnerable or at risk.
- (4) Cooperation as referred to in *subsection (3)* includes cooperating through the sharing of documents and information (including personal data within the meaning of the Data Protection Regulation) in accordance with law and to the extent that is necessary and proportionate for the purpose of the performance of the functions referred to in that subsection.

- (5) *Subsections (1) and (3)* shall not be taken to confer on any person a right in law that the person would not otherwise have to require a public service body to take any steps referred to in those subsections or to seek damages for the failure to take such steps.

PART 4

AUTHORITY

CHAPTER 1

*Definitions (Part 4)*

**Definitions (Part 4)**

**119.** In this Part—

“chairperson of the Authority” has the meaning assigned to it by *section 123(1)(a)*;

“committee of the Authority” means a committee established under *section 128(1)*;

“establishment day of the Authority” means the day appointed under *section 120*;

“Garda Síochána Inspectorate” means the Garda Síochána Inspectorate established by section 114 of the Act of 2005;

“inspection” means an inspection carried out under *subsection (1) or (2) of section 143* and includes a joint inspection;

“inspector of policing services” means a member of the staff of the Authority appointed under *section 142(1)*;

“joint inspection” has the meaning assigned to it by *section 143(3)*;

“Policing Authority” means the Policing Authority established by section 62B of the Act of 2005;

“prescribed inspection body” has the meaning assigned to it by *section 144(1)*;

“previous service”, in relation to a person, means service by the person with the Policing Authority prior to his or her becoming a member of staff of the Authority pursuant to *section 155*.

CHAPTER 2

*Authority*

**Establishment day of Authority**

**120.** The Minister shall, by order, appoint a day to be the establishment day of the Authority for the purposes of this Act.

**Establishment of Authority**

- 121.** (1) There shall stand established on the establishment day of the Authority a body which shall be known as *An tÚdarás Póilíneachta agus Sábháilteachta Pobail* (in this Act referred to as the “Authority”) to perform the functions conferred on it by or under this Act or any other enactment.
- (2) The Authority shall be a body corporate with perpetual succession and an official seal and with the power—
- (a) to sue and be sued in its corporate name, and
  - (b) with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, to acquire, hold and dispose of any property other than land or an interest in land.
- (3) The Authority shall provide itself with a seal as soon as practicable after the establishment day of the Authority and the seal shall be authenticated by the signatures of both—
- (a) a member of the Authority, and
  - (b) the chief executive of the Authority or such other member of the staff of the Authority as is authorised by the Authority to act in that behalf.
- (4) Judicial notice shall be taken of the seal of the Authority and any document purporting—
- (a) to be an instrument made by the Authority, and
  - (b) to be sealed with the seal of the Authority authenticated in accordance with *subsection (3)*,
- shall, unless the contrary is shown, be evidence of that instrument without further proof.
- (5) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority in that behalf.

**Objective, functions and powers of Authority**

- 122.** (1) The objective of the Authority shall be to oversee and assess in an independent and transparent manner the performance by An Garda Síochána of its function relating to policing services in order to support the effective provision and continuous improvement of such services to the benefit of the safety of the public.
- (2) Subject to this Act, the Authority shall have the following functions:
- (a) to further its objective as far as practicable;

- (b) to keep under review the performance by An Garda Síochána of its function relating to policing services, including the delivery by An Garda Síochána of the objectives—
  - (i) set out in the annual service plan as laid under *section 65(12)* or *66(10)* in so far as it relates to policing services, and
  - (ii) of the national strategy as it relates to policing services;
- (c) to keep under review the arrangements and strategies in place to support and enhance the performance by An Garda Síochána of its function relating to policing services;
- (d) to carry out inspections;
- (e) to prepare reports of inspections carried out and to make such recommendations to the Garda Commissioner or the Minister, as the case may be, for any action as the Authority considers necessary arising from inspections;
- (f) to monitor and assess the implementation by An Garda Síochána of such recommendations arising from inspections as the Authority considers appropriate or as may be requested by the Minister;
- (g) to monitor and assess the implementation by An Garda Síochána of such recommendations relating to policing services arising from investigations, inspections, inquiries or reviews carried out by bodies other than the Authority (whether before or after the establishment day of the Authority), as the Authority considers appropriate or as may be requested by the Minister;
- (h) to promote the policing principles;
  - (i) to promote professional policing standards (including human rights standards) and the continuous improvement of policing having regard to best international practice;
  - (j) to promote public awareness of matters relating to policing services;
- (k) to keep the Minister informed of developments in respect of matters relating to policing services and to make recommendations to assist the Minister in coordinating and developing policy in that regard;
- (l) to keep itself generally informed of—
  - (i) trends and patterns in the use of force by members of An Garda Síochána, and statistics in relation thereto,
  - (ii) trends and patterns in crimes committed, and statistics in relation thereto,
  - (iii) complaints made against members of garda personnel,
  - (iv) the arrangements for the recruitment, training and development of members of garda personnel,
  - (v) the mechanisms in place within An Garda Síochána for the measurement of performance and accountability of members of garda personnel, and



- (vi) the arrangements for managing and deploying the resources available to An Garda Síochána;
  - (m) to promote inter-agency collaboration and community engagement to improve community safety;
  - (n) to undertake, commission or assist in research projects (including by way of public consultation) and other activities in respect of matters relating to policing services which, in the opinion of the Authority, may—
    - (i) promote improvements in standards of policing services and public awareness of such services,
    - (ii) promote improvements in inter-agency collaboration and community engagement to improve community safety, or
    - (iii) contribute to a reduction in the number of complaints against members of garda personnel or An Garda Síochána in relation to policing services, and make recommendations to the Garda Commissioner and the Minister arising from those projects or activities;
  - (o) to provide advice to the Minister with regard to best policing practice;
  - (p) to provide views to the Garda Commissioner in relation to the content of a strategic plan for An Garda Síochána to be prepared under *section 63* in so far as it relates to matters concerning policing services;
  - (q) to provide views to the Garda Commissioner, in so far as is possible prior to the publication by the Government of the Estimates for Public Services (within the meaning of section 17 of the Ministers and Secretaries (Amendment) Act 2011) each year and in any event no later than 7 days after such publication, in relation to the content of an annual service plan for An Garda Síochána to be prepared under *section 65* in so far as it relates to the provision of policing services;
  - (r) to ensure that the Authority has appropriate policies, plans and actions in place to enable compliance with its obligations under section 42 of the Irish Human Rights and Equality Commission Act 2014;
  - (s) to perform any other functions conferred on it by or under this Act or any other enactment.
- (3) For the avoidance of doubt, the performance by the Authority of its functions shall not incorporate management of the performance of the Garda Commissioner.
- (4) In performing its functions, the Authority shall have regard to—
- (a) the policies and objectives of the Government and any Minister of the Government in so far as the policies and objectives may affect or relate to the functions of the Authority,
  - (b) the functions of the Board concerning the governance of An Garda Síochána,

- (c) the need to cooperate, and coordinate its activities, with public authorities, the performance of whose functions may affect or relate to the functions of the Authority, and
  - (d) the importance of the function of An Garda Síochána concerning security services.
- (5) The Authority shall have all such powers as are necessary or expedient for the performance of its functions.
  - (6) The Authority may perform any of its functions through or by the chief executive of the Authority or member of its staff duly authorised in that behalf by the Authority.
  - (7) The chief executive of the Authority or other member of the staff of the Authority who, pursuant to *subsection (6)*, performs any of its functions is presumed in any proceedings to have been authorised by it to do so on its behalf, unless the contrary is shown.
  - (8) The Authority may provide for the performance by a committee of the Authority of one or more of its functions under the general direction of the Authority.
  - (9) The Authority shall furnish to the Minister such information regarding the performance of the Authority's functions as the Minister may from time to time require.
  - (10) The Authority shall keep the Minister informed of matters relevant to the accountability of the Government to the Houses of the Oireachtas.
  - (11) Subject to this Act, the Authority shall be independent in the performance of its functions.

### Membership of Authority

- 123.** (1) The Authority shall comprise the following members:
- (a) a chairperson (in this Part referred to as the “chairperson of the Authority”);
  - (b) 8 ordinary members.
- (2) The members of the Authority shall be appointed by the Government.
  - (3) Subject to *subsection (11)* and *section 125(5)*, a person shall not be appointed as a member of the Authority unless a resolution has been passed by each House of the Oireachtas recommending the appointment of the person.
  - (4) Subject to *subsection (11)* and *section 125(5)*, the Government shall appoint the members of the Authority from among such persons as are recommended by the Service in accordance with *section 124* for appointment as such members.
  - (5) The Government shall, in so far as is practicable, endeavour to ensure that among the members of the Authority there is an equitable balance between men and women.
  - (6) Subject to *subsection (7)*, the chairperson of the Authority shall be appointed by the Government from among the members of the Authority.

- (7) The Government may, before the establishment day of the Authority, designate a person to be appointed as the first chairperson of the Authority.
- (8) Where, immediately before the establishment day of the Authority, a person stands designated under *subsection (7)*, the person shall, on that day, stand appointed as the first chairperson of the Authority.
- (9) The Government may, before the establishment day of the Authority, designate persons to be appointed as the first ordinary members of the Authority.
- (10) Where, immediately before the establishment day of the Authority, a person stands designated under *subsection (9)*, the person shall, on that day, stand appointed as an ordinary member of the Authority.
- (11) *Subsections (3) and (4) and section 124* shall not apply in respect of the designation of—
  - (a) a person as the first chairperson of the Authority under *subsection (7)*, or
  - (b) persons as the first ordinary members of the Authority under *subsection (9)*.

#### **Recommendations for appointment of ordinary members of Authority**

- 124.** (1) Subject to *section 123(11)*, the Minister shall invite the Service to undertake a selection competition for the purpose of identifying and recommending to the Minister persons who are suitable for appointment by the Government as members of the Authority.
- (2) Subject to *subsection (3)*, the Minister shall agree with the Service the selection criteria and process that are to apply to a selection competition under this section.
  - (3) A person shall not be recommended by the Service for appointment as a member of the Authority unless the Service is satisfied that the person is suitable for such appointment by reason of his or her possessing such relevant experience, qualifications, training or expertise as is appropriate, having regard, in particular to—
    - (a) the functions of the Authority, and
    - (b) the desirability of such members possessing experience, qualifications, training or expertise in matters connected to the following:
      - (i) policing services;
      - (ii) the criminal justice system;
      - (iii) human rights, equality and diversity;
      - (iv) services for victims of crime;
      - (v) healthcare, child and social services;
      - (vi) improving the safety of communities including through inter-agency collaboration and community engagement to promote the prevention of crime

and the prevention of harm to individuals, in particular those who are vulnerable or at risk;

- (vii) public sector administration;
  - (viii) business and innovation;
  - (ix) board management and corporate governance;
  - (x) data protection;
  - (xi) financial management and, in particular, the allocation, management of and accountability for the effective use of financial resources.
- (4) The Service shall provide the Minister with particulars of the experience, qualifications, training and expertise of each person whom it recommends under this section as suitable for appointment as a member of the Authority.

#### **Terms of appointment and conditions of office of members of Authority**

- 125.** (1) Subject to *subsection (2)*, a member of the Authority shall hold office, unless the member sooner dies, resigns, becomes disqualified or is removed from office, for such period, not exceeding 4 years from the date of his or her appointment, as the Government shall determine.
- (2) Of the ordinary members of the Authority that are first appointed under this Act—
- (a) 4 members shall hold office for a period of 4 years from the date of their respective appointments as such ordinary members, and
  - (b) 4 members shall hold office for a period of 3 years from the date of their respective appointments as such ordinary members.
- (3) Subject to *subsection (4)*, a member of the Authority whose term of office expires by the effluxion of time shall be eligible for reappointment as a member of the Authority.
- (4) A person who is reappointed as a member of the Authority in accordance with *subsection (3)* shall not hold office for periods the aggregate of which exceeds 8 years.
- (5) Where it is proposed to reappoint a person as a member of the Authority, it shall not be necessary for the person—
- (a) to participate in a selection competition undertaken by the Service under *section 124*,
  - (b) to be recommended by the Service in accordance with *section 124* for appointment, or
  - (c) to be recommended for appointment by a resolution passed by each House of the Oireachtas in accordance with *section 123(3)*.
- (6) The members of the Authority shall hold office upon such terms and conditions (including terms and conditions relating to remuneration and allowances for

expenses) as may be determined by the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, at the time of appointment or reappointment.

- (7) A member of the Authority may resign from office by notice in writing to the Minister and the resignation shall take effect on the date the Minister receives the notice or, if a date is specified in the notice and the Government agree to that date, on that date.
- (8) Subject to *section 130(8)*, the Authority may act notwithstanding one or more vacancies in its membership.

**Ineligibility for appointment, disqualification from office of member of Authority or committee of Authority, cessation of membership, etc.**

**126.** (1) A person shall not be eligible to be recommended for appointment or appointed as a member of the Authority or a committee of the Authority if he or she is—

- (a) a member of either House of the Oireachtas,
  - (b) entitled under the rules of procedure of the European Parliament to sit in that Parliament,
  - (c) a member of a local authority,
  - (d) a member of the Board,
  - (e) a member of garda personnel, or
  - (f) the Police Ombudsman or Deputy Police Ombudsman.
- (2) A person shall be disqualified from holding and shall cease to hold office as a member of the Authority or a committee of the Authority if he or she—
- (a) subject to *subsection (3)*, is adjudicated bankrupt,
  - (b) makes a composition or arrangement with his or her creditors,
  - (c) is convicted on indictment of an offence, or is convicted outside the State of an offence consisting of acts or omissions which would constitute an offence triable on indictment if done or made in the State,
  - (d) is convicted of an offence involving fraud or dishonesty,
  - (e) is sentenced by a court of competent jurisdiction to a term of imprisonment,
  - (f) has a declaration under section 819 of the Act of 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
  - (g) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Act of 2014, whether by virtue of that Chapter or any other provision of that Act, or a disqualification outside the State to like effect which corresponds to such a disqualification order.

- (3) A person shall be disqualified from holding office as a member of the Authority or a committee of the Authority under *paragraph (a) of subsection (2)* only for so long as he or she has not obtained a certificate of discharge from the bankruptcy.
- (4) Where a member of the Authority or a committee of the Authority is—
- (a) nominated as a member of Seanad Éireann,
  - (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,
  - (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to be a member of the European Parliament, or
  - (d) elected or co-opted as a member of a local authority,
- he or she shall thereupon cease to be a member of the Authority or a committee of the Authority, as the case may be.

### **Removal of member of Authority**

- 127.** (1) The Government may remove a member of the Authority from office where—
- (a) they are satisfied that one or more of the grounds specified in *subsection (2)* apply in respect of the member, and
  - (b) a resolution is passed by both Houses of the Oireachtas calling for the removal of the member from office.
- (2) The following grounds are specified for the purposes of *subsection (1)(a)*:
- (a) the member has, without reasonable excuse, failed to discharge his or her functions;
  - (b) the member has become incapable through ill health or otherwise of effectively performing his or her functions;
  - (c) the member has committed stated misbehaviour;
  - (d) the member has a conflict of interest of such significance that he or she should cease to hold office;
  - (e) the member is otherwise unfit to hold the office or unable to discharge his or her functions.
- (3) Where the Government propose to remove a member of the Authority pursuant to *subsection (1)*, they shall notify, or cause to be notified, the member concerned in writing of the proposal.
- (4) A notification under *subsection (3)* shall include—
- (a) a statement of the reasons for the proposal,

- (b) a statement that the member of the Authority concerned may, within 30 working days of the sending of the notification or such longer period as the Government may specify, make representations in such manner as may be specified in the notification to the Government as to why he or she should not be removed from office, and
  - (c) a statement that, where no representations are received within the period specified under *paragraph (b)*, the Government may, without further notice, proceed with the removal of the member of the Authority from office in accordance with this section.
- (5) The Government shall, in considering whether to remove a member of the Authority from office in accordance with this section, take into account—
- (a) any representations made in accordance with *subsection (4)(b)*, and
  - (b) any other matters that the Government consider relevant for the purposes of the decision.
- (6) Where, having taken into account the matters referred to in *subsection (5)*, the Government decide to remove the member of the Authority from office, they shall notify that member in writing of the decision, of the reasons for it and of the intention of the Government to seek a resolution of both Houses of the Oireachtas calling for the removal of that member.

### **Committees of Authority**

- 128.** (1) The Authority may establish such and so many committees as it thinks fit to—
- (a) assist and advise it in relation to the performance of any or all of its functions, or
  - (b) perform such functions of the Authority as may be provided for under *section 122(8)*.
- (2) A committee of the Authority—
- (a) shall consist of such number of members as the Authority may determine, and
  - (b) may, subject to *section 126*, include persons who are not members of the Authority or its staff.
- (3) In appointing the members of a committee of the Authority, the Authority shall have regard to—
- (a) the range of qualifications and experience necessary for the proper and effective performance of the functions of the committee, and
  - (b) the desirability of there being an equitable balance between men and women on the committee.
- (4) The chairperson of a committee of the Authority shall be appointed by the Authority from among the members of the committee.
- (5) A member of a committee of the Authority—

- (a) shall hold office upon such terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) as may be determined by the Authority with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, and
  - (b) be paid out of moneys at the disposal of the Authority.
- (6) A member of a committee of the Authority may be removed from office at any time by the Authority for stated reasons.
  - (7) The Authority may determine the terms of reference and regulate the procedure of a committee of the Authority.
  - (8) The acts of a committee of the Authority shall be subject to confirmation by the Authority unless the Authority otherwise determines.
  - (9) A committee of the Authority shall provide the Authority with such information as the Authority may from time to time require, in respect of the committee's activities and operations, for the purposes of the performance by the Authority of its functions.
  - (10) The Authority may at any time dissolve a committee of the Authority.
  - (11) A committee of the Authority may act notwithstanding one or more vacancies in its membership.

#### **Appointment of chief executive of Authority**

- 129.** (1) The Authority shall, with the consent of the Minister, appoint a person to be the chief executive officer of the Authority (in this Act referred to as the “chief executive of the Authority”).
- (2) The Minister may, before the establishment day of the Authority, designate a person to be appointed as the first chief executive of the Authority.
  - (3) Where, immediately before the establishment day of the Authority, a person stands designated under *subsection (2)*, the person shall, on that day, stand appointed as the first chief executive of the Authority.
  - (4) A person appointed as the chief executive of the Authority shall—
    - (a) hold office under a contract of service in writing (which contract may be renewed) for such period as is specified in the contract and subject to such terms and conditions (including terms and conditions relating to remuneration and superannuation) as are determined by the Authority with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, and
    - (b) be paid out of moneys at the disposal of the Authority.
  - (5) The chief executive of the Authority shall—
    - (a) have such experience, qualifications, training and expertise as is appropriate for the appointment, and



- (b) be appointed by the Authority following a selection competition undertaken in accordance with the Act of 2004.
- (6) The chief executive of the Authority shall not hold any other office or occupy any position in respect of which remuneration is payable, or carry on any business, trade or profession, without the consent of the Authority.
- (7) The chief executive of the Authority shall have the following functions:
  - (a) to implement the policies and decisions of the Authority;
  - (b) to carry on and manage, and control generally, the staff, administration and business of the Authority;
  - (c) to perform such other functions (if any) as may be determined by the Authority or as may be authorised under this Act or any other enactment.
- (8) The chief executive of the Authority shall provide to the Authority such information, including financial information, in relation to the performance of his or her functions referred to in *subsection (7)* as the Authority may require.
- (9) The chief executive of the Authority may be removed or suspended from office by the Authority, with the consent of the Minister, for stated reasons.
- (10) The chief executive of the Authority shall not be a member of the Authority or a committee of the Authority, but he or she may, in accordance with procedures specified by the Authority or a committee, attend meetings of the Authority or a committee concerned, and may speak, and give advice, at such meetings.
- (11) Where the chief executive of the Authority—
  - (a) dies, resigns or is removed from office, or
  - (b) is for any reason temporarily unable to continue to perform his or her functions,  
the Authority may designate such member or members of the staff of the Authority as it considers appropriate to perform the functions of the chief executive of the Authority until—
    - (i) where *paragraph (a)* applies, a new chief executive of the Authority is appointed in accordance with this section,
    - (ii) where *paragraph (b)* applies, the chief executive of the Authority is able to resume the performance of his or her functions, or
    - (iii) the Authority decides to revoke or alter a designation made under this subsection.

### **Meetings and business of Authority**

- 130.** (1) The Authority shall hold such and so many meetings as may be necessary for the performance of its functions, including meetings with the Garda Commissioner and the Director.

- (2) The chairperson of the Authority shall fix the date, time and place of the first meeting of the Authority.
- (3) The chairperson of the Authority may call a meeting of the Authority at any reasonable time.
- (4) Subject to *subsection (5)*, the Authority may, where it considers it appropriate to do so, permit—
  - (a) members of the public to attend, and
  - (b) the media to record and broadcast,a meeting or part of a meeting of the Authority.
- (5) Members of the public may attend, and the media shall be permitted to record and broadcast, not fewer than 4 meetings of the Authority with the Garda Commissioner in each year.
- (6) The Authority may publish such of the following as it considers appropriate:
  - (a) agendas for meetings of the Authority and meetings of committees of the Authority;
  - (b) the documents relating to those meetings;
  - (c) reports of those meetings.
- (7) At a meeting of the Authority—
  - (a) the chairperson of the Authority shall, where present, chair the meeting, or
  - (b) where and so long as the chairperson of the Authority is not present or if that office is vacant, the other members of the Authority who are present shall choose one of their number to chair the meeting.
- (8) The quorum for a meeting of the Authority shall—
  - (a) where *subsection (7)(b)* applies, be 4 ordinary members and the member chosen under that subsection to chair the meeting, and
  - (b) in any other case, be 4 ordinary members and the chairperson of the Authority.
- (9) Each member of the Authority present at a meeting of the Authority shall have a vote.
- (10) Every question at a meeting of the Authority on which a vote is required shall be determined by a majority of the votes of the members of the Authority present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.
- (11) In addition to a meeting with all participants physically present, the Authority may hold or continue a meeting by the use of any means of communication by which all the participants can hear and be heard at the same time (in this section referred to as a “remote meeting”).

- (12) A member of the Authority who participates in a remote meeting is taken for all purposes to have been present at the meeting.
- (13) Subject to this Act, the Authority may determine its own procedures.

### **Staff of Authority**

- 131.** (1) The Authority may, with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, appoint such and so many persons to be members of the staff of the Authority as it may determine.
- (2) The terms and conditions of service of a member of the staff of the Authority, and the grade at which he or she serves, shall be such as may be determined from time to time by the Authority with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform.
  - (3) A member of the staff of the Authority shall be a civil servant in the Civil Service of the State.
  - (4) The Authority shall be the appropriate authority (within the meaning of the Act of 2004 and the Civil Service Regulation Acts 1956 to 2005) in relation to the members of the staff of the Authority.

### **Power of Authority to enter into contracts and engage consultants, advisers and police officers**

- 132.** (1) With the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, the Authority may, to the extent that it considers necessary to assist in the performance of its functions—
- (a) enter into contracts with any person or body,
  - (b) engage consultants or advisers, or
  - (c) arrange with police services outside the State for the engagement of police officers from those services.
- (2) The Authority may, with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, pay out of the resources at its disposal, such fees or allowances for expenses (if any) incurred under a contract, engagement or arrangement referred to in *subsection (1)* as the Authority may determine.
- (3) Subject to *subsection (2)*, the Authority shall determine the period, and the terms and conditions, of the engagement of—
- (a) a person as a consultant or adviser under *subsection (1)(b)*, or
  - (b) a police officer from a police service outside the State under *subsection (1)(c)*.

**Duty of Garda Commissioner to facilitate performance by Authority of its functions**

- 133.** (1) The Garda Commissioner shall report to the Authority with regard to policing services in order to facilitate the performance by the Authority of its functions.
- (2) The Garda Commissioner's duty under *subsection (1)* includes the duty to provide, on request by the Authority, any document or information relating to policing services in the power or control of An Garda Síochána.
- (3) Without prejudice to *subsection (1)*, the Garda Commissioner shall keep the Authority fully informed of the following:
- (a) matters relevant to the functions of the Authority;
  - (b) any other matters that, in the opinion of the Commissioner, should be brought to the attention of the Authority having regard to its functions.
- (4) Whenever requested by the Authority, the Garda Commissioner shall submit to the Authority a report on any matters connected with policing services or the performance of the Commissioner's functions relating to such services that may be specified in the request.
- (5) A report under *subsection (4)* shall—
- (a) address the matters of general or specific concern that are specified in the Authority's request, and
  - (b) be made in the form and within the period specified in that request.
- (6) The Authority may publish all or part of a report submitted under *subsection (4)*.

**Duty of Director to assist Authority**

- 134.** (1) The Director shall provide such assistance to the Authority as is reasonably required in order to facilitate the performance by the Authority of its functions and, without prejudice to the generality of the foregoing, the Director shall—
- (a) keep the Authority informed of matters that are relevant to the functions of the Authority,
  - (b) provide reports in a form and manner to be agreed with the Authority on matters that are relevant to the functions of the Authority, and
  - (c) attend such meetings of the Authority as are necessary for the due performance of the Authority's functions, including not fewer than one meeting in each year at which members of the public may attend and the media shall be permitted to record and broadcast.
- (2) A member of the Steering Group may attend a meeting of the Authority where the Director, in consultation with such member, considers that such attendance would be appropriate.
- (3) The Authority may publish all or part of a report provided by the Director under *subsection (1)(b)*.

**Application of Freedom of Information Act 2014 to Authority**

- 135.** (1) Notwithstanding section 6(12) of the Freedom of Information Act 2014, the obligations under that Act shall apply to the Authority on and from the establishment day of the Authority.
- (2) Notwithstanding section 2(1) of the Freedom of Information Act 2014, the “effective date” in the case of the Authority shall, for the purposes of that Act, be 21 April 2008.

## CHAPTER 3

*Governance and accountability of Authority***Governance framework for Authority**

- 136.** (1) The Authority shall, as soon as practicable after the establishment day of the Authority, prepare and submit to the Minister a framework (in this section referred to as a “governance framework”) that includes an outline of—
- (a) the guiding principles applicable to the Authority as a public body having functions relating to the oversight and assessment of the performance by An Garda Síochána of its function relating to policing services,
  - (b) the managerial, organisational and governance structures of the Authority, including the roles and responsibilities of the chairperson of the Authority and the chief executive of the Authority,
  - (c) the processes and guidelines to be followed by the Authority to ensure compliance with the requirements imposed on the Authority under this Act or any other enactment to report in relation to its functions, operations or other related matters,
  - (d) the Authority’s internal controls, including its procedures relating to internal audits, risk management, public procurement, financial reporting and protected disclosures, and
  - (e) the processes and guidelines to be followed by the Authority to ensure that inspections are carried out in a proportionate, accountable and transparent manner and reported on in an objective and fair manner.
- (2) The Authority shall review the governance framework periodically and at such times as may be specified by the Minister, and shall revise the framework as the Authority considers appropriate.
- (3) Where the Authority revises the governance framework, it shall submit the revised framework to the Minister.
- (4) The Authority shall ensure that, as soon as practicable after a governance framework or revised governance framework is submitted to the Minister, the framework is published on a website maintained by or on behalf of the Authority or in accordance with such other arrangements as the Authority considers appropriate.

**Strategy statement for Authority**

- 137.** (1) The Authority shall prepare and submit to the Minister a strategy statement in respect of the period of 3 years immediately following the year in which the strategy statement is so submitted—
- (a) as soon as practicable after the establishment day of the Authority, and
  - (b) thereafter not earlier than 6 months before, and not later than, the expiration of each subsequent period of 3 years following the establishment day of the Authority.
- (2) A strategy statement under this section shall include—
- (a) the key objectives, outputs and related strategies, including the use of resources, of the Authority in relation to the period to which the statement relates, and
  - (b) except in the case of the strategy statement first prepared under this section, a review and an evaluation of the work of the Authority in the performance of its functions in the previous 3 years.
- (3) In preparing a strategy statement under this section, the Authority shall have regard to—
- (a) the need to ensure the most beneficial, effective and efficient use of the resources available to it, and
  - (b) the policies of the Government or any Minister of the Government to the extent that those policies may affect or relate to the functions of the Authority.
- (4) The Authority shall, before submitting a strategy statement to the Minister under *subsection (1)*—
- (a) publish, in such manner as the Authority considers appropriate, a draft of the strategy statement,
  - (b) allow persons 30 days from the date of publication under *paragraph (a)* within which to make representations in writing to the Authority with regard to the draft of the strategy statement, and
  - (c) having considered the representations (if any) made pursuant to *paragraph (b)*, submit the strategy statement to the Minister with or without modifications.
- (5) The Minister shall cause a strategy statement received by him or her under *subsection (1)* to be laid before each House of the Oireachtas as soon as practicable after it is received.
- (6) The Authority shall ensure that, as soon as practicable after the strategy statement is laid before each House of the Oireachtas, the strategy statement is published on a website maintained by or on behalf of the Authority or in accordance with such other arrangements as the Authority considers appropriate.

**Annual and other reports to Minister**

- 138.** (1) The Authority shall, not later than 3 months after the end of each year, prepare and submit to the Minister a report on its activities during the preceding year.
- (2) A report referred to in *subsection (1)* shall include a statement of the Authority's arrangements for implementing and maintaining adherence to its governance framework.
- (3) The Authority may make such other reports as it considers appropriate for drawing to the attention of the Minister matters that have come to its notice and that, in its opinion, should, because of their gravity or other exceptional circumstances, be the subject of a special report to the Minister.
- (4) The Minister may request the Authority to prepare and submit to him or her a report in respect of any matter relating to policing services and the Authority shall comply with the request as soon as practicable after receiving it.
- (5) The Minister shall cause a copy of a report under this section to be laid before each House of the Oireachtas as soon as practicable after he or she receives the report.
- (6) The Authority shall ensure that, as soon as practicable after a copy of a report under this section is laid before each House of the Oireachtas, the report is published on a website maintained by or on behalf of the Authority or in such other manner as the Authority considers appropriate.

**Standards of integrity, codes of ethics for members of Authority or committee of Authority, advisors or consultants, etc.**

- 139.** (1) In performing functions under this Act—
- (a) a member of the Authority or a committee of the Authority,
- (b) the chief executive of the Authority,
- (c) a member of the staff of the Authority,
- (d) a person who the Authority has engaged under *paragraph (b)* or *(c)* of *section 132(1)*, or
- (e) subject to *subsection (2)*, an employee or contractor of a person referred to in *paragraph (d)*,
- shall maintain proper standards of integrity, conduct and concern for the public interest.
- (2) *Subsection (1)* applies to an employee or contractor of a person referred to in *paragraph (d)* of that subsection in respect only of the duties of employment or the contract, as the case may be, relating to the purposes for which the Authority has engaged that person.
- (3) For the purposes of *subsection (1)*, the Authority shall issue a code of ethics for the guidance of persons to whom that subsection applies.

- (4) A code of ethics issued under *subsection (3)* shall set out the standards of integrity and conduct to be maintained by the persons to whom it applies in performing their functions under this Act.
- (5) A person to whom a code of ethics issued under *subsection (3)* applies shall act in accordance with such code in performing his or her functions under this Act.
- (6) Where a person is an employee of a person who the Authority has engaged under *paragraph (b) or (c) of section 132(1)*, his or her terms and conditions shall be deemed to include the requirements that apply to the employer under *subsection (5)*.
- (7) Subject to *subsection (8)*, the Authority shall, as soon as practicable after issuing a code of ethics under *subsection (3)*, make the code available to the persons to whom it applies.
- (8) The Authority shall provide a copy of a code of ethics issued under *subsection (3)* to a person who the Authority has engaged under *paragraph (b) or (c) of section 132(1)*, and the person shall make that copy available to his or her employees or contractors to whom *subsection (1)(e)* applies.
- (9) A document purporting to be a code of ethics issued under *subsection (3)* is, in the absence of evidence to the contrary, to be taken to be such code and is admissible as such in any proceedings before a court or other tribunal.
- (10) Any provision of such a code of ethics issued under *subsection (3)* that appears to a court or other tribunal to be relevant to a question in the proceedings before the court or other tribunal, as the case may be, may be taken into account by it in determining the question.

#### **Accountability for accounts of Authority**

- 140.** (1) The chief executive of the Authority shall be the accounting officer in relation to the appropriation accounts of the Authority for the purposes of the Comptroller and Auditor General Acts 1866 to 1998.
- (2) Whenever required to do so by the Committee of Public Accounts, the chief executive of the Authority shall give evidence to it on the following matters:
- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or record of account subject to audit by the Comptroller and Auditor General;
  - (b) the economy and the efficiency of the Authority in using its resources;
  - (c) the systems, procedures and practices employed by the Authority for evaluating the effectiveness of its operations;
  - (d) any matter affecting the Authority that is referred to in—
    - (i) a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or



- (ii) any other report of the Comptroller and Auditor General that is laid before Dáil Éireann in so far as the report relates to a matter specified in *paragraph (a), (b) or (c)*.
- (3) In carrying out duties under *subsection (2)*, the chief executive of the Authority shall not—
- (a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy, or
  - (b) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of any person.

#### **Attendance of chief executive of Authority before other Oireachtas committees**

- 141.** (1) Subject to *subsection (2)*, the chief executive of the Authority shall, at the request in writing of an Oireachtas committee, attend before it to give account for the general administration of the Authority.
- (2) The chief executive of the Authority shall not be required to give account before an Oireachtas committee for any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.
- (3) The chief executive of the Authority shall, where of the opinion that *subsection (2)* applies to a matter about which he or she is requested to give account before an Oireachtas committee, inform the committee of that opinion and the reasons for the opinion.
- (4) The information required under *subsection (3)* shall be given to the Oireachtas committee in writing unless it is given when the chief executive of the Authority is before the committee.
- (5) Where, on being informed of the chief executive of the Authority's opinion about the matter, the Oireachtas committee decides not to withdraw its request relating to the matter, the High Court may, on application under *subsection (6)*, determine whether *subsection (2)* applies to the matter.
- (6) The Authority or the Oireachtas committee may apply in a summary manner to the High Court for a determination under *subsection (5)*, but only where the application is made within 21 days after the date on which the chief executive of the Authority is informed of the committee's decision not to withdraw its request.
- (7) Pending the determination of an application under *subsection (6)*, the chief executive of the Authority shall not attend before the Oireachtas committee to give account for the matter that is the subject of the application.
- (8) Where the High Court determines that *subsection (2)* applies to the matter, the Oireachtas committee shall withdraw its request in so far as it relates to the matter, but where the Court determines that *subsection (2)* does not apply, the chief executive of the Authority shall attend before the committee to give account for the matter.

- (9) In carrying out duties under this section, the chief executive of the Authority shall not—
- (a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy, or
  - (b) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of any person.

## CHAPTER 4

*Inspections by Authority***Inspectors of policing services**

- 142.** (1) Subject to *subsection (2)*, the Authority may appoint in writing a member of the staff of the Authority to be an inspector of policing services for the purposes of this Part.
- (2) A person shall not be appointed as an inspector of policing services unless the Authority is satisfied that the person is suitable for such appointment by reason of—
- (a) his or her service as a senior officer or retired such officer in the police service of another state, or
  - (b) having otherwise obtained such relevant experience, qualifications, training or expertise as, in the opinion of the Authority, is appropriate having regard, in particular, to the functions of the Authority and the nature of inspections.
- (3) The Authority shall provide a person appointed as an inspector of policing services under *subsection (1)* with a certificate of his or her appointment.
- (4) An inspector of policing services exercising a power conferred by or under this Part shall, on request by any person affected by the exercise of that power, produce the certificate of his or her appointment or a copy thereof, together with a form of personal identification, for inspection by the person.

**Inspections by Authority**

- 143.** (1) The Authority may, in furtherance of its objective, carry out inspections in relation to such aspects of the operation and administration of An Garda Síochána relating to policing services as it considers appropriate.
- (2) The Minister may request the Authority to carry out an inspection in relation to such aspects of the operation and administration of An Garda Síochána relating to policing services as the Minister may specify in the request, and the Authority shall comply with any such request.
- (3) Without prejudice to its power to liaise and cooperate with bodies pursuant to this Act or any other enactment and subject to *section 145*, the Authority may, where it considers it appropriate, carry out an inspection under *subsection (1)* or *(2)* jointly with one or more prescribed inspection bodies acting in coordination of the exercise

of their statutory powers for the efficient and effective discharge of their respective functions (in this Part referred to as a “joint inspection”).

- (4) Where the Authority decides under *subsection (1)*, or is requested under *subsection (2)*, to carry out an inspection, the Authority shall—
- (a) specify in writing the scope and terms of the inspection, and
  - (b) authorise in writing one or more inspectors of policing services to carry out the inspection.
- (5) As soon as practicable after specifying in writing the scope and terms of an inspection in accordance with *subsection (4)*, the Authority shall give the Garda Commissioner a notice in writing of the inspection which shall include—
- (a) a statement of the nature and particulars of the matters to be inspected,
  - (b) the scope and terms of the inspection as specified under *subsection (4)(a)*,
  - (c) a copy of the authorisation referred to in *subsection (4)(b)*, and
  - (d) such other information as the Authority considers appropriate.
- (6) Where an authorisation is made under *subsection (4)(b)* in respect of an inspection at any time after the notice referred to in *subsection (5)* in respect thereof is given to the Garda Commissioner, the Authority shall, as soon as practicable thereafter, give a copy of the authorisation to the Garda Commissioner.

### Prescribed inspection body

- 144.** (1) Subject to *subsection (2)*, the Minister may, where he or she considers it appropriate to do so, and having regard to the functions of an inspection body, prescribe the inspection body (in this Part referred to as a “prescribed inspection body”) for the purposes of this Part.
- (2) The Minister shall consult with the Authority, any relevant Minister and the inspection body concerned prior to prescribing an inspection body under *subsection (1)*.
- (3) In this section—
- “inspection body” means a body established by or under an enactment whose functions include the conduct of inspections, examinations or investigations;
- “relevant Minister”, in relation to an inspection body, means the Minister of the Government with responsibility for the inspection body and in whom functions, whether statutory or otherwise, as respects the inspection body are vested.

