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*Number 49 of 2015*

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**Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015**

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**GARDA SÍOCHÁNA (POLICING AUTHORITY AND MISCELLANEOUS PROVISIONS) ACT 2015**

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CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citation, construction and commencement
2. Definitions
3. Amendment of section 3(1) of Principal Act
4. Security services
5. Policing principles
6. Amendment of section 5 of Principal Act
7. Repeals

PART 2

PERSONNEL AND ORGANISATION OF GARDA SÍOCHÁNA

8. Appointment of Garda Commissioner
9. Appointment of Deputy Garda Commissioners
10. Removal of Garda Commissioner, Deputy Garda Commissioner and members of certain other ranks from office
11. Amendment of section 12 of Principal Act
12. Appointment of members to ranks of Assistant Garda Commissioner, chief superintendent and superintendent
13. Steps to be taken before removal from office by Authority of members of certain ranks
14. Amendment of section 14 of Principal Act
15. Amendment of section 15 of Principal Act
16. Code of ethics
17. Amendment of section 19 of Principal Act

### PART 3

#### ROLES OF MINISTER, AUTHORITY AND GARDA COMMISSIONER

18. Setting of priorities for policing services and security services
19. Amendment of section 21 of Principal Act
20. Amendment of section 22 of Principal Act
21. Amendment of section 23 of Principal Act
22. Amendment of section 24(2) of Principal Act
23. Amendment of section 25 of Principal Act
24. Amendment of section 26 of Principal Act
25. Amendment of section 27 of Principal Act
26. Amendment of section 32 of Principal Act
27. Amendment of section 33(3) of Principal Act

### PART 4

#### CO-OPERATION WITH LOCAL AUTHORITIES AND SECURITY IN PUBLIC PLACES

28. Amendment of section 34 of Principal Act
29. Amendment of section 35 of Principal Act
30. Amendment of section 36 of Principal Act
31. Amendment of section 38 of Principal Act

### PART 5

#### ACCOUNTABILITY

32. Amendment of section 40 of Principal Act
33. Amendment of section 41 of Principal Act
34. Duty of Garda Commissioner to provide information to Authority
35. Amendment of section 42 of Principal Act
36. Amendment of section 44 of Principal Act
37. Amendment of section 45 of Principal Act
38. Amendment of section 46 of Principal Act

### PART 6

#### INTERNATIONAL SERVICE AND CO-OPERATION WITH OTHER POLICE SERVICES

39. Amendment of section 52(1) of Principal Act
40. Amendment of section 53 of Principal Act
41. Amendment of section 55 of Principal Act
42. Amendment of section 56(4) of Principal Act
43. Amendment of section 62 of Principal Act

PART 7

ESTABLISHMENT AND FUNCTIONS OF POLICING AUTHORITY

44. Establishment and functions of Policing Authority

PART 8

MATTERS RELATING TO GARDA SÍOCHÁNA OMBUDSMAN COMMISSION AND GARDA SÍOCHÁNA INSPECTORATE

45. Amendment of section 67(1) of Principal Act
46. Amendment of section 81 of Principal Act
47. Amendment of section 90 of Principal Act
48. Amendment of section 102 of Principal Act
49. Amendment of section 102B of Principal Act
50. Amendment of section 103(1) of Principal Act
51. Amendment of section 104 of Principal Act
52. Examination of certain practices, policies and procedures of Garda Síochána
53. Amendment of section 117 of Principal Act
54. Recommendations in Inspectorate report

PART 9

REGULATIONS AND MISCELLANEOUS PROVISIONS

55. Amendment of section 121(2) of Principal Act
56. Amendment of section 122 of Principal Act
57. Amendment of section 123 of Principal Act
58. Amendment of section 125(1) of Principal Act
59. Continuation of certain regulations and order
60. Amendment of section 18A of Comptroller and Auditor General (Amendment) Act 1993
61. Review of operation

