



STATUTORY INSTRUMENTS.

S.I. No. 416 of 2011



CRIMINAL JUSTICE ACT 1984 (SUSPENSION OF DETENTION
UNDER SECTION 4(3A)) REGULATIONS 2011

(Prn. A11/1372)

CRIMINAL JUSTICE ACT 1984 (SUSPENSION OF DETENTION
UNDER SECTION 4(3A)) REGULATIONS 2011

I, ALAN SHATTER, Minister for Justice and Equality, in exercise of the powers conferred on me by section 4C (inserted by section 8 of the Criminal Justice Act 2011 (No. 22 of 2011)) of the Criminal Justice Act 1984 (No. 22 of 1984), hereby make the following regulations:

Title and commencement

1. (1) These Regulations may be cited as the Criminal Justice Act 1984 (Suspension of Detention under section 4(3A)) Regulations 2011.

(2) These Regulations shall come into operation on 9th August 2011.

Interpretation

2. (1) In these Regulations—

“Act of 1984” means the Criminal Justice Act 1984 (No. 22 of 1984);

“custody record” means a record kept under Regulation 6 of the 1987 Regulations;

“member in charge” has the meaning it has in Regulation 4(1) of the 1987 Regulations;

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

(2) A reference in these Regulations to the signing of a document shall include, in the case of a person who is unable to write, a reference to the person making his or her mark.

Application of Regulations

3. These Regulations apply to a person aged 18 years or more—

(a) who has been detained pursuant to section 4 of the Act of 1984 in respect of a relevant offence, and

(b) whose detention is being suspended under section 4(3A) of that Act.

Form of notice for purpose of section 4(3C)

4. (1) The form of notice specified in Schedule 1 is prescribed for the purpose of section 4(3C) of the Act of 1984.

(2) The member in charge shall, without delay—

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 12th August, 2011.*

- (a) give the person whose detention is being suspended pursuant to section 4(3A) the notice referred to in paragraph (1), and
- (b) when so giving the notice to the person concerned, explain to him or her orally the effect of the notice.

(3) The member in charge shall ask the person whose detention is being suspended pursuant to section 4(3A) to acknowledge receipt of the notice and, in the event that he or she refuses to do so, the refusal shall be duly recorded on that notice.

(4) A copy of the notice referred to in paragraph (1) shall, as soon as practicable, be appended to the custody record relating to the person concerned.

Form of notice for purpose of section 4(3D)

5. (1) The form of notice specified in Schedule 2 is prescribed for the purpose of section 4(3D) of the Act of 1984.

(2) The notice shall be addressed to the person concerned by name and may be served on the person in one of the following ways:

- (a) by giving it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address,

and, a statutory declaration of service of the notice shall be completed by the person who effected the service concerned.

(3) A copy of the notice referred to in paragraph (1) shall, as soon as practicable, be appended to the custody record relating to the person concerned.

Form of notice for purpose of section 4(3B)(d)

6. (1) The form of notice specified in Schedule 3 is prescribed for the purpose of section 4(3B)(d) of the Act of 1984.

(2) The notice shall be addressed to the person concerned by name and may be served on the person in one of the following ways:

- (a) by giving it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address,

and, a statutory declaration of service of the notice shall be completed by the person who effected the service concerned.

(3) A copy of the notice referred to in paragraph (1) shall, as soon as practicable, be appended to the custody record relating to the person concerned.

Notice period for purpose of section 4(3D)(b)

7. A period of not less than 7 days notice from the date of the serving of the notice under section 4(3D)(a) of the new date or time or Garda Síochána station appointed pursuant to section 4(3D) is prescribed for the purposes of section 4(3D)(b) of the Act of 1984.

SCHEDULE 1

Criminal Justice Act 1984, section 4(3C), inserted by section 7 of the Criminal Justice Act 2011

Notice of Suspension of a period of Detention

I being for the time being the member in charge of Garda Síochána station, having reasonable grounds for believing that it is necessary for the purpose of permitting enquiries or investigations to be made for the further and proper investigation of the offence(s) for which you

..... of have been detained, do hereby give you notice that your detention is being suspended on the day of 20..... at hours in accordance with section 4(3A) of the Criminal Justice Act 1984, inserted by section 7 of the Criminal Justice Act 2011.

You are also hereby given notice, in accordance with section 4(3C) of the Criminal Justice Act 1984 as inserted by section 7 of the Criminal Justice Act 2011 that you are required to return to Garda Síochána station on the day of 20 at hours, for the continuation of your detention.