### Joint Inspections

- 145.** (1) The Authority and a prescribed inspection body may carry out a joint inspection where the Authority and the prescribed inspection body concerned are of the opinion that—

- (a) the joint inspection is appropriate, and
  - (b) the functions and powers of the prescribed inspection body concerned are suitable in so far as they relate to the aspects of the joint inspection to be carried out by that body.
- (2) Where the Authority and one or more prescribed inspection bodies agree to undertake a joint inspection, the Authority and the body or bodies shall prepare a joint inspection plan setting out—
- (a) the purpose of the joint inspection,
  - (b) the reasons why a joint inspection is appropriate,
  - (c) the aspects of the joint inspection that the Authority proposes to carry out,
  - (d) the aspects of the joint inspection that the prescribed inspection body or bodies propose to carry out,
  - (e) the arrangements for the joint inspection, including the sharing of information or documents in accordance with law, and
  - (f) the arrangements in relation to reporting on the inspection by the Authority and the prescribed inspection body or bodies.
- (3) Where a joint inspection is carried out by the Authority and a prescribed inspection body, the prescribed inspection body may, notwithstanding anything in any other enactment, for the purposes of the joint inspection—
- (a) act in coordination with the Authority and any other prescribed inspection body involved in the joint inspection in the exercise of the powers conferred on it by or under any enactment, and
  - (b) agree a joint inspection plan pursuant to *subsection (2)*.

### Inspection plan

- 146.** (1) The Authority shall, as soon as practicable after the establishment day of the Authority, and at such intervals thereafter as it considers appropriate, prepare an inspection plan setting out—
- (a) the priorities for inspections to be carried out, and
  - (b) information on how such inspections shall be carried out in a manner which—
    - (i) is proportionate, accountable and transparent, and
    - (ii) ensures the integrity and objectivity of the findings of such inspections.
- (2) The Authority shall, in preparing an inspection plan under *subsection (1)*, consult such persons as it considers appropriate.
- (3) The Authority shall, as soon as practicable, submit a copy of an inspection plan prepared in accordance with *subsection (1)* to the Minister and thereafter publish the

plan on a website maintained by or on behalf of the Authority or in such other manner as the Authority considers appropriate.

### **Powers of inspector of policing services**

**147.** (1) Where an inspector of policing services is authorised under *section 143(4)(b)* to carry out an inspection, the inspector, where he or she considers it necessary or expedient for the purposes of carrying out the inspection, may—

- (a) enter a relevant location at any time to inspect any aspect of the administration or operation of An Garda Síochána in relation to the provision of policing services that is relevant to the inspection,
- (b) require any member of garda personnel to—
  - (i) provide any information that the inspector of policing services may reasonably require for the purposes of the inspection,
  - (ii) produce to him or her any documents in that person's power or control that the inspector of policing services may reasonably require for the purposes of the inspection, and
  - (iii) provide an explanation of any document made available pursuant to *subparagraph (ii)*,
- (c) examine any document made available to him or her under *paragraph (b)* and take copies of, or extracts from, such document or have the document made available in a form to facilitate removal from the location at which the document is made available,
- (d) take possession of any document made available to him or her under *paragraph (b)* that, in the opinion of the inspector of policing services is relevant to the inspection, and, for those purposes, remove it and retain it in his or her possession for a reasonable period,
- (e) require the personal details of any person in a relevant location where, in the opinion of the inspector of policing services, such information is relevant to the inspection, and
- (f) be assisted, when exercising a power under this section by such and so many members of staff of the Authority or persons under contract with or engaged by the Authority pursuant to *section 132(1)* as he or she considers appropriate.

(2) A member of garda personnel may refuse to provide any information or document the subject of a requirement under this section on the grounds that it relates to the security of the State or would endanger the life or safety of any person who has given information in confidence to a public body in relation to the enforcement or administration of the law.

(3) Where a member of garda personnel is of the opinion that *subsection (2)* applies in relation to a requirement made of him or her by an inspector of policing services, the inspector shall so inform the Authority.

- (4) Where the Authority is informed under *subsection (3)* that a member of garda personnel is of the opinion that *subsection (2)* applies, the Authority may make a request to the Garda Commissioner to provide the information or document concerned.
- (5) Where the Garda Commissioner, on being requested by the Authority to provide the information or document concerned under *subsection (4)*, refuses to comply with the request on the grounds that he or she is of the opinion that *subsection (2)* applies, the Authority may refer such refusal to the Independent Examiner in writing for the purposes of a review of the refusal under *section 243*.
- (6) Upon receipt of a recommendation from the Independent Examiner under *section 243(4)* in relation to a matter referred to in *subsection (5)*, where the Minister is satisfied, taking into account the recommendation, that the provision of all or part of the information or document requested by the Authority—
- (a) does not relate to the security of the State, or
  - (b) would not endanger the life or safety of any person who has given information in confidence to a public body in relation to the enforcement or administration of the law,
- he or she shall issue a direction specifying that all or part, as the case may be, of the document or information be disclosed to the inspector of policing services concerned.
- (7) The Minister shall, as soon as practicable after—
- (a) issuing a direction under *subsection (6)*, provide a copy of the direction to the Authority and the Garda Commissioner, or
  - (b) deciding not to issue a direction under that subsection, so inform the Authority and Garda Commissioner.
- (8) In this section and *section 148*, “relevant location” means any garda station or other premises or structure, including a temporary structure, used by An Garda Síochána, whether on a temporary basis or otherwise, where members of garda personnel are assigned in connection with the provision of policing services.

### Memorandum of understanding

- 148.** (1) The Authority and the Garda Commissioner shall, not later than 3 months after the coming into operation of this section, agree a memorandum of understanding concerning the conduct of inspections, including the manner in which the powers of an inspector of policing services under *section 147* may be exercised, in order to ensure that inspections—
- (a) are carried out in an efficient and effective manner,
  - (b) do not adversely affect the performance by An Garda Síochána of its functions,
  - (c) do not jeopardise criminal investigations or prosecutions, and
  - (d) do not prejudice the safekeeping of a person in legal custody.

- (2) Without prejudice to the generality of *subsection (1)*, a memorandum of understanding may make provision in relation to the manner in which the powers of an inspector of policing services under *section 147* may be exercised, including for—
- (a) the manner in which visits, including unannounced visits, may be conducted at a relevant location,
  - (b) the members of staff of the Authority or persons under contract with, or engaged by, the Authority pursuant to *section 132(1)* who may assist inspectors when exercising a power under *section 147*,
  - (c) the manner in which information and documents held at a relevant location that are required for the purposes of the inspection may be provided, produced or otherwise made available, or
  - (d) the manner in which the removal from a relevant location of copies of documents provided, produced or otherwise made available, or the taking of possession of such documents and their removal for the purposes of an inspection, may be facilitated.
- (3) The Authority and the Garda Commissioner shall keep under review the operation of a memorandum of understanding agreed under this section and may agree such amendments or revocations to the memorandum as appear to them to be necessary or desirable.

#### **Reports of inspections undertaken on Authority's initiative**

- 149.** (1) Where the Authority carries out an inspection pursuant to *section 143(1)*, the Authority shall, as soon as practicable after the completion of the inspection, submit a report of the inspection to the Garda Commissioner and to the Minister.
- (2) A report under this section may, where appropriate, contain recommendations for any action that the Authority considers necessary.
- (3) Subject to *subsection (4)*, the Authority shall ensure that, as soon as practicable after a report under this section is submitted to the Garda Commissioner and the Minister, the report is published on a website maintained by or on behalf of the Authority or in such other manner as the Authority considers appropriate.
- (4) The Authority may exclude from a report to be published pursuant to *subsection (3)* any matter that, in its opinion, might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.
- (5) The Garda Commissioner shall, at the request of the Authority and within such period of time and in such manner as may be specified by the Authority, submit a response in writing to the Authority to a report under this section, setting out his or her consideration of the report and what actions (if any) he or she proposes to take in relation to the report.
- (6) The Authority shall submit a copy of the Garda Commissioner's response under *subsection (5)* to the Minister as soon as practicable after receiving it.

- (7) The Authority may publish all or part of a response received under *subsection (5)* where it considers it appropriate.

#### **Reports of inspections undertaken at request of Minister**

- 150.** (1) Where the Minister requests the Authority to carry out an inspection under *section 143(2)*, the Authority shall, as soon as practicable after the completion of the inspection, submit a report of the inspection to the Minister.
- (2) A report under this section may, where appropriate, contain recommendations for any action that the Authority considers necessary.
- (3) The Authority shall, as soon as practicable after submitting a report under this section to the Minister, submit a copy of the report to the Garda Commissioner.
- (4) Subject to *subsection (5)*, the Minister shall cause a copy of a report under this section to be laid before each House of the Oireachtas as soon as practicable after he or she receives the report.
- (5) The Minister may exclude from a copy of a report to be laid before each House of the Oireachtas under *subsection (4)* any matter that, in his or her opinion, might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.
- (6) The Authority shall ensure that, as soon as practicable after a copy of a report under this section is laid before each House of the Oireachtas, the report as laid is published on a website maintained by or on behalf of the Authority or in such other manner as the Authority considers appropriate.
- (7) The Garda Commissioner shall, at the request of the Minister and within such period of time and in such manner as may be specified by the Minister, submit a response in writing to the Minister to a report under this section, setting out his or her consideration of the report and what actions (if any) he or she proposes to take in relation to the report.
- (8) Where he or she considers it appropriate, the Minister may—
- (a) provide a copy of a response received under *subsection (7)* to the Authority, or
  - (b) publish all or part of such a response.

#### **Monitoring and assessment of measures in relation to recommendations in inspection reports**

- 151.** (1) Where recommendations are contained in a report submitted under *section 149* or *150*—
- (a) the Minister may, where he or she considers it appropriate, request the Authority to monitor and assess the actions taken by An Garda Síochána in relation to such of those recommendations as the Minister may specify in the request, and



- (b) where no such request is made in respect of a recommendation, the Authority may monitor and assess the measures taken by An Garda Síochána in relation to the recommendation where it considers it appropriate.
- (2) The Garda Commissioner shall provide the Minister and the Authority with such information and documents as the Minister or the Authority, as the case may be, may require for the purposes of this section.
- (3) The Authority shall, as soon as practicable after it receives a request under *subsection (1)(a)*, submit to the Minister a report on the measures taken by An Garda Síochána in relation to the recommendations specified in the request and may include in the report any other matter connected with the subject matter of the request that it considers should be brought to the attention of the Minister.

## CHAPTER 5

*Unauthorised disclosure of information***Confidentiality of information connected with inspection**

**152.** (1) A person who is or was—

- (a) a member of the Authority,
- (b) a member of a committee of the Authority,
- (c) the chief executive of the Authority,
- (d) a member of the staff of the Authority,
- (e) under contract with or engaged by the Authority pursuant to *section 132(1)*, or
- (f) an employee or contractor of a person to whom *paragraph (e)* applies,

shall not intentionally or recklessly disclose, in or outside the State, unless he or she is required or permitted by law or duly authorised by the Authority in furtherance of its functions, any information obtained by the person in the course of carrying out the duties of his or her office, employment, contract or other arrangement of engagement with the Authority and which has not otherwise come to the notice of members of the public.

- (2) A person who contravenes *subsection (1)* is guilty of an offence and is liable—
  - (a) on summary conviction, to a class C fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.
- (3) In any proceedings for an offence under this section, it shall be a defence to show that the disclosure was reasonably believed by the person who made the disclosure to be required or permitted by law or duly authorised by the Authority in furtherance of its functions.

- (4) A person who contravenes *subsection (1)* and who receives any gift, consideration or advantage as an inducement to disclose the information to which the contravention relates or as a reward for, or otherwise on account of, the disclosure of that information, is guilty of an offence and is liable—
- (a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €75,000 or imprisonment for a term not exceeding 7 years, or both.
- (5) The provisions of this section are in addition to, and not in substitution for, the relevant provisions of the Act of 1963.

#### Confidentiality of certain information (*Part 4*)

**153.** (1) Without prejudice to *section 152*, a person who—

- (a) is or was—
  - (i) a member of the Authority,
  - (ii) a member of a committee of the Authority,
  - (iii) the chief executive of the Authority,
  - (iv) a member of the staff of the Authority,
  - (v) under contract with or engaged by the Authority pursuant to *section 132(1)*,  
or
  - (vi) an employee or contractor of a person to whom *subparagraph (v)* applies,  
or
- (b) was—
  - (i) a member of the Policing Authority,
  - (ii) a member of a committee of the Policing Authority,
  - (iii) the Chief Executive of the Policing Authority,
  - (iv) a member of the staff of the Policing Authority,
  - (v) engaged under contract or other arrangement by the Policing Authority, or
  - (vi) an employee or contractor of a person referred to in *subparagraph (v)*,

shall not disclose, in or outside the State, unless he or she is required or permitted by law or duly authorised by the Authority in furtherance of its functions, any information obtained in the course of carrying out the duties of that person's office, employment, contract or other arrangement of engagement with the Authority, whether obtained before or after the repeal of the Act of 2005 by *section 5*, where that disclosure is likely to have a harmful effect and the person knows or believes that the disclosure is likely to have such an effect.

- (2) For the purpose of this section, the disclosure of information referred to in *subsection (1)* is likely to have a harmful effect where it is likely to—
- (a) facilitate the commission of an offence,
  - (b) prejudice the safekeeping of a person in legal custody,
  - (c) impede the prevention, detection or investigation of an offence,
  - (d) impede the apprehension or prosecution of a suspected offender,
  - (e) prejudice the security of any system of communication of An Garda Síochána,
  - (f) result in the identification of a person—
    - (i) who is a witness in a criminal proceeding or who has given information in confidence to a member of garda personnel, and
    - (ii) whose identity is not at the time of the disclosure a matter of public knowledge,
  - (g) result in the publication of information that—
    - (i) relates to a person who is a witness to, or a victim of, an offence, and
    - (ii) is of such a nature that its publication would be likely to discourage the person to whom the information relates or any other person from giving evidence or reporting an offence,
- or
- (h) result in the publication of personal information (within the meaning of the Freedom of Information Act 2014) relating to a person that constitutes an unwarranted and serious infringement of that person's right to privacy.
- (3) For the purpose of this section, a person is presumed, unless the contrary is proved, to know that disclosure of information referred to in *subsection (1)* is likely to have a harmful effect if a reasonable person would, in all the circumstances, be aware that its disclosure could have that effect.
- (4) In any proceedings for an offence under this section, it shall be a defence to show that the disclosure was—
- (a) made to—
    - (i) the Minister,
    - (ii) the Attorney General,
    - (iii) the Director of Public Prosecutions,
    - (iv) the Chief State Solicitor,
    - (v) the Criminal Assets Bureau,
    - (vi) the Comptroller and Auditor General or the staff of the Office of the Comptroller and Auditor General,

- (vii) the Police Ombudsman, the Deputy Police Ombudsman or an officer of the Police Ombudsman,
  - (viii) the Garda Commissioner,
  - (ix) the Revenue Commissioners,
  - (x) the State Claims Agency,
  - (xi) the Child and Family Agency,
  - (xii) a member of either of the Houses of the Oireachtas where relevant to the proper discharge of the member's functions,
  - (xiii) a court, or
  - (xiv) a tribunal appointed under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011, a commission of investigation established under the Commissions of Investigation Act 2004 or a committee (within the meaning of section 2 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013) for the purposes of a Part 2 inquiry (within the meaning of that section) under that Act,
- (b) made in the course of, and in accordance with, the duties of that person's office or employment or his or her duties under a contract or other arrangement to work with or for the Authority, or
- (c) reasonably believed by the person who made the disclosure to be required or permitted by law, duly authorised by the Authority in furtherance of its function or made in accordance with *paragraph (a) or (b)*.
- (5) A person who contravenes *subsection (1)* is guilty of an offence and is liable—
- (a) on summary conviction, to a class C fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.
- (6) A person who contravenes *subsection (1)* and who receives any gift, consideration or advantage as an inducement to disclose the information to which the contravention relates or as a reward for, or otherwise on account of, the disclosure of that information, is guilty of an offence and is liable—
- (a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €75,000 or imprisonment for a term not exceeding 7 years, or both.
- (7) In any proceedings for an offence under this section, it shall not be necessary to prove that the disclosure had a harmful effect.
- (8) The provisions of this section are in addition to, and not in substitution for, the provisions of the Act of 1963.

## CHAPTER 6

*Dissolution of Policing Authority***Dissolution of Policing Authority**

**154.** On the establishment day of the Authority, the Policing Authority shall, subject to *section 160(2)* stand dissolved.

**Transfer of staff of Policing Authority**

- 155.** (1) Every person who, immediately before the establishment day of the Authority, was a member of the staff of the Policing Authority shall, on that day, become and be a member of the staff of the Authority, and shall continue to hold a position in the Civil Service of the State.
- (2) Save in accordance with any enactment or a collective agreement negotiated with any recognised trade union or staff association, a person referred to in *subsection (1)* shall not on the establishment day of the Authority be subject to less beneficial terms and conditions of service (including those relating to tenure of office) or remuneration than the terms and conditions of service or remuneration to which he or she was subject immediately before that day.
- (3) The terms and conditions to which a person is subject upon his or her becoming a member of the staff of the Authority in accordance with *subsection (1)* shall be deemed to have been determined by the Authority in accordance with *section 131*.
- (4) In relation to persons referred to in *subsection (1)*, previous service shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following:
- (a) the Adoptive Leave Acts 1995 and 2005;
  - (b) the Carer's Leave Act 2001;
  - (c) the Maternity Protection Acts 1994 to 2022;
  - (d) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
  - (e) the National Minimum Wage Acts 2000 and 2015;
  - (f) the Organisation of Working Time Act 1997;
  - (g) the Parental Leave Acts 1998 to 2023;
  - (h) the Paternity Leave and Benefit Act 2016;
  - (i) the Parent's Leave and Benefit Act 2019;
  - (j) the Protection of Employees (Fixed-Term Work) Act 2003;
  - (k) the Protection of Employees (Part-Time Work) Act 2001;
  - (l) the Redundancy Payments Acts 1967 to 2022;

- (m) the Terms of Employment (Information) Acts 1994 to 2014;
- (n) the Unfair Dismissals Acts 1977 to 2015.

#### **Transfer of property of Policing Authority**

- 156.** (1) On the establishment day of the Authority, all property, including choses-in-action, that immediately before that day was vested in the Policing Authority shall stand vested in the Authority without any assignment.
- (2) Every chose-in-action vested in the Authority by virtue of *subsection (1)* may, on and after the establishment day of the Authority, be sued on, recovered or enforced by the Authority in its name, and it shall not be necessary for the Authority or the Policing Authority to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

#### **Transfer of rights and liabilities, and continuation of leases, licenses and permissions granted by Policing Authority**

- 157.** (1) All rights and liabilities of the Policing Authority by virtue of any contract or commitment (expressed or implied) entered into by the Policing Authority, and all obligations imposed on the Policing Authority by virtue of an order of a court or tribunal, before the establishment day of the Authority shall, on that day, stand transferred to the Authority.
- (2) Every right and liability transferred by *subsection (1)* to the Authority may, on and after the establishment day of the Authority, be sued on, recovered or enforced by or against the Authority in its name, and it shall not be necessary for the Authority or the Policing Authority to give notice to any person of the transfer of any such right or liability.
- (3) Every lease, licence or permission granted by the Policing Authority in relation to property vested in the Authority and in force immediately before the establishment day of the Authority shall continue in force on and after that day as if granted by the Authority.

#### **Preservation of contracts made by Policing Authority**

- 158.** Every contract, agreement or arrangement made between the Policing Authority, or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the establishment day of the Authority, shall continue in force on and after that day and shall be construed and have effect as if the name of the Authority were substituted therein for that of the Policing Authority or, as may be appropriate, its trustee or agent, and shall be enforceable by or against the Authority.

**Records of Policing Authority**

- 159.** (1) Subject to *subsection (2)*, on the establishment day of the Authority all records that, immediately before that day, were records of the Policing Authority shall be records of the Authority and shall, accordingly, be transferred to the Authority.
- (2) On the establishment day of the Authority—
- (a) all records that, immediately before that day, were records of the Policing Authority relating to the performance of its functions under section 9, or section 62H(1)(b)(i) in so far as that section relates to the office of Garda Commissioner, of the Act of 2005 shall be records of the Minister and shall accordingly be transferred to the Minister,
  - (b) all records that, immediately before that day, were records of the Policing Authority relating to the performance of its functions under section 10, or section 62H(1)(b)(i) in so far as that section relates to the rank of Deputy Garda Commissioner, of the Act of 2005 shall be records of the Minister and shall accordingly be transferred to the Minister,
  - (c) all records that, immediately before that day, were records of the Policing Authority relating to the performance of its functions under section 11, 12 or 62H(1)(b)(iii) of the Act of 2005, in so far as those sections relate to the office of Garda Commissioner or the rank of Deputy Garda Commissioner, shall be records of the Minister and shall accordingly be transferred to the Minister,
  - (d) all records that, immediately before that day, were records of the Policing Authority relating to the performance of its functions under section 13, 52 or 62H(1)(b)(ii) of the Act of 2005 shall be records of An Garda Síochána, and shall accordingly be transferred to An Garda Síochána,
  - (e) all records that, immediately before that day, were records of the Policing Authority relating to the performance of its functions under section 11, 13A or 62H(1)(b)(iii) of the Act of 2005, in so far as those sections relate to the ranks of Assistant Garda Commissioner, chief superintendent or superintendent, shall be records of An Garda Síochána, and shall accordingly be transferred to An Garda Síochána,
  - (f) all records that, immediately before that day, were records of the Policing Authority concerning the performance of its functions under section 14(2) of the Act of 2005 shall be records of An Garda Síochána, and shall accordingly be transferred to An Garda Síochána,
  - (g) all records that, immediately before that day, were records of the Policing Authority concerning the performance of its functions under section 19 of the Act of 2005 shall be records of An Garda Síochána, and shall accordingly be transferred to An Garda Síochána, and
  - (h) all records that, immediately before that day, were records of the Policing Authority concerning the performance of its functions under the Garda Síochána

(Discipline) Regulations 2007 (S.I. No. 214 of 2007) shall be records of An Garda Síochána, and shall accordingly be transferred to An Garda Síochána.

#### **Transitional provisions relating to Policing Authority**

- 160.** (1) Where, before the establishment day of the Authority, the Policing Authority has commenced any action under the Freedom of Information Act 2014 and all matters relating to the action have not been completed before that day, the action shall be deemed to have been commenced, and may be completed—
- (a) other than where *paragraph (b) or (c)* applies, by the Authority,
  - (b) in the case of records transferred to the Minister under *paragraph (a), (b) or (c) of section 159(2)*, by the Minister, and
  - (c) in the case of records transferred to An Garda Síochána under *paragraph (d), (e), (f), (g) or (h) of section 159(2)*, by An Garda Síochána.
- (2) Where, before the establishment day of the Authority, an application under section 10 of the Freedom of Information Act 2014 in relation to an act of the Policing Authority has been made and all matters relating to the application have not been completed before that day, the application shall, notwithstanding *section 154*, be completed as if the Policing Authority had not been dissolved.

#### **Liability for loss on part of Policing Authority occurring before establishment day of Authority**

- 161.** (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance, before the establishment day of the Authority, of any of the functions of the Policing Authority shall, on and after that day, lie against the Authority and not against the Policing Authority.
- (2) Any legal proceedings pending immediately before the establishment day of the Authority, to which the Policing Authority is a party, shall be continued on and after that day, with the substitution in the proceedings of the Authority, in so far as they relate to such party, for the Policing Authority.
- (3) Where, before the establishment day of the Authority, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they were, before that day, enforceable against the Policing Authority, be enforceable against the Authority and not the Policing Authority.
- (4) Any claim made or proper to be made by the Policing Authority in respect of any loss or injury arising from the act or default of any person before the establishment day of the Authority shall, on and after that day, be regarded as having been made by or proper to be made by the Authority and may be pursued and sued for by the Authority as if the loss or injury had been suffered by the Authority.



**Final accounts and final annual report of Policing Authority**

- 162.** (1) The Authority shall cause to be prepared any outstanding appropriation accounts of the Policing Authority.
- (2) The chief executive of the Authority shall be the accounting officer in relation to the appropriation accounts of the Policing Authority for the purposes of the Comptroller and Auditor General Acts 1866 to 1998.
- (3) The Authority shall, not later than 3 months following the establishment day of the Authority, prepare and submit to the Minister the final annual report of the Policing Authority.
- (4) The Minister shall cause a copy of the final annual report to be laid before each House of the Oireachtas as soon as practicable after it is received.
- (5) The Authority shall ensure that, as soon as practicable after a copy of the final annual report is laid before the Houses of the Oireachtas, the report is published on a website maintained by or on behalf of the Authority or in such other manner as the Minister may specify.

## CHAPTER 7

*Dissolution of Garda Síochána Inspectorate***Dissolution of Garda Síochána Inspectorate**

- 163.** On the establishment day of the Authority, the Garda Síochána Inspectorate shall, subject to *section 167(2)* stand dissolved.

**Transfer of member of Garda Síochána Inspectorate**

- 164.** (1) The Minister may, before the establishment day of the Authority, designate a person who immediately before that day stands appointed under section 115 of the Act of 2005 as a member of the Garda Síochána Inspectorate to be appointed as—
- (a) a member of the staff of the Authority, and
- (b) an inspector of policing services.
- (2) Where, immediately before the establishment day of the Authority, a person stands designated under *subsection (1)*, the person shall, on and from that day, stand appointed as a member of the staff of the Authority and an inspector of policing services for a period not exceeding 2 years.
- (3) Subject to this section, a person who stands appointed under *subsection (2)* shall not, on the establishment day of the Authority, be subject to less beneficial terms and conditions of service or remuneration than the terms and conditions of service or remuneration to which he or she was subject immediately before that day.

- (4) The terms and conditions to which a person is subject on his or her becoming a member of the staff of the Authority in accordance with *subsection (1)* shall be deemed to have been determined by the Authority in accordance with *section 131*.

#### **Preservation of contracts made by Garda Síochána Inspectorate**

- 165.** Every contract, agreement or arrangement made between the Garda Síochána Inspectorate, or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the establishment day of the Authority, shall continue in force on and after that day and shall be construed and have effect as if the name of the Authority were substituted therein for that of the Garda Síochána Inspectorate or, as may be appropriate, its trustee or agent, and shall be enforceable by or against the Authority.

#### **Records of Garda Síochána Inspectorate**

- 166.** (1) Subject to *subsection (2)*, on the establishment day of the Authority all records that, immediately before that day, were records of the Garda Síochána Inspectorate shall be records of the Authority and shall, accordingly, be transferred to the Authority.
- (2) On the establishment day of the Authority all records held in relation to the provision of security services by An Garda Síochána that, immediately before that day, were records of the Garda Síochána Inspectorate shall be records of the Minister and shall, accordingly, be transferred to the Minister.

#### **Transitional provisions relating to Garda Síochána Inspectorate**

- 167.** (1) Where, before the establishment day of the Authority, the Garda Síochána Inspectorate has commenced any action under the Freedom of Information Act 2014 and all matters relating to the action have not been completed before that day, the action shall be deemed to have been commenced, and may be completed—
- (a) other than where *paragraph (b)* applies, by the Authority, and
  - (b) in the case of records transferred to the Minister under *section 166(2)*, the Minister.
- (2) Where, before the establishment day of the Authority, an application under section 10 of the Freedom of Information Act 2014 in relation to an act of the Garda Síochána Inspectorate has been made and all matters relating to the application have not been completed before that day, the application shall, notwithstanding *section 163*, be completed as if the Garda Síochána Inspectorate had not been dissolved.

#### **Liability for loss on part of Garda Síochána Inspectorate occurring before establishment day of Authority**

- 168.** (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance, before the establishment day of the Authority, of any

of the functions of the Garda Síochána Inspectorate shall, on and after that day, lie against the Authority and not against the Garda Síochána Inspectorate.

- (2) Any legal proceedings pending immediately before the establishment day of the Authority, to which the Garda Síochána Inspectorate is a party, shall be continued on and after that day, with the substitution in the proceedings of the Authority, in so far as they relate to such party, for the Garda Síochána Inspectorate.
- (3) Where before the establishment day of the Authority, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, on and after the establishment day of the Authority, in so far as they were, before that day, enforceable against the Garda Síochána Inspectorate, be enforceable against the Authority and not the Garda Síochána Inspectorate.
- (4) Any claim made or proper to be made by the Garda Síochána Inspectorate in respect of any loss or injury arising from the act or default of any person before the establishment day of the Authority shall, on and after that day, be regarded as having been made by or proper to be made by the Authority and may be pursued and sued for by the Authority as if the loss or injury had been suffered by the Authority.

## PART 5

### POLICE OMBUDSMAN

#### CHAPTER 1

#### *Preliminary and General (Part 5)*

#### **Definition (Part 5)**

**169.** In this Part, “chief executive officer” has the meaning assigned to it by *section 178(1)*.

#### **Continuation of Garda Síochána Ombudsman Commission as Fiosrú - Oifig an Ombudsman Póilíneachta**

- 170.** (1) The body corporate known as the Garda Síochána Ombudsman Commission established by section 64 of the Act of 2005 shall, notwithstanding the repeal of that section by *section 5*, continue in being, and, on and after the date of the coming into operation of this section, shall be known as *Fiosrú - Oifig an Ombudsman Póilíneachta* (in this Act referred to as the “Office of the Police Ombudsman”) and be organised in accordance with this Part.
- (2) The Office of the Police Ombudsman shall be a body corporate with perpetual succession and an official seal and with the power—
- (a) to sue and be sued in its corporate name, and

- (b) with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, to acquire, hold and dispose of land or an interest in land or any other property.
- (3) The Office of the Police Ombudsman shall provide itself with a seal as soon as practicable after the coming into operation of this section and the seal shall be authenticated by the signatures of both—
- (a) the Police Ombudsman, and
- (b) the Deputy Police Ombudsman, the chief executive officer or an officer of the Police Ombudsman who is authorised by the Police Ombudsman to act in that behalf.
- (4) Judicial notice shall be taken of the seal of the Office of the Police Ombudsman and any document purporting—
- (a) to be an instrument made by that Office, and
- (b) to be sealed with the seal of that Office authenticated in accordance with *subsection (3)*,
- shall, unless the contrary is shown, be evidence of that instrument without further proof.
- (5) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Office of the Police Ombudsman by any person generally or specially authorised by the Police Ombudsman in that behalf.
- (6) The general function of the Office of the Police Ombudsman shall be to support the Police Ombudsman in the furtherance of the objectives, and the performance of the functions, of the Police Ombudsman under this Act or any other enactment.
- (7) The Office of the Police Ombudsman shall have all such powers as are necessary or expedient for the performance of its functions.
- (8) References in any legal proceedings pending before the coming into operation of this section to the Garda Síochána Ombudsman Commission or the Ombudsman Commission shall, on and after that coming into operation, and unless the context otherwise requires, be construed as references to the Office of the Police Ombudsman.

## CHAPTER 2

*Appointment and functions of Police Ombudsman***Appointment of Police Ombudsman and Deputy Police Ombudsman**

- 171.** (1) The President shall, subject to this Part, appoint a person to hold office to be known as *An tOmbudsman Póilíneachta* or, in the English language, as the Police Ombudsman.

- (2) The President shall, subject to this Part, appoint a person to hold office to be known as *An Leas-Ombudsman Póilíneachta* or, in the English language, as the Deputy Police Ombudsman.
- (3) An appointment under *subsection (1)* and *(2)* shall be on—
  - (a) the nomination of the Government, and
  - (b) the passage of a resolution by each House of the Oireachtas recommending the appointment of the person concerned.
- (4) Subject to *section 172*, the Minister shall invite the Service to undertake a selection competition for the purpose of identifying and recommending to the Government a person for nomination as the Police Ombudsman or the Deputy Police Ombudsman, as the case may be.
- (5) The Minister shall agree with the Service the selection criteria and the recruitment process that are to apply to a selection competition under this section.
- (6) A person shall not be recommended for nomination by the Service under this section unless the Service is satisfied that the person is suitable for appointment as the Police Ombudsman or the Deputy Police Ombudsman, as the case may be, by reason of his or her possessing such relevant experience, qualifications, training and expertise as are appropriate having regard, in particular, to the functions of the Police Ombudsman or the Deputy Police Ombudsman, as the case may be, under this Act.
- (7) A person shall not be eligible for nomination under *subsection (3)(a)* or appointment under *subsection (1)* or *(2)* if he or she—
  - (a) is a member of either House of the Oireachtas,
  - (b) is entitled under the rules of the European Parliament to sit in that Parliament,
  - (c) is a member of a local authority,
  - (d) is or has been a member of garda personnel, or
  - (e) is a member of the Authority.
- (8) A person who holds judicial office in a superior court or the Circuit Court may, without relinquishing that office, be appointed under *subsection (1)* or *(2)*, but, unless otherwise provided by the terms of his or her appointment, he or she shall not, while appointed as the Police Ombudsman or the Deputy Police Ombudsman, as the case may be, be required to carry out duties under statute as the holder of that judicial office.
- (9) *Schedule 5* applies where a person who holds a judicial office referred to in *subsection (8)* is appointed as the Police Ombudsman or the Deputy Police Ombudsman.

**Disapplication in exceptional circumstances of *section 171(4)***

- 172.** (1) This section applies where—

- (a) there is a vacancy in the office of the Police Ombudsman, and
  - (b) the Minister is of the opinion that, notwithstanding *section 175*, due to exceptional circumstances it is in the public interest that a person be recommended to the Government for nomination as the Police Ombudsman without delay.
- (2) Where this section applies, the Minister may recommend to the Government a person who holds judicial office in a superior court or the Circuit Court for nomination under *section 171(3)(a)* as the Police Ombudsman.
- (3) Where the Minister makes a recommendation under *subsection (2)*—
- (a) *section 171(4)* shall not apply, and
  - (b) *subsection (6)* of *section 171* shall apply to the recommendation subject to the following modifications:
    - (i) the reference in that subsection to the Service shall be construed as a reference to the Minister,
    - (ii) the reference in that subsection to under this section shall be construed as a reference to under *section 172(2)*, and
    - (iii) as if the references in that subsection to or the Deputy Police Ombudsman, as the case may be, were deleted.

### **Objectives, functions and powers of Police Ombudsman**

**173.** (1) The objectives of the Police Ombudsman shall be—

- (a) to promote public confidence in the processes for resolving complaints made by members of the public and in investigations under *Part 6*,
  - (b) to improve public understanding of the role and functions of the Police Ombudsman, and
  - (c) to ensure that his or her functions are performed in a timely, efficient and effective manner and in accordance with fair procedures.
- (2) The Police Ombudsman shall have the following functions:
- (a) to receive complaints by members of the public, in accordance with such systems and procedures as he or she may specify under *subsection (4)*, concerning members of garda personnel;
  - (b) to receive—
    - (i) referrals under *sections 202(3)*, *203(1)* and *205(7)* and notifications under *section 204(1)*, from the Garda Commissioner,
    - (ii) requests under *section 205(2)* and referrals under *section 205(3)*, from the Minister,
    - (iii) referrals from the Authority under *section 205(5)*, and

- (iv) disclosures of relevant wrongdoing referred to in *paragraph (a) or (b) of section 206(1)*;
  - (c) to carry out the duties and exercise the powers conferred on the Police Ombudsman under *Part 6* in relation to the matters referred to in *paragraphs (a) and (b)*;
  - (d) to undertake, in accordance with *Part 6*, investigations of other matters concerning members of garda personnel or the Garda Commissioner;
  - (e) to engage with An Garda Síochána to promote public understanding in respect of arrangements under *section 201(1)* for the handling of complaints suitable for resolution by An Garda Síochána;
  - (f) to report the results of investigations under *Part 6* (including making such recommendations as are appropriate) to the Garda Commissioner, the Minister or the Authority, as the case may be;
  - (g) where *section 214(1)* applies, to report the results of investigations under *Part 6* to the Director of Public Prosecutions and send him or her a copy of each investigation file;
  - (h) to prepare, in accordance with *section 200(1)*, a draft list of categories of complaints suitable for resolution by An Garda Síochána;
  - (i) to make arrangements with the Garda Commissioner by protocols in writing pursuant to *section 223(1)* concerning the matters referred to in that section;
  - (j) to undertake research and analysis in order to identify trends and patterns arising from the performance of his or her functions under *Part 6*;
  - (k) to ensure that the Office of the Police Ombudsman has appropriate policies, plans and actions in place to enable compliance with its obligations under section 42 of the Irish Human Rights and Equality Commission Act 2014;
  - (l) to make arrangements for the sharing of information by him or her with such other public bodies as he or she considers appropriate;
  - (m) to perform any other functions that are assigned to him or her by or under this Act or any other enactment.
- (3) The Police Ombudsman shall have all such powers as are necessary or expedient for the performance of his or her functions.
- (4) The Police Ombudsman shall establish and maintain systems and procedures for the receipt and handling of complaints and the conduct of investigations under *Part 6*.
- (5) In establishing and maintaining systems and procedures under *subsection (4)*, the Police Ombudsman shall have regard to the need for him or her to perform his or her functions in a timely, efficient and effective manner and in accordance with fair procedures.
- (6) The Police Ombudsman shall furnish to the Minister such information regarding the performance of his or her functions as the Minister may, from time to time, request.

- (7) The Police Ombudsman shall keep the Minister informed of matters relevant to the accountability of the Government to the Houses of the Oireachtas.
- (8) Subject to this Act, the Police Ombudsman shall be independent in the performance of his or her functions.

**Terms of appointment and conditions of office of Police Ombudsman and Deputy Police Ombudsman**

- 174.** (1) Subject to this Part, a person appointed under *subsection (1) of section 171* as the Police Ombudsman or under *subsection (2) of that section* as the Deputy Police Ombudsman shall hold office for a period of 6 years.
- (2) Notwithstanding *subsection (1)*, the appointment of a person under *section 171(1)* as the Police Ombudsman on the nomination of the Government following his or her being recommended by the Minister under *section 172(2)* shall be for such period, not exceeding 3 years, as the Minister shall determine at the time of appointment.
  - (3) Subject to this Part, a person appointed under *subsection (1) of section 171* as the Police Ombudsman or under *subsection (2) of that section* as the Deputy Police Ombudsman may be reappointed once only to the office concerned for a further period of 6 years.
  - (4) Notwithstanding *subsection (3)*, a person, appointed under *section 171(1)* as the Police Ombudsman on the nomination of the Government following his or her being recommended by the Minister under *section 172(2)*, may be reappointed twice to the office and shall—
    - (a) on the first such reappointment, hold office for a period of 6 years, and
    - (b) on the second such reappointment, not hold office for periods the aggregate of which exceeds 12 years.
  - (5) Where the Government propose nominating a person for reappointment, *section 171*, other than *subsections (4) to (6)* of that section, shall apply to that proposal.
  - (6) Notwithstanding *subsection (8)*, where the Government propose nominating a person for reappointment, appointed under *section 171(1)* as the Police Ombudsman on the nomination of the Government following his or her being recommended by the Minister under *section 172(2)*, *section 171* shall apply to the proposal in relation to the first such reappointment.
  - (7) The Police Ombudsman and the Deputy Police Ombudsman shall hold office upon such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as may be determined by the Minister with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, at the time of appointment or reappointment.
  - (8) A person who holds the office of Police Ombudsman or Deputy Police Ombudsman may resign from the office concerned by notice in writing addressed to the President and copied to the Minister and the resignation shall take effect on the date the



President receives the notice or, if a date is specified in the notice and the President agrees to that date, on that date.