SCHEDULE

ENACTMENTS REPEALED

## ACTS REFERRED TO

Civil Service Regulation Acts 1956 to 2005  
Commissions of Investigation Act 2004 (No. 23)  
Companies Act 2014 (No. 38)  
Comptroller and Auditor General (Amendment) Act 1993 (No. 8)  
Comptroller and Auditor General Acts 1866 to 1998  
Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6)  
Criminal Justice (Terrorist Offences) Act 2005 (No. 2)  
Criminal Justice Act 2007 (No. 29)  
Criminal Law Act 1976 (No. 32)  
Dublin Police Act 1924 (No. 31)  
European Parliament Elections Act 1997 (No. 2)  
Freedom of Information Act 1997 (No. 13)  
Freedom of Information Act 2014 (No. 30)  
Gaeltacht Act 2012 (No. 34)  
Garda Síochána (Amendment) Act 2015 (No. 3)  
Garda Síochána Act 1924 (No. 25)  
Garda Síochána Act 1958 (No. 14)  
Garda Síochána Act 2005 (No. 20)  
Garda Síochána Acts 2005 to 2015  
Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 (No. 33)  
Local Government Act 2001 (No. 37)  
Ministers and Secretaries (Amendment) Act 1956 (No. 21)  
Offences against the State Acts 1939 to 1998  
Official Secrets Act 1963 (No. 1)  
Police Forces Amalgamation (Amendment) Act 1926 (No. 10)  
Police Forces Amalgamation Act 1925 (No. 7)  
Public Service Management (Recruitment and Appointments) Act 2004 (No. 33)  
Tribunals of Inquiry (Evidence) Acts 1921 to 2011



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*Number 49 of 2015*

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**GARDA SÍOCHÁNA (POLICING AUTHORITY AND MISCELLANEOUS PROVISIONS) ACT 2015**

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An Act to amend the Garda Síochána Act 2005 to provide for the establishment and functions of a body to be known as An tÚdarás Póilíneachta or, in the English language, the Policing Authority for the purpose of overseeing the performance by the Garda Síochána of its functions relating to policing services; to amend the provisions of that Act relating to the Garda Síochána Ombudsman Commission and the Garda Síochána Inspectorate; and to provide for related matters. [18th December, 2015]

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

PART 1

PRELIMINARY AND GENERAL

**Short title, collective citation, construction and commencement**

1. (1) This Act may be cited as the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015.
- (2) This Act shall be included in the collective citation of the Garda Síochána Acts 2005 to 2015 and shall be construed together with those Acts.
- (3) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

**Definitions**

2. In this Act—
  - “Act of 2015” means the Garda Síochána (Amendment) Act 2015;
  - “Principal Act” means the Garda Síochána Act 2005;
  - “Minister” means the Minister for Justice and Equality.

**Amendment of section 3(1) of Principal Act**

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

“ ‘Authority’ means the Policing Authority established by section 62B;  
‘Chief Executive’ means the chief executive officer of the Authority appointed under section 62P;  
‘committee’ means a committee of the Authority established under section 62K;  
‘establishment day of the Authority’ means the day appointed under section 62A;  
‘local authority’ has the meaning it has in the Local Government Act 2001;  
‘policing principles’ shall be read in accordance with section 3B;  
‘policing services’ means the functions of the Garda Síochána referred to in section 7 other than the provision of security services;  
‘security services’ shall be read in accordance with section 3A;  
‘Service’ means the Public Appointments Service.”.

### **Security services**

4. The Principal Act is amended by the insertion of the following section after section 3:

“**3A.** (1) In this Act ‘security services’, subject to subsection (2), means the functions of the Garda Síochána referred to in section 7 that are concerned with—

- (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, and
    - (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,



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 impact on the international well-being or economic well-being of the State, and
  - (c) co-operating 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 functions of the Garda Síochána referred to in section 7 that are concerned with protecting the security of the State does not include 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**

5. The Principal Act is amended by the insertion of the following section after section 3A (inserted by *section 4*):

“**3B.** In this Act ‘policing principles’ means—

- (a) the principle that policing services are to be provided—
  - (i) independently and impartially,
  - (ii) in a manner that respects human rights, and
  - (iii) in a manner that supports the proper and effective administration of justice,

and
- (b) the principle that effective and efficient policing is dependent on securing the confidence, support and co-operation of local communities and engaging with those communities.”.

