



STATUTORY INSTRUMENTS.

S.I. No. 380 of 2017

CRIMINAL JUSTICE ACT 1984 (SUSPENSION OF DETENTION
UNDER SECTION 4(3A)) (PERSONS UNDER 18 YEARS OF AGE)
REGULATIONS 2017

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I, CHARLES FLANAGAN, 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)) (Persons under 18 years of age) Regulations 2017.

(2) These Regulations shall come into operation on 28 August 2017.

Interpretation

2. (1) In these Regulations—

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

“Act of 2001” means the Children Act 2001 (No. 24 of 2001);

“adult” means a person not below the age of 18 years;

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

“guardian” has the same meaning as it has in the Act of 2001;

“member” means a member of the Garda Síochána;

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

“parent” and “relative” have the same meanings respectively as they have in the Act of 2001;

“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);

“station” means a Garda Síochána station.

(2) In the application of these Regulations to a person under 18 years of age who is married—

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 25th August, 2017.*

- (a) a reference to parent or guardian of the person shall be construed as a reference to his or her spouse, and
- (b) a reference to an adult relative of the person shall be construed as including a reference to his or her parent or guardian.

(3) A reference in these Regulations to a person signing 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 under 18 years of age—

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

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

- (a) give the person whose detention is being suspended pursuant to section 4(3A) of the Act of 1984 the notice referred to in paragraph (1), and
- (b) when so giving the notice to the person concerned, explain, or cause to be explained, to him or her orally, in a manner that is appropriate to the age and level of understanding of the person, the effect of the notice.

(3) Where a parent or guardian of the person concerned is present at the station, the member in charge shall ensure that a copy of the notice referred to in paragraph (1) is handed to the person's parent or guardian, as the case may be, and the effect of the notice is explained to him or her.

(4) Where a parent or guardian of the person concerned is not present at the station, the member in charge shall—

- (a) where the whereabouts of the person's parent or guardian, as the case may be, is known, ensure that a copy of the notice referred to in paragraph (1) is sent to the parent or guardian concerned, and
- (b) where an adult relative of the person concerned or other adult reasonably named by the person pursuant to section 58(2)(a) of the Act of 2001 or Regulation 9 of the Regulations of 1987 is present, ensure that a copy of the notice referred to in paragraph (1) is handed to the relative or other adult, as the case may be.

(5) Where neither the parent or guardian nor any adult relative or other adult reasonably named by the person concerned pursuant to section 58(2)(a) of the Act of 2001 or Regulation 9 of the Regulations of 1987 is present at the station and the whereabouts of the parent or guardian, as the case may be, is unknown, the member in charge may send a copy of the notice referred to in paragraph (1) to an adult relative or other adult reasonably named by the person pursuant to section 58(2)(a) of the Act of 2001 or Regulation 9 of the Regulations of 1987.

(6) The member in charge shall ask the person whose detention is being suspended pursuant to section 4(3A) of the Act of 1984 and any other person present at the station to whom a copy of the notice referred to in paragraph (1) is being given to acknowledge receipt of the notice, or copy of the notice as the case may be, and, in the event that he or she refuses, or they, as the case may be, refuse, to do so, the refusal shall be duly recorded on that notice.

(7) 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 set out in Schedule 2 is the form of notice prescribed for the purpose of section 4(3D) of the Act of 1984.

(2) The notice referred to in paragraph (1) 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, or

(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) Where a notice referred to in paragraph (1) is issued, the member who issued the notice shall ensure that, subject to paragraph (5), a copy of the notice is served in the manner specified in paragraph (4) on the parent or guardian, as the case may be, of the person concerned.

(4) The copy of the notice referred to in paragraph (1) shall be addressed by name to the parent or guardian, as the case may be, of the person concerned, and may be served on the parent or guardian, as the case may be, in one of the following ways—

(a) by giving it to the parent or guardian, as the case may be, or

(b) by leaving it at the address at which the parent or guardian, as the case may be, 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 copy of the notice shall be completed by the person who effected the service concerned.

(5) Where the whereabouts of the parent or guardian, as the case may be, of the person concerned is unknown, a copy of the notice referred to in paragraph (1) shall be addressed by name to an adult relative or other adult reasonably named by the person (in this paragraph referred to as a “relevant adult”), whether or not the relevant adult attended at the station pursuant to section 58(2) of the Act of 2001 or Regulation 9 of the Regulations of 1987, and may be served on the relevant adult in one of the following ways—

- (a) by giving it to the relevant adult, or
- (b) by leaving it at the address at which the relevant adult 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 copy of the notice shall be completed by the person who effected the service concerned.