- (9) A person who holds the office of Police Ombudsman or Deputy Police Ombudsman may be removed from office by the President, but only for stated misbehaviour or for incapacity, and then only on a resolution passed by each House of the Oireachtas calling for the removal.
- (10) A person shall be disqualified from holding and shall cease to hold office as the Police Ombudsman or the Deputy Police Ombudsman, if he or she is—
  - (a) nominated as a member of Seanad Éireann,
  - (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,
  - (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to be a member of the European Parliament, or
  - (d) elected or co-opted as a member of a local authority.
- (11) A person who holds the office of Police Ombudsman or Deputy Police Ombudsman shall not hold any other office or employment in respect of which emoluments are payable.

#### **Power of Deputy Police Ombudsman to perform functions of Police Ombudsman**

- 175.** (1) Subject to this section, the Deputy Police Ombudsman may perform the functions of the Police Ombudsman during any period when the Police Ombudsman is unable to perform his or her functions.
- (2) The Deputy Police Ombudsman may perform the functions of the Police Ombudsman pursuant to *subsection (1)*—
    - (a) for a period not exceeding 2 months, or
    - (b) with the consent of the Minister, for a period exceeding 2 months.
  - (3) Where the Deputy Police Ombudsman is performing the functions of the Police Ombudsman under this section, references in this Act and any other enactment to the Police Ombudsman shall be construed as references to the Deputy Police Ombudsman.
  - (4) In this section, a reference to the Police Ombudsman being unable to perform his or her functions means—
    - (a) the Police Ombudsman being absent or incapacitated, or
    - (b) the office of the Police Ombudsman being vacant.

**Officers of Police Ombudsman**

- 176.** (1) The Police Ombudsman may, with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, appoint such and so many persons as officers of the Police Ombudsman (in this Act referred to as an “officer of the Police Ombudsman”) as the Police Ombudsman may determine.
- (2) The terms and conditions of service of an officer of the Police Ombudsman, and the grade at which he or she serves, shall be such as may be determined from time to time by the Police Ombudsman with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform.
- (3) An officer of the Police Ombudsman shall be a civil servant in the Civil Service of the State.
- (4) The Police Ombudsman shall be the appropriate authority (within the meaning of the Act of 2004 and the Civil Service Regulation Acts 1956 to 2005) in relation to officers of the Police Ombudsman.
- (5) Any person who, immediately before the coming into operation of this section, was appointed under section 71 of the Act of 2005 as an officer of the Garda Síochána Ombudsman Commission shall, on and after such coming into operation, be deemed to have been appointed under *subsection (1)* on such terms and conditions of service (including terms and conditions relating to remuneration and allowances) as are not less favourable than the terms and conditions of service (including terms and conditions relating to remuneration and allowances) to which the person was subject immediately before such coming into operation.

**Designated officers and senior designated officers**

- 177.** (1) The Police Ombudsman may appoint in writing a person who is—
- (a) appointed under *section 176(1)* as an officer of the Police Ombudsman,
  - (b) deemed under *section 176(5)* to be so appointed, or
  - (c) engaged by the Police Ombudsman under *section 181*,
- to be a designated officer for the purposes of any of the provisions of *Part 6*.
- (2) The Police Ombudsman may appoint in writing any designated officer to be a senior designated officer for the purposes of any of the provisions of *Part 6*.
- (3) The Police Ombudsman shall provide each person appointed under this section with a warrant card identifying the person and specifying whether the person is appointed as a designated officer or a senior designated officer.
- (4) A person provided with a warrant card shall carry it at all times while performing functions under *Part 6* and, where requested by any person affected by the performance of such functions, shall produce the card for inspection.
- (5) In any legal proceedings, a certificate signed by the Police Ombudsman or the Deputy Police Ombudsman and stating that the person named in the certificate was a

designated officer or senior designated officer of the Police Ombudsman for the purposes of any of the provisions of *Part 6* on the date or dates specified in the certificate shall, unless the contrary is shown, be evidence of the matters stated therein, without further proof, including proof of the signature of the Police Ombudsman or the Deputy Police Ombudsman, as the case may be.

### **Appointment of chief executive officer of Police Ombudsman**

- 178.** (1) The Police Ombudsman shall, with the consent of the Minister, appoint a person to be the chief executive officer of the Office of the Police Ombudsman (in this Part referred to as the “chief executive officer”).
- (2) The Minister may, before the coming into operation of *section 170*, designate a person to be appointed as the first chief executive officer.
- (3) Where, immediately before the coming into operation of *section 170*, a person stands designated under *subsection (2)*, that person shall, on such coming into operation, stand appointed as the first chief executive officer.
- (4) A person appointed as the chief executive officer shall—
- (a) hold office under a contract of service in writing (which contract may be renewed) for such period as is specified in the contract and subject to such terms and conditions (including terms and conditions relating to remuneration and superannuation) as are determined by the Police Ombudsman with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, and
- (b) be paid out of moneys at the disposal of the Office of the Police Ombudsman.
- (5) The chief executive officer shall—
- (a) have such experience, qualifications, training and expertise as are appropriate for the appointment, and
- (b) be appointed by the Police Ombudsman following a selection competition undertaken in accordance with the Act of 2004.
- (6) The chief executive officer shall not hold any other office or occupy any position in respect of which remuneration is payable, or carry on any business, trade or profession, without the consent of the Police Ombudsman.
- (7) The chief executive officer shall have the following functions:
- (a) to implement the policies and decisions of the Police Ombudsman;
- (b) to carry on and manage, and control generally, the staff, administration and business of the Office of the Police Ombudsman;
- (c) to perform such other functions (if any) as may be determined by the Police Ombudsman or as may be authorised under this Act or any other enactment.

- (8) The chief executive officer shall provide to the Police Ombudsman such information, including financial information, in relation to the performance of his or her functions referred to in *subsection (7)*, as the Police Ombudsman may require.
- (9) The chief executive officer may be removed or suspended from office by the Police Ombudsman, with the consent of the Minister, for stated reasons.
- (10) Where the chief executive officer—
  - (a) dies, resigns or is removed from office, or
  - (b) is for any reason temporarily unable to continue to perform his or her functions,  
the Police Ombudsman may designate such officer or officers of the Police Ombudsman as he or she considers appropriate to perform the functions of the chief executive officer until—
    - (i) where *paragraph (a)* applies, a new chief executive officer is appointed in accordance with this section,
    - (ii) where *paragraph (b)* applies, the chief executive officer is able to resume the performance of his or her functions, or
    - (iii) the Police Ombudsman revokes or varies a designation made under this subsection.

### **Delegation of functions of Police Ombudsman**

- 179.** (1) Subject to *subsection (2)*, the Police Ombudsman may, in writing, delegate any of his or her functions, other than his or her functions under *section 210*—
- (a) to the Deputy Police Ombudsman,
  - (b) to the chief executive officer, or
  - (c) by grade, position, name or otherwise to—
    - (i) any officer of the Police Ombudsman, or
    - (ii) any person engaged under *section 181*.
- (2) Where a delegation under this section relates to the performance of a function assigned to the Police Ombudsman by or under any enactment, other than this Act, the Police Ombudsman shall not exercise the power under this section to delegate the function without the prior consent of the Minister in writing in relation to that function.
- (3) 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 Police Ombudsman at any time.

- (4) The delegation of a function under this section does not preclude the Police Ombudsman from performing the function.
- (5) Where the Police Ombudsman's functions are delegated to a person under this section, any references in that provision to the Police Ombudsman shall be construed as references to that person.
- (6) 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 Police Ombudsman.
- (7) A delegation under this section shall not cease to have effect by reason only of a change in the person lawfully acting as, or performing the functions of, the Police Ombudsman.
- (8) In any legal proceedings, a certificate purporting to be signed by the Police Ombudsman stating that a specified function of the Police Ombudsman was, on a specified date, delegated by him or her under this section to a specified person and specifying the restrictions or conditions (if any) imposed on the delegation shall, unless the contrary is shown, be evidence of the matters stated therein without further proof, including proof of the signature of the Police Ombudsman.

#### **Power of Police Ombudsman to engage consultants and advisers and to enter into contracts**

- 180.** (1) The Police Ombudsman, with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, may—
- (a) engage such consultants or advisers as he or she considers necessary to assist in the performance of his or her functions, and
  - (b) enter into a contract with any person or body concerning any matter arising in relation to his or her functions.
- (2) There shall be paid out of the resources at the disposal of the Office of the Police Ombudsman, to consultants, advisers, persons or bodies referred to in *subsection (1)*, such fees (if any) or allowances for expenses (if any) incurred by the consultant, adviser, person or body, as the case may be, as the Police Ombudsman, with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, may determine.
- (3) The engagement of a consultant or adviser under *paragraph (a)* of *subsection (1)* and a contract under *paragraph (b)* of that subsection shall be for such period and on such terms and conditions as the Police Ombudsman considers appropriate.

#### **Special assistance**

- 181.** (1) The Police Ombudsman may, for the purposes of performing his or her functions, enter into arrangements—

- (a) with the Garda Commissioner for the engagement by the Police Ombudsman of eligible members of garda personnel,
  - (b) with any police service or law enforcement agency outside the State for the engagement by the Police Ombudsman of police officers from that service or agency, or
  - (c) with any other body for the engagement by the Police Ombudsman of other persons.
- (2) Arrangements under *subsection (1)* may provide for persons to be engaged (on contract or otherwise) for a period of temporary service with the Office of the Police Ombudsman.
- (3) Where a person is—
- (a) a member of An Garda Síochána, another police service, law enforcement agency or other body,
  - (b) engaged under this section for a period of temporary service with the Office of the Police Ombudsman, and
  - (c) designated by the Police Ombudsman for the purpose of conducting an investigation (within the meaning of *Part 6*),
- he or she shall have, in relation to such investigation only, the powers, immunities and privileges conferred, and the duties imposed, under *sections 209 to 211*.
- (4) During a period of temporary service pursuant to an arrangement under this section—
- (a) a member of garda personnel shall continue to be paid as a member of garda personnel but shall not be subject to the direction or control of the Garda Commissioner,
  - (b) a member of garda personnel’s service with the Office of the Police Ombudsman shall be regarded as service with An Garda Síochána for pension, promotion and seniority purposes, and
  - (c) a member of An Garda Síochána shall be entitled to claim compensation under the Garda Síochána (Compensation) Act 2022 for injuries inflicted as a result of a malicious incident within the meaning of that Act in the course of, or in relation to, the carrying out of his or her duties with the Office of the Police Ombudsman as if he or she had not been on such service and the injuries had been received in the course of, or in relation to, the carrying out of his or her duties as such a member.
- (5) Where the Garda Síochána Ombudsman Commission entered into an arrangement under section 74 of the Act of 2005 prior to the repeal of that section by *section 5* and the arrangement is in force immediately before that repeal, the arrangement shall be deemed to have been entered into under this section to the extent that it is so in force.
- (6) In this section, “eligible member of garda personnel” means—
- (a) a member of garda personnel below the rank of Garda Commissioner, and

(b) a member of garda staff,

who has offered in writing to be available during a specified temporary period for service under an arrangement under this section and whose offer has been accepted by the Garda Commissioner.

**Power of Police Ombudsman to enter into agreements with law enforcement agencies or other relevant persons or bodies outside State**

- 182.** (1) The Police Ombudsman may, with the consent of the Government, enter into an agreement with a relevant person or body for the purpose of facilitating the performance by each party to the agreement of their respective functions.
- (2) An agreement under *subsection (1)* may provide for—
- (a) cooperation between the parties,
  - (b) the exchange of information between the parties, or
  - (c) such other matters as the Police Ombudsman thinks fit.
- (3) Subject to the Data Protection Regulation and the Data Protection Acts 1988 to 2018, the Police Ombudsman may, pursuant to and in accordance with the terms of an agreement under *subsection (1)*, provide information to, and receive information from, the other party to the agreement.
- (4) Where the Garda Síochána Ombudsman Commission entered into an agreement under section 81A of the Act of 2005 with a relevant person or body (within the meaning of that section) prior to the repeal of that section by *section 5* and the agreement is in force immediately before that repeal, the agreement shall be deemed to have been entered into under this section to the extent that it is so in force.
- (5) In this section, “relevant person or body” means—
- (a) a police service or other law enforcement agency outside the State, or
  - (b) a person or body outside the State in whom, or in which, functions are vested under the law of a place other than the State that are equivalent, or similar, to the functions of the Police Ombudsman under this or any other enactment.

CHAPTER 3

*Governance and accountability of Police Ombudsman*

**Governance framework of Office of Police Ombudsman**

- 183.** (1) The Police Ombudsman shall, as soon as practicable after the coming into operation of *section 170*, submit to the Minister a framework (in this section referred to as the “governance framework”) that includes an outline of—
- (a) the guiding principles applicable to the Office of the Police Ombudsman as a public body having functions in relation to the open and effective investigation of complaints and other matters in relation to An Garda Síochána,

- (b) the managerial, organisational and governance structures of the Office of the Police Ombudsman, including the roles and responsibilities of the Police Ombudsman, the Deputy Police Ombudsman and the chief executive officer,
  - (c) the processes and guidelines to be followed by the Police Ombudsman to ensure compliance with the requirements under this Act or any other enactment to report in relation to the functions, operations or other related matters imposed on the Police Ombudsman by or under this Act or any other enactment, and
  - (d) the Office of the Police Ombudsman's internal controls, including its procedures relating to internal audits, risk management, public procurement, financial reporting and protected disclosures.
- (2) The Police Ombudsman shall review the governance framework periodically and at such times as may be specified by the Minister and shall revise the framework as the Police Ombudsman considers appropriate.
- (3) Where the Police Ombudsman revises the governance framework, he or she shall submit the revised framework to the Minister.
- (4) The Police Ombudsman shall ensure that, as soon as practicable after the governance framework or revised governance framework is submitted to the Minister, such framework is published on a website maintained by or on behalf of the Office of the Police Ombudsman or in such other manner as the Police Ombudsman considers appropriate.

#### **Strategy statement of Office of Police Ombudsman**

- 184.** (1) The Police Ombudsman shall prepare and submit to the Minister a strategy statement in respect of the period of 3 years immediately following the year in which the strategy statement is so submitted—
- (a) as soon as practicable after the coming into operation of *section 170*, and
  - (b) thereafter not earlier than 6 months before, and not later than, the expiration of each subsequent period of 3 years following that coming into operation.
- (2) A strategy statement under this section shall—
- (a) include the key objectives, outputs and related strategies of the Police Ombudsman, including the use of resources in relation to the period to which the statement relates, and
  - (b) except in the case of the strategy statement first prepared under this section, include a review and evaluation of the work of the Police Ombudsman in the performance of his or her functions in the previous 3 years.
- (3) In preparing a strategy statement under this section, the Police Ombudsman shall have regard to the need to ensure the most beneficial and efficient use of the resources of the Office of the Police Ombudsman.



- (4) The Police Ombudsman shall, before submitting a strategy statement to the Minister under *subsection (1)*—
  - (a) publish, in such manner as he or she considers appropriate, a draft of the strategy statement,
  - (b) allow persons 30 days from the date of publication under *paragraph (a)* within which to make representations in writing to the Police Ombudsman with regard to the draft of the strategy statement, and
  - (c) having considered the representations (if any) made pursuant to *paragraph (b)*, submit the strategy statement to the Minister with or without modifications.
- (5) The Minister shall cause a strategy statement received by him or her under *subsection (1)* to be laid before each House of the Oireachtas as soon as practicable after it is received.
- (6) The Police Ombudsman shall ensure that, as soon as practicable after a copy of a strategy statement is laid before each House of the Oireachtas, the statement is published on a website maintained by or on behalf of the Office of the Police Ombudsman or in such other manner as the Police Ombudsman considers appropriate.

#### **Annual reports and special reports by Police Ombudsman**

- 185.** (1) The Police Ombudsman shall, not later than 3 months after the end of each year, prepare and submit to the Minister a report on his or her activities during the preceding year (in this section referred to as an “annual report”).
- (2) An annual report shall include a statement of the Police Ombudsman’s arrangements for implementing and maintaining adherence to the governance framework of the Office of the Police Ombudsman.
  - (3) The Police Ombudsman may submit to the Minister reports (in this section referred to as a “special report”), in addition to an annual report, on matters that he or she considers appropriate to draw to the attention of the Minister that have come to the notice of the Police Ombudsman and that, in his or her opinion, require, due to the gravity of the matters or other exceptional circumstances, a special report to the Minister.
  - (4) Subject to *subsection (6)*, the Minister shall cause a copy of a report under this section to be laid before each House of the Oireachtas as soon as practicable after he or she receives it.
  - (5) The Police Ombudsman shall ensure that, as soon as practicable after a copy of a report under this section is laid before each House of the Oireachtas, the report as laid is published on a website maintained by or on behalf of the Office of the Police Ombudsman or in such other manner as the Police Ombudsman considers appropriate.
  - (6) The Minister may exclude from the copy of a report under this section to be laid before each House of the Oireachtas any matter that, in his or her opinion—
    - (a) would be prejudicial to the interests of the security of the State, or

- (b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

**Standards of integrity, codes of ethics for Police Ombudsman, Deputy Police Ombudsman, officers of the Police Ombudsman, advisers or consultants, etc.**

**186.** (1) In performing functions under this Act—

- (a) the Police Ombudsman,
- (b) the Deputy Police Ombudsman,
- (c) the chief executive officer,
- (d) an officer of the Police Ombudsman,
- (e) a person engaged by the Police Ombudsman under *section 180* as a consultant or adviser,
- (f) a person engaged by the Police Ombudsman under *section 181*, or
- (g) subject to *subsection (2)*, an employee or contractor of a person referred to in *paragraph (e)*,

shall maintain proper standards of integrity, conduct and concern for the public interest.

- (2) *Subsection (1)* applies to an employee or contractor of a person referred to in *paragraph (e)* of that subsection in respect only of the duties of employment or the contract, as the case may be, relating to the purposes for which the Police Ombudsman has engaged that person.
- (3) For the purposes of *subsection (1)*, the Police Ombudsman shall issue a code of ethics for the guidance of persons to whom that subsection applies.
- (4) A code of ethics issued under *subsection (3)* shall set out the standards of integrity and conduct to be maintained by the persons to whom it applies in performing their functions under this Act.
- (5) A person to whom such a code of ethics issued under *subsection (3)* applies shall act in accordance with the code in performing his or her functions under this Act.
- (6) Where a person is an employee of a person engaged by the Police Ombudsman under *section 180* as an adviser or consultant, his or her terms and conditions shall be deemed to include the requirements that apply to the employer under *subsection (5)*.
- (7) Subject to *subsection (8)*, the Police Ombudsman shall, as soon as practicable after issuing a code of ethics under *subsection (3)*, make the code available to the persons to whom *subsection (1)* applies.
- (8) The Police Ombudsman shall provide a copy of a code of ethics issued under *subsection (3)* to a person engaged by him or her as a consultant or adviser under

*section 180* and the person so engaged shall make that copy available to his or her employees or contractors to whom *subsection (1)(g)* applies.

- (9) A document purporting to be a code of ethics issued under this section is, in the absence of evidence to the contrary, to be taken to be such code and is admissible as such in any proceedings before a court or other tribunal.
- (10) Any provision of a code of ethics issued under *subsection (3)* that appears to a court or other tribunal to be relevant to a question in the proceedings before the court or other tribunal, as the case may be, may be taken into account by it in determining the question.

### **Accountability for accounts of Office of Police Ombudsman**

- 187.** (1) The chief executive officer shall be the accounting officer in relation to the appropriation accounts of the Office of the Police Ombudsman for the purposes of the Comptroller and Auditor General Acts 1866 to 1998.
- (2) Whenever required to do so by the Committee of Public Accounts, the chief executive officer shall give evidence to it on the following matters:
- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or record of account subject to audit by the Comptroller and Auditor General;
  - (b) the economy and the efficiency of the Office of the Police Ombudsman in using its resources;
  - (c) the systems, procedures and practices employed by the Office of the Police Ombudsman for evaluating the effectiveness of its operations;
  - (d) any matter affecting the Office of the Police Ombudsman that is referred to in—
    - (i) a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or
    - (ii) any other report of the Comptroller and Auditor General that is laid before Dáil Éireann in so far as the report relates to a matter specified in *paragraph (a), (b) or (c)*.
- (3) In carrying out duties under *subsection (2)*, the chief executive officer shall not—
- (a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy,
  - (b) discuss matters relating to the security of the State,
  - (c) provide information, other than financial information, relating to specific criminal investigations or prosecutions except an investigation or prosecution relating to money or assets for which he or she is the accounting officer, or
  - (d) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of any person.

**Attendance of relevant person before other Oireachtas committees**

- 188.** (1) Subject to *subsection (2)*, a relevant person shall, at the request in writing of an Oireachtas committee, attend before it to give account for the general administration of the Office of the Police Ombudsman.
- (2) A relevant person shall not be required to give account before an Oireachtas committee for any matter which is, has been or may at a future time be, the subject of proceedings before a court or tribunal in the State.
- (3) A relevant person shall, where of the opinion that *subsection (2)* applies to a matter about which he or she is requested to give an account before an Oireachtas committee, inform the committee of that opinion and the reasons for the opinion.
- (4) The information required under *subsection (3)* shall be given to the Oireachtas committee in writing unless it is given when the relevant person is before the committee.
- (5) Where, on being informed of the relevant person's opinion about the matter, the Oireachtas committee decides not to withdraw its request relating to the matter, the High Court may, on application under *subsection (6)*, determine whether *subsection (2)* applies to the matter.
- (6) A relevant person or the Oireachtas committee may apply in a summary manner to the High Court for a determination under *subsection (5)*, but only where the application is made within 21 days after the date on which the relevant person is informed of the committee's decision not to withdraw its request.
- (7) Pending the determination under *subsection (5)* of an application under *subsection (6)*, the relevant person shall not attend before the Oireachtas committee to give account for the matter that is the subject of the application.
- (8) Where the High Court determines under *subsection (5)* that *subsection (2)* applies to the matter, the Oireachtas committee shall withdraw its request in so far as it relates to the matter, but where the Court determines under *subsection (5)* that *subsection (2)* does not apply, the relevant person shall attend before the committee to give account for the matter.
- (9) In carrying out duties under this section, a relevant person shall not—
- (a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy,
  - (b) discuss matters relating to the security of the State,
  - (c) provide information, other than financial information, relating to specific criminal investigations or prosecutions except an investigation or prosecution relating to money or assets for which he or she is the accounting officer, or
  - (d) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of any person.

- (10) In this section, “relevant person” means the Police Ombudsman or the chief executive officer.

### **Immunity and indemnification**

**189.** (1) This section applies to—

- (a) the Police Ombudsman or former Police Ombudsman,
  - (b) the Deputy Police Ombudsman or former Deputy Police Ombudsman, and
  - (c) an officer of the Police Ombudsman or former officer of the Police Ombudsman.
- (2) A person to whom this section applies shall not be liable in damages in respect of any act done or omitted to be done by him or her in the performance, or purported performance, of his or her functions under this Act, unless the act or omission concerned was done in bad faith.
- (3) The State shall, subject to the provisions of any enactment or rule of law, indemnify a person to whom this section applies in respect of any act done or omitted to be done by the person in the performance, or purported performance, of his or her functions under this Act, unless the act or omission was done in bad faith.

## CHAPTER 4

### *Miscellaneous (Part 5)*

### **Qualified privilege for certain statements and publications**

**190.** (1) A statement that, in the course of a discussion at a meeting of the Police Ombudsman, is made in any form and without malice by—

- (a) the Police Ombudsman,
  - (b) the Deputy Police Ombudsman,
  - (c) an officer of the Police Ombudsman, or
  - (d) a person attending the meeting at the request of the Police Ombudsman, the Deputy Police Ombudsman or an officer of the Police Ombudsman,
- shall be privileged for the purposes of the law of defamation.
- (2) For the purposes of the law of defamation any subsequent publication without malice of a statement referred to in *subsection (1)* shall be privileged.
- (3) Where the statements in a document of, or in a report by, the Police Ombudsman, the Deputy Police Ombudsman or any officers of the Police Ombudsman are made without malice, any subsequent publication of the document or report is privileged for purposes of the law of defamation.
- (4) For the purposes of this section, a statement made by, or a document or report of, a person to whom a function is delegated under *section 179* is deemed to be—

- (a) a statement made by the Police Ombudsman, or
- (b) a document of, or a report made by, the Police Ombudsman,

if the statement, document or report, as the case may be, is connected with the performance of the delegated function.

### **Confidentiality of information obtained by Police Ombudsman**

**191.** (1) A person who—

- (a) was a member of the Garda Síochána Ombudsman Commission,
- (b) is or was the Police Ombudsman, the Deputy Police Ombudsman or the chief executive officer,
- (c) was an officer of the Garda Síochána Ombudsman Commission,
- (d) is or was an officer of the Police Ombudsman,
- (e) is or was under contract with or engaged by the Garda Síochána Ombudsman Commission or the Police Ombudsman, or
- (f) is or was an employee or contractor of a person to whom *paragraph (e)* applies,

shall not disclose, in or outside the State, unless he or she is required or permitted by law or duly authorised by the Police Ombudsman in furtherance of his or her functions, any information obtained in the course of carrying out the duties of that person's office, employment, contract or other arrangement with the Garda Síochána Ombudsman Commission or the Office of the Police Ombudsman, as the case may be, whether obtained before or after the repeal of the Act of 2005 by *section 5*, where that disclosure is likely to have a harmful effect and the person knows or believes that the disclosure is likely to have such an effect.

(2) For the purpose of this section, the disclosure of information referred to in *subsection (1)* is likely to have a harmful effect where it is likely to—

- (a) facilitate the commission of an offence,
- (b) prejudice the safekeeping of a person in legal custody,
- (c) impede the prevention, detection or investigation of an offence,
- (d) impede the apprehension or prosecution of a suspected offender,
- (e) impede an investigation under *Part 6* or otherwise prejudice the effective performance of the functions of the Police Ombudsman,
- (f) result in the identification of a person who is—
  - (i) a complainant (within the meaning of *Part 6*),
  - (ii) the subject of a complaint, or
  - (iii) the subject of any matter under investigation by the Police Ombudsman or An Garda Síochána,

where his or her identity is not at the time of the disclosure a matter of public knowledge,

- (g) result in the publication of information that—
    - (i) relates to a person referred to in *subparagraph (i), (ii) or (iii) of paragraph (f)* or who has given evidence to the Police Ombudsman or An Garda Síochána, and
    - (ii) is of such a nature that its publication would be likely to discourage the person to whom the information relates or any other person from reporting a complaint or giving evidence to the Police Ombudsman or An Garda Síochána,
  - (h) result in the publication of personal information (within the meaning of the Freedom of Information Act 2014) relating to a person that constitutes an unwarranted and serious infringement of that person's right to privacy,
  - (i) reveal information provided in confidence by another state, an international organisation, another police service or an intelligence service, or
  - (j) affect adversely the international relations or interests abroad of the State, including those with Northern Ireland.
- (3) For the purpose of this section, a person is presumed, unless the contrary is proved, to know that disclosure of information referred to in *subsection (1)* is likely to have a harmful effect if a reasonable person would, in all the circumstances, be aware that its disclosure could have that effect.
- (4) In any proceedings for an offence under this section it shall be a defence to show that the disclosure was—
- (a) made to—
    - (i) the Minister,
    - (ii) the Attorney General,
    - (iii) the Director of Public Prosecutions,
    - (iv) the Chief State Solicitor,
    - (v) the Criminal Assets Bureau,
    - (vi) the Comptroller and Auditor General or the staff of the Office of the Comptroller and Auditor General,
    - (vii) the Garda Commissioner,
    - (viii) the Authority,
    - (ix) the Revenue Commissioners,
    - (x) the State Claims Agency,
    - (xi) the Child and Family Agency,

- (xii) a member of either of the Houses of the Oireachtas where relevant to the proper discharge of that member's functions,
  - (xiii) a court, or
  - (xiv) a tribunal appointed under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011, a commission of investigation established under the Commissions of Investigation Act 2004 or a committee (within the meaning of section 2 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013) for the purposes of a Part 2 inquiry (within the meaning of that section) under that Act,
- (b) made under *Part 6* to a person in relation to—
- (i) a complaint made by the person, or
  - (ii) an investigation concerning the person,
- (c) made in the course of, and in accordance with, the duties of that person's office or employment or of his or her duties under a contract or other arrangement to work with or for the Police Ombudsman, or
- (d) reasonably believed by the person who made the disclosure to be required or permitted by law, duly authorised by the Police Ombudsman in furtherance of his or her functions or made in accordance with *paragraph (a), (b) or (c)*.
- (5) A person who contravenes *subsection (1)* is guilty of an offence and is liable—
- (a) on summary conviction, to a class C fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.
- (6) A person who contravenes *subsection (1)* and who receives any gift, consideration or advantage as an inducement to disclose the information to which the contravention relates or as a reward for, or otherwise on account of, the disclosure of that information, is guilty of an offence and is liable—
- (a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €75,000 or imprisonment for a term not exceeding 7 years, or both.
- (7) In any proceedings for an offence under this section, it shall not be necessary to prove that the disclosure had a harmful effect.
- (8) The provisions of this section are in addition to, and not in substitution for, the provisions of the Act of 1963.



**Final accounts and final annual report of Garda Síochána Ombudsman Commission**

- 192.** (1) The chief executive officer shall, in respect of an ordinary financial year of the Garda Síochána Ombudsman Commission or such other period as the Minister may specify under *subsection (3)*, prepare accounts of the Garda Síochána Ombudsman Commission (in this section referred to as “final accounts”).
- (2) The chief executive officer shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after the coming into operation of this section and, immediately after the audit, a copy of the accounts and a copy of the Comptroller and Auditor General’s report on the accounts shall be presented to the Minister.
- (3) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than an ordinary financial year of the Garda Síochána Ombudsman Commission.
- (4) The Police Ombudsman shall prepare the final annual report for the Garda Síochána Ombudsman Commission and submit the report to the Minister not later than 6 months after the coming into operation of this section.
- (5) *Subsections (4) and (5) of section 185* shall apply to a copy of the final accounts, the report under *subsection (2)* on such accounts and the final annual report under *subsection (4)* as it applies to a report under that section with any necessary modifications.

## PART 6

## COMPLAINTS, INVESTIGATIONS AND OTHER MATTERS

## CHAPTER 1

*Preliminary and General (Part 6)***Interpretation (Part 6)**

- 193.** (1) In this Part—

“abuse of power for a sexual purpose” means any behaviour by a member of garda personnel which takes advantage of his or her position as such a member to misuse his or her position, authority or powers for a sexual purpose or an improper emotional relationship with any other person;

“Act of 2014” means the Protected Disclosures Act 2014;

“admissible complaint”, other than in *section 228(2)*, means a complaint determined in accordance with *section 198* by the Police Ombudsman to be admissible;

“approved list” has the meaning assigned to it by *section 200(3)*;

“complainant” means a person who makes a complaint under *section 196(1)*;

“curtilage”, in relation to a Garda Síochána premises, means an area immediately surrounding, or adjacent to, such premises which is used in conjunction with such premises other than any part of that area that is a public place;

“dismissal proceedings” means any measures that may be taken by the Garda Commissioner pursuant to *section 48, 50(3) or 51*;

“Garda Commissioner” includes a Deputy Garda Commissioner, or an Assistant Garda Commissioner, performing the functions of the Garda Commissioner under *section 28*;

“Garda Síochána premises” means any premises, or part thereof, where a member of garda personnel is stationed or assigned, including—

- (a) the curtilage to such premises, and
- (b) any of the following that is used by such a member in the course of carrying out his or her duties—
  - (i) a vehicle, whether mechanically propelled or not,
  - (ii) a vessel, whether sea-going or not,
  - (iii) an aircraft, whether capable of operation or not, or
  - (iv) a hovercraft;

“incident of concern” in relation to a member of garda personnel, means any act or omission—

- (a) that is not and has not been the subject of a complaint or a referral under *section 203(1)*, and
- (b) in relation to which there is an allegation that the person who—
  - (i) is a serving member of garda personnel, or
  - (ii) at the time of the act or omission concerned, was a member of garda personnel,may have—
  - (I) committed an offence, or
  - (II) behaved in a manner that constitutes notifiable misconduct;

“investigation”, in relation to an investigation by the Police Ombudsman, means, other than in *section 227*, an investigation under *section 208*;

“members of garda personnel” has the meaning assigned to it by *section 44* but does not include the serving Garda Commissioner;

“misconduct”—

- (a) in relation to the conduct of a member of An Garda Síochána—

- (i) occurring after the coming into operation of *section 257*, means a breach by the member of the standards of professional behaviour, and
- (ii) occurring before the coming into operation of *section 257*, means conduct that would, at the time it occurred, have been a breach of discipline within the meaning of Part 4 of the Act of 2005,

and

- (b) in relation to the conduct of a member of garda staff, means a breach by the member of the standards of professional behaviour;

“notifiable misconduct” means misconduct that—

- (a) would justify the bringing of conduct proceedings, and
- (b) is of a type that has been prescribed by the Minister under *subsection (2)*;

“performance proceedings”—

- (a) in relation to a member of An Garda Síochána, means the taking of measures in relation to the member under the Performance Regulations, and
- (b) in relation to a member of garda staff, means the taking of measures in relation to the member under any policy concerning the management of underperformance by such a member;

“protocols” means the protocols agreed pursuant to *section 223*;

“Regulations of 1987” means the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 (S.I. No. 119 of 1987);

“relevant arrangements” has the meaning assigned to it by *section 201(1)*;

“serious harm”, in relation to a person, means—

- (a) an injury to the person that—
  - (i) creates a substantial risk of death,
  - (ii) causes serious disfigurement, or
  - (iii) causes substantial loss or impairment of mobility of the body as a whole or of the function of any particular bodily member or organ,
- (b) he or she is the victim of a sexual offence, or
- (c) he or she is the victim of an abuse of power for a sexual purpose;

“sexual offence” has the same meaning as it has in the Sex Offenders Act 2001;

“suitable for resolution by An Garda Síochána”, in relation to a complaint, shall be construed in accordance with *section 199(2)*.

- (2) Subject to *section 252(2)*, the Minister shall, with reference to—
  - (a) the nature or gravity of the misconduct,

- (b) the seniority in rank or grade of a member of garda personnel,
  - (c) the nature of the duties which a member of garda personnel is assigned to undertake, or
  - (d) the importance of maintaining public confidence in the arrangements for the investigation of allegations of misconduct by a member of garda personnel,
- prescribe types of conduct for the purposes of *paragraph (b)* of the definition of “notifiable misconduct”.
- (3) A reference in this Part to an admissible complaint shall include a reference to a complaint that is determined to be admissible following a review under *section 224*.
  - (4) A reference in this Part to an investigation of a complaint shall include a reference to a complaint the investigation of which, as a result of a review under *section 224*, is not to be discontinued.

### Application of Part

- 194.** (1) A member of garda staff shall not be subject to a complaint or investigation under this Part until such time as the Minister has made an order for the purposes of *section 54(5)*.
- (2) Nothing in this Part shall be taken to limit—
- (a) the power of the Minister under *section 30*,
  - (b) the power of the Government under *section 31*, or
  - (c) the power of the Garda Commissioner under *section 48, 50(3) or 51*.

## CHAPTER 2

### *Complaints, investigations and other matters*

### Complaints by members of public

- 195.** (1) The following persons may make a complaint:
- (a) a relevant member of the public who has been directly affected by, or who has witnessed, the act or omission that is the subject of the complaint;
  - (b) a person acting on behalf of a relevant member of the public to whom *paragraph (a)* applies, where—
    - (i) the relevant member of the public consents in writing or orally to the complaint being made, or
    - (ii) the person so acting believes, because of the age or a physical or mental condition of the relevant member of the public, such member is incapable of giving the consent referred to in *subparagraph (i)*,

and the Police Ombudsman considers that, by reason of the person's relationship (including professional relationship) with, and his or her interest in the rights and welfare of, the relevant member of the public, he or she is a suitable person to make such a complaint.

- (2) Where a complaint is made on behalf of a relevant member of the public by a person to whom *paragraph (b) of subsection (1)* applies, any requirement in this Part to notify the complainant of any matter shall be construed as a requirement to notify that person.
- (3) Where a complaint is made by a person to whom *paragraph (a) of subsection (1)* applies and the person is a child between the ages of 16 and 18 years of age, the complaint may be treated as a complaint made by a person of full age and the consent of the parent or guardian of the child shall not be required.
- (4) In this section, "relevant member of the public" means a person other than—
  - (a) the serving Garda Commissioner,
  - (b) a member of An Garda Síochána, or
  - (c) a member of garda staff, in so far as the act or omission that is the subject of a complaint is connected with his or her employment as such a member.

#### **Making, recording of complaints, etc.**

- 196.** (1) Subject to *section 198*, a complaint concerning any act or omission of a member of garda personnel may be made by a person to whom *paragraph (a) or (b) of section 195(1)* applies to—
- (a) the Police Ombudsman, or
  - (b) An Garda Síochána.
- (2) A complaint made under *paragraph (b) of subsection (1)* may be made to—
- (a) the Garda Commissioner,
  - (b) a member of An Garda Síochána not below the rank of superintendent,
  - (c) a member of garda staff, who is of a grade that is equivalent to, or higher than, the rank of superintendent, or
  - (d) a member of garda personnel at a Garda Síochána station.
- (3) Subject to *subsection (9)*, a complaint made under *paragraph (b) of subsection (1)* shall be referred to the Police Ombudsman without delay.
- (4) The Police Ombudsman shall ensure that appropriate arrangements are in place—
- (a) for receiving, recording and acknowledging the receipt of complaints made under *paragraph (a) of subsection (1)*, and
  - (b) for recording the referral of complaints under *subsection (3)*.

- (5) The Garda Commissioner shall ensure that appropriate arrangements are in place—
  - (a) for receiving, recording and acknowledging the receipt of complaints made under *paragraph (b) of subsection (1)*, and
  - (b) for recording the referral of complaints to the Police Ombudsman under *subsection (3)*.
- (6) The Minister shall, not later than 3 years after the coming into operation of this section and at such further intervals as he or she considers appropriate, review the operation of this section in so far as it requires the referral to the Police Ombudsman under *subsection (3)* of complaints received by An Garda Síochána under *paragraph (b) of subsection (1)*.
- (7) The Minister shall, for the purposes of conducting a review under *subsection (6)*, consult with the Police Ombudsman, the Garda Commissioner and the Authority.
- (8) Where, arising from a review under *subsection (6)*, the Minister considers that the efficiency and effectiveness of the procedures for resolving complaints and public confidence in those procedures do not require complaints received by An Garda Síochána to be referred to the Police Ombudsman in all instances, the Minister may, subject to *section 252(2)*, by order specify a category or categories of complaints that are contained in the approved list to be a category or categories of complaint to which *subsection (3)* shall not apply.
- (9) Where the Minister makes an order under *subsection (8)*, a complaint which falls within a category specified in the order shall be considered in accordance with the relevant arrangements.