Failure to return to the said Garda Síochána station on the date and at the time aforesaid is an offence and you are liable to be arrested without warrant and returned for continuation of detention to that Garda Síochána station and you shall be liable on conviction to a class A fine or to imprisonment for a term of 12 months or both.

Signed Member in charge Garda Síochána station.

*I hereby acknowledge that I understand that my period of detention is being suspended and that it is an offence for me not to return for the continuation of the period of detention as outlined in this notice.

Signed

Dated this day of 20..... at hours

Witness

Dated this day of 20..... at hours

*I.....being for the time being the member in charge of
.....Garda Síochána station hereby record that
having been requested to sign this notice has refused to do so.

Signed:

Dated this day of 20..... at hours

Witness:

Dated this day of at hours

*delete if inapplicable

SCHEDULE 2

Criminal Justice Act 1984, section 4(3D), inserted by section 7 of the Criminal Justice Act 2011

Notice of alteration of details of return for continuation of detention period

I a member of the Garda Síochána not below the rank of Inspector,

* (a) believing that it is necessary for the proper investigation of the offence in respect of which your detention has been suspended

or,

* (b) at your request, and being satisfied that there is good and sufficient reason to change the return date or time or the Garda Síochána station concerned,

do hereby give you of notice in accordance with section 4(3D) of the Criminal Justice Act 1984 as inserted by section 7 of the Criminal Justice Act 2011, of the appointment of a new date or time or Garda Síochána station for your return for the continuation of your period of detention.

You are now required to return to Garda Síochána station on the day of 20 at hours for the continuation of your detention.

Failure to return to the said Garda Síochána station on the date and time aforesaid is an offence and you are liable to be arrested without warrant and returned for the continuation of detention to that Garda Síochána station and you shall be liable on conviction to a class A fine or to imprisonment for a term of 12 months or both.

Signed Rank

Dated this day of 20 ...

*delete if inapplicable

DECLARATION OF SERVICE

I, _____, of _____

* Garda Station do solemnly and sincerely declare that I duly served this notice in accordance with Regulation 5 (2) of the Criminal Justice Act 1984 (Suspension of Detention under section 4(3A)) Regulations 2011 (S.I. No. 416 of 2011) at

on the _____ day of _____ 20 _____, by handing a copy thereof

* to the person to whom the notice was addressed in person

* by leaving it at

Being the address at which the person ordinarily resides

* by leaving it at

Being the address which has been furnished for service

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1938.

Signed _____

* Delete inapplicable words

SCHEDULE 3

Criminal Justice Act 1984, Section 4(3B)(d), inserted by section 7 of the Criminal Justice Act 2011

Withdrawal of Notice of Suspension of Detention or Notice of Alteration of Details of Return

I being for the time being the member in charge of Garda Síochána station, do hereby give you of notice in accordance with section 4(3B)(d) of the Criminal Justice Act 1984, inserted by section 7 of the Criminal Justice Act 2011 that the total period of detention permissible under section 4(9) of the Criminal Justice Act 1984 has been reached and

* the Notice of Suspension of Detention issued to you in accordance with section 4(3A) of the Criminal Justice Act 1984 as inserted by section 7 of the Criminal Justice Act 2011 on the day of 20

or

* the Notice of Alteration of details of return for continuation of detention period issued to you in accordance with section 4(3D) of the Criminal Justice Act 1984 as inserted by section 7 of the Criminal Justice Act 2011 on the day of 20

is deemed to be withdrawn and you are no longer required to return to the Garda Síochána station on the date and at the time specified in the said Notice.

Signed Member in charge Garda Síochána station.

*delete if inapplicable

DECLARATION OF SERVICE

I, _____, of _____
* Garda Station do solemnly and sincerely declare that I duly served this notice in accordance with Regulation 6(2) of the Criminal Justice Act 1984 (Suspension of Detention under section 4(3A)) Regulations 2011 (S.I. No. 416 of 2011) at

on the _____ day of _____ 20 _____, by handing a copy thereof

* to the person to whom the notice was addressed in person

* by leaving it at

Being the address at which the person ordinarily resides

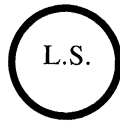
* by leaving it at

Being the address which has been furnished for service

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1938.

Signed _____

* Delete inapplicable words



GIVEN under my Official Seal,
5 August 2011.

ALAN SHATTER,
Minister for Justice and Equality.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These regulations contain provisions in relation to procedures that are to apply where a person's detention is being suspended under section 4 of the Criminal Justice Act 1984, as amended by section 7 of the Criminal Justice Act 2011.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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