### **Amendment of section 5 of Principal Act**

6. Section 5 of the Principal Act is amended by the insertion of “and the Authority” after “expenses incurred in respect of the Garda Síochána”.

### **Repeals**

7. The enactments specified in the *Schedule* are repealed to the extent specified in *column*

(3) of that *Schedule*.

## PART 2

### PERSONNEL AND ORGANISATION OF GARDA SÍOCHÁNA

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

8. (1) The Principal Act is amended by the substitution of the following section for section 9:

“9. (1) Subject to this section, the appointment of a person to be the Commissioner of the Garda Síochána shall, upon the nomination of the Authority, be made by the Government.

(2) The Authority shall not nominate a person under subsection (1) unless it has, with the prior approval in writing of the Government, invited the Service to undertake a selection competition for that purpose and the Service has undertaken such a competition.

(3) The Authority shall, with the approval of the Minister, agree with the Service the requirements relating to knowledge, ability and suitability for appointment as the Garda Commissioner for the purposes of a selection competition under this section.

(4) A person shall not be nominated by the Authority under subsection (1) unless it 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 or expertise as is appropriate having regard, in particular, to the functions assigned to the Garda Commissioner by or under this Act.

(5) The Service shall provide the Authority with particulars of the experience, qualifications, training and expertise of a person whom it recommends for nomination by the Authority under subsection (1) for appointment as the Garda Commissioner.

(6) Subject to subsection (7), where the Authority nominates a person for appointment as the Garda Commissioner under subsection (1), the Government shall accept the nomination.

(7) (a) In exceptional circumstances, where the Government, for substantial and stated reasons, are unable to accept the nomination by the Authority of a particular person for appointment as the Garda Commissioner, they shall inform the Authority of that fact and the reasons for it and request the Authority to nominate another person for appointment.

(b) The Authority shall—

- (i) consider the Government's reasons provided in accordance with paragraph (a), and
  - (ii) unless the Authority disagrees with those reasons and wishes to make representations to the Government in that behalf, nominate another person for appointment.
- (8) A person who holds the office of Garda Commissioner 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.
- (9) The Government shall, as soon as may be, inform the Authority of the resignation of a person under subsection (8).”.
- (2) Subject to section 11 of the Principal Act (as amended by *section 10*), the person who, on the commencement of this section, holds the office of Garda Commissioner continues in office in accordance with the terms and conditions of his or her appointment.

#### **Appointment of Deputy Garda Commissioners**

9. (1) The Principal Act is amended by the substitution of the following section for section 10:
- “10. (1) The Government may determine the number of persons who may be appointed to the rank of Deputy Garda Commissioner and, subject to this section, the appointment of a person to that rank shall, upon the nomination of the Authority, be made by the Government.
- (2) The Authority shall not nominate a person under subsection (1) unless it has, with the prior approval in writing of the Government, invited the Service to undertake a selection competition for that purpose and the Service has undertaken such a competition.
- (3) The Authority shall, with the approval of the Minister, agree with the Service the requirements relating to knowledge, ability and suitability for appointment to the rank of Deputy Garda Commissioner for the purposes of a selection competition under this section.
- (4) A person shall not be nominated by the Authority under subsection (1) unless it 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 or expertise as is appropriate having regard, in particular, to the functions that may be assigned to a member of that rank.
- (5) The Service shall provide the Authority with particulars of the experience, qualifications, training and expertise of a person whom it

recommends for nomination by the Authority under subsection (1) for appointment to the rank of Deputy Garda Commissioner.