#### **Time limits for making complaints**

- 197.** (1) Subject to *subsections (2) and (4)*, a complaint shall be made within the period of 12 months beginning on the date of the act or omission giving rise to the complaint.
- (2) The Police Ombudsman may authorise an extension of the period of time under *subsection (1)* for making a complaint where he or she considers that there is good reason to do so.
  - (3) An authorisation under *subsection (2)* shall be recorded in writing.
  - (4) A complaint shall be considered to be made when it is received—
    - (a) where *section 196(1)(a)* applies, by the Police Ombudsman, and
    - (b) where *section 196(1)(b)* applies, by An Garda Síochána.
  - (5) In any legal proceedings, a document purporting to be an authorisation given under *subsection (2)* or a copy of such an authorisation purporting to be signed by the Police Ombudsman, or on behalf of the Police Ombudsman, shall, unless the contrary is shown, be evidence of the matters stated therein without further proof, including proof of the signature of the Police Ombudsman, or other person authorised to give the authorisation on behalf of the Police Ombudsman.

**Determination of admissibility of complaints**

- 198.** (1) Subject to this section, the Police Ombudsman shall, on receipt of a complaint made under—
- (a) *section 196(1)(a)*, or
  - (b) *subsection (1)(b) of section 196* and referred to him or her in accordance with *subsection (3)* of that section,
- determine whether the complaint is admissible.
- (2) The Police Ombudsman shall, when determining whether a complaint is admissible, consider any information in relation to the complaint, including information provided in response to any inquiry made pursuant to *subsection (9)*.
- (3) Subject to *subsection (4)*, a complaint shall be admissible where—
- (a) it was made by a person to whom *paragraph (a) or (b) of section 195(1)* applies,
  - (b) it was made within the period of time specified under *subsection (1) of section 197* or any extension thereof authorised under *subsection (2)* of that section, and
  - (c) it concerns an act or omission by a person who was, at the time of the act or omission concerned, a member of garda personnel.
- (4) Subject to *subsection (7)*, the following complaints shall not be admissible:
- (a) a complaint that is frivolous, vexatious or made in bad faith;
  - (b) a complaint that lacks substance or sufficient information to warrant further action under this Part;
  - (c) a complaint that relates to the general direction and control of An Garda Síochána by the Garda Commissioner;
  - (d) a complaint that relates to the act or omission of a member of An Garda Síochána while the member was not on duty, unless the act or omission alleged would, if proved, be likely to bring discredit on An Garda Síochána;
  - (e) a complaint that relates to the act or omission of a member of garda staff while the member of garda staff was not on duty;
  - (f) a complaint in respect of which it is not reasonably practical to take further action under this Part.
- (5) The Police Ombudsman may determine that a complaint is inadmissible where he or she is satisfied that the act or omission to which the complaint relates is the same or substantially the same act or omission as that which was the subject matter of—
- (a) a complaint which was previously determined under this Part or Part 4 of the Act of 2005, or
  - (b) an investigation which was previously undertaken under this Part or Part 4 of the Act of 2005.

- (6) A complaint may be admissible notwithstanding that it does not identify the member of garda personnel who is the subject of the complaint.
- (7) A complaint concerning a person who was a member of garda personnel shall not be inadmissible by reason only that the person—
  - (a) at the time the complaint is made, is no longer such a member, or
  - (b) retires or resigns from An Garda Síochána at any time after the complaint is made.
- (8) Nothing in *subsection (4)* shall prevent the Police Ombudsman from determining that part of a complaint is admissible.
- (9) For the purposes of making a determination under this section, the Police Ombudsman may make such inquiries as he or she considers appropriate.
- (10) Where the Police Ombudsman determines in accordance with this section that a complaint is inadmissible, he or she shall—
  - (a) notify the complainant of his or her determination and include in the notification the reason for the determination, and
  - (b) where the complaint was referred to the Police Ombudsman under *section 196(3)*, notify the Garda Commissioner of his or her determination and include in the notification the reason for the determination.
- (11) Without prejudice to *paragraph (b)* of *subsection (10)*, the Police Ombudsman may, where he or she is of the opinion that there is good reason to do so, notify the Garda Commissioner of any determination made in accordance with this section that a complaint is inadmissible and include in the notification the reason for the determination and any information or documents that the Police Ombudsman considers appropriate.

### Admissible complaints

- 199.** (1) Where the Police Ombudsman determines in accordance with *section 198* that a complaint is admissible, he or she shall determine whether the complaint—
- (a) is suitable for resolution by An Garda Síochána, or
  - (b) warrants an investigation.
- (2) Where—
- (a) a complaint falls within a category of complaints that, at the time of its making, was specified in the approved list, and
  - (b) there are no special circumstances that would warrant an investigation of the complaint,
- the complaint shall be treated as suitable for resolution by An Garda Síochána in accordance with the relevant arrangements.



- (3) For the purposes of making a determination under this section, the Police Ombudsman may make such inquiries as he or she considers appropriate.
- (4) Where the Police Ombudsman determines under *paragraph (a)* of *subsection (1)* that a complaint is suitable for resolution by An Garda Síochána, he or she shall, as soon as practicable—
  - (a) notify the complainant of his or her determination,
  - (b) include, in the notification under *paragraph (a)*, information in relation to the relevant arrangements, and
  - (c) refer the complaint, together with any information or documents from inquiries made under *subsection (3)*, *section 198(9)* or provided pursuant to a request under *section 217*, to An Garda Síochána for resolution by An Garda Síochána in accordance with the relevant arrangements.
- (5) Where the Police Ombudsman determines under *paragraph (b)* of *subsection (1)* that a complaint warrants an investigation, he or she shall—
  - (a) notify the complainant and the Garda Commissioner of his or her determination,
  - (b) where the complaint was made to the Police Ombudsman under *section 196(1)(a)* include, in the notification to the Garda Commissioner under *paragraph (a)*, a copy of the complaint, and
  - (c) subject to *subsection (6)*, notify, where known, or upon becoming known, to the Police Ombudsman, the member of garda personnel who is the subject of the complaint and specify, in the notification, the nature of the complaint, the name of the complainant and, if applicable, the name of the person on whose behalf the complaint was made.
- (6) Subject to *subsection (7)*, where the Police Ombudsman has a good reason to do so, he or she may postpone a notification under *paragraph (c)* of *subsection (5)*.
- (7) A postponement under *subsection (6)* of a notification under *paragraph (c)* of *subsection (5)* shall apply only so long as there is a good reason for such postponement and where a good reason ceases to exist, the notification shall be made as soon as practicable.
- (8) The Police Ombudsman shall inform the Garda Commissioner of—
  - (a) a decision under *subsection (6)* to postpone a notification under *paragraph (c)* of *subsection (5)*, including the reason for same, and
  - (b) a notification of a member of garda personnel under *paragraph (c)* of *subsection (5)* following the cessation of the reason for the postponement of the notification under *subsection (6)*.

**Categories of complaints suitable for resolution by An Garda Síochána**

- 200.** (1) The Police Ombudsman shall, having consulted with the Garda Commissioner, prepare and submit to the Minister a draft list of categories of complaints suitable for resolution by An Garda Síochána under this Part (in this section referred to as a “draft list”).
- (2) A draft list shall not include categories of complaints—
- (a) where the act or omission complained of would if proven constitute a criminal offence,
  - (b) where the act or omission complained of would if proven constitute a breach of the standards of professional behaviour that would render the member of garda personnel who is the subject of the complaint liable to dismissal from An Garda Síochána, or
  - (c) which concern the investigation of the death of, or serious harm to, a person as a result of Garda operations or while in the care or custody of An Garda Síochána.
- (3) The Minister shall approve, subject to such modifications as he or she deems appropriate, the draft list submitted to him or her under *subsection (1)* as the list constituting the categories of complaints suitable for resolution by An Garda Síochána under this Part (in this Part referred to as the “approved list”).
- (4) The Minister shall, before approving a draft list under *subsection (3)*, consider whether it complies with *subsection (2)* and whether the categories in it constitute matters that are not sufficiently serious to warrant an investigation by the Police Ombudsman.
- (5) The Police Ombudsman may, having consulted with the Garda Commissioner, propose amendments to the approved list having regard to the experience of the Police Ombudsman and An Garda Síochána regarding the operation of this Part.
- (6) The Police Ombudsman shall submit a proposed amendment under *subsection (5)* to the Minister for approval by the Minister.
- (7) *Subsections (3) and (4)* shall apply with the necessary modifications in respect of a proposed amendment under *subsection (5)*.
- (8) The Police Ombudsman shall publish the approved list, including any proposed amendments thereto that are approved in accordance with this section, on a website maintained by or on behalf of the Office of the Police Ombudsman or in such other manner as the Police Ombudsman considers appropriate.

**Establishment of arrangements for handling complaints suitable for resolution by An Garda Síochána**

- 201.** (1) The Garda Commissioner shall establish and maintain efficient and effective arrangements (in this Part referred to as “relevant arrangements”) for handling complaints that fall within a category of complaints that are specified in the approved list.

- (2) Before establishing the relevant arrangements, the Garda Commissioner shall consult with the Police Ombudsman and such other persons as he or she thinks appropriate.
- (3) Without prejudice to the generality of *subsection (1)*, the relevant arrangements shall provide for:
  - (a) complaints to be dealt with in a transparent, timely, fair, objective and proportionate manner;
  - (b) the procedures for the resolution of complaints within a Garda Síochána division where appropriate;
  - (c) the resolution of complaints through the provision, where appropriate, of information, explanation, assurance or apology to a complainant;
  - (d) the notification, where known, of the member of garda personnel who is the subject of the complaint;
  - (e) the procedures to ensure that complainants and members of garda personnel who are the subject of a complaint are informed about the progress of the consideration of the complaint and its resolution;
  - (f) the circumstances in which a complainant may request An Garda Síochána to review the manner in which a complaint made by or on behalf of him or her has been dealt with under the arrangements;
  - (g) the provision, where appropriate, of guidance or training to members of garda personnel who are the subject of complaints;
  - (h) the recording of the manner in which complaints are resolved.
- (4) The Garda Commissioner shall keep the relevant arrangements under review and may, having consulted with the Police Ombudsman and such other persons as the Garda Commissioner considers appropriate, make such modifications to the arrangements as he or she considers necessary.
- (5) The relevant arrangements, including any modifications thereof under *subsection (4)*, shall be published by the Garda Commissioner on a website maintained by or on behalf of An Garda Síochána or in such other manner as the Garda Commissioner considers appropriate.
- (6) The Garda Commissioner shall, at such intervals and in such form as may be required by the Police Ombudsman, provide a report to the Police Ombudsman on any matters connected with the operation of the relevant arrangements.
- (7) The Police Ombudsman may publish all or part of a report received under *subsection (6)* in such manner as he or she considers appropriate.

**Application of arrangements for handling complaints suitable for resolution by An Garda Síochána**

**202.** (1) The Garda Commissioner shall ensure that a complaint that is—

- (a) referred to him or her under *section 199(4)(c)*, or
  - (b) received by An Garda Síochána under *section 196(1)(b)* and falls within a category of complaint specified in an order under *section 196(8)*,  
is handled in accordance with the relevant arrangements.
- (2) *Subsection (1)* shall apply notwithstanding that a person who is the subject of a complaint referred to the Garda Commissioner under *section 199(4)(c)*—
- (a) at the time of such referral, is no longer a member of garda personnel, or
  - (b) retires or resigns from An Garda Síochána at any time after such referral.
- (3) Where, in the course of handling a complaint in accordance with the relevant arrangements, it appears to the Garda Commissioner that it is not suitable for resolution by An Garda Síochána by reason of the nature or gravity of the complaint, the Garda Commissioner shall consult with the Police Ombudsman and, with the approval of the Police Ombudsman, refer the complaint to the Police Ombudsman together with any information and material gathered in relation to it.
- (4) Where a complaint is referred to the Police Ombudsman under *subsection (3)*, the Police Ombudsman shall be deemed, subject to any necessary modifications, to have made a determination under *section 199(1)(b)* that the complaint warranted an investigation.

**Matter concerning death of, or serious harm to, a person**

- 203.** (1) The Garda Commissioner shall, subject to *subsection (2)*, without delay, refer to the Police Ombudsman any matter that appears to the Garda Commissioner to indicate that the act or omission of a member of garda personnel may have resulted in the death of, or serious harm to, a person.
- (2) *Subsection (1)* shall not apply to an act or omission of a member of garda staff while the member of garda staff was not on duty.

**Notification to Police Ombudsman of incident of concern**

- 204.** (1) Where the Garda Commissioner becomes aware of an incident of concern in relation to a member of garda personnel, he or she shall, subject to *subsection (6)* and as soon as practicable after he or she becomes so aware, notify, in accordance with the protocols, the Police Ombudsman of the incident of concern.
- (2) The Police Ombudsman shall, on receipt of a notification under *subsection (1)*, having consulted with the Garda Commissioner and in accordance with the protocols, decide to take any one or more of the following actions:
- (a) decide that no further action is required by the Police Ombudsman;
  - (b) require the Garda Commissioner to notify him or her of the outcome of any investigation undertaken by An Garda Síochána of the incident of concern;

- (c) require the Garda Commissioner to keep him or her informed of the progress of any investigation undertaken by An Garda Síochána of the incident of concern or to submit to him or her such reports in relation to such an investigation at such times and in relation to such matters as he or she may direct, or both;
  - (d) without prejudice to *paragraphs (a) to (c)*, where the incident of concern relates to the commission of an alleged offence determine that the matter warrants an investigation and direct the Garda Commissioner to forward, without delay, all information and material in relation to the incident to him or her.
- (3) The Police Ombudsman shall notify the Garda Commissioner, without delay, of any decision he or she takes under *subsection (2)*.
- (4) Nothing in this section shall preclude—
- (a) the Garda Commissioner or a member of garda personnel from taking any lawful action to prevent the commission of an offence or a breach of the standards of professional behaviour, or
  - (b) the commencement or continuation of a criminal investigation or conduct proceedings in relation to an incident of concern pending a notification under *subsection (3)*.
- (5) The Garda Commissioner shall, as soon as practicable, inform the Police Ombudsman of the commencement or continuation of any criminal investigation or conduct proceedings in relation to an incident of concern and the reasons for same.
- (6) The Garda Commissioner shall notify an incident of concern to the Police Ombudsman under *subsection (1)* only to the extent that to do so—
- (a) would not be prejudicial to the security of the State, or
  - (b) would not endanger the life or safety of any person who has given information in confidence to a public body in relation to the enforcement or administration of the law.
- (7) Where *subsection (6)* applies, the Garda Commissioner shall, as soon as practicable, notify the Independent Examiner and the Police Ombudsman of such application.
- (8) This section applies to incidents of concern of which the Garda Commissioner first became aware after the coming into operation of this section.

### **Investigation of matters in public interest**

- 205.** (1) Subject to *section 206(1)*, the Police Ombudsman may, if it appears to him or her to be in the public interest and without receiving an admissible complaint or a notification under *section 204(1)* of an incident of concern, undertake an investigation into any matter that appears to him or her to be a relevant cause of concern.
- (2) The Minister may, if it appears to him or her to be in the public interest, request the Police Ombudsman to undertake an investigation into any matter that appears to the

Minister to be a relevant cause of concern and the Police Ombudsman shall investigate any matter so referred.

- (3) Notwithstanding *subsection (2)*, the Minister may refer any matter to the Police Ombudsman that appears to the Minister to be a relevant cause for concern and the Police Ombudsman shall consider the matter in accordance with *subsection (1)*.
- (4) Where the Minister makes a request to the Police Ombudsman under *subsection (2)* or refers a matter to the Police Ombudsman under *subsection (3)*, the Minister shall notify the Garda Commissioner of the request or the matter concerned and the fact of its referral.
- (5) The Authority may refer any matter that appears to the Authority to be a relevant cause for concern to the Police Ombudsman and he or she shall consider the matter in accordance with *subsection (1)*.
- (6) Where the Authority refers a matter to the Police Ombudsman under *subsection (5)*, the Authority shall notify the Garda Commissioner of the relevant cause for concern and the fact of its referral.
- (7) Without prejudice to any other provision of this Part, the Garda Commissioner may, if it appears to him or her to be in the public interest, refer any matter to the Police Ombudsman that appears to the Garda Commissioner to be a relevant cause of concern and the Police Ombudsman shall consider the matter in accordance with *subsection (1)*.
- (8) Where a matter is referred to the Police Ombudsman under *subsection (3)*, *(5)* or *(7)* and he or she decides that it is not in the public interest to undertake an investigation, the Police Ombudsman shall notify the following persons of his or her decision and the reasons for same:
  - (a) where the referral was under *subsection (3)*, the Minister;
  - (b) where the referral was under *subsection (5)*, the Authority;
  - (c) the Garda Commissioner;
  - (d) the person who brought the matter, or on whose behalf the matter was brought, to the attention of the Minister or the Authority, as the case may be.
- (9) For the purposes of his or her determination under *subsection (1)*, the Police Ombudsman may make such inquiries as he or she considers appropriate.
- (10) In this section, “relevant cause of concern” means a concern that a member of garda personnel may have—
  - (a) committed an offence, or
  - (b) behaved in a manner that constitutes misconduct that would justify the bringing of conduct proceedings.

**Protected disclosures relating to An Garda Síochána**

- 206.** (1) The Police Ombudsman shall consider, in accordance with *section 205(1)*, any disclosure of relevant wrongdoing relating to An Garda Síochána—
- (a) that is made to him or her in the manner specified in section 7 of the Act of 2014 as the person prescribed under subsection (2)(a) of that section to be the recipient of disclosures of such relevant wrongdoing, or
  - (b) to which a report (within the meaning of the Act of 2014) relates that is transmitted to him or her—
    - (i) by the Protected Disclosures Commissioner pursuant to section 10C(1)(b) or 10D(1)(b)(ii) of that Act, or
    - (ii) by another prescribed person (within the meaning of that Act) pursuant to section 7A(1)(b)(vi)(I)(A) of that Act.
- (2) *Subsection (1)* shall apply regardless of whether the worker making a disclosure referred to in that subsection is a member of garda personnel or not.
- (3) Where *paragraph (b)* of *subsection (1)* applies, the disclosure to which the report referred to in that paragraph relates shall be deemed for all purposes to have been made in the manner referred to in *paragraph (a)* of that subsection.
- (4) Where the Police Ombudsman decides under *section 205(1)* to undertake an investigation in relation to a disclosure referred to in *subsection (1)*, he or she may—
- (a) proceed with the investigation notwithstanding that the person making the disclosure has withdrawn or abandoned the disclosure, and
  - (b) disclose, in accordance with sections 16 to 16C of the Act of 2014, the identity of the person referred to in *paragraph (a)*.
- (5) Where the Police Ombudsman decides not to investigate a matter the subject of a disclosure referred to in *subsection (1)*, he or she shall notify—
- (a) the worker who made the disclosure, and
  - (b) where the disclosure is a disclosure referred to in *paragraph (b)* of *subsection (1)*, the Protected Disclosures Commissioner,
- of his or her decision and the reasons for same.
- (6) In this section, “relevant wrongdoing” and “worker” have the same meanings respectively as they have in the Act of 2014.

**Investigation of matters relating to Garda Commissioner by Police Ombudsman**

- 207.** (1) Where it appears to the Police Ombudsman to be in the public interest, he or she may, with the consent of the Minister, given with the approval of the Government, investigate any matter that gives rise to a concern that the Garda Commissioner may have—
- (a) committed an offence, or

- (b) behaved in a manner that would constitute serious misconduct.
- (2) Where it appears to the Minister to be in the public interest, he or she may, with the approval of the Government, request the Police Ombudsman to investigate any matter that gives rise to a concern that the Garda Commissioner may have done anything referred to in *subsection (1)* and the Police Ombudsman shall investigate any matter to which such a request refers.
- (3) The Minister may, with the approval of the Government, for stated reasons, refuse to consent to an investigation by the Police Ombudsman of any matter under *subsection (1)*.
- (4) The Minister may issue a directive to a Deputy Garda Commissioner or an Assistant Garda Commissioner, including in circumstances where a Deputy Garda Commissioner or an Assistant Garda Commissioner is performing the functions of the Garda Commissioner pursuant to *section 28*, requiring him or her to take any lawful measures that appear to the Deputy Garda Commissioner or the Assistant Garda Commissioner, as the case may be, to be necessary or expedient for the purposes of—
  - (a) preserving evidence relating to the conduct of the Garda Commissioner that is the subject of an investigation of a matter under *subsection (1)* or *(2)*, and
  - (b) facilitating the Police Ombudsman to obtain that evidence.
- (5) A Deputy Garda Commissioner or an Assistant Garda Commissioner to whom a directive is issued under *subsection (4)* shall comply with the directive.
- (6) Where a designated officer is appointed under *section 208* to undertake an investigation, this Part shall apply to the investigation subject to the following and any other necessary modifications:
  - (a) the reference in *section 214(1)* to a member of garda personnel shall be construed as a reference to the Garda Commissioner;
  - (b) where the Police Ombudsman is of the opinion that a report under *section 208(10)* or *(11)* of a matter under *subsection (1)* or *(2)* discloses serious misconduct, he or she shall, as soon as practicable, report that to the Minister.

### Investigations

- 208.** (1) The Police Ombudsman shall appoint a designated officer to undertake an investigation in accordance with this Part where—
- (a) the Police Ombudsman makes a determination under *section 199(1)(b)* that a complaint warrants an investigation,
  - (b) any matter is referred to the Police Ombudsman under *section 203(1)*,
  - (c) subject to *subsection (2)*, any matter appears to the Police Ombudsman to indicate that the conduct of a member of garda personnel may have resulted in the death of, or serious harm to, a person,



- (d) the Police Ombudsman makes a decision under *section 204(2)(d)* that a matter referred to in that section warrants an investigation,
  - (e) the Police Ombudsman makes a decision to undertake an investigation under *section 205(1)*,
  - (f) the Police Ombudsman receives a request from the Minister under *section 205(2)*,
  - (g) *section 207(1)* applies, or
  - (h) the Police Ombudsman receives a request from the Minister under *section 207(2)*.
- (2) *Paragraph (c) of subsection (1)* shall not apply where the complaint relates to the act or omission of a member of garda staff while the member was not on duty.
- (3) An appointment under *subsection (1)* shall be recorded in writing.
- (4) *Subsection (1)* shall apply notwithstanding that—
- (a) the identity of the member of garda personnel who is the subject of the investigation is not known when the appointment under that subsection is made,
  - (b) the member of garda personnel who is the subject of the investigation is no longer a member or retires or resigns from An Garda Síochána after the making of the appointment under that subsection, or
  - (c) the matter that is the subject of the investigation may also involve a person who is not a member of garda personnel.
- (5) Where the Police Ombudsman appoints a designated officer under *paragraph (b), (c), (d), (e), (f), (g) or (h) of subsection (1)* to undertake an investigation, he or she shall, subject to *subsection (6)*, notify—
- (a) in the case of an appointment under *paragraph (b), (c), (d), (e) or (f) of subsection (1)*—
    - (i) where known, or upon becoming known, to the Police Ombudsman, the member of garda personnel who is the subject of the investigation, of that appointment, and
    - (ii) the Garda Commissioner,and
  - (b) in the case of an appointment under *paragraph (g) or (h) of subsection (1)*, the Garda Commissioner of that appointment.
- (6) Subject to *subsection (7)*, where the Police Ombudsman has a good reason to do so, he or she may postpone a notification under *paragraph (a)(i) or paragraph (b) of subsection (5)*.
- (7) A postponement of a notification under *subsection (6)* shall apply only so long as there is a good reason for such postponement and where a good reason ceases to exist, the notification shall be made as soon as practicable.
- (8) The Police Ombudsman shall inform the Garda Commissioner of—

- (a) a decision under *subsection (6)* to postpone a notification under *subsection (5)(a)(i)*, including the reason for same, and
  - (b) a notification of a member of garda personnel under *subsection (5)(a)(i)* following the cessation of the reason for the postponement of the notification under *subsection (6)*.
- (9) The Police Ombudsman may direct that an investigation be suspended, where—
- (a) the matter the subject of the investigation is under investigation by another public body,
  - (b) the matter the subject of the investigation is the subject of civil or criminal proceedings in respect of which a final determination of the issues has not been made by the court in those proceedings, or
  - (c) the Police Ombudsman is of the opinion that to undertake, or continue with, an investigation would interfere, or conflict, with the functions of another public body.
- (10) On completion of an investigation by a designated officer in accordance with this Part, the designated officer shall submit a report on the investigation to the Police Ombudsman.
- (11) Nothing in *subsection (10)* shall limit the power of the designated officer to submit to the Police Ombudsman at any time a report concerning a part of an investigation or a member who is the subject of the investigation.
- (12) In any legal proceedings, a document purporting to be an appointment under *subsection (1)* or a copy of such an appointment purporting to be signed by the Police Ombudsman, or on behalf of the Police Ombudsman, shall, unless the contrary is shown, be evidence of the matters stated therein without further proof, including proof of the signature of the Police Ombudsman, or other person authorised to give the authorisation on behalf of the Police Ombudsman.

### **Powers equivalent to member of An Garda Síochána when undertaking investigation**

- 209.** (1) Where a designated officer is appointed under *section 208(1)* to undertake an investigation, any designated officer shall, for the purposes of undertaking, or assisting in, the investigation concerned and any matters ancillary or consequential to such an investigation, have all the powers, immunities and privileges conferred, and all the duties imposed, on any member of An Garda Síochána by or under any enactment or the common law, including those relating to the following matters:
- (a) the entry and search of any place (other than a Garda Síochána premises) pursuant to a warrant issued in accordance with law and the seizure of things authorised by the warrant;
  - (b) the arrest, with or without a warrant, of a person;
  - (c) the bringing of a charge against a person;

- (d) the issue of a summons to a person;
  - (e) the search of a person and the taking of his or her photograph, fingerprints and palmprints;
  - (f) the detention and questioning of a person;
  - (g) the taking of bodily samples or other things from a person for the purpose of forensic testing.
- (2) For the purposes of *subsection (1)*, an enactment conferring a power, immunity or privilege or imposing a duty on a member of An Garda Síochána in relation to any of the matters specified in that subsection applies with the following modifications and any other necessary modifications:
- (a) subject to *paragraph (c)*, a reference in the enactment to a member of An Garda Síochána shall be construed as a reference to a designated officer;
  - (b) a reference in section 4 of the Criminal Justice Act 1984 or in the Regulations of 1987 to a member in charge of a Garda Síochána station shall be construed as a reference to a designated officer;
  - (c) a reference in the enactment to a member of An Garda Síochána not below the rank of inspector shall be construed as a reference to a senior designated officer.
- (3) Any person who delays, obstructs or interferes with a designated officer in the exercise of the powers conferred, or the carrying out of the duties imposed, under *subsection (1)* is guilty of an offence and is liable, on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months, or both.
- (4) In this section—
- “enactment” means a statute or statutory instrument, whether passed or made before or after the passing of this Act or any portion of such a statute or statutory instrument, but does not include any provision of the Offences against the State Acts 1939 to 1998;
- “place” includes a dwelling.

### **Search of Garda Síochána premises**

- 210.** (1) Subject to this section, where a designated officer is appointed under *section 208(1)* to undertake an investigation, any designated officer may, with the authorisation of the Police Ombudsman, apply to a judge of the District Court for a warrant to carry out a search of a Garda Síochána premises.
- (2) Before authorising the making of an application under *subsection (1)*, the Police Ombudsman shall consult with the Garda Commissioner for the purpose of establishing if the Garda Commissioner objects to a search of a Garda Síochána premises for reasons relating to the security of the State.

- (3) A consultation under *subsection (2)* shall be confidential and the Garda Commissioner shall put in place procedures to ensure such consultation does not impair the integrity of investigations.
- (4) The Police Ombudsman may authorise the making of an application by a designated officer under *subsection (1)*—
- (a) where the Garda Commissioner does not object to a search of a Garda Síochána premises for the reasons referred to in *subsection (2)*, or
  - (b) on receipt under *subsection (17)(a)* of a direction under *subsection (15)*.
- (5) An authorisation issued under *subsection (4)* shall be recorded in writing and the authorisation, or a copy thereof, shall, unless the contrary is shown, be evidence of the matters stated therein without further proof.
- (6) A designated officer shall include in his or her information on oath supporting an application under *subsection (1)*—
- (a) a copy of the authorisation issued by the Police Ombudsman under *subsection (4)*, and
  - (b) where relevant, a copy of a direction issued under *subsection (15)*.
- (7) A judge of the District Court may, if satisfied by hearing evidence on oath by a designated officer that—
- (a) there is reasonable cause to suspect that a member of garda personnel who is the subject of an investigation is guilty of an offence, and
  - (b) there are reasonable grounds for suspecting that evidence of, or relating to, the commission of the offence is to be found on a Garda Síochána premises or in the possession of any person to be found there,
- issue a search warrant for the search of that Garda Síochána premises in accordance with any direction under *subsection (15)*.
- (8) A search warrant issued under *subsection (7)* shall authorise a named designated officer, accompanied by such other designated officers or persons, or both, as the named designated officer thinks necessary, to—
- (a) enter, within one week after the date specified on the warrant, the Garda Síochána premises specified therein,
  - (b) search that premises and any persons found there,
  - (c) seize any thing found on that premises, or found in the possession of a person present on the premises at the time of the search, that the designated officer or any other designated officer or person accompanying him or her reasonably believes to be evidence of, or relating to, the commission of the offence concerned, and

- (d) take any other steps which may appear to the designated officer or any other designated officer or person accompanying him or her to be necessary for preserving any such thing and preventing interference with it.
- (9) The authority conferred by *subsection (8)(c)* to seize any thing includes, in the case of a document or record, authority—
- (a) to make and retain a copy of the document or record, and
  - (b) where necessary, to seize and, for as long as necessary, retain any computer or other storage medium in which any document or record is kept.
- (10) A designated officer acting under the authority of a warrant under this section may—
- (a) operate any computer at the Garda Síochána premises where the search is carried out or cause any such computer to be operated by any other designated officer or person accompanying the officer for that purpose, and
  - (b) require any person at that premises who appears to the officer to have lawful access to the information in any such computer—
    - (i) to give to the officer any password necessary to operate it,
    - (ii) otherwise to enable the officer, any other designated officer or person accompanying him or her to examine the information accessible by the computer in a form in which the information is visible and legible, or
    - (iii) to produce the information in a form in which it can be removed and in which it is, or can be made, visible and legible.
- (11) Where a designated officer has entered Garda Síochána premises in the execution of a warrant issued under *subsection (7)*, he or she may seize any material, other than items subject to legal privilege, which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the warrant was issued.
- (12) A designated officer acting under a search warrant issued under *subsection (7)* may—
- (a) require any person present at the Garda Síochána premises where the search is carried out to give to the officer his or her name and address, and
  - (b) arrest without warrant any person who—
    - (i) obstructs or attempts to obstruct the officer, or any other designated officer or person accompanying the officer, in carrying out his or her duties,
    - (ii) fails to comply with a requirement under *paragraph (a)*, or
    - (iii) gives a name or address that the officer has reasonable cause for believing is false or misleading.
- (13) A person who—

- (a) obstructs or attempts to obstruct a designated officer, or any other designated officer or person accompanying the officer, acting under a search warrant issued under this section,
- (b) fails to comply with a requirement under *subsection (12)(a)*, or
- (c) gives a false name or address to that officer in response to a requirement under *subsection (12)(a)*,

is guilty of an offence and is liable, on summary conviction, to a class C fine or imprisonment for a term not exceeding 6 months, or both.

- (14) Where the Garda Commissioner objects to a search of a Garda Síochána premises for the reasons referred to in *subsection (2)*, he or she shall, without delay, notify in writing the Police Ombudsman and the Independent Examiner of his or her objection for the purposes of a review of the objection under *section 243*.
- (15) Upon receipt of a recommendation from the Independent Examiner under *section 243(4)* in relation to a matter referred to in *subsection (14)*, where the Minister is satisfied, taking into account the recommendation, that the search of a Garda Síochána premises—
  - (a) would not be prejudicial to the security of the State, or
  - (b) is proportionate and necessary for the proper investigation of a matter concerning the death of, or serious harm to, a person as a result of Garda operations or while in the care or custody of An Garda Síochána,he or she shall issue a direction specifying the Garda Síochána premises that may be the subject of an application under *subsection (1)*.
- (16) A direction under *subsection (15)* may contain such conditions or restrictions relating to the search that the Minister considers necessary in the interests of the security of the State.
- (17) The Minister shall, as soon as practicable after—
  - (a) issuing a direction under *subsection (15)*, provide a copy of the direction to the Police Ombudsman and the Garda Commissioner, or
  - (b) he or she decides not to issue a direction under that subsection, so inform the Police Ombudsman and the Garda Commissioner in writing.

- (18) In this section—

“computer at the Garda Síochána premises where the search is carried out” includes any other computer, whether at that premises or at any other place, which is lawfully accessible by means of that computer;

“search”, in relation to a search of a Garda Síochána premises pursuant to a warrant issued under *subsection (7)*, includes a search of a vehicle on such a premises that is privately owned by a member of garda personnel;

“seize”, in relation to any thing found on a Garda Síochána premises, includes a power to seize any thing found in a vehicle privately owned by a member of garda personnel that is on such a premises during the course of a search pursuant to a warrant issued under *subsection (7)*.

### **Additional powers for purpose of undertaking investigations**

- 211.** (1) For the purpose of an investigation, a designated officer, without prejudice to the powers he or she has pursuant to *section 209*, may, by notice in writing—
- (a) require any person who, in his or her opinion, possesses information or has a document or thing in his or her power or control that is relevant to, and required for the purposes of, the investigation, to provide that information, document or thing to the designated officer, and
  - (b) where appropriate, require that person to attend before the designated officer for that purpose.
- (2) Subject to *subsections (5) and (12)*, a person shall comply with a requirement of him or her specified in a notice under *subsection (1)*.
- (3) A notice under *subsection (1)* shall specify—
- (a) a period within which the person is to comply with the notice, and
  - (b) as appropriate—
    - (i) the place at which the person shall attend to give the information concerned or to which the person shall deliver the document or thing concerned, or
    - (ii) the place to which the person shall send the information, document or thing concerned.
- (4) A person who is required to attend before a designated officer pursuant to a notice under *subsection (1)(b)* shall—
- (a) answer fully and truthfully any question put to him or her by the designated officer, and
  - (b) if so requested by the designated officer, sign a declaration of the truth of his or her answer to the question.
- (5) A person may refuse to provide, other than in accordance with a direction under *subsection (8)*, any information, document or thing pursuant to a requirement under *subsection (1)(a)* or to answer any question under *subsection (4)(a)* on the grounds that it relates to the security of the State.
- (6) Where a person is of the opinion that *subsection (5)* applies in relation to a requirement made of him or her, the designated officer shall so inform the Police Ombudsman.
- (7) Where the Police Ombudsman is informed under *subsection (6)* that a person is of the opinion that *subsection (5)* applies, the Police Ombudsman may refer the refusal by

the person to provide the information, document or thing pursuant to a requirement under *subsection (1)(a)* or to answer the question under *subsection (4)(a)* to the Independent Examiner in writing for the purposes of a review of the refusal in accordance with *section 243*.

- (8) Upon receipt of a recommendation from the Independent Examiner under *section 243(4)* in relation to a matter referred to in *subsection (7)*, where the Minister is satisfied, taking into account the recommendation, that the provision of all or part of the information, document or thing specified in the requirement or the answering of the question, as the case may be—
- (a) would not be prejudicial to the security of the State, or
  - (b) is necessary for the proper investigation of a matter concerning the death of, or serious harm to, a person as a result of Garda operations or while in the care or custody of An Garda Síochána,
- he or she shall issue a direction specifying that all or part, as the case may be, of the document, information or thing be disclosed or the question answered.
- (9) A direction under *subsection (8)* may contain such conditions or restrictions relating to the disclosure or answer that the Minister considers necessary in the interests of the security of the State.
- (10) The Minister shall, as soon as practicable after—
- (a) issuing a direction under *subsection (8)*, provide a copy of the direction to the Police Ombudsman, or
  - (b) he or she decides not to issue a direction under that subsection, so inform the Police Ombudsman in writing.
- (11) A person who fails or refuses to comply with a requirement under *subsection (1)* or *(4)*, or fails to comply with a direction under *subsection (8)*, without reasonable excuse is guilty of an offence and is liable, on summary conviction, to a class C fine or imprisonment for a term not exceeding 6 months, or both.
- (12) Nothing in this section shall be taken to compel a person, in complying with a requirement under *subsection (1)* or *(4)*, or a direction under *subsection (8)*, to provide any information, document or thing that would be exempt from production in proceedings in a court on the ground of legal professional privilege.
- (13) Any statement or admission made by a person in accordance with a requirement under *subsection (1)* or *(4)*, a direction under *subsection (8)* or any such requirement or direction in relation to which the District Court has made a determination on application to it under *section 212(1)*, shall not be admissible as evidence in any proceedings brought against the person for an offence (other than an offence under *subsection (11)*) and this shall be explained to the person in ordinary language by the designated officer or judge, as appropriate.



**Privileged legal material**

- 212.** (1) Where a person subject to a requirement under *subsection (1)* or *(4)* of *section 211*, or a direction under *subsection (8)* of that section, refuses to comply with such direction or requirement on the grounds that *subsection (12)* of that section applies, the Police Ombudsman or the person subject to such direction or requirement may apply to the District Court for a determination as to whether that subsection applies to the information, document or thing the subject of the requirement or direction.
- (2) A person who refuses to comply with a requirement under *subsection (1)* or *(4)* of *section 211*, or a direction under *subsection (8)* of that section, on the grounds that the document or thing is privileged legal material shall preserve the document or thing and keep it in a safe and secure place pending the determination of an application under *subsection (1)* and shall, if it is so determined not to be privileged legal material, produce it in accordance with an order made by the District Court in an application under *subsection (1)*.
- (3) Pending the making of a final determination of an application under *subsection (1)*, the judge of the District Court may give such interim or interlocutory directions as he or she considers appropriate, including, without prejudice to the generality of the foregoing, in a case in which the volume of documents that are the subject of the application is substantial, directions as to the appointment of a person with suitable legal qualifications possessing the level of experience, and the independence from any interest falling to be determined between the parties concerned, that the judge considers to be appropriate for the purpose of—
- (a) examining the documents, and
  - (b) preparing a report for the judge with a view to assisting or facilitating the judge in the making by him or her of his or her determination as to whether the documents are privileged legal material.
- (4) An application under *subsection (1)* may, if the judge of the District Court so directs, be heard otherwise than in public.
- (5) An appeal against the determination of a judge of the District Court under this section shall lie to the Circuit Court and no further appeal shall lie from an order of the Circuit Court made on an appeal under this section.
- (6) Rules of court may make provision for the expeditious hearing of applications to a judge of the District Court, and any appeals against the determinations of such a judge, under this section.
- (7) The Minister may make regulations for the purposes of this section relating to the awarding, and payment, of costs to or by any party pursuant to an application or an appeal under this section.
- (8) An application under *subsection (1)* shall be made to a judge of the District Court who is assigned to the District Court district in which the document or thing sought is located or the person from whom the information, document or thing is sought ordinarily resides or carries on any profession, business or occupation.