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

(2) The notice referred to in paragraph (1) 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, or
- (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) Where a notice referred to in paragraph (1) is issued, the member who issued the notice shall ensure that, subject to paragraph (5), a copy of the notice is served in the manner specified in paragraph (4) on the parent or guardian, as the case may be, of the person concerned.

(4) The copy of the notice referred to in paragraph (1) shall be addressed by name to the parent or guardian, as the case may be, of the person concerned, and may, be served on the parent or guardian, as the case may be, in one of the following ways—

- (a) by giving it to the parent or guardian, as the case may be, or

- (b) by leaving it at the address at which the parent or guardian, as the case may be, 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 copy of the notice shall be completed by the person who effected the service concerned.

(5) Where the whereabouts of the parent or guardian, as the case may be, of the person concerned is unknown, a copy of the notice referred to in paragraph (1) shall be addressed by name to an adult relative or other adult reasonably named by the person (in this paragraph referred to as a “relevant adult”), whether or not the relevant adult attended at the station pursuant to section 58(2) of the Act of 2001 or Regulation 9 of the Regulations of 1987, and may be served on the relevant adult in one of the following ways—

- (a) by giving it to the relevant adult, or
- (b) by leaving it at the address at which the relevant adult 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 copy of the notice shall be completed by the person who effected the service concerned.

(6) 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 and time or station appointed pursuant to section 4(3D) is prescribed for the purposes of section 4(3D)(b) of the Act of 1984.

SCHEDULE 1

Regulation 4

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 of person under 18 years of age

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 the parent/guardian/adult relative or other adult named pursuant to section 58(2) of the Children Act 2001 or Regulation 9 of the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 hereby, in accordance with Regulation 4(6) of the Criminal Justice Act 1984 (Suspension of Detention under Section 4(3A))(Persons under 18 years of age) Regulations 2017, acknowledge receipt of 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 20..... at hours

*I being for the time being the member in charge ofGarda Síochána station hereby record that, in accordance with Regulation 4(4)(a) of the Criminal Justice Act 1984 (Suspension of Detention under Section 4(3A))(Persons under 18 years of age) Regulations 2017, a copy of this notice has been sent to

.....
[insert name and address] being the parent/guardian of

*I being for the time being the member in charge of Garda Síochána station hereby record that, in accordance with Regulation 4(5) of the Criminal Justice Act 1984 (Suspension of Detention under Section 4(3A))(Persons under 18 years of age) Regulations 2017, a copy of this notice has been sent to

.....
[insert name and address] being an adult relative of, or other adult named pursuant to section 58(2) of the Children Act 2001 or Regulation 9 of the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 by
[insert name and address]

Signed

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

Witness

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

*delete if inapplicable

SCHEDULE 2

Regulation 5

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 of person under 18 years of age

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 Síochána 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))(Persons under 18 years of age) Regulations 2017, 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

DECLARATION OF SERVICE

I of

Garda Síochána station do solemnly and sincerely declare that I duly served a copy of this notice in accordance with—

* paragraph (4) (*where a copy of the notice is to be sent to the parent or guardian*)

* paragraph (5) (*where a copy of the notice is to be sent to an adult relative or other adult reasonably named by the person in detention*)

of Regulation 5 of the Criminal Justice Act 1984 (Suspension of Detention under Section 4(3A))(Persons under 18 years of age) Regulations 2017, at

on the day of 20.....

* by handing a copy thereof to the person concerned 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

Regulation 6

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

Withdrawal of Notice of Suspension of a period of Detention or Notice of Alteration of Details of Return of person under 18 years of age

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 a period of Detention issued to you in accordance with section 4(3A) of the Criminal Justice Act 1984, 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, 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 Síochána 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))(Persons under 18 years of age) Regulations 2017, 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

DECLARATION OF SERVICE

I of

Garda Síochána station do solemnly and sincerely declare that I duly served a copy of this notice in accordance with—

* paragraph (4) (*where a copy of the notice is to be sent to the parent or guardian*)

* paragraph (5) (*where a copy of the notice is to be sent to an adult relative or other adult reasonably named by the person in detention*)

of Regulation 5 of the Criminal Justice Act 1984 (Suspension of Detention under Section 4(3A))(Persons under 18 years of age) Regulations 2017, at

.....

.....

on the day of 20.....

* by handing a copy thereof to the person concerned 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,
22 August 2017.

CHARLES FLANAGAN,
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 the detention of a person under 18 years of age 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
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