- (6) Subject to subsection (7), where the Authority nominates a person for appointment to the rank of Deputy Garda Commissioner under subsection (1), the Government shall accept the nomination.
  - (7) (a) In exceptional circumstances, where the Government, for substantial and stated reasons, are unable to accept the nomination by the Authority of a particular person for appointment to the rank of Deputy Garda Commissioner, they shall inform the Authority of that fact and the reasons for it and request the Authority to nominate another person for appointment.
    - (b) The Authority shall—
      - (i) consider the Government’s reasons provided in accordance with paragraph (a), and
      - (ii) unless the Authority disagrees with those reasons and wishes to make representations to the Government in that behalf, nominate another person for appointment.
  - (8) A person who holds the office of Deputy Garda Commissioner 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.
  - (9) The Government shall, as soon as may be, inform the Authority of the resignation of a person under subsection (8).”
- (2) Subject to section 11 of the Principal Act (as amended by *section 10*), a person who, on the commencement of this section, holds the office of Deputy Garda Commissioner continues in office in accordance with the terms and conditions of his or her appointment.

**Removal of Garda Commissioner, Deputy Garda Commissioner and members of certain other ranks from office**

**10.** (1) The Principal Act is amended by the substitution of the following section for section 11:

“**11.** (1) Subject to section 12, a person who holds the office of Garda Commissioner or Deputy Garda Commissioner may be removed from office by the Government, but only for stated reasons, including because—

- (a) the person has failed to perform the functions of the office with due diligence and effectiveness or, in the case of the Garda

Commissioner, has failed to have regard to any of the matters specified in section 26(2),

- (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 Government, be in the best interests of the Garda Síochána.
- (2) The Authority 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 if the reasons for removal relate to policing services, and the Government shall consider any such recommendation.
- (3) Subject to section 13A, a person who holds the office of Assistant Garda Commissioner, chief superintendent or superintendent may be removed from office by the Authority, but only for stated reasons related solely to policing services, including because—
- (a) the person has failed to perform the functions of the office relating to policing services 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 relating to policing services, or
  - (c) the removal of the person from office would, in the opinion of the Authority, be in the best interests of the Garda Síochána.
- (4) Subject to section 12, a person who holds the office of Assistant Garda Commissioner, chief superintendent or superintendent may be removed from office by the Government in circumstances other than those to which subsection (3) relates, but only for stated reasons, including because—
- (a) the person has failed to perform the functions of the office 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 Government, be in the best interests of the Garda Síochána.
- (5) On notifying under section 12(1)(a) or 13A(1)(a), as may be appropriate, a person who holds the office of Garda Commissioner, Deputy Garda Commissioner, Assistant Garda Commissioner, chief superintendent or superintendent that the Government or the Authority, as the case may be, intends to consider removing him or her from

office, the Government or the Authority, as the case may be, may immediately suspend the person from duty.

- (6) A suspension from duty under subsection (5) continues until the Government or the Authority, as the case may be, makes a decision in relation to the matter under consideration, but only if there is no undue delay in taking steps under section 12 or 13A, as may be appropriate, in making that decision.
  - (7) Subject to subsection (8), the Government shall, as soon as may be, inform the Authority of a proposal to remove a person from office under subsection (1) or (4) and any related suspension from duty under subsection (5).
  - (8) The Government shall consult with the Authority before the removal of a person from office under—
    - (a) subsection (1), if the reasons for removal relate to policing services, or
    - (b) subsection (4), if the reasons for removal include reasons relating to policing services.
  - (9) The Authority shall, as soon as may be, inform the Government of a proposal to remove a person from office under subsection (3) and any related suspension from duty under subsection (5).”.
- (2) If any steps have been taken before the commencement of this section and *sections 11 to 13* to remove from office a person who holds the office of Assistant Garda Commissioner, chief superintendent or superintendent, sections 11 to 13 of the Principal Act shall apply to the removal of the person from office as if the amendments of the Principal Act in *subsection (1)* and *sections 11 to 13* had not been made.
- (3) After the commencement of this section and *sections 11 to 13*, sections 11 (inserted by this section), 12 (as amended by *section 11*), 13 (inserted by *section 12*) and 13A (inserted by *section 13*) of the Principal Act shall, other than in the case of persons to whom *subsection (2)* applies, apply to the removal from office of a person who holds the office of Assistant Garda Commissioner, chief superintendent or superintendent even if the reasons for the removal relate to actions taken, omissions made or conduct that occurred before that commencement.