- (9) In this section, “privileged legal material” means any information, document or thing which, in the opinion of the court concerned, a person is entitled to refuse to produce or to give access to it on the grounds of legal professional privilege.

### Power to discontinue investigation

- 213.** (1) Notwithstanding any other provision of this Act, the Police Ombudsman may at any time direct that an investigation of a complaint be discontinued where—
- (a) he or she is of the opinion that—
    - (i) the complaint is frivolous,
    - (ii) the complainant has withdrawn the complaint,
    - (iii) the complainant has disengaged from the complaints process,
    - (iv) the complaint is vexatious,
    - (v) the complaint was made in the knowledge that it was false or misleading,
    - (vi) further investigation is not necessary, reasonably practicable or proportionate having regard to all the circumstances,
    - (vii) continuing with the investigation would interfere, or conflict, with the functions of another public body, including An Garda Síochána, or
    - (viii) continuing with the investigation would interfere with legal proceedings before a court or tribunal in the State,
  - or
  - (b) the complaint has been resolved to the satisfaction of the complainant.
- (2) Notwithstanding any other provision of this Act, the Police Ombudsman may direct that an investigation of any matter under this Part, other than a complaint, be discontinued if he or she is of the opinion that—
- (a) further investigation is not necessary, reasonably practicable or proportionate having regard to all the circumstances,
  - (b) continuing with the investigation would interfere, or conflict, with the functions of another public body, including An Garda Síochána, or
  - (c) continuing with the investigation would interfere with legal proceedings before a court or tribunal in the State.
- (3) Where a direction is made under *subsection (1) or (2)*, the Police Ombudsman shall notify such of the following persons as, in his or her opinion, may be appropriate, of the direction and the reasons for same:
- (a) the complainant;
  - (b) the member of garda personnel who is the subject of the complaint or investigation, as the case may be;

- (c) the Garda Commissioner;
- (d) the Minister;
- (e) the Authority;
- (f) in the case of a protected disclosure, the person who made the disclosure;
- (g) any other person.

### **Referral by Police Ombudsman to Director of Public Prosecutions**

- 214.** (1) Where the Police Ombudsman is of the opinion that a report under *subsection (10) or (11) of section 208* discloses an act or omission that may constitute an offence by a member of garda personnel, he or she shall—
- (a) send a copy of the report and the investigation file to the Director of Public Prosecutions together with any recommendations that appear to the Police Ombudsman to be appropriate, and
  - (b) at such Director's request, provide him or her with any other information, document or thing relating to the investigation that appears to the Director to be necessary for performing his or her functions under the Prosecution of Offences Act 1974.
- (2) The Director of Public Prosecutions shall inform the Police Ombudsman—
- (a) of a decision of the Director regarding whether or not to institute a prosecution in relation to the act or omission that is the subject of a report received from the Police Ombudsman under *subsection (1)*, and
  - (b) where a prosecution is instituted, the progress of the prosecution and whether it results in the conviction or acquittal of the member of garda personnel whose act or omission was the subject of the report.
- (3) *Subsection (1)* shall not limit the power of the Police Ombudsman to forward to the Director of Public Prosecutions at any time a report on an investigation that, in his or her opinion, discloses the commission of an offence.
- (4) Notwithstanding that—
- (a) a member of garda personnel is convicted or acquitted of an offence in respect of a matter reported to the Director of Public Prosecutions under this section,
  - (b) the charge against the member of garda personnel in respect of an offence referred to in *paragraph (a)* is dismissed under section 4E of the Criminal Procedure Act 1967,
  - (c) the proceedings for an offence referred to in *paragraph (a)* are discontinued, or
  - (d) the Director of Public Prosecutions decides not to institute a prosecution in relation to a matter reported to him or her under this section,

the institution or continuation of conduct proceedings or dismissal proceedings in relation to the matter shall not be precluded by reason only that the act or omission concerned is in substance the same as the conduct constituting the offence referred to in *paragraph (a)* or the Director of Public Prosecutions decides not to institute a prosecution in relation to a matter reported to him or her under this section.

- (5) Nothing in this section shall preclude the Police Ombudsman from making a report under *section 215*, whether in addition to a report to the Director of Public Prosecutions under *subsection (1)* or otherwise, and providing a copy to the Garda Commissioner, the Minister or the Authority, as appropriate.

### Other referrals by Police Ombudsman following investigation

**215.** (1) Where the Police Ombudsman is of the opinion that a report under *subsection (10)* or *(11)* of *section 208* discloses—

(a) any matter that should be dealt with—

(i) by way of conduct proceedings,

(ii) by way of performance proceedings, or

(iii) under any other arrangements by or under which the unsatisfactory performance of a member of garda personnel is dealt with by An Garda Síochána,

or

(b) a concern in relation to the practices, policies or procedures of An Garda Síochána or any other issue of a general or systemic nature in relation to An Garda Síochána,

the Police Ombudsman shall provide a copy of the report to the Garda Commissioner, the Minister or the Authority, as appropriate, with such recommendations as he or she considers appropriate.

- (2) The Garda Commissioner shall, as soon as practicable after receiving a copy of a report under *subsection (1)*, notify, in accordance with the protocols, the Police Ombudsman of the actions (if any) to be taken by the Garda Commissioner in response to the recommendations in the report and the reasons for same.
- (3) In any performance proceedings, conduct proceedings or dismissal proceedings instituted in relation to a matter or concern in a report referred to in *subsection (1)*, a document that purports to be that report shall, unless the contrary is shown, be evidence of the facts stated therein without further proof.
- (4) Where performance proceedings, conduct proceedings or dismissal proceedings are instituted following the receipt of a report referred to in *subsection (1)*, the Garda Commissioner shall, upon the completion of the proceedings and in accordance with the protocols, notify the Police Ombudsman of the outcome and the reasons for same.

- (5) Nothing in this section shall preclude the suspension of performance proceedings, conduct proceedings or dismissal proceedings pending the conclusion of proceedings for an offence in relation to all or part of the act or omission that is the subject of the performance proceedings, conduct proceedings or dismissal proceedings, as the case may be.
- (6) *Subsection (1)* is without prejudice to the power of the Police Ombudsman to forward at any time to the Garda Commissioner, for any action that the Police Ombudsman considers appropriate, a report on a complaint, or other matter, that, in the opinion of the Police Ombudsman, discloses a concern in relation to a member of garda personnel.

### **Duty to keep certain persons informed**

- 216.** (1) The Police Ombudsman shall, on his or her initiative or on request by one or more of the following persons, provide such persons with sufficient information to keep them informed of the progress and results of an investigation:
- (a) where the investigation resulted from a complaint, the complainant;
  - (b) where the investigation relates to a matter referred to in *section 203(1)* concerning the death of, or serious harm to, a person, the Minister;
  - (c) where the investigation resulted from a request by the Minister under *subsection (2)* of *section 205* or a referral by the Minister under *subsection (3)* of that section—
    - (i) the person who brought the subject matter of the request or referral to the attention of the Minister or on whose behalf it was brought to such attention, and
    - (ii) the Minister;
  - (d) where the investigation resulted from a referral by the Authority under *section 205(5)*—
    - (i) the person who brought the subject matter of the referral to the attention of the Authority or on whose behalf it was so brought,
    - (ii) the Authority, and
    - (iii) the Minister;
  - (e) where the investigation resulted from a referral by the Garda Commissioner under *section 205(7)*, the Minister;
  - (f) where the investigation resulted from a decision under *subsection (1)* or *(2)* of *section 207*, the Minister;
  - (g) the Garda Commissioner;
  - (h) where the subject matter of the investigation relates to the conduct or performance of a known member of garda personnel, that member;

- (i) any other person that the Police Ombudsman considers has a sufficient interest in the matter.
- (2) *Subsection (1)* shall not apply to information the disclosure of which would, in the opinion of the Police Ombudsman—
  - (a) prejudice a criminal investigation or prosecution,
  - (b) jeopardise the safety of any person,
  - (c) be contrary to section 16 or 16A of the Act of 2014, or
  - (d) for any other reason not be in the public interest.

### **Provision of information and documents to Police Ombudsman by Garda Commissioner**

- 217.** (1) The Garda Commissioner shall, as soon as practicable, provide the Police Ombudsman with such information and documents as the Police Ombudsman may request for the purposes of, or in connection with, the performance of any of the functions of the Police Ombudsman.
- (2) *Subsection (1)* shall not apply in respect of any information or document, or part thereof, that, in the opinion of the Garda Commissioner, relates to the security of the State, save in so far as, and to the extent that, the Minister otherwise directs.
  - (3) Where the Garda Commissioner refuses to comply with a request under *subsection (1)* to provide any information or document on the ground that he or she is of the opinion that *subsection (2)* applies, he or she shall so inform the Police Ombudsman in writing.
  - (4) Where *subsection (3)* applies, the Police Ombudsman may refer the refusal by the Garda Commissioner to comply with a request under *subsection (1)* to the Independent Examiner in writing for the purposes of a review of the refusal under *section 243*.
  - (5) Upon receipt of a recommendation from the Independent Examiner under *section 243(4)* in relation to a matter referred to in *subsection (4)*, where the Minister is satisfied, taking into account the recommendation, that—
    - (a) the provision of all or part of the information or document requested by the Police Ombudsman would not be prejudicial to the security of the State, or
    - (b) that the provision of the information or document referred to in *paragraph (a)* is necessary for the proper investigation of a matter concerning the death of, or serious harm to, a person as a result of Garda operations or while in the care or custody of An Garda Síochána,he or she shall issue a direction specifying that all or part, as the case may be, of the information or document be provided.
  - (6) A direction under *subsection (5)* may contain such conditions or restrictions relating to the disclosure that the Minister considers necessary in the interests of the security of the State.

- (7) The Minister shall, as soon as practicable after—
- (a) issuing a direction under *subsection (5)*, provide a copy of the direction to the Police Ombudsman and the Garda Commissioner, or
  - (b) he or she decides not to issue a direction under that subsection, so inform the Police Ombudsman and the Garda Commissioner.

**Performance of functions by designated officers of Police Ombudsman under Coroners Acts 1962 to 2020**

- 218.** (1) The Police Ombudsman may, in connection with the investigation of a complaint or matter under this Part that concerns the death of a person, direct a designated officer—
- (a) to perform the functions conferred on such an officer by the Coroners Acts 1962 to 2020 in relation to the inquiry by a coroner under those Acts into the death of the person, and
  - (b) to provide to the coroner, at his or her request, such assistance with regard to the holding of an inquest in relation to the death of that person as would be provided by a member of An Garda Síochána in the case of any other inquest under that Act,
- and a designated officer so directed shall perform those functions and provide such assistance whether or not the investigation under this Part is completed.
- (2) A designated officer has, for the purposes of performing the functions of such an officer referred to in *paragraph (a)* of *subsection (1)* and of providing the assistance referred to in *paragraph (b)* of that subsection, all the powers, immunities and privileges conferred, and all the duties imposed, on a member of An Garda Síochána by or under any enactment or the common law.

CHAPTER 3

*Miscellaneous (Part 6)*

**Duty to preserve evidence**

- 219.** (1) The Garda Commissioner shall ensure that any member of garda personnel, on becoming aware of a complaint or any matter notified or referred to the Police Ombudsman under this Part, shall take any lawful measures that appear to him or her to be necessary or expedient for the purpose of obtaining and preserving evidence relating to the complaint or matter.
- (2) *Subsection (1)* shall apply whether or not a determination has been made under *section 198* regarding the admissibility of a complaint.

**Duty of members of garda personnel to account to designated officer**

- 220.** (1) A member of garda personnel shall, when directed to do so by a designated officer, account for any act done, or omission made, by the member while on duty.
- (2) A failure by a member of garda personnel to comply with a direction under *subsection (1)* shall be the subject of disciplinary action in accordance with the Conduct Regulations or the conduct code.
- (3) Upon the giving of a direction under *subsection (1)* to a member of garda personnel, the designated officer shall inform the member—
- (a) that a failure to comply with the direction may lead to dismissal from An Garda Síochána, and
- (b) of the effect of *subsection (4)*.
- (4) Any statement or admission made by a member of garda personnel pursuant to a direction under *subsection (1)* shall not be admissible as evidence in any criminal proceedings brought against the member concerned.

**Extension of time limit for instituting summary proceedings for offences**

- 221.** (1) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings in respect of a matter relating to an offence reported to the Director of Public Prosecutions under this Part may be instituted within 18 months from the date of the offence.
- (2) For the purpose of *subsection (1)*, it shall be presumed, unless the contrary is shown, that the offence was reported by the Police Ombudsman to the Director of Public Prosecutions in accordance with this Part.

**Same act or omission may form basis for complaint or charge**

- 222.** (1) Subject to *subsection (2)*, nothing in this Part precludes a member of An Garda Síochána from charging a member of garda personnel with an offence, or issuing him or her with a fixed charge notice in respect of an offence, even though the act or omission in respect of which the offence relates could be the subject matter of a complaint or investigation under this Part.
- (2) Where a complaint has been made or a matter notified or referred to the Police Ombudsman under this Part concerning the act or omission of a member of garda personnel, the member may not be charged with an offence relating to that act or omission except by or with the consent of the Director of Public Prosecutions.

**Protocols**

- 223.** (1) As soon as practicable after the coming into operation of this section, the Police Ombudsman and the Garda Commissioner shall, by protocols in writing, make arrangements concerning the following matters:
- (a) the circumstances and procedures relating to notifications under *section 204(1)*;



- (b) the consultation between the Police Ombudsman and the Garda Commissioner prior to a decision being taken under *section 204(2)*;
  - (c) the factors to be considered when making a decision under *section 204(2)* having regard to the functions of An Garda Síochána and the Garda Commissioner under this Act;
  - (d) the consideration of any submissions from the Garda Commissioner that a decision by the Police Ombudsman to undertake an investigation under *section 204(2)(d)* in relation to a particular incident of concern could put in jeopardy another criminal investigation;
  - (e) the use of detention facilities at Garda Síochána stations by designated officers for the purpose of exercising their powers and carrying out their duties under *section 208*;
  - (f) the application of the Regulations of 1987 when the detention facilities at Garda Síochána stations are used by designated officers for the purpose referred to in *paragraph (e)*;
  - (g) the sending of notifications under *subsection (2) or (4) of section 215*;
  - (h) the provision of sufficient information under *section 216* to keep the Garda Commissioner informed of the progress and results of investigations in order to facilitate him or her in carrying out his or her functions, including in relation to the management of the suspension of members of garda personnel;
  - (i) the operation of *section 217*;
  - (j) the handling of any investigations by the Police Ombudsman under this Act that coincide with investigations by An Garda Síochána into the same matters;
  - (k) the sharing with each other of information (including evidence of offences) obtained by either the Police Ombudsman or the Garda Commissioner;
  - (l) the provision of training in relation to the conduct of investigations to officers of the Police Ombudsman by An Garda Síochána;
  - (m) such other matters as the Police Ombudsman and Garda Commissioner consider would support the proper performance of their respective functions under this Part.
- (2) The Police Ombudsman and the Garda Commissioner shall keep under review the operation of the protocols under this section and those agreed pursuant to section 108 of the Act of 2005 and continued in accordance with *subsection (3)* and may agree such amendments to those protocols as appear to be necessary or desirable for the proper operation of this section.
- (3) Protocols agreed pursuant to section 108 of the Act of 2005 that are in force immediately before the repeal of that section by *section 5*, shall, on and after such repeal, be deemed to be protocols under this section and may be amended and revoked under this section accordingly.

**Review by Police Ombudsman**

**224.** (1) Where a complainant is notified—

- (a) under *section 198(10)(a)* that a determination has been made that his or her complaint is inadmissible, or
- (b) under *subsection (3)(a)* of *section 213* that a direction has been made under *subsection (1)* of that section that the investigation of his or her complaint is to be discontinued,

he or she may, subject to *subsection (2)*, within the period of 28 days beginning on the date the notification is received by the complainant, request the Police Ombudsman to review the determination or direction, as the case may be.

- (2) The Police Ombudsman may authorise an extension of the period of time referred to under *subsection (1)* where he or she considers that there is good reason for doing so.
- (3) A request for a review under *subsection (1)* shall be made in such form and contain such information as the Police Ombudsman may specify.
- (4) Where the Police Ombudsman receives a request for a review in accordance with this section, he or she shall carry out, or arrange for the carrying out of, a review.
- (5) Following a review under this section, the Police Ombudsman shall, as soon as practicable, notify in writing, or arrange for the notification of, the complainant of the outcome of the review.

**Judicial inquiry into conduct of Police Ombudsman, Deputy Police Ombudsman and policies, practices or procedures of Office of Police Ombudsman**

**225.** (1) The Minister may, having consulted with the Police Ombudsman, and where he or she considers it to be in the public interest, request the Chief Justice to invite a judge to inquire (while serving as a judge) into either or both of the following:

- (a) the conduct of the Police Ombudsman, Deputy Police Ombudsman, chief executive officer of the Office of the Police Ombudsman or an officer of the Police Ombudsman, including a designated officer, in relation to an investigation or an investigation under *section 227*;
- (b) the policies, practices or procedures of the Office of the Police Ombudsman—
  - (i) on a particular occasion in undertaking an investigation or an investigation under *section 227*, or
  - (ii) in general in undertaking investigations or investigations under *section 227*.

(2) The Chief Justice may invite—

- (a) a judge of the Supreme Court,
- (b) with the consent of the President of the Court of Appeal, a judge of the Court of Appeal, or
- (c) with the consent of the President of the High Court, a judge of the High Court,

to conduct an inquiry under this section and, if the invitation is accepted, the Chief Justice shall appoint the judge to conduct the inquiry (in this section referred to as an “appointed judge”).

- (3) The terms of reference of an appointed judge shall be specified in the request made by the Minister under *subsection (1)* and may relate to—
  - (a) the conduct of the Police Ombudsman, Deputy Police Ombudsman, chief executive officer of the Office of the Police Ombudsman or an officer of the Police Ombudsman, including a designated officer—
    - (i) on a particular occasion in undertaking an investigation or an investigation under *section 227*, or
    - (ii) in general in undertaking investigations or investigations under *section 227*,and
  - (b) the policies, practices or procedures of the Police Ombudsman—
    - (i) on a particular occasion in undertaking an investigation or an investigation under *section 227*, or
    - (ii) in general in undertaking investigations or investigations under *section 227*.
- (4) Where a member of garda personnel was involved in an investigation referred to in *paragraph (b)* of *subsection (3)*, the Minister may, having consulted with the Garda Commissioner, specify that the terms of reference of an inquiry under this section may relate to the conduct of the member.
- (5) An appointed judge may conduct an inquiry under this section in the manner he or she thinks proper, whether by examining witnesses or otherwise, and may, in particular, conduct any proceedings relating to the inquiry otherwise than in public.
- (6) For the purpose of an inquiry under this section, the appointed judge has the powers, rights and privileges vested in a judge of the High Court on the hearing of an action, including the power to—
  - (a) enforce the attendance of witnesses, and
  - (b) compel the production of records.
- (7) A person who does or omits to do anything that, if the inquiry were a court of law having the power to punish for contempt, would be contempt of such court, is guilty of an offence and is liable, on summary conviction, to a class C fine or to imprisonment for a term not exceeding 6 months, or both.
- (8) A statement or admission made by a person to an appointed judge in an inquiry under this section shall not be admissible as evidence in proceedings brought against that person for an offence (other than an offence under *subsection (7)*).
- (9) On completing an inquiry under this section, an appointed judge shall submit a report to the Minister of his or her findings and include in the report such recommendations

as he or she considers relevant arising out of the matters investigated in accordance with the terms of reference of the inquiry.

- (10) Subject to *subsection (11)*, the Minister shall forward a copy of a report submitted to him or her under *subsection (9)* to the Police Ombudsman for such action as the Police Ombudsman considers appropriate.
- (11) Where a report submitted to the Minister under *subsection (9)* concerns an inquiry into the conduct of the Police Ombudsman, *subsection (10)* shall apply subject to the modification that the reference in that subsection to the Minister shall forward shall be construed as a reference to the Minister may forward.

### **Offence of providing false or misleading information**

- 226.** (1) A person who, in relation to a complaint, an investigation or an investigation under *section 227*, provides to the Police Ombudsman or to a member of An Garda Síochána information that the person knows to be false or misleading is guilty of an offence and is liable, on summary conviction, to a class C fine or imprisonment for a term not exceeding 6 months, or both.
- (2) A prosecution for an offence under this section shall not be instituted except by or with the consent of the Director of Public Prosecutions on the referral of the matter to the Director of Public Prosecutions by the Police Ombudsman.

### **Jurisdiction to investigate offences under Part**

- 227.** (1) The Police Ombudsman shall have jurisdiction to investigate an offence under this Part.
- (2) Where a designated officer is appointed by the Police Ombudsman to investigate an offence under this Part, all the powers, immunities and privileges conferred, and all the duties imposed, under *section 209* shall apply to the officer for the purposes of that investigation and any matters ancillary or consequential to the investigation.
- (3) *Section 210* shall apply with the necessary modifications in respect of an investigation under this section.
- (4) Where a designated officer completes an investigation under this section, he or she shall submit a report on the investigation to the Police Ombudsman.
- (5) Where, after considering a report submitted under *subsection (4)*, the Police Ombudsman is of the opinion that the report discloses that an offence may have been committed, the Police Ombudsman shall—
- (a) send a copy of the report and the investigation file to the Director of Public Prosecutions, and
  - (b) at such Director's request, provide him or her with any other information relating to the investigation that appears to the Director to be necessary for the performance of his or her functions under the Prosecution of Offences Act 1974.
- (6) The Director of Public Prosecutions shall inform the Police Ombudsman of—

- (a) a decision of the Director regarding whether or not to institute a prosecution in relation to the alleged offence that is the subject of a report received from the Police Ombudsman under *subsection (5)*, and
  - (b) where a prosecution is instituted, the progress of the prosecution and whether it results in the conviction or acquittal of the person whose conduct was the subject of the report.
- (7) Notwithstanding that—
- (a) a member of garda personnel is convicted or acquitted of an offence in respect of a matter reported to the Director of Public Prosecutions under this section,
  - (b) the charge against the member of garda personnel in respect of such an offence is dismissed under section 4E of the Criminal Procedure Act 1967,
  - (c) the proceedings for such an offence are discontinued, or
  - (d) the Director of Public Prosecutions decides not to institute a prosecution in relation to that matter,
- the institution or continuation of conduct proceedings or dismissal proceedings in relation to the matter shall not be precluded by reason only that the act or omission under investigation is in substance the same conduct constituting the offence referred to in *paragraph (a)*.
- (8) *Section 216(1)(g)* shall apply in respect of an investigation under this section.

### **Transitional provisions relating to complaints, investigations and other matters under Act of 2005**

- 228.** (1) Where, immediately before the repeal of section 87 of the Act of 2005 by *section 5*, a determination under that section 87 as to the admissibility of a complaint (within the meaning of Part 4 of that Act) has not been made, the complaint shall be deemed to have been made under this Act.
- (2) Where, immediately before the repeal of section 90 of the Act of 2005 by *section 5*, an admissible complaint (within the meaning of Part 4 of the Act of 2005) is subject to guidelines issued under that section 90 and the complaint has not been resolved, the Act of 2005 shall continue to apply to the complaint as if no provision of that Act had been repealed.
- (3) Where, immediately before the repeal of section 90 of the Act of 2005 by *section 5*, an admissible complaint (within the meaning of Part 4 of the Act of 2005) has been referred to the Garda Commissioner under paragraph (a) of section 92 of the Act of 2005 and the investigation of the complaint under section 94 of the Act of 2005 has commenced and has not been completed before the repeal of that section 94 by *section 5*, the Act of 2005 shall continue to apply to the investigation as if no provision of that Act had been repealed.
- (4) Where, immediately before the repeal of section 91 of the Act of 2005 by *section 5*, an examination under subsection (1)(a) of that section 91 of a complaint referred to in

that section has not commenced or has not been completed, the complaint shall be deemed to have been made under this Act.

- (5) Where an investigation under section 95 or 98 of the Act of 2005 of a complaint (within the meaning of Part 4 of the Act of 2005) has not commenced before the repeal of those sections by *section 5*, the Act of 2005 shall continue to apply to the complaint as if no provision of that Act had been repealed.
- (6) Where an investigation under section 95 or 98 of the Act of 2005 of a complaint (within the meaning of Part 4 of the Act of 2005) has commenced before the repeal of those sections by *section 5* and all matters relating to the investigation have not been completed before that repeal, the Act of 2005 shall continue to apply to the investigation as if no provision of that Act had been repealed.
- (7) Where an investigation of—
- (a) any matter under section 102(4), (4A) or (5) of the Act of 2005, or
  - (b) any relevant wrongdoing to which a disclosure referred to in section 102A(1) of the Act of 2005 relates,
- has not commenced before the repeal of those sections by *section 5*, the matter or disclosure concerned shall be deemed to be a matter or disclosure to which this Act applies.
- (8) Where an investigation of—
- (a) any matter under subsection (4), (4A) or (5) of section 102 of the Act of 2005, or
  - (b) any relevant wrongdoing to which a disclosure referred to in section 102A(1) of the Act of 2005 relates,
- has commenced before the repeal of those sections by *section 5* and all matters relating to the investigation concerned have not been completed before the repeal, the Act of 2005 shall continue to apply to the investigation as if no provision of that Act had been repealed.
- (9) Where an examination under subsection (1) of section 106 of the Act of 2005 has commenced before the repeal of that section by *section 5* and the examination has not been completed before that repeal, the Act of 2005 shall continue to apply to the examination as if no provision of that Act had been repealed.
- (10) For the purpose of this section—
- (a) a reference to the commencement of an investigation under section 95 of the Act of 2005 shall be construed as a reference to the time at which the Garda Síochána Ombudsman Commission decides to investigate a complaint about conduct that does not appear to constitute an offence under that section, and
  - (b) a reference to the commencement of an investigation under section 98 of the Act of 2005 shall be construed as a reference to the time at which a designated officer of the Garda Síochána Ombudsman Commission is directed under that section to investigate a complaint under that Act.

- (11) Where, before the repeal of section 129 of the Act of 2005 by *section 5*, a certificate was signed by a member of the Garda Síochána Ombudsman Commission in accordance with subsection (1) or (2) of the said section 129, the certificate shall, in any legal proceedings after such repeal, unless the contrary is shown, be evidence of the matters stated therein as though the said subsections (1) and (2) of section 129 had not been repealed and subsection (3) of the said section 129 shall apply in respect of that certificate as if it had not been repealed.

## PART 7

## INDEPENDENT EXAMINER OF SECURITY LEGISLATION

## CHAPTER 1

*Preliminary and General (Part 7)***Definitions (*Part 7*)**

**229.** In this Part—

“Act of 1993” means the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993;

“Act of 2009” means the Criminal Justice (Surveillance) Act 2009;

“Act of 2011” means the Communications (Retention of Data) Act 2011;

“annual report” has the meaning assigned to it by *section 244(1)*;

“establishment day of the office” means the day appointed under *section 231*;

“information holder” means—

- (a) An Garda Síochána,
- (b) the Permanent Defence Force, or
- (c) a Minister of the Government or any other public body—
  - (i) with responsibilities relating to national security and protecting the security of the State, including the safeguarding of critical infrastructure, the economic well-being of the State and international relations,
  - (ii) responsible for, or involved in, the development, implementation or operation of security legislation, or
  - (iii) in possession of information, documents or any other thing which, in the opinion of the Independent Examiner, is relevant to his or her work;

“office” has the meaning assigned to it by *section 232(1)*;

“relevant Minister”, in relation to an information holder, means—

- (a) where the information holder is a Minister of the Government, that Minister, and

- (b) in each other instance, the Minister of the Government with responsibility for the information holder and in whom functions are vested, whether statutory or otherwise, as respects the information holder;

“security legislation” means—

- (a) the Offences against the State Acts 1939 to 1998,
- (b) the Criminal Law Act 1976,
- (c) the Act of 1993,
- (d) the Criminal Justice (Terrorist Offences) Act 2005,
- (e) the Act of 2009,
- (f) the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010,
- (g) the Act of 2011, and
- (h) any legislation specified by the Taoiseach in accordance with *section 230*;

“security services” means services related to protecting the security of the State;

“sensitive information” means information received by the Independent Examiner in the course of performing his or her functions that, were it to be disclosed to a third party, might—

- (a) prejudice or impair the security of the State, defence or international interests, or matters relating to Northern Ireland,
- (b) endanger the life or safety of any person,
- (c) identify, or provide details of, a source of information, other assistance or operational methods used in the delivery of security services or policing services,
- (d) reveal information about particular policing or security operations, criminal investigations or prosecutions that have been, are being or are proposed to be undertaken by an information holder,
- (e) reveal information provided to the State by an international body or the government of a state, other than the State, where the international body or government of that state does not consent to its disclosure,
- (f) prejudice the giving to the State of further sensitive information by an international body or the government of a state, other than the State, or prejudice the giving to an international body of further similar information by other states, or
- (g) prejudice the cooperation of an international body or the government of another state with the State;

“special report” means a report submitted to the Taoiseach under *subsection (1) or (3) of section 245*.



**Specification of security legislation**

- 230.** (1) The Taoiseach may, having consulted with the Independent Examiner and such Minister of the Government as he or she considers appropriate, by order specify any enactment for the purposes of *paragraph (h)* of the definition of “security legislation” in *section 229*.
- (2) In making an order under *subsection (1)*, the Taoiseach shall have regard to the functions of the Independent Examiner and the nature of the enactment in respect of which it is proposed to make an order.

## CHAPTER 2

*Establishment of office***Establishment day of office**

- 231.** The Government shall, by order, appoint a day to be the establishment day of the office for the purposes of this Part.

**Establishment of office**

- 232.** (1) There shall stand established on the establishment day of the office, an office which shall be known as *oifig an Scrúdaitheora Neamhspleách um Reachtaíocht Slándála* (in this Part referred to as the “office”) to perform the functions conferred on it by this Act or any other enactment.
- (2) The holder of the office shall be known as *An Scrúdaitheoir Neamhspleách um Reachtaíocht Slándála* or, in the English language, as the Independent Examiner of Security Legislation (in this Act referred to as the “Independent Examiner”).

## CHAPTER 3

*Independent Examiner***Appointment of Independent Examiner**

- 233.** (1) Subject to this Part, the appointment of a person as the Independent Examiner shall be made by the Government on the passage of resolutions by Dáil Éireann and Seanad Éireann recommending the appointment of the person.
- (2) The Government may, before the establishment day of the office, designate a person to be appointed as the first Independent Examiner.
- (3) Where, immediately before the establishment day of the office, a person stands designated under *subsection (2)*, the person shall, on that day, stand appointed as the first Independent Examiner.
- (4) *Subsection (1)* shall not apply to a person designated under *subsection (2)*.

- (5) A person shall not be appointed, or designated for appointment, by the Government as the Independent Examiner unless the Government are satisfied that the person is suitable to be so appointed by reason of his or her possessing such relevant experience, qualifications, training and expertise as are appropriate having regard, in particular, to the functions of the Independent Examiner under this Act and any other enactment.
- (6) Subject to *subsection (7)*, a person who holds the office of judge of the High Court, the office of judge of the Court of Appeal or the office of judge of the Supreme Court may, without relinquishing that office, be appointed as the Independent Examiner.
- (7) Where a person specified in *subsection (6)* is appointed as the Independent Examiner, he or she shall not, unless otherwise provided by the terms of his or her appointment, while so appointed, be required to carry out his or her duties under statute as the holder of the judicial office concerned referred to in that subsection.
- (8) *Schedule 6* shall apply where a person holding a judicial office referred to in *subsection (6)* is appointed as the Independent Examiner.

### **Objectives, functions and powers of Independent Examiner**

**234.** (1) The objectives of the Independent Examiner shall be—

- (a) to promote public confidence in security legislation,
  - (b) to support the Government in protecting the security of the State,
  - (c) to ensure that information relating to his or her functions is made available to the public to the greatest extent possible without prejudicing the security of the State, defence or international relations, and
  - (d) to ensure that his or her functions are performed in a timely, efficient and effective manner.
- (2) Subject to this Act, the Independent Examiner shall have the following functions:
- (a) to keep under review the operation and effectiveness of security legislation, including by examining—
    - (i) whether security legislation—
      - (I) is effective and proportionate in its objectives in so far as they relate to the protection of the security of the State, and
      - (II) contains sufficient safeguards for the protection of human rights,
    - and
    - (ii) the ongoing necessity of the legislation for the protection of the security of the State;
  - (b) to carry out reviews (within the meaning of *section 243*) and issue recommendations under that section;

- (c) to examine the efficiency and effectiveness of the delivery of security services;
  - (d) to prepare annual reports, special reports, and reports under *section 246*;
  - (e) to perform any other functions conferred on the Independent Examiner by or under this Act or any other enactment.
- (3) Subject to this Act, the Independent Examiner shall be independent in the performance of his or her functions.
- (4) The Independent Examiner shall, in the performance of his or her functions, have regard to the functions of other public bodies.
- (5) The Independent Examiner shall have all such powers as are necessary or expedient for the performance of his or her functions.
- (6) Where, in the course of the performance of his or her functions, the Independent Examiner becomes aware of a matter, in relation to an information holder, that is relevant to the functions of an independent oversight body in relation to the information holder, the Independent Examiner shall notify the matter to that body in writing.
- (7) Where the Independent Examiner is of the opinion that an enactment, other than an enactment which falls within the definition of “security legislation”, relates to the protection of the security of the State—
- (a) *subsection (2)(a)* shall apply as if the references to security legislation in that subsection included references to that enactment, and
  - (b) the Independent Examiner shall inform the Minister of such opinion.
- (8) Where the Minister is informed under *subsection (7)* by the Independent Examiner of an opinion referred to in that subsection, the Minister shall inform such other Ministers of the Government as he or she considers appropriate of such opinion.
- (9) The Taoiseach may, having consulted with the Independent Examiner and such Ministers of the Government as he or she considers appropriate, by regulation—
- (a) confer on the Independent Examiner such additional functions relating to the protection of the security of the State as the Taoiseach considers appropriate, subject to such conditions (if any) as may be specified in the regulation, and
  - (b) make such provision as he or she considers necessary or expedient in relation to matters ancillary to, or arising out of, the conferral of those additional functions.
- (10) The Taoiseach shall, prior to making regulations under *subsection (9)*, have regard to the objectives of the Independent Examiner specified in *subsection (1)* and the existing functions of the Independent Examiner under this Act or any other enactment.
- (11) In this section, “independent oversight body”, in relation to an information holder, means a public body, independent in the performance of its functions, which has as its purpose the oversight, inspection or investigation of, or the examination otherwise of material held by, the information holder.

**Terms and conditions of appointment of Independent Examiner**

- 235.** (1) Subject to this Part, the appointment of a person under *section 233* as the Independent Examiner shall be for such period, not exceeding 5 years, as the Government shall determine at the time of appointment.
- (2) Subject to *subsection (3)*, the Government may reappoint a person as the Independent Examiner in accordance with *section 233(1)* for a further period not exceeding 5 years.
- (3) A person who has served 2 terms of office as the Independent Examiner shall not be eligible for reappointment under *subsection (2)*.
- (4) The Independent Examiner shall hold office on such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as may be determined by the Government, at the time of appointment or reappointment.

**Power of Taoiseach to designate person to perform functions of Independent Examiner**

- 236.** (1) Where the Independent Examiner is, for any reason, unable to perform his or her functions under this Act, the Taoiseach shall, without delay, be so notified in writing by—
- (a) the Independent Examiner, or
- (b) where the Independent Examiner is unable to so notify the Taoiseach, the Minister upon his or her becoming aware of such inability.
- (2) A notification under *subsection (1)* shall specify—
- (a) the date from which the Independent Examiner ceased, or shall cease, being able to perform his or her functions,
- (b) the reason for which the Independent Examiner is unable to perform his or her functions, and
- (c) where known, the date on which the Independent Examiner shall be able to recommence the performance of his or her functions.
- (3) Where the Taoiseach receives a notification under *subsection (1)*, he or she may designate a person to perform the functions of the Independent Examiner for such period, subject to *subsection (5)*, as the Independent Examiner is unable to so perform those functions.
- (4) *Subsections (5) to (8) of section 233* shall apply to a person designated under *subsection (3)* subject to the following and any other necessary modifications:
- (a) a reference in those subsections to an appointment shall be construed as a reference to a designation under *subsection (3)*;
- (b) a reference in *section 233(5)* to the Government shall be construed as a reference to the Taoiseach.

- (5) A person designated by the Taoiseach under *subsection (3)* may perform the functions of the Independent Examiner for such period not exceeding 6 months as the Taoiseach may specify.
- (6) Where a person is designated under *subsection (3)* to perform the functions of the Independent Examiner, any reference in this Act or any other enactment to the Independent Examiner shall for the period of such designation be construed as including a reference to the person so designated.
- (7) In this section, a reference to the Independent Examiner being unable to perform his or her functions means—
  - (a) the Independent Examiner being absent or incapacitated, or
  - (b) the office being vacant.

#### **Ineligibility for appointment and disqualification from office of Independent Examiner**

- 237.** (1) A person shall be eligible for nomination or appointment as the Independent Examiner only where he or she holds or has held the office of judge of the High Court, the office of judge of the Court of Appeal or the office of judge of the Supreme Court.
- (2) A person shall not be eligible for nomination or appointment as the Independent Examiner if he or she is—
- (a) a member of either House of the Oireachtas,
  - (b) entitled under the rules of procedure of the European Parliament to sit in that Parliament, or
  - (c) a member of a local authority.
- (3) A person shall be disqualified from holding and shall cease to hold office as the Independent Examiner if he or she—
- (a) subject to *subsection (4)*, is adjudicated bankrupt,
  - (b) makes a composition or arrangement with his or her creditors,
  - (c) is convicted on indictment of an offence, or is convicted outside the State of an offence consisting of acts or omissions which would constitute an offence triable on indictment if done or made in the State,
  - (d) is convicted of an offence involving fraud or dishonesty,
  - (e) is sentenced by a court of competent jurisdiction to a term of imprisonment,
  - (f) has a declaration under section 819 of the Act of 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
  - (g) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Act of 2014, whether by virtue of that

Chapter or any other provision of that Act, or a disqualification outside the State to like effect which corresponds to such a disqualification order.