#### **Amendment of section 12 of Principal Act**

##### **11. Section 12 of the Principal Act is amended—**

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

“(1) Before considering the removal of a person from office under subsection (1) or (4) of section 11, the Government shall—

- (a) notify the person that the Government intends to consider the matter and include in the notification a statement of their reasons for doing so, and
  - (b) give the person an opportunity to make representations as to why he or she ought not to be removed from office.
- (1A) The Government shall inform the Authority of a notification to a person under subsection (1)(a) if the reasons for the removal from office of the person—
- (a) in the case of a removal under section 11(1), relate either solely or partially to policing services, or
  - (b) in the case of a removal under section 11(4), relate partially to policing services.”,
- (b) by the insertion of the following subsection after subsection (5):
- “(5A) A statement or admission made by a person pursuant to a direction under subsection (3) shall not be admissible as evidence in proceedings brought against that person for an offence (other than an offence under subsection (5)).”,
- (c) in subsection (6), by the insertion of the following paragraph after paragraph (a):
- “(aa) in a case where the reasons for the proposed removal from office of the person concerned relate either solely or partially to policing services, inform the Authority of the findings of the inquiry in so far as they relate to policing services,”
- and
- (d) in subsection (7), by the substitution of “removed from office under subsection (1) or (4) of section 11” for “removed from office under section 11”.

**Appointment of members to ranks of Assistant Garda Commissioner, chief superintendent and superintendent**

- 12.** (1) The Principal Act is amended by the substitution of the following section for section 13:
- “**13.** (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, determine the number of persons who may be appointed to the ranks of Assistant Garda Commissioner, chief superintendent and superintendent in the Garda Síochána and the Authority may, in accordance with the regulations and having undertaken a selection competition for that purpose, appoint a person to any of those ranks.
- (2) A person who holds the office of Assistant Garda Commissioner, chief superintendent or superintendent may resign from office by notice in

writing addressed to the Authority and the resignation shall take effect on the date the Authority receives the notice or, if a date is specified in the notice and the Authority agrees to that date, on that date.”.

- (2) Subject to subsections (3) to (9) of section 11 of the Principal Act (as amended by *section 10*), a person who, on the commencement of this section, holds the office of Assistant Garda Commissioner, chief superintendent or superintendent continues in office in accordance with the terms and conditions of his or her appointment.

**Steps to be taken before removal from office by Authority of members of certain ranks**

**13.** The Principal Act is amended by the insertion of the following section after section 13:

“**13A.**(1) Before considering the removal of a person from office under section 11(3), the Authority shall—

- (a) notify the person that the Authority intends to consider the matter and include in the notification a statement of the reasons for doing so, and
  - (b) give the person an opportunity to make representations as to why he or she ought not to be removed from office.
- (2) The Authority shall inform the Government of a notification to a person under subsection (1)(a).
- (3) The Authority may, if it considers it necessary or appropriate to do so, appoint a person to—
- (a) hold an inquiry into any matter giving rise to a notification under subsection (1), and
  - (b) report to the Authority on the findings of the inquiry.
- (4) A person appointed under this section to hold an inquiry may do one or more of the following:
- (a) direct any person, by notice delivered to him or her, to provide any information that is specified in the notice and is 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 specified in the notice that is relevant to 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 person appointed under this section 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.
- (5) If a person fails or refuses to comply with or disobeys a direction or summons under subsection (4), the High Court may, on application by the person appointed under this section—
- (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) A person—
- (a) to whom a notice is delivered under subsection (4) and who, without lawful excuse, refuses or fails to comply with a direction under paragraph (a) or (b) of that subsection,
  - (b) who fails, without lawful excuse, to attend an inquiry in response to a summons under subsection (4)(c),
  - (c) who refuses to answer a question that the person conducting the inquiry may lawfully direct him or her to answer, or
  - (d) who does or omits to do in relation to the inquiry any other thing the doing or omission of which would, if the inquiry had been a proceeding in the High Court, have been contempt of that 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.
- (7) A statement or admission made by a person pursuant to a direction under subsection (4) shall not be admissible as evidence in proceedings brought against that person for an offence (other than an offence under subsection (6)).
- (8) If an inquiry is held, the Authority shall—
- (a) consider the report on the findings of the inquiry,
  - (b) make a copy of the report available to the person whose removal from office is the subject of the report, and
  - (c) give that person an opportunity to make representations relating to the report.

- (9) As soon as practicable after a person is removed from office under section 11(3), the Authority shall inform the Minister of the removal of the person from office and the reasons for it and the Minister shall cause a statement of the reasons for the removal to be laid before each House of the Oireachtas.”.

#### **Amendment of section 14 of Principal Act**

- 14.** (1) Section 14(2)(d) of the Principal Act is amended by the substitution of “the Authority” for “the Government”.
- (2) If any steps have been taken by the Garda Commissioner before the commencement of this section to dismiss from the Garda Síochána a member not above the rank of inspector, section 14 of the Principal Act shall apply to the dismissal of the person as if the amendment of that section in *subsection (1)* had not been made.
- (3) After the commencement of this section, section 14 (as amended by *subsection (1)*) of the Principal Act shall, other than in the case of persons to whom *subsection (2)* applies, apply to the dismissal from the Garda Síochána of a member not above the rank of inspector even if the conduct of the member to which the dismissal relates occurred before that commencement.

#### **Amendment of section 15 of Principal Act**

- 15.** Section 15 of the Principal Act is amended—
- (a) in subsection (4)(a), by the substitution of “the Authority” for “the Minister”, and
- (b) in subsection (5), by the insertion of “, following consultation with the Authority,” after “Garda Commissioner”.

#### **Code of ethics**

- 16.** The Principal Act is amended by the substitution of the following section for section 17:
- “**17.** (1) The Authority shall, within 12 months of the establishment day of the Authority, establish a code of ethics that includes—
- (a) standards of conduct and practice for members, and
- (b) provisions to encourage and facilitate the reporting by members of wrongdoing in the Garda Síochána.
- (2) The Authority shall, before establishing a code of ethics under this section, consult with the following about the content of the code:
- (a) the Minister;
- (b) the Minister for Public Expenditure and Reform;
- (c) the Garda Commissioner;
- ”

- (d) the representative associations established under section 18 of this Act or section 13 of the Garda Síochána Act 1924;
  - (e) any recognised trade union or staff association representing members of the civilian staff of the Garda Síochána;
  - (f) the Irish Human Rights and Equality Commission;
  - (g) the Standards in Public Office Commission;
  - (h) the Ombudsman Commission;
  - (i) 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 in other Member States of the European Union, and
  - (c) any relevant recommendations of the Council of Europe.
- (4) A code of ethics, or specified provisions of such a code, established under this section may apply with such modifications as may be specified therein to members of the civilian staff of the Garda Síochána.
- (5) The Authority may, in like manner to the establishment of a code of ethics under this section, amend or revoke such a code.
- (6) Whenever the Authority establishes, amends or revokes a code of ethics under this section, the Authority shall provide the Minister with a copy of the code as so established, amended or revoked and the Minister shall cause a copy of it to be laid before each House of the Oireachtas as soon as practicable after he or she receives it.
- (7) The Authority shall publish a code of ethics established under this section in such manner as it considers appropriate.
- (8) The Garda Commissioner shall take such steps as are necessary to ensure that all members have read and understood a code of ethics established under this section and that a record is kept of the steps so taken in relation to each member.”.