- (4) A person shall be disqualified from holding office as the Independent Examiner under *paragraph (a) of subsection (3)* only for so long as he or she has not obtained a certificate of discharge from the bankruptcy.
- (5) Where the Independent Examiner is—
- (a) nominated as a member of Seanad Éireann,
  - (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,
  - (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to be a member of the European Parliament, or
  - (d) elected or co-opted as a member of a local authority,

he or she shall thereupon cease to hold office as the Independent Examiner.

#### **Resignation of Independent Examiner**

- 238.** The Independent Examiner may resign from the office by notice in writing addressed to the Taoiseach and the resignation shall take effect on the date the Taoiseach receives the notice or, if a date is specified in the notice and the Taoiseach agrees to that date, on that date.

#### **Removal of Independent Examiner**

- 239.** The Independent Examiner may be removed from office by the Government for stated reasons, including because he or she has—
- (a) without reasonable excuse, failed to perform the functions of the office,
  - (b) become incapable through ill health or otherwise of effectively performing those functions,
  - (c) committed stated misbehaviour,
  - (d) a conflict of interest of such significance that he or she should cease to hold the office, or
  - (e) is otherwise unfit to hold the office or is unable to discharge its functions.

#### **Provision of services and staff to Independent Examiner**

- 240.** (1) The Minister shall, having consulted with the Independent Examiner and with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, provide the Independent Examiner with such funds, premises, facilities and services as may be necessary for the proper functioning of the office.

- (2) The Minister may, having consulted with the Independent Examiner and with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, appoint such and so many of the Minister's officers as the Minister may determine to assist the Independent Examiner in the performance of his or her functions.

**Power of Independent Examiner to appoint consultants and advisers and enter into contracts**

- 241.** (1) Subject to such procedures and requirements as may be contained in regulations (if any) under *subsection (2)*, the Independent Examiner may, with the consent of the Minister given with the approval of the Minister for Public Expenditure, National Development Plan Delivery and Reform—
- (a) engage such consultants or advisers as he or she considers necessary to assist in the performance of his or her functions under this Act, and
  - (b) enter into a contract with any person or body concerning any matter arising in relation to those functions.
- (2) The Minister may, with the consent of the Taoiseach and having regard to the need to protect the security of the State, make regulations providing for procedures to determine the suitability of, and any requirements to be met by—
- (a) consultants or advisers referred to in *subsection (1)(a)*, or
  - (b) persons or bodies referred to in *subsection (1)(b)*.
- (3) The Minister may, having consulted with the Taoiseach, refuse to provide his or her consent under *subsection (1)* where the Minister is of the opinion that the consultant or adviser who the Independent Examiner proposes to engage under *paragraph (a)* of that subsection, or the person or body with whom the Independent Examiner proposes to enter into a contract under *paragraph (b)* thereof—
- (a) does not meet such requirements (if any) as may be specified in regulations under *subsection (2)*, or
  - (b) is otherwise not suitable.
- (4) There shall be paid by the office, out of the resources at the disposal of the office, to consultants, advisers, persons or bodies referred to in *subsection (1)*, such fees (if any) or allowances for expenses (if any) incurred by them as the Independent Examiner, with the consent of the Minister given with the approval of the Minister for Public Expenditure, National Development Plan Delivery and Reform, may determine.
- (5) Subject to *subsection (4)*, the engagement of a person as a consultant or adviser under *subsection (1)(a)* shall be for such period and on such terms and conditions as the Independent Examiner considers appropriate.

**Additional powers of Independent Examiner**

- 242.** (1) For the purposes of the performance of his or her functions, the Independent Examiner may, by notice in writing—
- (a) require an information holder who, in the opinion of the Independent Examiner, possesses information or has a document or thing in his or her power or control which is relevant for the performance of the Independent Examiner’s functions, to provide that information, document or thing to the Independent Examiner, and
  - (b) where appropriate, require an information holder or a person nominated on behalf of an information holder to attend before the Independent Examiner for the purpose of a requirement under *paragraph (a)*.
- (2) An information holder the subject of a requirement specified in a notice under *subsection (1)*, or a person nominated by such an information holder, shall comply with the requirement.
- (3) The Independent Examiner and an information holder may agree a memorandum of understanding concerning the manner in which information, documents or things are provided to the Independent Examiner under this section.
- (4) An information holder, or a person nominated by the information holder, required to attend before the Independent Examiner pursuant to a notice under *subsection (1)(b)*—
- (a) shall, subject to *subsection (5)*, answer fully and truthfully any question put to him or her by the Independent Examiner, and
  - (b) if so requested by the Independent Examiner, shall sign a declaration of the truth of his or her answer to the question.
- (5) Where—
- (a) any information, document or thing is provided to the Independent Examiner in accordance with a notice under *subsection (1)(a)*, or
  - (b) the Independent Examiner puts a question to a person under *subsection (4)(a)*,
- the information holder or person nominated by the information holder, as the case may be, who provides the information, document or thing or to whom the question is put shall ensure that the information, document or thing provided, or the answer given, as the case may be, is subject to such exclusions or redactions as he or she considers necessary to—
- (i) safeguard international intelligence sources, or
  - (ii) conceal the identity of a person, where to reveal the identity of the person might endanger the life or safety of any person.
- (6) The Independent Examiner may request that appropriate facilities and accommodation be made available within the premises of an information holder to permit the examination of information, documents or things and to put questions to individuals and where he or she so requests an information holder shall comply with the request.



- (7) The Minister may, having regard to *subsection (6)*, prescribe the manner in which information, documents or things are to be provided by information holders to the Independent Examiner.

### Reviews and recommendations by Independent Examiner

- 243.** (1) The Independent Examiner shall carry out a review in accordance with this section (in this section referred to as a “review”) of the following matters:
- (a) a refusal by the Garda Commissioner, under *subsection (5) of section 147*, to comply with a request under *subsection (4) of that section* to provide information or a document to the Authority, referred to the Independent Examiner by the Authority under the said *subsection (5)*;
  - (b) an objection by the Garda Commissioner under *section 210(14)* to a search of Garda Síochána premises notified to the Independent Examiner by the Garda Commissioner under that subsection;
  - (c) a refusal by a person, under *subsection (5) of section 211*, to provide any information, document or thing pursuant to a requirement under *subsection (1)(a) of that section* or to answer any question under *subsection (4)(a) of that section*, referred to the Independent Examiner by the Police Ombudsman under *subsection (7) of that section*;
  - (d) a refusal by the Garda Commissioner, under *subsection (3) of section 217*, to comply with a request under *subsection (1) of that section* to provide any information or document, referred to the Independent Examiner by the Police Ombudsman under *subsection (4) of that section*.
- (2) A referral or a notification referred to in *subsection (1)* shall contain such other information in relation to the matter referred or notified as the Independent Examiner may reasonably require for the purposes of a review.
- (3) The Independent Examiner may, for the purpose of a review, seek further information from An Garda Síochána or interview a person nominated by the Garda Commissioner for that purpose.
- (4) On completion of a review, the Independent Examiner shall issue to the Minister a recommendation in writing in relation to the matter to which the review relates and the reasons for such recommendation.
- (5) The Independent Examiner may agree a memorandum of understanding with the Garda Commissioner concerning the manner in which the powers of the Independent Examiner under *subsection (3)* may be exercised.

## CHAPTER 4

## Reporting

**Annual report of Independent Examiner**

- 244.** (1) Subject to *subsection (3)(a)* and *section 249*, the Independent Examiner shall, not later than 3 months after the end of each year, prepare and submit to the Taoiseach a report on his or her activities under this Act, the Act of 1993, the Act of 2009 and the Act of 2011 during the preceding year (in this Part referred to as the “annual report”).
- (2) Subject to *section 249*, an annual report shall include—
- (a) a review of the operation and effectiveness of the Act of 1993, the Act of 2009 and the Act of 2011 in the period to which the report relates,
  - (b) subject to *subsection (3)(b)*, at least once every 3 years, a review of the operation and effectiveness of the enactments, other than those referred to in *paragraph (a)*, which fall within the definition of “security legislation”,
  - (c) without prejudice to *paragraphs (a)* and *(b)*, a general statement regarding the performance by the Independent Examiner during the period to which the report relates of his or her functions, including, subject to *subsection (3)(c)*, such additional functions as may be conferred on him or her under *section 234(9)(a)*,
  - (d) a general statement regarding any notifications received during the period to which the report relates under *section 204(7)*,
  - (e) details of any request referred to in *subsection (3)* made by the Independent Examiner and any decision of the Taoiseach in relation to such request, and
  - (f) such recommendations, having regard to his or her objectives referred to in *section 234(1)*, as appear to the Independent Examiner to be appropriate.
- (3) The Taoiseach may, where he or she receives a request in writing in that regard from the Independent Examiner in relation to an annual report—
- (a) grant an additional period of up to 6 months, commencing on the expiry of the period referred to in *subsection (1)* or *(5)*, as the case may be, for the submission of the annual report under the subsection concerned,
  - (b) where a review of an enactment to which *subsection (2)(b)* applies would, by virtue of the operation of that subsection, otherwise be required to be included in the annual report, permit such review not to be included in that annual report and to be included instead in the annual report in the following year, and
  - (c) where a general statement regarding the performance by the Independent Examiner of such additional functions as may be conferred on him or her under *section 234(9)(a)* would, by virtue of the operation of *subsection (2)(c)*, otherwise be required to be included in the annual report, permit such statement not to be included in that annual report and to be included instead in the annual report in the following year.

- (4) The Taoiseach shall ensure that, as soon as practicable after he or she receives a copy of the annual report, a copy of it is laid before each House of the Oireachtas.
- (5) Notwithstanding *subsection (1)*, if, but for this subsection, the first annual report under that subsection would relate to a period of less than 6 months, that annual report shall relate to that period and to the year immediately following that period and shall be prepared as soon as may be, but not later than 3 months, after the end of that year.

### **Special reports of Independent Examiner**

- 245.** (1) Subject to *section 249*, the Independent Examiner may prepare and submit to the Taoiseach reports, in addition to an annual report, on matters relating to his or her activities or the performance of his or her functions together with any recommendations that the Independent Examiner considers appropriate that, in his or her opinion, require, due to the gravity of the matters or other exceptional circumstances, a special report.
- (2) The Taoiseach may request the Independent Examiner to prepare and submit to him or her a special report—
    - (a) on the actions taken by, or the conduct of, a public body in respect of any incident relating to the protection of the security of the State, or
    - (b) in respect of any other matter relating to the functions of the Independent Examiner.
  - (3) The Independent Examiner shall, as soon as practicable after he or she receives a request under *subsection (2)*, comply with the request and submit a special report to the Taoiseach.
  - (4) The Taoiseach shall ensure that, as soon as practicable after receiving a special report under *subsection (1) or (2)*, a copy of it is laid before each House of the Oireachtas.

### **Report on effectiveness of office and functions by Independent Examiner**

- 246.** (1) Subject to *section 249*, the Independent Examiner shall prepare and submit to the Taoiseach, at such times as the Taoiseach may request, a report in relation to the effectiveness of the office, including in respect of the functions of the Independent Examiner under this Act, the Act of 1993, the Act of 2009 and the Act of 2011.
- (2) A report under this section may contain recommendations for improving the effectiveness of the office, including in respect of the functions and powers of the Independent Examiner under this Act, the Act of 1993, the Act of 2009 and the Act of 2011.
  - (3) The Taoiseach shall ensure that, as soon as practicable after he or she receives a report under this section, a copy of it is laid before each House of the Oireachtas.

### **Publication of reports by Independent Examiner**

- 247.** The Independent Examiner shall ensure that, as soon as practicable after—

- (a) a copy of the annual report,
- (b) a copy of a special report, or
- (c) a copy of a report under *section 246*,

is laid before each House of the Oireachtas in accordance with *section 244(4)*, *245(4)* or *246(3)*, as the case may be, the report as laid is published on a website maintained by or on behalf of the Independent Examiner or in such other manner as the Taoiseach may specify.

### **Response by Taoiseach to reports of Independent Examiner**

**248.** (1) The Taoiseach shall, within 3 months of the receipt by him or her of—

- (a) an annual report submitted under *section 244(1)*,
- (b) a special report submitted under *subsection (1)* or *(3)* of *section 245*, or
- (c) a report submitted under *section 246(1)*,

issue a response to the Independent Examiner on behalf of the Government.

- (2) A response under *subsection (1)* shall address any recommendations made in a report referred to in that subsection in respect of which it is issued.
- (3) The Taoiseach shall ensure that a copy of a response under *subsection (1)* is laid before each House of the Oireachtas as soon as practicable.

### **Sensitive information**

**249.** (1) Where the Independent Examiner proposes including, in an annual report, a special report or a report under *section 246*, sensitive information provided to him or her, he or she shall consult in relation to the sensitive information concerned with the relevant information holder and the relevant Minister of that information holder prior to submitting the report concerned under *section 244(1)*, *subsection (1)* or *(3)* of *section 245* or *section 246(1)*, as the case may be.

(2) Where, in relation to sensitive information provided to the Independent Examiner, a relevant information holder or the relevant Minister forms the view that a report referred to in *subsection (1)* contains sensitive information that is not suitable for publication, the Independent Examiner shall—

- (a) prior to submitting the report concerned under *section 244(1)*, *subsection (1)* or *(3)* of *section 245*, or *section 246(1)*, as the case may be, agree with the relevant information holder or relevant Minister, as the case may be, such redactions or amendments to the report as shall render it suitable for publication, and
- (b) subject to *subsection (3)*, submit the report as so redacted or amended to the Taoiseach under *section 244(1)*, *subsection (1)* or *(3)* of *section 245*, or *section 246(1)*.

- (3) Where *subsection (2)* applies to an annual report, a special report or a report under *section 246* and the Independent Examiner is of the opinion that to do so is necessary for the proper performance of his or her functions, he or she may submit to the Taoiseach—
- (a) a version of the annual report, special report or report that is redacted or amended under *subsection (2)*, and
  - (b) a version of such report that is not so redacted or amended.
- (4) Where the Independent Examiner submits 2 versions of an annual report, a special report or a report under *section 246* to the Taoiseach pursuant to *subsection (3)*, a reference in—
- (a) *section 244(4), 247 or 248(1)* to the annual report,
  - (b) *section 245(4), 247 or 248(1)* to the special report, or
  - (c) *section 246(3), 247 or 248(1)* to the report,
- shall be construed as a reference to the version of the report that is redacted or amended under *subsection (2)*.
- (5) In this section, “relevant information holder”, in relation to sensitive information, means the public body that provided the sensitive information to the Independent Examiner.

## CHAPTER 5

*Information***Confidentiality of sensitive information (Part 7)**

**250.** (1) A person who is or was—

- (a) the Independent Examiner,
- (b) a member of staff of the office,
- (c) engaged by or under contract with the Independent Examiner pursuant to *section 241*, or
- (d) an employee or a contractor of a person to whom *paragraph (c)* applies,

shall not intentionally or recklessly disclose, in or outside the State, unless he or she is required or permitted by law or duly authorised by the Independent Examiner in furtherance of his or her functions, any sensitive information obtained in the course of carrying out duties of that person’s office, employment, contract or other arrangement of engagement.

(2) A person who contravenes *subsection (1)* is guilty of an offence and is liable—

- (a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months, or both, or

- (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.
- (3) In any proceedings for an offence under this section, it shall be a defence to show that the disclosure was reasonably believed by the person who made the disclosure to be required or permitted by law or duly authorised by the Independent Examiner in furtherance of his or her functions.
- (4) A person who contravenes *subsection (1)* and who receives any gift, consideration or advantage as an inducement to disclose the information to which the disclosure relates or as a reward for, or otherwise on account of, the disclosure of that information, is guilty of an offence and is liable—
  - (a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €75,000 or imprisonment for a term not exceeding 7 years, or both.
- (5) The provisions of this section are in addition to, and not in substitution for, the provisions of the Act of 1963.

### Security of information

- 251.** (1) The Independent Examiner shall put in place all necessary and reasonable measures to ensure the security of any information, document or thing provided to him or her or otherwise obtained by him or her in the course of performing his or her functions.
- (2) The Independent Examiner and an information holder who provides any information, document or thing to him or her under this Act or any other enactment shall agree a memorandum of understanding concerning measures to ensure the security of any such information, document or thing so provided or otherwise obtained by the Independent Examiner in the course of performing his or her functions.
- (3) A memorandum of understanding agreed pursuant to *subsection (2)* shall include—
  - (a) measures of physical and electronic security, and
  - (b) procedures for the appropriate handling of sensitive information by the office.
- (4) The Independent Examiner shall ensure that any information, document or thing provided to him or her by an information holder shall be returned to the information holder as soon as practicable.

## PART 8

## REGULATIONS

**Regulations and orders**

**252.** (1) Subject to *subsection (2)*, the Minister may by regulation provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) The Minister shall not make regulations or orders under the following sections other than with the approval of the Government:

- (a) *section 45(2)*;
- (b) *section 59(1)*;
- (c) *section 96(4)*;
- (d) *section 193(2)*;
- (e) *section 196(8)*;
- (f) *section 253(1)*;
- (g) *section 254(1)*;
- (h) *section 255(1)*;
- (i) *section 256(1)*;
- (j) *section 257(1)*;
- (k) *section 258(1)*;
- (l) *section 260*;
- (m) *section 261(3)*.

(3) Every regulation or order made under—

- (a) *subsection (1) or (3) of section 87*,
- (b) *section 107(5)*,
- (c) *section 114(1)*,
- (d) *section 115*,
- (e) *section 212(7)*,
- (f) *section 230(1)*,
- (g) *section 234(9)*,
- (h) *section 241(2)*,
- (i) *section 259*, or
- (j) *section 264(3)*,

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

- (4) An order or regulation under this Act may contain such incidental, supplementary and consequential provisions as appear to the Government, the Taoiseach or the Minister, as the case may be, to be necessary or expedient for the purposes of the order or regulation.

### **General power to make regulations**

- 253.** (1) Subject to *section 252(2)*, the Minister may, in addition to any other power conferred on him or her to make regulations, make regulations generally for the purposes of giving full effect to this Act.
- (2) Before making regulations under this section, the Minister shall consult with such of the following as the Minister considers appropriate:
- (a) the Garda Commissioner;
  - (b) the Board;
  - (c) the Authority;
  - (d) the Police Ombudsman;
  - (e) the Independent Examiner.

### **Regulations relating to management of An Garda Síochána**

- 254.** (1) Subject to this Act, the Minister may, having consulted with the Garda Commissioner and the Authority, make regulations relating to the management of An Garda Síochána, including regulations relating to any or all of the following matters:
- (a) the duties of the different ranks of An Garda Síochána;
  - (b) the functions of the different grades of members of garda staff;
  - (c) the admission, appointment and enrolment of members of An Garda Síochána, including members who have served with other police services and members with different ethnic or national origins or different religious beliefs or backgrounds;
  - (d) the selection processes to apply to appointments to different ranks of An Garda Síochána, including the nomination by the Authority of a representative to participate in such selection boards as may be specified in the regulations;
  - (e) the length of the term for which a person, appointed to the rank of Deputy Garda Commissioner or Assistant Garda Commissioner after the coming into operation of this section, shall hold office;



- (f) without prejudice to *sections 93 and 94*, the appointment to An Garda Síochána of members on secondment from a police service or law enforcement agency in a state other than the State, including the criteria, procedures and terms and conditions that would apply to such appointments and to members so appointed;
  - (g) the secondment of personnel to and from An Garda Síochána pursuant to an agreement entered into under *section 93*, including the criteria, procedures and terms and conditions that would apply to such secondments and to personnel so seconded;
  - (h) the training of members of An Garda Síochána;
  - (i) the retirement of members of An Garda Síochána, including the retirement ages of reserve members and other ranks of An Garda Síochána;
  - (j) the payment of pensions, allowances and gratuities to members of An Garda Síochána and their spouses or civil partners (within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010), children and dependants, including—
    - (i) the conditions under which those pensions, allowances and gratuities are payable,
    - (ii) the rates and scales of payment, and
    - (iii) the penalties for fraudulent conduct in relation to an application for a pension, allowance or gratuity;
  - (k) the promotion of members of An Garda Síochána;
  - (l) requirements relating to the resignation of members of An Garda Síochána;
  - (m) the use of facilities, equipment, arms or services by An Garda Síochána;
  - (n) the limitations, restrictions or conditions applicable to the delegation of the Garda Commissioner's functions under *section 39*;
  - (o) the limitations, restrictions or conditions applicable to the exercise of the Garda Commissioner's powers under *section 40*;
  - (p) the circumstances in, and the extent to, which services referred to in *section 43(3)* may be provided under that section by An Garda Síochána;
  - (q) the costs to be taken into account under *section 43(4)* in relation to the provision of services under that section;
  - (r) matters relating to the role, status and carrying out of business within An Garda Síochána, of associations established in accordance with *section 59*, including the organisation of, and procedures applying to, such associations;
  - (s) any other matter relating to the organisation, training, carrying out of duties, efficiency, management or administration of An Garda Síochána.
- (2) In making regulations under this section, the Minister shall consider the objective of promoting effectiveness, efficiency and economy in An Garda Síochána.

- (3) Regulations made under this section may—
- (a) make different provision for—
    - (i) different categories of members or ranks of An Garda Síochána,
    - (ii) different categories or grades of members of garda staff, or
    - (iii) different categories of any other such persons to whom the regulations may apply,
  - or
  - (b) authorise any matter or thing to be determined or applied by a specified person or body.

**Regulations relating to establishment, maintenance and operation of regime of testing for controlled drugs and psychoactive substances**

**255.** (1) Subject to *section 252(2)*, the Minister may, having consulted with the Garda Commissioner and the Authority, make regulations for the establishment, maintenance and operation of a regime of testing in relation to An Garda Síochána for controlled drugs and psychoactive substances, which may provide for—

- (a) subject to *paragraph (b)*, a prohibition on the presence of controlled drugs or psychoactive substances above a specified concentration in a sample,
- (b) the procedures to be followed where a person is exposed to a controlled drug or psychoactive substance in the course of and as a result of his or her functions or employment,
- (c) the taking of samples,
- (d) a prohibition on tampering with a sample,
- (e) subject to *subsection (2)*, the persons from whom a sample may be taken for testing,
- (f) the persons who may be permitted to take a sample,
- (g) the information to be provided to a person required to provide a sample,
- (h) matters with regard to the testing and analysis of samples,
- (i) the reasons for testing, which may include—
  - (i) pre-employment testing,
  - (ii) testing of persons admitted as trainees in accordance with *section 53*,
  - (iii) random testing,
  - (iv) targeted drug testing,
  - (v) with-cause testing, or
  - (vi) post-incident testing,

- (j) the concentration of a controlled drug or psychoactive substance required to be present to yield a positive result in a sample,
  - (k) how samples are to be stored,
  - (l) the period during which samples may be stored, and
  - (m) the reviewing of test results.
- (2) A regime of testing established, maintained and operated pursuant to regulations under *subsection (1)* may apply in respect of such of the following persons as may be specified in the regulations:
- (a) applicants seeking appointment to the position of a member of An Garda Síochána;
  - (b) persons admitted as trainees in accordance with *section 53*;
  - (c) members of An Garda Síochána;
  - (d) persons seconded to An Garda Síochána pursuant to an agreement under *section 93*;
  - (e) members of garda staff.
- (3) Regulations under *subsection (1)* may make different provision for different categories of persons in respect of whom they may apply pursuant to *subsection (2)*.

### Performance Regulations

- 256.** (1) Subject to *section 252(2)*, the Minister may, having consulted with the Garda Commissioner and the Police Ombudsman, make regulations providing for the procedures under which An Garda Síochána may address—
- (a) the unsatisfactory performance of a member of An Garda Síochána, or
  - (b) the unsatisfactory attendance of such a member,
- (in this Act referred to as the “Performance Regulations”).
- (2) Without prejudice to the generality of *subsection (1)*, the Performance Regulations may make provision for the following matters:
- (a) the criteria and procedures by which it is to be determined that the regulations are to apply in respect of the unsatisfactory performance or unsatisfactory attendance of a member of An Garda Síochána;
  - (b) the criteria and procedures by which the degree of seriousness of the unsatisfactory performance or unsatisfactory attendance of the member may be assessed;
  - (c) the procedures to apply in addressing the unsatisfactory performance or unsatisfactory attendance of the member, including—

- (i) the person responsible for addressing such unsatisfactory performance or unsatisfactory attendance of the member concerned at each stage of such procedures,
- (ii) the measures that may be taken by An Garda Síochána for the purposes of addressing the unsatisfactory performance or unsatisfactory attendance of the member concerned, including—
  - (I) the holding of meetings with that member, whether by another member of garda personnel or a panel of such members,
  - (II) the assessment of that member’s performance or attendance to determine whether further measures are required under the regulations in relation to him or her,
  - (III) the issuing of a notice in writing to that member requiring that he or she improve his or her performance or attendance and specifying any actions required for such improvement and such other matters as may be considered appropriate (in this section referred to as an “improvement plan”),
  - (IV) the assessment and monitoring of compliance by that member with an improvement plan,
  - (V) the variation of an improvement plan,
  - (VI) the suspension of that member under *section 48* or *50(3)*, and
  - (VII) the bringing of a review by that member of an outcome proposed under the regulations and the conduct or consideration of that review,
- (iii) the fair procedures to apply to the member concerned in the consideration or assessment of his or her performance or attendance, including the circumstances in which the member concerned may be legally represented, and
- (iv) the outcomes that may be imposed on the member concerned under the regulations, including—
  - (I) a decision that no further action is required under the regulations,
  - (II) the referral of that member to be dealt with under the Conduct Regulations,
  - (III) a reduction in the rank of that member, or
  - (IV) the dismissal of that member;
- (d) the retention of records relating to any matter dealt with under the regulations;
- (e) the procedures to apply where a copy of a report has been provided to the Garda Commissioner by the Police Ombudsman under *section 215* in relation to a member of An Garda Síochána that discloses a matter that should be dealt with under the Performance Regulations.

- (3) Regulations made under this section may make different provision—
- (a) depending on the degree of seriousness of the unsatisfactory performance or unsatisfactory attendance of a member of An Garda Síochána, or
  - (b) for different categories of members or ranks of An Garda Síochána.

- (4) In this section—

“improvement plan” has the meaning assigned to it by *subsection (2)(c)(ii)(III)*;

“unsatisfactory attendance”, in relation to a member of An Garda Síochána, means an inability or a failure on the part of the member to attend for duty as such a member to the level that can reasonably be expected of such a member;

“unsatisfactory performance”, in relation to a member of An Garda Síochána, means an inability or a failure on the part of the member to perform the duties of the role that he or she is currently undertaking, or the rank that he or she holds, to the level that can reasonably be expected of such a member.

### Conduct Regulations

**257.** (1) Subject to *section 252(2)*, the Minister may, having consulted with the Garda Commissioner and the Police Ombudsman, make regulations providing for the procedures under which An Garda Síochána may address misconduct by a member of An Garda Síochána (in this Act referred to as the “Conduct Regulations”).

- (2) Without prejudice to the generality of *subsection (1)*, the Conduct Regulations may make provision for the following matters:

- (a) the criteria and procedures by which it is to be determined that the regulations are to apply in respect of the alleged misconduct of a member of An Garda Síochána;
- (b) the criteria and procedures by which the degree of seriousness of the alleged misconduct by a member of An Garda Síochána may be assessed;
- (c) the procedures to apply in addressing alleged misconduct by a member of An Garda Síochána, including—
  - (i) the conduct, where appropriate, of an investigation into the alleged misconduct of the member concerned,
  - (ii) the appointment of a person to conduct such an investigation,
  - (iii) the manner in which such an investigation is to be conducted,
  - (iv) the suspension of the member concerned under *section 30, 48 or 50(3)*,
  - (v) the bringing of proceedings under the regulations against the member concerned for the purposes of the consideration of whether the imposition of a disciplinary sanction on the person is warranted (in this section referred to as “relevant proceedings”), including—
    - (I) the matters that may be taken into account in such proceedings,

- (II) the appointment of a person or a panel of persons to conduct such proceedings,
  - (III) the procedures to apply to the conduct of such proceedings,
  - (IV) the circumstances in which the member concerned may seek a review of, or bring an appeal against, a finding made, or a disciplinary sanction proposed, under the regulations,
  - (V) the procedures to apply to the conduct of a review or appeal referred to in *clause (IV)*, and
  - (VI) the disciplinary sanction that may be imposed on the member concerned under the regulations,
- (vi) the fair procedures to apply to the member concerned in the conduct of an investigation or relevant proceedings under the regulations, including the circumstances in which the member concerned may be legally represented,
- (vii) the powers of a person appointed to conduct an investigation pursuant to *subparagraph (ii)* or a person or panel of persons appointed to conduct relevant proceedings pursuant to *subparagraph (v)(II)*, including the power to require a person to—
- (I) cooperate with such an investigation or proceedings in such a manner as may be specified in the regulations,
  - (II) provide any information or documents required,
  - (III) attend for an interview, meeting or hearing as required,
  - (IV) give a truthful account of any matter under investigation or the subject of relevant proceedings, or
  - (V) truthfully answer any questions put to him or her during the investigation or relevant proceedings,
- and
- (viii) the consequences that may apply to a person who does not cooperate with a person appointed to conduct an investigation pursuant to *subparagraph (ii)* or a person or panel of persons appointed to conduct relevant proceedings pursuant to *subparagraph (v)(II)* in the exercise of his or her powers;
- (d) the criteria to apply in referring alleged misconduct by a member the subject of an investigation or relevant proceedings under the regulations to be dealt with under the Performance Regulations;
- (e) the retention of records relating to any matter dealt with under the regulations;
- (f) the procedures to apply where a copy of a report has been provided to the Garda Commissioner by the Police Ombudsman under *section 215* in relation to a member of An Garda Síochána that discloses a matter that should be dealt with under the Conduct Regulations;

- (g) where the report referred to in *paragraph (f)* concerns a member of An Garda Síochána who is no longer such a member at the time that the report is received by the Garda Commissioner, the circumstances in which a finding in the report and the recommendation of the Police Ombudsman may be recorded in the employment record of the member, and the information shared with other persons.
- (3) The Conduct Regulations may apply in respect of the misconduct of a member of An Garda Síochána notwithstanding that—
- (a) he or she has been convicted or acquitted of an offence in respect of the matter that constitutes the misconduct,
  - (b) a charge against the member concerned in respect of an offence referred to in *paragraph (a)* has been dismissed under section 4E of the Criminal Procedure Act 1967,
  - (c) proceedings against the member concerned for an offence referred to in *paragraph (a)* have been discontinued, or
  - (d) the Director of Public Prosecutions has decided not to institute a prosecution in relation to the matter that constitutes the misconduct.
- (4) The Conduct Regulations may make different provision—
- (a) depending on the degree of seriousness of the alleged misconduct of a member of An Garda Síochána, or
  - (b) for different categories of members or ranks of An Garda Síochána.
- (5) Subject to *subsections (6) and (7)*, the Conduct Regulations shall apply to the misconduct of a member of An Garda Síochána regardless of whether the misconduct occurred prior to or after the coming into operation of this section.
- (6) The Conduct Regulations shall not apply to the misconduct of a member of An Garda Síochána that occurred prior to the coming into operation of this section and in relation to which disciplinary proceedings (within the meaning of the Regulations of 2007) had been commenced but not concluded under the Regulations of 2007 on the date of such coming into operation.
- (7) Any disciplinary sanction imposed on a member of An Garda Síochána under the Conduct Regulations in relation to misconduct that occurred prior to the coming into operation of this section shall not exceed the sanction that could have been imposed in respect of that breach at the time the breach occurred.
- (8) In this section—
- “disciplinary sanction” means—
- (a) a written warning,
  - (b) temporary reduction in pay not exceeding 2 weeks’ pay,
  - (c) a final written warning, or

- (d) dismissal;
- “misconduct”, in relation to the conduct of a member of An Garda Síochána—
- (a) occurring after the coming into operation of this section, means—
- (i) a breach by the member of the standards of professional behaviour, or
  - (ii) a failure by the member to cooperate with—
    - (I) any measures taken under the Performance Regulations in respect of his or her unsatisfactory performance or unsatisfactory attendance,
    - (II) an investigation (within the meaning of *Part 6*),
    - (III) an investigation under *section 227*, or
    - (IV) a person appointed to conduct an investigation pursuant to *subsection (2)(c)(ii)* or a person or panel of persons appointed to conduct relevant proceedings pursuant to *subsection (2)(c)(v)(II)*,
- and
- (b) occurring before the coming into operation of this section, means conduct that would, at the time it occurred, have been a breach of discipline within the meaning of the Regulations of 2007;

“Regulations of 2007” means the Garda Síochána (Discipline) Regulations 2007 (S.I. No. 214 of 2007).

### **Regulations relating to standards of professional behaviour**

- 258.** (1) Subject to *section 252(2)*, the Minister may, having consulted with the Garda Commissioner, the Police Ombudsman and the Authority, prescribe the standards of professional behaviour applicable to members of garda personnel (in this Act referred to as the “standards of professional behaviour”).
- (2) In prescribing standards of professional behaviour under *subsection (1)*, the Minister shall have regard to—
- (a) the importance of members of garda personnel maintaining proper standards of integrity and conducting themselves in a manner that promotes public confidence in policing,
  - (b) the policing principles,
  - (c) the code of ethics for members of garda personnel issued under *section 78*, and
  - (d) such other matters that he or she considers appropriate.
- (3) The Minister may prescribe different standards under *subsection (1)* for members of An Garda Síochána and members of garda staff.



**Regulations relating to fees for provision of vetting services**

**259.** The Minister may—

- (a) having consulted with the Garda Commissioner, and
- (b) with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform,

make regulations prescribing fees in relation to the provision of vetting services by An Garda Síochána.

**Regulations relating to matters concerning security of State**

**260.** The Minister may, having consulted with the Garda Commissioner, for the purposes of section 45(10) of the Freedom of Information Act 2014, make regulations prescribing—

- (a) information, documents or things, or classes of information, documents or things relating to the security of the State, and
- (b) Garda Síochána premises in which information, documents or things, or classes of information, documents or things, relating to the security of the State are held.

**Continuation of certain regulations and orders**

**261.** (1) Subject to *subsections (2) to (4)*, regulations and orders made or continued under an enactment repealed by *section 5* which are in force immediately before the day on which this section comes into operation shall on and after that day, and to the same extent as they were so in force, continue in force.

- (2) Each regulation or order specified in *Schedule 7*, in so far as it is in force immediately before the day on which this section comes into operation, is revoked to the extent specified in *column (4)* of that Schedule.
- (3) Subject to *section 252(2)*, the Minister may revoke (whether in whole or in part) a regulation or order continued in force under this section.
- (4) A power under this Act to make a regulation or order shall include a power, exercisable in the like manner and subject to the like consent and conditions (if any), to amend a regulation or order continued in force under this section.

## PART 9

## MISCELLANEOUS

**Dissolution of Garda Síochána Reward Fund**

**262.** (1) The Garda Síochána Reward Fund established under section 18 of the Garda Síochána Act 1924 and continued in being under section 127 of the Garda Síochána Act 2005 is dissolved.

- (2) Subject to section 315 of the Fisheries (Consolidation) Act 1959, any sums standing to the credit of the Garda Síochána Reward Fund on the date of the coming into operation of this section shall be disposed of, in accordance with the directions of the Garda Commissioner, for the promotion of the well-being of members of garda personnel.

### Exercise of special powers by security officers

**263.** (1) The Minister may by order designate any of the following bodies for the purposes of this section:

- (a) the Courts Service;
- (b) a Department of State;
- (c) the Office of the Attorney General;
- (d) the Houses of the Oireachtas Commission;
- (e) the National Gallery of Ireland;
- (f) the National Museum of Ireland.

(2) For the purposes of this section, the head of an authorised body may, in writing—

- (a) specify any premises in which any activity relating to the functions of that body is carried out (in this section referred to as a “specified premises”), and
  - (b) where he or she has so specified a premises, designate a person as a security officer in relation to the specified premises for the purpose of guarding, patrolling or providing any other protective services in relation to the premises and persons on the premises, where that head is satisfied that—
    - (i) the person is a suitable person to exercise the powers of a security officer under this section in relation to the premises,
    - (ii) the person has received adequate training for that purpose,
    - (iii) where the person has entered into a contract with the authorised body or the head of an authorised body, on behalf of the authorised body, for the provision of a relevant security service, he or she is the holder of any licence that is required under the Act of 2004 to provide such a service, and
    - (iv) where the person is an employee of a person with whom or with which the authorised body or the head of an authorised body, on behalf of the authorised body, has entered into a contract for the provision of a relevant security service (in this subparagraph referred to as “the contractor”), the contractor and employee each hold any licence that is required under the Act of 2004 to provide such a service.
- (3) A security officer may, in carrying out his or her duties in relation to a specified premises in respect of which he or she is designated under *subsection (2)(b)*, exercise

any of the powers specified in *subsection (4)* or, where applicable, *subsection (5)*, where—

- (a) the security officer is identifiable as such by means of a badge or uniform, and
  - (b) the powers are exercised in accordance with any general or special instruction issued by the head of the authorised body by whom the security officer is so designated.
- (4) A security officer shall have the following powers:
- (a) to search any person who is in, or seeks entry to, the specified premises in respect of which the security officer is designated under *subsection (2)(b)*;
  - (b) to examine any article that is in, being delivered to, or brought into those premises;
  - (c) to exclude or remove from those premises any person who, without good cause—
    - (i) refuses to be searched in accordance with *paragraph (a)*, or
    - (ii) refuses to allow an article in his or her possession to be examined in accordance with *paragraph (b)*;
  - (d) to exclude or remove any person from those premises if it is necessary to do so—
    - (i) to protect a person or property, or
    - (ii) to allow the business of the authorised body to proceed without interference or delay;
  - (e) to require any person who is in, or seeks entry to, those premises to identify himself or herself;
  - (f) to seize, in exercising powers under this section, any weapon other than one in the possession of a person with lawful authority to have the weapon in his or her possession;
  - (g) to seize any article that the security officer has reason to believe is being unlawfully removed from those premises;
  - (h) to use reasonable force where necessary in exercising a power conferred under *paragraph (c), (d), (f) or (g)*.
- (5) Without prejudice to *subsection (4)*, where a security officer is designated under *subsection (2)(b)* by the Chief Executive of the Courts Service in respect of a specified premises all or part of which is a court, the security officer may, in carrying out his or her duties in relation to the premises, at the oral direction of a judge—
- (a) remove from the court any person who the judge has found to be in contempt of court, or
  - (b) take into custody any person who the judge has so found and deliver that person into the custody of a member of An Garda Síochána as soon as practicable.

- (6) A person taken into custody pursuant to *subsection (5)(b)* shall, unless the court has ordered by warrant or otherwise that the person be committed to prison or be released, be brought before the court for it to deal with the matter before the court rises by—
- (a) the security officer concerned, if still in his or her custody, or
  - (b) a member of An Garda Síochána, if already delivered into the custody of An Garda Síochána.
- (7) A security officer may use reasonable force where necessary in complying with a direction under *subsection (5)* or carrying out a duty under *subsection (6)*.
- (8) The powers conferred on security officers under this section shall not authorise a security officer to—
- (a) require a person to remove clothing other than outer garments, such as coats, hats, jackets and shoes, or
  - (b) read any document that would be exempt from production in any proceedings in a court on the ground of legal professional privilege.
- (9) Nothing in this section affects any power of arrest conferred by law, including the power conferred under section 4 of the Criminal Law Act 1997.
- (10) In this section—
- “Act of 2004” means the Private Security Services Act 2004;
- “authorised body” means a body that is, for the time being, designated by the Minister under *subsection (1)*;
- “head of an authorised body” means—
- (a) in relation to a Department of State, the Minister of the Government having charge of the Department,
  - (b) in relation to the Office of the Attorney General, the Attorney General, and
  - (c) in relation to any other authorised body, the person who holds or performs the functions of the chief executive officer (by whatever name called) of that body;
- “premises” includes—
- (a) any building or part of a building, and
  - (b) any land ancillary to a building;
- “relevant security service” means a security service within the meaning of section 2(1) of the Act of 2004;
- “security officer” means a person who for the time being is designated by the head of the authorised body concerned under *subsection (2)(b)*;
- “specified premises” has the meaning assigned to it by *subsection (2)(a)*.

**Sharing of information for performance of functions**

- 264.** (1) A relevant body may share documents and information (including personal data within the meaning of the Data Protection Regulation) with—
- (a) another relevant body, or
  - (b) a prescribed body which is prescribed in relation to the relevant body,
- for the purpose of the performance of the functions of the relevant body, the other relevant body concerned or the prescribed body concerned, where to do so is in accordance with law and to the extent that is necessary and proportionate for that purpose.
- (2) A prescribed body may share documents and information (including personal data within the meaning of the Data Protection Regulation) with a relevant body in relation to which it is prescribed for the purpose of the performance of the functions of the prescribed body or the relevant body, where to do so is in accordance with law and to the extent that is necessary and proportionate for that purpose.
- (3) The Minister may make regulations in relation to the sharing of information under this section, including in relation to—
- (a) the nature of the information that may be shared under this section,
  - (b) the manner in which information shared under this section may be used, and
  - (c) the measures to be taken by a relevant body or a prescribed body to ensure that information shared under this section is shared only to the extent that is necessary and proportionate for the performance of the body’s functions.
- (4) Subject to *subsections (5) and (6)*, where the Minister considers it appropriate, he or she may, in relation to each relevant body, prescribe—
- (a) a public body, or
  - (b) the Inspector of Prisons,
- as a prescribed body in relation to the relevant body for the purposes of this section.
- (5) In prescribing a public body or the Inspector of Prisons under *subsection (4)* as a prescribed body in relation to a relevant body, the Minister shall have regard to the functions of the public body or Inspector of Prisons, as the case may be.
- (6) The Minister shall, prior to prescribing a public body or the Inspector of Prisons under *subsection (4)* as a prescribed body in relation to a relevant body, consult with the relevant body and the public body concerned or the Inspector of Prisons, as the case may be.
- (7) This section is without prejudice to any other legal basis for the sharing of documents and information between relevant bodies and prescribed bodies.
- (8) In this section, “relevant body” means—
- (a) An Garda Síochána,

- (b) the Authority, or
- (c) the Office of the Police Ombudsman.

## PART 10

## AMENDMENTS OF OTHER ACTS OF THE OIREACHTAS

**Amendment of Fisheries (Consolidation) Act 1959**

**265.** The Fisheries (Consolidation) Act 1959 is amended—

- (a) by the substitution of the following section for section 315:

**“Payments to Inland Fisheries Ireland in respect of fines for certain offences**

**315.** (1) This section applies to—

- (a) an offence under any section of this Act (other than a section contained in Part XV or XVI or section 217, 290 or 323), and
  - (b) an offence against any bye-law made under section 57 of the Inland Fisheries Act 2010.
- (2) Where a fine imposed for an offence to which this section applies has been paid or levied, then, unless the fine has been wholly remitted, there shall be paid to Inland Fisheries Ireland a sum equal to the fine, or, if the fine was remitted in part, of so much thereof as was not remitted.
- (3) All moneys payable under subsection (2) shall be paid by the Minister out of moneys provided by the Oireachtas at such times as he or she thinks fit.
- (4) A reference in subsection (2) to a fine imposed for an offence to which this section applies shall be construed as including a reference to a fine imposed under this section and not paid in whole or in part before the coming into operation of *section 265 of the Policing, Security and Community Safety Act 2024.*”

- (b) by the substitution of the following section for section 318:

**“Payments to Inland Fisheries Ireland in respect of proceeds of certain forfeitures**

**318.** (1) Where—

- (a) anything is forfeited under—
  - (i) section 302,
  - (ii) any other section of this Act, other than a section in Part XV or XVI, or

(iii) any bye-law made under section 57 of the Inland Fisheries Act 2010,

and

(b) such thing is sold by direction of the Minister under section 317,

there shall be paid to Inland Fisheries Ireland a sum equal to the said net proceeds of such sale.

(2) All moneys payable under subsection (1) shall be paid by the Minister out of moneys provided by the Oireachtas at such times as he or she thinks fit.”,

and

(c) in section 319(1), by the substitution of the following paragraph for paragraph (c):

“(c) where the said net proceeds are to be dealt with in accordance with paragraph (a), such proceeds shall be paid to Inland Fisheries Ireland.”.

#### **Amendment of Coroners Act 1962**

**266.** The Coroners Act 1962 is amended—

(a) in section 2—

(i) by the deletion of the following definitions:

(I) “designated officer of the Ombudsman Commission”;

(II) “Ombudsman Commission”;

(III) “relevant Ombudsman Commission investigation”,

and

(ii) by the insertion of the following definitions:

“ ‘*Act of 2024*’ means the *Policing, Security and Community Safety Act 2024*;

‘designated officer of the Police Ombudsman’ means a designated officer within the meaning of the *Act of 2024*;

‘relevant Police Ombudsman investigation’ means an investigation of a complaint or matter by the Police Ombudsman under *Part 6* of the *Act of 2024* concerning the death of the person in relation to whose death a coroner is performing functions under this Act;

‘senior designated officer of the Police Ombudsman’ means a senior designated officer within the meaning of the *Act of 2024*;”,

(b) in section 20(1), by the substitution of “senior designated officer of the Police Ombudsman where there is a relevant Police Ombudsman investigation” for

“designated officer of the Ombudsman Commission where there is a relevant Ombudsman Commission investigation”,

(c) in section 25—

(i) in subsection (1)—

(I) by the substitution of the following paragraph for paragraph (c):

“(c) a senior designated officer of the Police Ombudsman in a case where there is a relevant Police Ombudsman investigation,”,

and

(II) in paragraph (ii), by the substitution of “senior designated officer of the Police Ombudsman” for “designated officer of the Ombudsman Commission”,

and

(ii) in subsection (2), by the substitution of the following paragraph for paragraph (c):

“(c) a senior designated officer of the Police Ombudsman in a case where there is a relevant Police Ombudsman investigation,”,

(d) in section 27(1), by the substitution of “senior designated officer of the Police Ombudsman where there is a relevant Police Ombudsman investigation” for “designated officer of the Ombudsman Commission where there is a relevant Ombudsman Commission investigation”,

(e) in section 29—

(i) in subsection (3), by the substitution of the following paragraph for paragraph (e):

“(e) the Police Ombudsman, or”,

and

(ii) in subsection (4), by the substitution of the following paragraph for paragraph (e):

“(e) the Police Ombudsman, or”,

(f) in section 33A(2), by the substitution of the following paragraph for paragraph (d):

“(d) a senior designated officer of the Police Ombudsman in a case in which there is a relevant Police Ombudsman investigation,”,

(g) in section 33E(3), by the substitution of the following paragraph for paragraph (d):

“(d) a senior designated officer of the Police Ombudsman,”,

(h) in section 36—



- (i) by the substitution of “relevant Police Ombudsman investigation” for “relevant Ombudsman Commission investigation”, and
  - (ii) by the substitution of “designated officer of the Police Ombudsman” for “designated officer of the Ombudsman Commission”,
  - (i) in section 40(3), by the substitution of “senior designated officer of the Police Ombudsman” for “designated officer of the Ombudsman Commission”,
  - (j) in section 43—
    - (i) by the substitution of “relevant Police Ombudsman investigation” for “relevant Ombudsman Commission investigation”, and
    - (ii) by the substitution of “a designated officer of the Police Ombudsman” for “a designated officer of the Ombudsman Commission”,
  - (k) in section 47(1A)—
    - (i) by the substitution of “a relevant Police Ombudsman investigation and a coroner is informed by a senior designated officer of the Police Ombudsman” for “a relevant Ombudsman Commission investigation and a coroner is informed by a designated officer of the Ombudsman Commission”, and
    - (ii) by the substitution of “body by the Police Ombudsman” for “body by the Ombudsman Commission”,
- and
- (l) in section 49A—
    - (i) in subsection (3), by the substitution of “designated officers of the Police Ombudsman where there is a relevant Police Ombudsman investigation” for “designated officers of the Ombudsman Commission where there is a relevant Ombudsman Commission investigation”, and
    - (ii) in subsection (5), by the substitution of “designated officer of the Police Ombudsman” for “designated officer of the Ombudsman Commission”.

#### **Amendment of Second Schedule to Ombudsman Act 1980**

**267.** The Second Schedule to the Ombudsman Act 1980 is amended—

- (a) by the deletion of paragraph 42,
- (b) by the substitution of the following paragraph for paragraph 44:
  - “44. Fiosrú - Oifig an Ombudsman Póilíneachta”,
- and
- (c) by the insertion of the following paragraphs after paragraph 110:
  - “111. An tÚdarás Póilíneachta agus Sábháilteachta Pobail

112. oifig an Scrúdaitheora Neamhspleáchum Reachtaíocht Slándála”.

### **Amendment of section 98 of Postal and Telecommunications Services Act 1983**

**268.** Section 98 of the Postal and Telecommunications Services Act 1983 is amended—

(a) by the insertion of the following subsection after subsection (2D):

“(2E) A request by a designated officer of the Police Ombudsman to a person employed by the company to make a disclosure in accordance with the provisions of subsection (2A) shall be in writing and be signed by a senior designated officer of the Police Ombudsman authorised by the Police Ombudsman for the purposes of this section.”,

and

(b) by the insertion of the following subsection after subsection (6):

“(7) In this section—

‘*Act of 2024*’ means the *Policing, Security and Community Safety Act 2024*;

‘designated officer of the Police Ombudsman’ means a designated officer within the meaning of the *Act of 2024*;

‘senior designated officer of the Police Ombudsman’ means a senior designated officer within the meaning of the *Act of 2024*.”.

### **Amendment of Criminal Justice Act 1984**

**269.** The Criminal Justice Act 1984 is amended—

(a) by the substitution of the following section for section 8E:

#### **“Application of certain sections to Police Ombudsman**

**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 Police Ombudsman, be construed as references to the Police Ombudsman.”,

and

(b) in section 8F(1), by the substitution of the following paragraph for paragraph (b):

“(b) members of garda staff (within the meaning of the *Policing, Security and Community Safety Act 2024*) by grade, position, name or otherwise.”.

### **Amendment of Schedule to National Archives Act 1986**

**270.** The Schedule to the National Archives Act 1986 is amended by the insertion of the following:

“Fiosrú - Oifig an Ombudsman Póilíneachta

An Oifig Náisiúnta um Shábháilteacht Pobail  
Independent Examiner of Security Legislation  
An tÚdarás Póilíneachta agus Sábháilteachta Pobail”.

**Amendment of Industrial Relations Act 1990**

**271.** The Industrial Relations Act 1990 is amended—

- (a) in section 3(1)—
  - (i) by the deletion of the definition of “Act of 2005”,
  - (ii) in the definition of “Garda Commissioner”, by the substitution of “*Act of 2024*” for “Act of 2005”,
  - (iii) in the definition of “Garda Síochána”, by the substitution of “*section 8(1) of the Act of 2024*” for “section 6 of the Act of 2005”,
  - (iv) in the definition of “member”, by the substitution of “*Act of 2024*” for “Act of 2005” in each place where it occurs, and
  - (v) by the insertion of the following definition:
    - “ ‘*Act of 2024*’ means the *Policing, Security and Community Safety Act 2024*;”,

and

- (b) in section 23—
  - (i) in subsection (1B)(c), by the substitution of “*section 59 of the Act of 2024*” for “section 18 of the Act of 2005”, and
  - (ii) in subsection (1C)(a), by the substitution of “*section 59(3) of the Act of 2024*” for “section 18(3) of the Act of 2005”.

**Amendment of Second Schedule to Electoral Act 1992**

**272.** The Second Schedule to the Electoral Act 1992 is amended—

- (a) in Part V, in Rule 29—
  - (i) in paragraph (5)(a), by the substitution of “a member of garda staff” for “a member of the civilian staff of the Garda Síochána”, and
  - (ii) by the substitution of the following paragraph for paragraph (9):
    - “(9) In paragraph (5), ‘member of garda staff’ has the same meaning as it has in the *Policing, Security and Community Safety Act 2024*.”,

and

- (b) in Part VII, in Rule 38—

- (i) in paragraph (5)(a), by the substitution of “a member of garda staff” for “a member of the civilian staff of the Garda Síochána”, and
- (ii) by the substitution of the following paragraph for paragraph (9):
  - “(9) In paragraph (5), ‘member of garda staff’ has the same meaning as it has in the *Policing, Security and Community Safety Act 2024*.”.

#### **Amendment of section 18A of Comptroller and Auditor General (Amendment) Act 1993**

**273.** Section 18A of the Comptroller and Auditor General (Amendment) Act 1993 is amended by the substitution of “An Garda Síochána, Fiosrú - Oifig an Ombudsman Póilíneachta and An tÚdarás Póilíneachta agus Sábháilteachta Pobail” for “the Garda Síochána and the Policing Authority”.

#### **Amendment of Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993**

**274.** (1) The Act of 1993 is amended—

- (a) in section 1—
  - (i) by the deletion of the following definitions:
    - (I) “the chairperson of the Garda Síochána Ombudsman Commission”;
    - (II) “the designated judge”,
 and
  - (ii) by the insertion of the following definitions:
    - “ ‘Act of 2024’ means the *Policing, Security and Community Safety Act 2024*;
    - ‘Independent Examiner’ has the same meaning as it has in the *Act of 2024*.”;
- (b) in section 2(7), by the substitution of “Independent Examiner” for “designated judge”,
- (c) in section 4(a)—
  - (i) in subparagraph (i)(I), by the substitution of “Police Ombudsman” for “Garda Síochána Ombudsman Commission”, and
  - (ii) in subparagraph (ii)(I)(B), by the substitution of “Police Ombudsman” for “Garda Síochána Ombudsman Commission”,
- (d) in section 6(1)(a)(i)(II), by the substitution of “Police Ombudsman” for “chairperson of the Garda Síochána Ombudsman Commission”,
- (e) in section 7, by the substitution of “Police Ombudsman” for “chairperson of the Garda Síochána Ombudsman Commission”,
- (f) by the substitution of the following section for section 8:

**“Duties of Independent Examiner in relation to Act**

8. (1) The Independent Examiner shall undertake the duties specified in this section.
- (2) The Independent Examiner shall have the duty of ascertaining whether the provisions of this Act are being complied with.
- (3) For the purpose of performing his or her functions under subsection (2), the Independent Examiner—
- (a) shall have the power to investigate any case in which an authorisation has been given, and
- (b) without prejudice to *section 242* of the *Act of 2024*, shall have access to and may inspect any official documents relating to an authorisation or the application therefor.
- (4) The Independent Examiner may, if he or she thinks it desirable to do so, communicate with the Taoiseach or the Minister on any matter concerning interceptions.
- (5) Without prejudice to *section 242* of the *Act of 2024*, every person who was concerned in, or has information relevant to, the making of the application for, or the giving of, an authorisation, or was otherwise concerned with the operation of any provision of this Act relating to the application or authorisation, shall give the Independent Examiner, on request by him or her, such information as is in his or her possession relating to the application or authorisation.
- (6) If the Independent Examiner informs the Minister that he or she considers that a particular authorisation that is in force should not have been given or (because of circumstances arising after it had been given) should be cancelled or that the period for which it was in force should not have been extended or further extended, the Minister shall, as soon as may be, inform the Minister for Environment, Climate and Communications and shall then cancel the authorisation.
- (7) Nothing in this section shall affect the functions of the Data Protection Commissioner under section 10 of the Data Protection Act 1988 and Part 6 of the Data Protection Act 2018.”,
- (g) in section 9, by the substitution of “Independent Examiner” for “designated judge” in each place where it occurs, and
- (h) in section 10—
- (i) in subsection (2)(d)(i), by the substitution of “or any designated officer (within the meaning of the *Act of 2024*)” for “or any person engaged by the Garda Síochána Ombudsman Commission under section 74 of the Garda Síochána Act 2005 who is designated by it under section 73 of that Act to perform functions under any provisions of Part 4 of that Act”, and

- (ii) in subsection (3), by the substitution of “Independent Examiner” for “designated judge”.
- (2) For a period of 3 months from the date of the coming into operation of this section, the Act of 1993 shall, for the purpose specified in *subsection (3)*, continue to apply as if section 8 of that Act had not been amended by *subsection (1)(f)*.
- (3) The purpose referred to in *subsection (2)* is to permit the designated judge to undertake the duties specified in section 8 of the Act of 1993, insofar as those duties apply to the operation of that Act, and compliance with its provisions, prior to the coming into operation of this section.
- (4) Without prejudice to *subsection (2)* and notwithstanding the coming into operation of *subsection (1)(f)*—
- (a) subsection (6) of section 8 of the Act of 1993 shall continue to apply for the purpose of permitting the Minister to undertake the duties specified on him or her under subsection (6) of section 8 of the Act of 1993, and
- (b) subsections (7) and (8) of section 8 of the Act of 1993 shall continue to apply to a report prepared pursuant to subsection (3),
- as if those subsections had not been amended by *subsection (1)(f)*.
- (5) In this section—
- “Act of 1993” means the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993;
- “designated judge” means the person standing designated for the purposes of the Act of 1993 under section 8 of that Act at the time of the coming into operation of this section.

#### **Amendment of Schedule 13 to Taxes Consolidation Act 1997**

**275.** Schedule 13 to the Taxes Consolidation Act 1997 is amended—

- (a) by the substitution of the following paragraph for paragraph 191:

“191. Fiosrú - Oifig an Ombudsman Póilíneachta.”,

and

- (b) by the substitution of the following paragraph for paragraph 201:

“201. An tÚdarás Póilíneachta agus Sábháilteachta Pobail”.

#### **Amendment of section 257C of Children Act 2001**

**276.** Section 257C(5) of the Children Act 2001 is amended by the substitution of “area-based neighbourhood community safety forum (within the meaning of *Part 3* of the *Policing, Security and Community Safety Act 2024*)” for “local policing forum (within the meaning of the Garda Síochána Act 2005)”.

**Amendment of section 4 of Public Service Superannuation (Miscellaneous Provisions) Act 2004**

277. Section 4(4) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 is amended by the substitution of “*Policing, Security and Community Safety Act 2024*” for “Garda Síochána Act 2005”.

**Amendment of section 46 of Disability Act 2005**

278. Section 46(3) of the Disability Act 2005 is amended by the substitution of “members of An Garda Síochána within the meaning of the *Policing, Security and Community Safety Act 2024*” for “members, within the meaning of section 3(1) of the Garda Síochána Act 2005, of the Garda Síochána”.

**Amendment of section 38 of Act of 2005**

279. Section 38 of the Act of 2005 is amended by the insertion of the following subsections after subsection (14):

- “(15) On and from the establishment day of the Authority (within the meaning of *Part 4* of the *Policing, Security and Community Safety Act 2024*), a reference in this section to the Authority shall be construed as a reference to the Authority (within the meaning of the *Policing, Security and Community Safety Act 2024*).
- (16) On and from the repeal of section 3(1) by *section 5* of the *Policing, Security and Community Safety Act 2024*, the definitions of ‘Garda Commissioner’, ‘local authority’, ‘member’ in relation to the Garda Síochána and ‘Minister’ in that section 3(1) shall, for the purposes of this section, continue to apply as if that section 3(1) had not been repealed.
- (17) On and from the repeal of section 34 by *section 5* of the *Policing, Security and Community Safety Act 2024*, the definition of ‘administrative area’ in that section 34 shall, for the purposes of this section, continue to apply as if that section 34 had not been repealed.
- (18) On and from the repeal of section 36 by *section 5* of the *Policing, Security and Community Safety Act 2024*, a reference in this section to a joint policing committee shall be construed as a reference to a safety partnership (within the meaning of *Part 3* of the *Policing, Security and Community Safety Act 2024*).
- (19) Where, after the repeal of section 36 by *section 5* of the *Policing, Security and Community Safety Act 2024*, a joint policing committee has not been dissolved pursuant to regulations made under *section 114(1)* of that *Act of 2024*, a reference in this section in respect of an administrative area shall, for so long as the joint policing committee has not been dissolved, be construed as including a reference to that

joint policing committee in respect of the administrative area concerned.

- (20) Where, immediately before the repeal of section 36 by *section 5* of the *Policing, Security and Community Safety Act 2024*, a consultation by a local authority in accordance with subsection (3)(c) is ongoing and one or more steps in the consultation was taken in accordance with that subsection before that repeal, other steps in the consultation may be taken on or after that repeal in accordance with this section as amended by *section 279* of the *Policing, Security and Community Safety Act 2024*.”.

#### **Amendment of section 95A of Criminal Justice (Mutual Assistance) Act 2008**

**280.** Section 95A of the Criminal Justice (Mutual Assistance) Act 2008 is amended—

- (a) in subsection (2), by the substitution of the following paragraph for paragraph (i):

“(i) Fiosrú - Oifig an Ombudsman Póilíneachta, in respect of the case management system of the Police Ombudsman;”,

and

- (b) in subsection (3), by the substitution of “*Section 39* of the *Policing, Security and Community Safety Act 2024*” for “Section 31 of the Garda Síochána Act 2005”.

#### **Amendment of Criminal Justice (Surveillance) Act 2009**

**281.** (1) The Act of 2009 is amended—

- (a) in section 1—

- (i) by the deletion of the following definitions:

(I) “chairperson”;

(II) “designated officer of the Ombudsman Commission”;

(III) “member of the Ombudsman Commission”;

(IV) “Ombudsman Commission”,

- (ii) in the definition of “member of the Garda Síochána”, by the substitution of “means a member of An Garda Síochána within the meaning of the *Act of 2024*, other than a member of the rank of reserve garda” for “means a member of the Garda Síochána within the meaning of section 3 of the Act of 2005, other than a person referred to in paragraph (b) of that definition”,
- (iii) in the definition of “relevant Minister”, in paragraph (a)(ii), by the substitution of “Police Ombudsman” for “Ombudsman Commission”,



- (iv) in the definition of “superior officer”, by the substitution of the following paragraph for paragraph (aa):
- “(aa) in the case of the Police Ombudsman, a senior designated officer of the Police Ombudsman;”,
- and
- (v) by the insertion of the following definitions:
- “ ‘Act of 2024’ means the *Policing, Security and Community Safety Act 2024*;
- ‘designated officer of the Police Ombudsman’ means a designated officer within the meaning of the *Act of 2024*;
- ‘Independent Examiner’ has the same meaning as it has in the *Act of 2024*;
- ‘senior designated officer of the Police Ombudsman’ means a senior designated officer within the meaning of the *Act of 2024*;”,
- (b) in section 2, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in both places where it occurs,
- (c) in section 3, by the substitution of “Police Ombudsman” for “Ombudsman Commission”,
- (d) in section 4(1A), by the substitution of “Police Ombudsman” for “Ombudsman Commission” in both places where it occurs,
- (e) in section 5(7), by the substitution of “Police Ombudsman” for “Ombudsman Commission”,
- (f) in section 7—
- (i) in subsection (1), by the substitution of “Police Ombudsman” for “Ombudsman Commission”,
- (ii) in subsection (7)(c), by the substitution of “Police Ombudsman” for “Ombudsman Commission”, and
- (iii) in subsection (12), by the substitution of the following paragraph for paragraph (aa):
- “(aa) in the case of a designated officer of the Police Ombudsman, the Police Ombudsman;”,
- (g) in section 8—
- (i) in subsection (1), by the substitution of “Police Ombudsman” for “Ombudsman Commission”,
- (ii) in subsection (7)(c), by the substitution of “Police Ombudsman” for “Ombudsman Commission”, and
- (iii) in subsection (10), by the substitution of the following paragraph for paragraph (aa):

- “(aa) in the case of a designated officer of the Police Ombudsman, the Police Ombudsman,”,
- (h) in section 11—
- (i) in subsection (5)—
- (I) by the substitution of “Police Ombudsman” for “Ombudsman Commission” in both places where it occurs, and
- (II) in paragraph (d), by the substitution of “Independent Examiner” for “judge designated under section 12”,
- (ii) in subsection (10), by the substitution of “a Garda Síochána premises within the meaning of *Part 6* of the *Act of 2024*, a place under the control of the Police Ombudsman” for “a Garda Síochána station within the meaning of section 99(10) of the Garda Síochána Act 2005, a place under the control of the Ombudsman Commission”, and
- (iii) in subsection (11)(b), by the substitution of “Independent Examiner under section 12(4)” for “designated judge under section 12(8)”,
- (i) by the substitution of the following section for section 12:

**“Duties of Independent Examiner in relation to Act**

- 12.** (1) The Independent Examiner shall undertake the duties specified in this section.
- (2) The Independent Examiner shall ascertain whether An Garda Síochána, the Police Ombudsman, the Defence Forces, the Revenue Commissioners and the Competition and Consumer Protection Commission are complying with this Act.
- (3) For the purpose of performing his or her functions under subsection (2), the Independent Examiner may investigate any case in which an authorisation is issued under section 5 or renewed or varied under section 6 or an approval is granted under section 7 or 8.
- (4) Without prejudice to *section 242* of the *Act of 2024*, a person in charge of a Garda Síochána premises within the meaning of *Part 6* of the *Act of 2024*, a place under the control of the Police Ombudsman, the Defence Forces, the Revenue Commissioners or the Competition and Consumer Protection Commission or any other place in which documents relevant to the performance of the functions of the Independent Examiner are kept shall ensure that the Independent Examiner has access to those places, and to the authorisations, written records of approval, reports and other relevant documents that the Independent Examiner may request.
- (5) Where the Independent Examiner investigates a case under subsection (3) and is of the opinion that it is in the interests of justice

to do so, he or she may refer that case to the Referee for an investigation under section 11(11).”

- (j) in section 13(4)—
- (i) in the definition of “authorised person”—
    - (I) in paragraph (a), by the substitution of “*section 80(4)(a) of the Act of 2024*” for “section 62(4)(a) of the Garda Síochána Act 2005”, and
    - (II) in paragraph (d)(i), by the substitution of “Police Ombudsman” for “chairperson of the Ombudsman Commission”,and
  - (ii) in the definition of “relevant person”—
    - (I) in paragraph (a), by the substitution of “Police Ombudsman” for “Ombudsman Commission”,
    - (II) by the substitution of the following paragraph for paragraph (b):

“(b) a member of the Garda Síochána who holds the rank of reserve garda,”
    - (III) by the substitution of the following paragraph for paragraph (ba):

“(ba) an officer of the Police Ombudsman other than a designated officer of the Police Ombudsman,”
    - (IV) by the substitution of the following paragraph for paragraph (d):

“(d) a member of garda staff (within the meaning of the *Act of 2024*) or a member of the civilian staff of the Defence Forces, or”,

and
    - (V) in paragraph (e), by the substitution of “Police Ombudsman” for “Ombudsman Commission”,
- (k) in section 14, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in both places where it occurs, and
- (l) in section 15(2)(c), by the substitution of “Police Ombudsman” for “Ombudsman Commission”.
- (2) For a period of 3 months from the date of the coming into operation of this section, the Act of 2009 shall, for the purpose specified in *subsection (3)*, continue to apply as if section 12 of that Act had not been amended by *subsection (1) (i)*.
- (3) The purpose referred to in *subsection (2)* is to permit the judge, designated under section 12 of the Act of 2009, to perform the functions specified in that section, insofar as those functions relate to the operation of sections 4 to 8 of that Act, prior to the coming into operation of this section.

- (4) Without prejudice to *subsection (2)* and notwithstanding the coming into operation of *subsection (1)(i)*, subsections (6) and (7) of section 12 of the Act of 2009 shall continue to apply to a report prepared pursuant to *subsection (3)*, as if that subsection had not been amended by *subsection (1)(i)*.
- (5) In this section, “Act of 2009” means the Criminal Justice (Surveillance) Act 2009.

**Amendment of section 35 of Housing (Miscellaneous Provisions) Act 2009**

**282.** Section 35 of the Housing (Miscellaneous Provisions) Act 2009 is amended—

- (a) in subsection (5), by the substitution of the following paragraph for paragraph (a):

“(a) any local community safety partnership established under regulations made under *section 114(1)* of the *Policing, Security and Community Safety Act 2024* in respect of its administrative area,”

and

- (b) by the insertion of the following subsections after subsection (7):

“(8) Where, immediately before the coming into operation of *section 282* of the *Policing, Security and Community Safety Act 2024*, a consultation by a housing authority in accordance with subsection (5)(a) is ongoing and one or more steps in the consultation was taken in accordance with that subsection before that coming into operation, other steps in the consultation may be taken on or after that coming into operation in accordance with that subsection as amended by that section.

(9) Where, after the repeal of section 36 of the Garda Síochána Act 2005 by *section 5* of the *Policing, Security and Community Safety Act 2024*, a joint policing committee has not been dissolved pursuant to regulations made under *section 114(1)* of that second-mentioned Act, a reference in subsection (5)(a) to a local community safety partnership in respect of an administrative area shall, for so long as the joint policing committee has not been dissolved, be construed as including a reference to that joint policing committee in respect of the administrative area concerned.”.

**Amendment of section 40A of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010**

**283.** Section 40A(2) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 is amended by the substitution of “members of garda staff (within the meaning of the *Policing, Security and Community Safety Act 2024*)” for “members of the civilian staff of the Garda Síochána”.

**Amendment of section 81 of Road Traffic Act 2010**

**284.** Section 81 of the Road Traffic Act 2010 is amended—

- (a) in subsection (8), by the substitution of “A member of garda staff” for “A member of the civilian staff of An Garda Síochána”, and
- (b) in subsection (9)—
  - (i) by the deletion of the definition of “member of the civilian staff of the Garda Síochána”,
  - (ii) by the substitution of the following for the definition of “member of the Garda Síochána”:
    - “ ‘member of An Garda Síochána’, other than in subsections (4) and (7), includes a member of garda staff;”,
  - and
  - (iii) by the insertion of the following definition:
    - “ ‘member of garda staff’ shall be construed in accordance with the *Policing, Security and Community Safety Act 2024*;”.

**Amendment of Communications (Retention of Data) Act 2011**

**285.** (1) The Act of 2011 is amended—

- (a) in section 1(1), by the deletion of the definition of “designated judge”,
- (b) in section 6E—
  - (i) by the substitution of the following subsection for subsection (2):
    - “(2) A superior officer to whom an application under subsection (1) is made shall issue an authorisation under this section only if satisfied that—
      - (a) paragraph (a) or (b) of the subsection applies in respect of the cell site location data concerned,
      - (b) the issuing of the authorisation is necessary for, and proportionate to, the purposes for which the application is made, taking into account the impact of the disclosure of the cell site location data concerned pursuant to the authorisation on the fundamental rights of individuals, and
      - (c) the circumstances of urgency giving rise to the application would render it impracticable to seek to achieve the objective specified in paragraph (a) or (b) of subsection (1), as the case may be, under any other provision of this Act.”,

(ii) in subsection (3), by the substitution of “that section, subject to the modification that a reference in those subsections to a superior officer shall be construed as a reference to a superior officer within the meaning of this section.” for “that section.”,

(iii) by the insertion of the following subsection after subsection (3):

“(3A) An application for an authorisation under this section shall not be made to a superior officer who has had any involvement in an action taken by the Garda Síochána in response to the circumstances that occasioned the making of the application and, accordingly, such a superior officer shall not consider such an application or issue an authorisation upon such an application.”,

and

(iv) by the insertion of the following subsection after subsection (5):

“(6) In this section, notwithstanding the definition of ‘superior officer’ in section 1(1), ‘superior officer’ means a member of the Garda Síochána not below the rank of inspector.”,

and

(c) by the substitution of the following section for section 12:

“**12.** (1) The Independent Examiner shall undertake the duties specified in this section.

(2) The Independent Examiner shall ascertain whether An Garda Síochána, the Permanent Defence Force, the Revenue Commissioners and the Competition and Consumer Protection Commission are complying with this Act.

(3) For the purpose of performing his or her functions under this section, the Independent Examiner—

(a) has the power to examine any case in which a disclosure request is made, and

(b) may access and inspect any official documents or records relating to the request.

(4) Without prejudice to *section 242 of the Act of 2024*, any person who was concerned in, or has information relevant to, the preparation or making of a disclosure request shall give the Independent Examiner, on his or her request, such information relating to the disclosure request as is in the person’s possession.

(5) The Independent Examiner may, if he or she considers it desirable to do so, communicate with the Taoiseach or the Minister concerning disclosure requests and with the Data Protection Commissioner in connection with the functions of the Data Protection Commissioner

under the Data Protection Regulation and the Data Protection Acts 1988 to 2018.

(6) Nothing in this section shall affect the functions of the Data Protection Commissioner under the Data Protection Acts 1988 to 2018.

(7) In this section—

‘*Act of 2024*’ means the *Policing, Security and Community Safety Act 2024*;

‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>2</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

‘Independent Examiner’ has the same meaning as it has in the *Act of 2024*.”.

(2) For a period of 3 months from the date of the coming into operation of this section, the Act of 2011 shall, for the purpose specified in *subsection (3)*, continue to apply as if section 12 of that Act had not been amended by *subsection (1)(c)*.

(3) The purpose referred to in *subsection (2)* is to permit the designated judge (within the meaning of the Act of 2011) to undertake the duties specified in section 12 of the Act of 2011, insofar as those duties apply to the operation of that Act, and compliance with its provisions, prior to the coming into operation of this section.

(4) In this section, “Act of 2011” means the Communications (Retention of Data) Act 2011.

#### **Amendment of section 26 of Welfare of Greyhounds Act 2011**

**286.** Section 26(3)(d) of the Welfare of Greyhounds Act 2011 is amended by the substitution of “*section 10 of the Policing, Security and Community Safety Act 2024*” for “section 8 of the Garda Síochána Act 2005”.

#### **Amendment of section 6 of Europol Act 2012**

**287.** Section 6(4) of the Europol Act 2012 is amended by the substitution of “under *section 50 of the Policing, Security and Community Safety Act 2024*” for “under section 14 of the Garda Síochána Act 2005”.

#### **Amendment of National Vetting Bureau (Children and Vulnerable Persons) Act 2012**

**288.** The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 is amended—

(a) in section 7(2), by the substitution of “*section 9 of the Policing, Security and Community Safety Act 2024*” for “section 7 of the Garda Síochána Act 2005”, and

<sup>2</sup> OJ No. L119, 4.5.2016, p. 1

(b) in Schedule 2—

(i) by the deletion of “12. The Garda Síochána Ombudsman Commission.”, and

(ii) by the insertion of the following paragraph after paragraph 12:

“13. Fiosrú - Oifig an Ombudsman Póilíneachta.”.

**Amendment of section 55 of Animal Health and Welfare Act 2013**

**289.** Section 55(1)(c) of the Animal Health and Welfare Act 2013 is amended by the substitution of “*section 10 of the Policing, Security and Community Safety Act 2024*” for “section 8 of the Garda Síochána Act 2005”.

**Amendment of section 9 of Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013**

**290.** Section 9(6)(i) of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 is amended by the substitution of “*section 174(9) of the Policing, Security and Community Safety Act 2024*” for “section 68(2) of the Garda Síochána Act 2005”.

**Amendment of Criminal Justice (Forensic Evidence and DNA Database System) Act 2014**

**291.** The Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 is amended—

(a) in section 2(1)—

(i) by the deletion of the definition of “Ombudsman Commission”, and

(ii) by the insertion of the following definition:

“ ‘member of garda staff’, other than in section 42(2), shall be construed in accordance with the *Policing, Security and Community Safety Act 2024*;”,

(b) in section 40, by the substitution of the following for the definition of “member of the Garda Síochána”:

“ ‘member of An Garda Síochána’ has the same meaning as it has in the *Policing, Security and Community Safety Act 2024*.”,

(c) in section 41(2)—

(i) in paragraph (b), by the substitution of “applies;” for “applies.”, and

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

“(c) a person who is admitted in accordance with the *Policing, Security and Community Safety Act 2024* to training for membership (including as a member of the rank of reserve garda) of An Garda Síochána.”,

(d) in section 42—



- (i) in subsection (2)—
- (I) by the substitution of the following paragraph for paragraph (b):
- “(b) a person who is admitted in accordance with the *Policing, Security and Community Safety Act 2024* to training for membership (including as a member of the rank of reserve garda) of An Garda Síochána;”,
- and
- (II) by the substitution of the following paragraph for paragraph (c):
- “(c) a member of garda staff who—
- (i) is appointed under *section 54(1) or (2) of the Policing, Security and Community Safety Act 2024* as such a member of staff,
- (ii) is designated by order of the Minister under *section 54(5)* of that Act, and who was appointed as such a member of staff after the commencement of this section, or
- (iii) immediately prior to the coming into operation of an order by the Minister under *section 54(5)* of the *Policing, Security and Community Safety Act 2024*, was a member of the civilian staff of An Garda Síochána who was appointed as such a member after the commencement of this section.”,
- and
- (ii) in subsection (3)—
- (I) in paragraph (a), by the substitution of “An Garda Síochána” for “the Garda Síochána”, and
- (II) in paragraph (c), by the substitution of “garda staff” for “the civilian staff”,
- (e) in section 44(2)(b), by the substitution of “Police Ombudsman” for “Ombudsman Commission”,
- (f) in section 45(2)—
- (i) by the insertion of the following paragraph after paragraph (b):
- “(ba) a person who is in accordance with the *Policing, Security and Community Safety Act 2024* admitted to training for membership (including as a member of the rank of reserve garda) of An Garda Síochána;”,
- and
- (ii) by the substitution of the following paragraph for paragraph (c):
- “(c) a member of garda staff.”,

- (g) in section 67(2)(d), by the substitution of “Police Ombudsman” for “Ombudsman Commission”,
- (h) in section 72(2)(d), by the substitution of “Police Ombudsman” for “Ombudsman Commission”,
- (i) in section 73, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in both places where it occurs,
- (j) by the substitution of the following section for section 99:

**“Application of Part to Police Ombudsman**

**99.** The references in this Part to the Commissioner shall, for the purposes of the application of this Part to the Police Ombudsman, be construed as references to the Police Ombudsman.”,

- (k) in section 121(1)(b), by the substitution of “garda staff” for “the civilian staff of the Garda Síochána”,
- (l) in section 126(2), by the substitution of “garda staff” for “the civilian staff of the Garda Síochána”,
- (m) in section 146, by the substitution of “*section 93 of the Policing, Security and Community Safety Act 2024*” for “section 28 of the Garda Síochána Act 2005”,
- (n) in section 152(1)(b), by the substitution of “garda staff” for “the civilian staff of the Garda Síochána”,
- (o) in section 156(3)(d), by the substitution of “the Police Ombudsman, the records of the Police Ombudsman” for “the Ombudsman Commission, the records of the Ombudsman Commission”,
- (p) in section 157, by the insertion of the following subsection after subsection (2):
  - “(2A) Where, immediately before the coming into operation of *section 170 of the Policing, Security and Community Safety Act 2024*, a code of practice prepared under subsection (2) has been approved under this section, the code of practice shall be deemed to have been prepared by the Police Ombudsman.”,
- (q) in section 158, by the insertion of the following subsection after subsection (1):
  - “(1A) Where, immediately before the coming into operation of *section 170 of the Policing, Security and Community Safety Act 2024*, arrangements, by written protocols, have been made concerning the matters referred to in subsection (1), the arrangements shall be deemed to have been made by the Director of FSI, the Commissioner and the Police Ombudsman.”,

and

- (r) in section 159(1)(m), by the substitution of “Police Ombudsman” for “Ombudsman Commission”.

**Amendment of Freedom of Information Act 2014**

**292.** The Freedom of Information Act 2014 is amended—

- (a) in section 2(1), in the definition of “head of an FOI body”, by the substitution of the following paragraph for paragraph (o):

“(o) in relation to Fiosrú - Oifig an Ombudsman Póilíneachta, the Police Ombudsman, and”,

- (b) in section 42—

- (i) in paragraph (d), by the insertion of “prior to the repeal of that section by *section 5* of the *Policing, Security and Community Safety Act 2024*” after “Garda Síochána Act 2005”, and

- (ii) by the insertion of the following paragraphs after paragraph (d):

“(da) a record relating to an inquiry within the meaning of *Chapter 8* of *Part 2* of the *Policing, Security and Community Safety Act 2024*, whether the record concerned is held by—

(i) an appointed person (within the meaning of that Chapter), or

(ii) on the dissolution of the inquiry, any other body having custody of such a record,

other than—

(I) a record relating to the appointment of an appointed person (within the meaning of that Chapter), or

(II) a record relating to the expenses or other matters concerning the general administration of an inquiry under that Chapter,

(db) a record held or created by the Independent Examiner of Security Legislation,”

- (c) in section 45, by the substitution of the following subsection for subsection (10):

“(10) Subsection (2) shall not apply to—

(a) information, documents or things, or classes thereof prescribed by regulations under *paragraph (a)* of *section 260* of the *Policing, Security and Community Safety Act 2024*, or

(b) Garda Síochána premises prescribed by regulations under *paragraph (b)* of that section,

except to the extent specified in a direction of the Minister for Justice.”

and

- (d) in Schedule 1, in Part 1—

- (i) in paragraph (m), by the substitution of “Police Ombudsman” for “Garda Síochána Ombudsman Commission”,
- (ii) in paragraph (n), by the substitution of “or procurement matters, or records transferred to the Garda Síochána under *section 159(2)* of the *Policing, Security and Community Safety Act 2024*” for “or procurement matters”,
- (iii) by the substitution of the following paragraph for paragraph (o):
  - “(o) An tÚdarás Póilíneachta agus Sábháilteachta Pobail, insofar as it relates to records concerning an inspection (within the meaning of *Part 4* of the *Policing, Security and Community Safety Act 2024*);”,
- (iv) by the substitution of the following paragraph for paragraph (y):
  - “(y) the Police Ombudsman, insofar as it relates to records concerning an investigation carried out by the Police Ombudsman under *Part 6* of the *Policing, Security and Community Safety Act 2024*;”,
- (v) in paragraph (an), by the substitution of “functions;” for “functions.”, and
- (vi) by the insertion of the following paragraphs after paragraph (an):
  - “(ao) Bord an Gharda Síochána, other than insofar as it relates to administrative records relating to human resources, finance or procurement matters;
  - (ap) the Independent Examiner of Security Legislation in the performance of his or her functions under the *Policing, Security and Community Safety Act 2024* or any other enactment, other than insofar as it relates to records concerning the general administration of those functions.”.

**Amendment of Schedule 2 to Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016**

**293.** Schedule 2 to the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 is amended—

- (a) in paragraph 1—
  - (i) by the substitution of the following subparagraph for subparagraph (d):
    - “(d) Fiosrú - Oifig an Ombudsman Póilíneachta,”,
  - (ii) by the deletion of subparagraph (e),
  - (iii) in subparagraph (o), by the substitution of “Agency,” for “Agency.”, and
  - (iv) by the insertion of the following subparagraphs after subparagraph (o):
    - “(p) An tÚdarás Póilíneachta agus Sábháilteachta Pobail,
    - (q) oifig an Scrúdaitheora Neamhspleáchum Reachtaíocht Slándála.”,

and

(b) in paragraph 3, by the substitution of the following paragraph for paragraph (b):

“(b) a member of An Garda Síochána who holds the rank of reserve garda.”.

**Amendment of section 7 of Criminal Justice (Offences Relating to Information Systems) Act 2017**

**294.** Section 7(9) of the Criminal Justice (Offences Relating to Information Systems) Act 2017 is amended by the substitution of the following for the definition of “member”:

“ ‘member’ means a member of An Garda Síochána within the meaning of the *Policing, Security and Community Safety Act 2024* other than a member who holds the rank of reserve garda.”.

**Amendment of Schedule 1 to National Shared Services Office Act 2017**

**295.** Schedule 1 to the National Shared Services Office Act 2017 is amended by the substitution of the following paragraph for paragraph 7:

“7. Fiosrú - Oifig an Ombudsman Póilíneachta.”.

**Amendment of Criminal Justice (Victims of Crime) Act 2017**

**296.** The Criminal Justice (Victims of Crime) Act 2017 is amended—

(a) in section 2(1)—

(i) by the deletion of the following definitions:

(I) “Act of 2005”;

(II) “officer of the Ombudsman Commission”;

(III) “Ombudsman Commission”,

(ii) in the definition of “complaint”, by the substitution of “Police Ombudsman” for “Ombudsman Commission”,

(iii) in the definition of “family member”, in paragraph (g)(ii), by the substitution of “Police Ombudsman” for “Ombudsman Commission”,

(iv) in the definition of “member of the Garda Síochána”, by the substitution of “the *Act of 2024*” for “section 3 of the Act of 2005”, and

(v) by the insertion of the following definitions:

“ ‘Act of 2024’ means the *Policing, Security and Community Safety Act 2024*;

‘officer of the Police Ombudsman’ means—

- (a) an officer of the Police Ombudsman within the meaning of the *Act of 2024*, or
- (b) a person who is engaged by the Police Ombudsman pursuant to an arrangement under *section 181* of that Act;”,
- (b) in section 3, by the substitution of “Police Ombudsman” for “Ombudsman Commission”,
- (c) in section 7, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in each place where it occurs,
- (d) in section 8, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in each place where it occurs,
- (e) in section 11, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in each place where it occurs,
- (f) in section 12, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in each place where it occurs,
- (g) in section 14, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in each place where it occurs,
- (h) in section 15, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in each place where it occurs,
- (i) in section 16, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in each place where it occurs,
- (j) in section 17, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in both places where it occurs,
- (k) in section 18, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in both places where it occurs,
- (l) in section 19(1), by the substitution of “Police Ombudsman” for “Ombudsman Commission”,
- (m) in section 22, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in each place where it occurs,
- (n) in section 23, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in both places where it occurs,
- (o) in section 24, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in each place where it occurs,
- (p) in section 25, by the substitution of “Police Ombudsman” for “Ombudsman Commission”, and

- (q) in section 36, by the substitution of “Police Ombudsman” for “Ombudsman Commission” in both places where it occurs.

**Amendment of Criminal Justice (Corruption Offences) Act 2018**

**297.** The Criminal Justice (Corruption Offences) Act 2018 is amended—

- (a) in section 17(9), in the definition of “relevant Irish official”—

- (i) by the substitution of the following paragraph for paragraph (g):

“(g) the Police Ombudsman and the Deputy Police Ombudsman,”

and

- (ii) by the substitution of the following paragraph for paragraph (h):

“(h) a member of An tÚdarás Póilíneachta agus Sábháilteachta Pobail,”

and

- (b) in Schedule 1, in paragraph 1—

- (i) by the deletion of subparagraph (m),

- (ii) by the substitution of the following subparagraph for subparagraph (n):

“(n) Fiosrú - Oifig an Ombudsman Póilíneachta;”,

and

- (iii) by the substitution of the following subparagraph for subparagraph (o):

“(o) An tÚdarás Póilíneachta agus Sábháilteachta Pobail;”.

**Amendment of section 3 of Criminal Justice (International Co-operation) Act 2019**

**298.** Section 3(4)(c) of the Criminal Justice (International Co-operation) Act 2019 is amended by the substitution of “*section 9 of the Policing, Security and Community Safety Act 2024*” for “section 7 of the Act of 2005”.

**Amendment of section 2 of Criminal Records (Exchange of Information) Act 2019**

**299.** Section 2(2) of the Criminal Records (Exchange of Information) Act 2019 is amended by the substitution of the following paragraph for paragraph (b):

“(b) members of garda staff (within the meaning of the *Policing, Security and Community Safety Act 2024*) specified by grade, position, name or otherwise;”.

**Amendment of Garda Síochána (Functions and Operational Areas) Act 2022**

**300.** The Garda Síochána (Functions and Operational Areas) Act 2022 is amended—

- (a) in section 2—

- (i) in the definition of “Commissioner of the Garda Síochána”, by the substitution of—
  - (I) “*section 26 of the Act of 2024*” for “section 9 of the Act of 2005”, and
  - (II) “pursuant to *subsection (1) or (4) of section 28* of that Act” for “pursuant to an authorisation under section 32 of that Act”,
- (ii) in the definition of “Dublin Metropolitan Region”, by the substitution of “*subsection (1)(c)(i) of section 33 of the Act of 2024* or is deemed under *subsection (4)* of that section to have been so determined” for “section 33(1) of the Act of 2005”,
- (iii) in the definition of “Garda Síochána division”—
  - (I) in paragraph (a), by the substitution of “*section 33(1)(c)(i) of the Act of 2024*” for “section 33(1) of the Act of 2005”, and
  - (II) in paragraph (b), by the substitution of “*section 33(1)(c)(i) of the Act of 2024*” for “section 33(1) of the Act of 2005”,and
- (iv) by the insertion of the following definition:

“ ‘*Act of 2024*’ means the *Policing, Security and Community Safety Act 2024*;”,
- (b) in section 3(3), by the substitution of “*subsection (1)(c)(i) of section 33 of the Act of 2024* or is deemed under *subsection (4)* of that section to have made such a determination” for “section 33(1) of the Act of 2005”,
- (c) in section 9(1), by the substitution of “made under *subsection (1)(c)(i) of section 33 of the Act of 2024* or deemed under *subsection (4)* of that section to have been so made” for “under section 33(1) of the Act of 2005”, and
- (d) in section 26(1), by the substitution of “*subsection (1)(c)(i) of section 33 of the Act of 2024* or to which *subsection (4)* of that section applies” for “section 33(1) of the Act of 2005”.

### **Amendment of Garda Síochána (Compensation) Act 2022**

**301.** The Garda Síochána (Compensation) Act 2022 is amended—

- (a) in section 2—
  - (i) in the definition of “Garda Commissioner”, by the substitution of—
    - (I) “*section 26 of the Act of 2024*” for “section 9 of the Act of 2005”, and
    - (II) “pursuant to *section 28* of that Act” for “pursuant to an authorisation under section 32 of that Act”,
  - (ii) by the substitution of the following definition for the definition of “member”:



“ ‘member’ means—

- (a) a member of An Garda Síochána within the meaning of the *Act of 2024*, and
- (b) a trainee within the meaning of the *Act of 2024*;

and

(iii) by the insertion of the following definitions:

“ ‘*Act of 2024*’ means the *Policing, Security and Community Safety Act 2024*;

‘member of garda staff’ has the same meaning as it has in the *Act of 2024*;

- (b) in section 12, by the substitution of “garda staff” for “the civilian staff of the Garda Síochána” in both places where it occurs, and
- (c) in section 34—
  - (i) by the substitution of “*section 39 of the Act of 2024*” for “section 31 of the Act of 2005” in both places where it occurs,
  - (ii) without prejudice to *paragraph (i)*, in subsection (1), by the substitution of “*Act of 2024*” for “Act of 2005” in both places where it occurs, and
  - (iii) in subsection (2), by the substitution of “garda staff” for “the civilian staff of the Garda Síochána”.

### **Amendment of Garda Síochána (Recording Devices) Act 2023**

**302.** The Garda Síochána (Recording Devices) Act 2023 is amended—

- (a) in section 2—
  - (i) in the definition of “member of Garda personnel”, in paragraph (b), by the substitution of “garda staff within the meaning of the *Act of 2024*” for “the civilian staff of the Garda Síochána who was appointed under, or designated by order under, section 19 of the Act of 2005”,
  - (ii) in the definition of “member of the Garda Síochána”, by the substitution of “the *Act of 2024*” for “section 3(1) of the Act of 2005”, and
  - (iii) by the insertion of the following definition:
 

“ ‘*Act of 2024*’ means the *Policing, Security and Community Safety Act 2024*;
- (b) in section 3(3), by the substitution of “section 1(2)” for “section 2”,
- (c) in section 6(2), by the substitution of “*section 261(3) of the Act of 2024*” for “section 59(3) of the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015”,

(d) in section 7, by the insertion of the following subsection after subsection (2):

“(3) On and from the establishment day of the Authority (within the meaning of *Part 4* of the *Act of 2024*), a reference in section 38 of the Act of 2005 to the Authority shall, for a period of 4 years after the date of the coming into operation of this section, be construed as a reference to the Authority (within the meaning of the *Act of 2024*).”

(e) in section 28—

(i) in subsection (3)(c), by the substitution of “safety partnership” for “joint policing committee”,

(ii) by the substitution of the following subsection for subsection (7):

“(7) In this section, ‘safety partnership’ means a safety partnership within the meaning of *Part 3* of the *Act of 2024*.”

and

(iii) by the insertion of the following subsections after subsection (7):

“(8) Where, after the repeal of section 36 of the Act of 2005 by *section 5* of the *Act of 2024*, a joint policing committee has not been dissolved pursuant to regulations made under *section 114(1)* of that second-mentioned Act, a reference in this section to a safety partnership in respect of a local authority’s administrative area shall, for so long as the joint policing committee has not been dissolved, be construed as including a reference to that joint policing committee in respect of the administrative area concerned.

(9) Where, immediately before the repeal of section 36 of the Act of 2005 by *section 5* of the *Act of 2024*, a consultation by a local authority in accordance with subsection (3)(c) is ongoing and one or more steps in the consultation was taken in accordance with that subsection before that repeal, other steps in the consultation may be taken on or after that coming into operation in accordance with that subsection as amended by *paragraph (e)(i)* of *section 302* of the *Act of 2024*.”

(f) in section 44(2), by the substitution of the following paragraph for paragraph (a):

“(a) a Garda Síochána premises within the meaning of *Part 6* of the *Act of 2024*, and”,

(g) in section 47(3)(b)—

(i) in subparagraph (ii), by the substitution of “An tÚdarás Póilíneachta agus Sábháilteachta Pobail” for “the Policing Authority”,

(ii) in subparagraph (iii), by the substitution of “the Police Ombudsman” for “the Garda Síochána Ombudsman Commission”, and

(iii) by the deletion of subparagraph (iv),

and

(h) in section 48—

(i) in subsection (1), by the substitution of “criminal, civil and relevant proceedings” for “criminal and civil proceedings and in disciplinary actions”,  
and

(ii) by the substitution of the following subsection for subsection (6):

“(6) In this section, ‘relevant proceedings’ means conduct proceedings within the meaning of the *Act of 2024* or performance proceedings within the meaning of *Part 6* of that Act.”

## SCHEDULE 1

*Section 5*

## REPEALS

<b>(1) Reference Number</b>	<b>(2) Number and Year</b>	<b>(3) Short Title of Act</b>	<b>(4) Extent of Repeal</b>
1.	No. 24 of 2001	Children Act 2001	Sections 44 and 45
2.	No. 20 of 2005	Garda Síochána Act 2005	All provisions
3.	No. 29 of 2007	Criminal Justice Act 2007	Sections 1(6) and 41
4.	No. 30 of 2014	Freedom of Information Act 2014	Sections 45(10) and (11)
5.	No. 49 of 2015	Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015	All provisions

[2024.]

*Policing, Security and  
Community Safety Act 2024.*

[No. 1.]

SCHEDULE 2

*Section 46*

SOLEMN DECLARATION BY MEMBERS

I do solemnly, sincerely and truly declare and affirm that—

- I will faithfully discharge the duties of a member of An Garda Síochána with fairness, integrity, diligence and impartiality, in a manner that protects and vindicates human rights, upholding the Constitution and the laws and according equal respect to all people,
- while I continue to be a member, I will to the best of my skill and knowledge discharge all my duties according to the law and I will conduct myself in accordance with the code of ethics issued under *section 78*, and
- I do not belong to, and will not while I remain a member form, belong to, or subscribe to, any political party or any secret society whatsoever.

## SCHEDULE 3

*Section 54(8)*

## TERMS AND CONDITIONS OF CIVILIAN STAFF WHO BECOME GARDA STAFF

1. Except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person who under *section 54(5)* becomes a member of garda staff shall not, while in the service of An Garda Síochána, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service than the scale of pay to which he or she was entitled and the terms and conditions of service to which he or she was subject immediately before he or she became a member of garda staff.
2. Until such time as the scale of pay and the terms and conditions of service of a person who became a member of garda staff are varied by the Garda Commissioner with the agreement of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, having consulted with any recognised trade union or staff association concerned, the scale of pay to which he or she was entitled and the terms and conditions of service, restrictions, requirements and obligations to which he or she was subject immediately before the person became a member of garda staff shall continue to apply to him or her and may be applied or imposed by the Garda Commissioner while he or she is a member of garda staff and no such variation shall operate to worsen that scale of pay or those terms or conditions of service applicable to such person immediately before the person became a member of garda staff, except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned.

## SCHEDULE 4

*Section 91(2)*

## Part 1

AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ON POLICE CO-OPERATION, DONE AT BELFAST ON 29 APRIL 2002

The Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland:

Having regard to the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland done at Belfast on 10 April 1998 (“the British-Irish Agreement”) and to the Multi-Party Agreement reached at Belfast on 10 April 1998 annexed to the aforesaid Agreement;

Having regard also to the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland done at Dublin on 8 March 1999 establishing a British-Irish Intergovernmental Conference;

Considering the report of the Independent Commission on Policing for Northern Ireland published in September 1999 (“the Patten Report”);

Taking into account the progress made within the European Union on improving police co-operation pursuant to the provisions of Title VI of the Treaty on European Union;

Recalling the discussions that took place between the two Governments at Weston Park in July 2001, the measures announced on 1 August 2001 and the Updated Implementation Plan for the Patten Report published in August 2001;

Noting the establishment of the new Policing Board for Northern Ireland;

Have agreed as follows:

*Article 1***Eligibility to apply for posts**

- (1) (a) The Government of the United Kingdom of Great Britain and Northern Ireland shall introduce the necessary administrative and legislative measures to enable members of the Garda Síochána to apply for posts at ranks of above Inspector level in the Police Service of Northern Ireland.
- (b) When determining the eligibility of a member of the Garda Síochána to apply for such posts in the Police Service of Northern Ireland, appropriate recognition will be given to the rank, experience and qualifications that would be required for an equivalent rank in the Garda Síochána. An eligible applicant will be required to compete in a merit-based selection procedure with all other applicants.
- (2) (a) The Government of Ireland shall introduce the necessary administrative and legislative measures to enable members of the Police Service of Northern Ireland to apply for posts at ranks of above Inspector level in the Garda Síochána.

- (b) When determining the eligibility of a member of the Police Service of Northern Ireland to apply for a post in the Garda Síochána, appropriate recognition will be given to the rank, experience and qualifications that would be required for an equivalent rank in the Police Service of Northern Ireland. An eligible applicant will be required to compete in a merit-based selection procedure with all other applicants.

### *Article 2*

#### **Secondment with Policing Powers**

- (1) (a) The Government of the United Kingdom of Great Britain and Northern Ireland shall introduce the necessary administrative and legislative measures to enable members of the Garda Síochána to be seconded to the Police Service of Northern Ireland for periods not exceeding three years.
- (b) For the duration of such secondments, the member in question shall have the same powers, duties, rights and obligations, including as appropriate the wearing of the uniform, as an attested member of the Police Service of Northern Ireland. For the duration of the secondment, the member shall not be subject to the direction and control of the Garda Commissioner and shall not exercise police powers within the jurisdiction of the Government of Ireland.
- (2) (a) The Government of Ireland shall introduce the necessary administrative and legislative measures to enable members of the Police Service of Northern Ireland to be seconded to the Garda Síochána for periods not exceeding three years.
- (b) For the duration of such secondments, the member in question shall have the same powers, duties, rights and obligations, including as appropriate the wearing of the uniform, as an attested member of the Garda Síochána. For the duration of the secondment, the member shall not be subject to the direction and control of the Chief Constable of the Police Service of Northern Ireland and shall not exercise police powers within Northern Ireland.

### *Article 3*

#### **Police Protocols**

- (1) The Police Service of Northern Ireland and the Garda Síochána shall, as appropriate, draw up written Protocols between them addressing detailed aspects of co-operation between them, including in particular the issues referred to in Articles 2, 3, 5, 6, 7, 8, 9 and 10 of this Agreement.
- (2) Such Protocols shall be signed by the Commissioner of the Garda Síochána and the Chief Constable of the Police Service of Northern Ireland or persons authorised to do so on their behalf. Copies of all such Protocols shall be forwarded to the Minister for Justice, Equality and Law Reform, the Secretary of State for Northern Ireland and the Northern Ireland Policing Board.



- (3) Such Protocols shall not constitute international agreements and shall not have binding effect on either Government.

*Article 4*

**Annual Conference**

An annual conference shall be convened between the Police Service of Northern Ireland and the Garda Síochána. It shall be hosted by each service on an alternating basis and the conference topics shall be decided by mutual arrangement between the two services. The costs of the conference shall be met by the host service and each service shall meet their own travel costs in attending the conference.

*Article 5*

**Personnel Exchanges**

- (1) A programme shall be introduced to facilitate members of the Police Service of Northern Ireland being placed in the Garda Síochána, and members of the Garda Síochána being placed in the Police Service of Northern Ireland for periods not exceeding one year.
- (2) The purpose of these placements will be to further enhance links and to transfer experience and expertise, including in the area of training.
- (3) Members of the Garda Síochána will, for the duration of their placement, report to and work with the Police Service of Northern Ireland. However the member placed will remain a full member of the Garda Síochána subject to the overall direction and control of the Garda Commissioner and shall not exercise any police powers in Northern Ireland.
- (4) Members of the Police Service of Northern Ireland will, for the duration of their placement, report to and work with the Garda Síochána. However the member placed will remain a full member of the Police Service of Northern Ireland subject to the overall direction and control of the Chief Constable and shall not exercise any police powers in the jurisdiction of the Government of Ireland.

*Article 6*

**Liaison**

- (1) Officers in both services shall be designated as liaison officers as considered appropriate to enhance co-operation between the Garda Síochána and the Police Service of Northern Ireland.
- (2) The Commissioner of the Garda Síochána and the Chief Constable of the Police Service of Northern Ireland shall, in consultation with the respective Governments, explore other methods of enhancing liaison including the possible exchange of liaison officers.

*Article 7***Training**

The Police Service of Northern Ireland and the Garda Síochána shall enhance structures for co-operation in the area of training.

*Article 8***Disaster Planning**

The Police Service of Northern Ireland and the Garda Síochána shall, in consultation with other authorities responsible for the emergency services in both jurisdictions, work together in promoting improved joint planning.

*Article 9***Joint Investigations**

- (1) The Police Service of Northern Ireland and the Garda Síochána shall, as appropriate, make full use of existing arrangements for facilitating joint investigations and additional arrangements that are put in place in the context of European Union developments.
- (2) An expert group shall be established by both Governments to review the existing arrangements and to make recommendations on legal and administrative measures that could be taken to facilitate further the operation of joint Police Service of Northern Ireland and Garda Síochána investigations.

*Article 10***Communications**

- (1) The Police Service of Northern Ireland and the Garda Síochána shall review communication links on an ongoing basis with a view to establishing and enhancing fast, effective and reliable communications.
- (2) The Police Service of Northern Ireland and the Garda Síochána shall, as appropriate, consult with one another in the context of the procurement and development of their communications and information technology systems, and shall take into account the desirability of achieving greater compatibility between their systems.

*Article 11***Relationship with other international agreements**

This Agreement shall not affect the rights and obligations of the Parties under other international agreements.

*Article 12***Entry into force**

Each Government shall notify the other in writing of the completion, so far as it is concerned, of the requirements for entry into force of the Agreement. This Agreement shall enter into force on the date of the receipt of the later of the two notifications.

In witness whereof the undersigned, being duly authorised thereto by the respective Governments, have signed this Agreement.

Done in two originals at Belfast on the Twenty-ninth day of April 2002.

For the Government of Ireland: JOHN O'DONOGHUE

For the Government of the United Kingdom of Great Britain and Northern Ireland: JOHN REID

**Part 2**

AMENDMENT TO THE AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE  
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ON POLICE COOPERATION

Dermot Ahern TD

Department for Justice, Equality and Law Reform

94 St Stephen's Green Dublin 2

8 April 2010

Dear Dermot

**INTERTOVERNMENTAL AGREEMENT ON POLICE CO-OPERATION**

I have the honour to refer to the Agreement between our two Governments on Police Co-operation, signed in 2002, following talks at Weston Park.

I further have the honour to refer to recent discussions between our two Governments confirming that the continued operation of the Agreement is an important expression of co-operation between our two Governments, who have introduced the necessary legislation to allow for lateral entry and secondments of police officers between the forces. The Agreement takes account of the framework within which the PSNI and An Garda Síochána might agree operational protocols on subjects specified in the Agreement, viz secondments, exchanges, liaison officers, training, disaster planning, joint investigations, and communications.

Having regard to the above discussions, I have the honour to propose that the Agreement shall be amended as follows:

**Article 3 Police Protocols:**

- (2) Such Protocols shall be signed by the Commissioner of the Garda Síochána and the Chief Constable of the Police Service of Northern Ireland or persons authorised to do so on their

behalf. Copies of all such Protocols shall be forwarded to the Minister for Justice, Equality and Law Reform, the Department of Justice in Northern Ireland, the Secretary of State for Northern Ireland and the Northern Ireland Policing Board.

If the foregoing proposals are acceptable to your Government, I have the honour to propose that this letter and your reply to that effect shall be regarded as constituting an Agreement between our two Governments which shall enter into force immediately on the date of your reply.

Yours

The RT Hon Paul Goggins MP

Minister of State for Northern Ireland

RT Hon Paul Goggins MP

Minister of State for Northern Ireland

Castle Buildings

Belfast BT4 3SG

Northern Ireland

Dear Paul

I have the honour to acknowledge your letter of 8 April 2010 which reads as follows:

*“I have the honour to refer to the Agreement between our two Governments on Police Co-operation, signed in 2002, following talks at Weston Park.*

*I further have the honour to refer to recent discussions between our two Governments confirming that the continued operation of the Agreement is an important expression of co-operation between our two Governments, who have introduced the necessary legislation to allow for lateral entry and secondments of police officers between the forces. The Agreement takes account of the framework within which the PSNI and An Garda Síochána might agree operational protocols on subjects specified in the Agreement, viz secondments, exchanges, liaison officers, training, disaster planning, joint investigations, and communications.*

*Having regard to the above discussions, I have the honour to propose that the Agreement shall be amended as follows:*

***Article 3 Police Protocols:***

- (2) Such Protocols shall be signed by the Commissioner of the Garda Síochána and the Chief Constable of the Police Service of Northern Ireland or persons authorised to do so on their behalf. Copies of all such Protocols shall be forwarded to the Minister for Justice, Equality and Law Reform, the Department of Justice in Northern Ireland, the Secretary of State for Northern Ireland and the Northern Ireland Policing Board.*

*If the foregoing proposals are acceptable to your Government, I have the honour to propose that this letter and your reply to that effect shall be regarded as constituting an Agreement between our two Governments which shall enter into force immediately on the date of your reply.”*

[2024.]

*Policing, Security and  
Community Safety Act 2024.*

[No. 1.] SCH.4

In reply, I have the honour to inform you that the foregoing proposals are acceptable to the Government of Ireland, who will regard your letter and this reply as constituting an Agreement between our two Governments which shall enter into force on today's date.

Dermot Ahern TD

Minister For Justice Equality & Law Reform

19 April 2010

## SCHEDULE 5

*Section 171(9)*

## APPOINTMENT AS POLICE OMBUDSMAN OR DEPUTY POLICE OMBUDSMAN OF PERSON HOLDING JUDICIAL OFFICE

**Supreme Court judge or former Supreme Court judge appointed as Police Ombudsman or Deputy Police Ombudsman**

1. (1) Where a person appointed as the Police Ombudsman or the Deputy Police Ombudsman is, when so appointed, an ordinary judge of the Supreme Court, then, for so long as he or she continues to hold that judicial office, the number of ordinary judges of the Supreme Court otherwise provided for under any enactment for the time being in force may be exceeded by one.
- (2) Where a person appointed as the Police Ombudsman or the Deputy Police Ombudsman is a former Chief Justice of the Supreme Court, the proviso to section 14(1)(a) of the Act of 1975 shall apply to him or her in respect of his or her appointment as the Police Ombudsman or Deputy Police Ombudsman to the like extent as it applies to a former Chief Justice who is appointed to be a Commissioner (within the meaning of that Act).

**Court of Appeal judge or former President of Court of Appeal appointed as Police Ombudsman or Deputy Police Ombudsman**

2. (1) Where a person appointed as the Police Ombudsman or the Deputy Police Ombudsman is, when so appointed, the President of the Court of Appeal or an ordinary judge of the Court of Appeal, then, for so long as he or she continues to hold the judicial office held by him or her on being so appointed, the number of ordinary judges of the Court of Appeal otherwise provided for under any enactment for the time being in force may be exceeded by one.
- (2) Where a person appointed as the Police Ombudsman or the Deputy Police Ombudsman is a former President of the Court of Appeal, the proviso to section 14(1)(aa) of the Act of 1975 shall apply to him or her in respect of his or her appointment as the Police Ombudsman or Deputy Police Ombudsman to the like extent as it applies to a former President of the Court of Appeal who is appointed to be a Commissioner (within the meaning of that Act).
- (3) Where a person appointed as the Police Ombudsman or the Deputy Police Ombudsman is, when so appointed, the President of the Court of Appeal, he or she may, for so long as he or she continues to be the Police Ombudsman or the Deputy Police Ombudsman, from time to time appoint an ordinary judge of the Court of Appeal to exercise on his or her behalf (and which judge is hereby empowered to exercise) all jurisdiction exercisable by the President of the Court of Appeal under section 7D of the Courts (Supplemental Provisions) Act 1961.

**High Court judge or President or former President of High Court appointed as Police Ombudsman or Deputy Police Ombudsman**

3. (1) Where a person appointed as the Police Ombudsman or the Deputy Police Ombudsman is, when so appointed, the President of the High Court or an ordinary judge of the High Court, then, for so long as he or she continues to hold

the judicial office held by him or her on being so appointed, the number of ordinary judges of the High Court otherwise provided for under any enactment for the time being in force may be exceeded by one.

- (2) Where a person appointed as the Police Ombudsman or the Deputy Police Ombudsman is a former President of the High Court, the proviso to section 14(1)(b) of the Act of 1975 shall apply to him or her in respect of his or her appointment as the Police Ombudsman or Deputy Police Ombudsman to the like extent as it applies to a former President of the High Court who is appointed to be a Commissioner (within the meaning of that Act).
- (3) Where a person appointed as the Police Ombudsman or the Deputy Police Ombudsman is, when so appointed, the President of the High Court, he or she may, for so long as he or she continues to be the Police Ombudsman or the Deputy Police Ombudsman, from time to time appoint an ordinary judge of the High Court to exercise on his or her behalf (and which judge is hereby empowered to exercise) all jurisdiction exercisable by the President of the High Court under section 10(5) of the Courts (Supplemental Provisions) Act 1961.

**Circuit Court judge or President of the Circuit Court appointed as Police Ombudsman or Deputy Police Ombudsman**

4. (1) Where a person appointed as the Police Ombudsman or the Deputy Police Ombudsman is, when so appointed, an ordinary judge of the Circuit Court, then, for so long as he or she continues to hold that judicial office, the number of ordinary judges of the Circuit Court otherwise provided for under any enactment for the time being in force may be exceeded by one.
- (2) Where a person appointed as the Police Ombudsman or the Deputy Police Ombudsman is, when so appointed, the President of the Circuit Court, for so long as he or she continues to be the Police Ombudsman or the Deputy Police Ombudsman, another judge may be appointed to the role of President of the Circuit Court and exercise on his or her behalf (and which judge is hereby empowered to exercise) all jurisdiction exercisable by the President of the Circuit Court under section 10 of the Courts of Justice Act 1947.

## SCHEDULE 6

*Section 233(8)*

## APPOINTMENT AS INDEPENDENT EXAMINER OF PERSON HOLDING JUDICIAL OFFICE

**Supreme Court judge or former Supreme Court judge appointed as Independent Examiner**

1. (1) Where a person appointed as the Independent Examiner is, when so appointed, an ordinary judge of the Supreme Court, then, for so long as he or she continues to hold that judicial office, the number of ordinary judges of the Supreme Court otherwise provided for under any enactment for the time being in force may be exceeded by one.
- (2) Where a person appointed as the Independent Examiner is a former Chief Justice of the Supreme Court, the proviso to section 14(1)(a) of the Act of 1975 shall apply to him or her in respect of his or her appointment as the Independent Examiner to the like extent as it applies to a former Chief Justice who is appointed to be a Commissioner (within the meaning of that Act).

**Court of Appeal judge or former President of the Court of Appeal appointed as Independent Examiner**

2. (1) Where a person appointed as the Independent Examiner is, when so appointed, the President of the Court of Appeal or an ordinary judge of the Court of Appeal, then, for so long as he or she continues to hold the judicial office held by him or her on being so appointed, the number of ordinary judges of the Court of Appeal otherwise provided for under any enactment for the time being in force may be exceeded by one.
- (2) Where a person appointed as the Independent Examiner is a former President of the Court of Appeal, the proviso to section 14(1)(aa) of the Act of 1975 shall apply to him or her in respect of his or her appointment as the Independent Examiner to the like extent as it applies to a former President of the Court of Appeal who is appointed to be a Commissioner (within the meaning of that Act).
- (3) Where a person appointed as the Independent Examiner is, when so appointed, the President of the Court of Appeal, he or she may, for so long as he or she continues to be the Independent Examiner, from time to time appoint an ordinary judge of the Court of Appeal to exercise on his or her behalf (and which judge is hereby empowered to exercise) all jurisdiction exercisable by the President of the Court of Appeal under section 7D of the Courts (Supplemental Provisions) Act 1961.

**High Court judge or President or former President of High Court appointed as Independent Examiner**

3. (1) Where a person appointed as the Independent Examiner is, when so appointed, the President of the High Court or an ordinary judge of the High Court, then, for so long as he or she continues to hold the judicial office held by him or her on being so appointed, the number of ordinary judges of the High Court otherwise



provided for under any enactment for the time being in force may be exceeded by one.

- (2) Where a person appointed as the Independent Examiner is a former President of the High Court, the proviso to section 14(1)(b) of the Act of 1975 shall apply to him or her in respect of his or her appointment as the Independent Examiner to the like extent as it applies to a former President of the High Court who is appointed to be a Commissioner (within the meaning of that Act).
- (3) Where a person appointed as the Independent Examiner is, when so appointed, the President of the High Court, he or she may, for so long as he or she continues to be the Independent Examiner, from time to time appoint an ordinary judge of the High Court to exercise on his or her behalf (and which judge is hereby empowered to exercise) all jurisdiction exercisable by the President of the High Court under section 10(5) of the Courts (Supplemental Provisions) Act 1961.

## SCHEDULE 7

## Section 261

REGULATIONS AND ORDERS MADE UNDER OR CONTINUED UNDER AN ENACTMENT REPEALED BY SECTION 5 WHICH  
ARE NOT TO BE CONTINUED IN FORCE UNDER THIS ACT

(1) Reference Number	(2) Number and Year	(3) Title	(4) Extent of revocation
1.	04/02/1925	Garda Síochána Reward Fund Regulations 1925	Whole of statutory instrument
2.	10/02/1925	Garda Síochána Reward Fund (Administration) Regulations 1925	Whole of statutory instrument
3.	S.I. No. 441 of 1994	Garda Síochána Pay Order 1994	Whole of statutory instrument
4.	S.I. No. 214 of 2007	Garda Síochána (Discipline) Regulations	Whole of statutory instrument other than in so far as it applies to disciplinary proceedings (within the meaning of the statutory instrument) in relation to a member which were commenced but not concluded before the coming into operation of <i>section 261</i>
5.	S.I. No. 640 of 2016	Garda Síochána Act 2005 (Section 52) Regulations 2016	Whole of statutory instrument

<b>(1) Reference Number</b>	<b>(2) Number and Year</b>	<b>(3) Title</b>	<b>(4) Extent of revocation</b>
6.	S.I. No. 641 of 2016	Garda Síochána Act 2005 (Appointments to the ranks of Assistant Garda Commissioner, chief superintendent and superintendent) Regulations 2016	Whole of statutory instrument
7.	S.I. No. 28 of 2018	Garda Síochána Act 2005 (Retirement) Regulations 2018	Whole of statutory instrument
8.	S.I. No. 287 of 2020	Garda Síochána (Ranks) Regulations 2020	Whole of statutory instrument