**Amendment of section 19 of Principal Act**

17. Section 19 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “Subject to subsection (2A), the Garda Commissioner may appoint” for “The Garda Commissioner may appoint” and the

substitution of “as may be approved by the Authority with the consent of the Minister and” for “as may be approved by the Minister with the consent of”,

(b) in subsection (2), by the substitution of “as may be approved by the Authority with the consent of the Minister and” for “as may be approved by the Minister with the consent of”, and

(c) by the insertion of the following subsection after subsection (2):

“(2A) The civilian staff of the Garda Síochána of grades that are equivalent to or above that of chief superintendent in the Garda Síochána shall be appointed by the Authority.”.

### PART 3

#### ROLES OF MINISTER, AUTHORITY AND GARDA COMMISSIONER

#### **Setting of priorities for policing services and security services**

18. The Principal Act is amended by the substitution of the following sections for section 20:

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

20. (1) The Authority shall, in accordance with this section and with the approval of the Minister—

(a) determine, and from time to time revise, priorities for the Garda Síochána in performing its functions relating to policing services, and

(b) establish, and from time to time revise, levels of performance (‘performance targets’) to be aimed at in seeking to achieve the objective of each priority referred to in paragraph (a).

(2) The Authority shall consult with the Garda Commissioner before determining or revising priorities or establishing or revising performance targets under this section.

(3) Where the Minister approves the determination or revision of priorities or the establishment or revision of performance targets, as the case may be, he or she shall convey that approval in writing.

(4) As soon as practicable after the determination or revision of priorities and the establishment or revision of performance targets, the Authority shall supply the Minister and the Garda Commissioner with a copy of the determined priorities, the established performance targets and any revisions to those priorities or performance targets.

(5) As soon as practicable after the Minister receives a copy of the determined priorities, the established performance targets or any revisions to those priorities or performance targets under subsection

(4), the Minister shall cause a copy of them to be laid before each House of the Oireachtas.

(6) The Garda Commissioner shall—

- (a) inform the Authority of the measures taken to achieve the objectives of the priorities determined and performance targets established under this section and of the outcome of those measures, and
- (b) supply that information within the time specified by the Authority or, if no such time is specified, in the annual report submitted to the Authority under section 46.

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

**20A.** (1) The Minister may—

- (a) determine, and from time to time revise, priorities for the Garda Síochána in performing its functions relating to security services, and
- (b) establish, and from time to time revise, levels of performance (‘performance targets’) to be aimed at in seeking to achieve the objective of each priority referred to in paragraph (a).

(2) The Minister shall—

- (a) consult with the Garda Commissioner before determining or revising priorities or establishing or revising performance targets, and
- (b) supply the Garda Commissioner with a copy of the determined priorities, the established performance targets and any revisions to those priorities or performance targets.

(3) Subject to subsection (4), as soon as practicable after the determination or revision of priorities and the establishment or revision of performance targets, the Minister shall cause a copy of the priorities or performance targets or revisions thereto, as the case may be, to be laid before each House of the Oireachtas.

(4) The Minister may exclude from the copy of the priorities or performance targets or revisions thereto, as the case may be, 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 national security, or
- (b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

(5) The Garda Commissioner shall—

- (a) inform the Minister of the measures taken to achieve the objectives of the priorities determined and performance targets established under this section and of the outcome of those measures, and
- (b) supply that information within the time specified by the Minister.”.

**Amendment of section 21 of Principal Act****19.** Section 21 of the Principal Act is amended—

- (a) by the substitution of the following subsection for subsection (1):
  - “(1) Subject to subsection (6)—
    - (a) not later than 6 months after the establishment day of the Authority, and
    - (b) not later than 3 months before the expiry of the period to which the previous strategy statement relates,  
  
the Garda Commissioner shall submit to the Authority for its approval (with the consent of the Minister) a strategy statement for the Garda Síochána and for policing services for the following 3 years.”,
  - (b) in subsection (2), by the deletion of “must be prepared in such form and manner as the Minister may direct and”,
  - (c) in subsection (3)—
    - (i) by the substitution of the following paragraph for paragraph (b):
      - “(b) the priorities determined by the Authority under section 20 relating to policing services and any priorities that may be determined by the Minister under section 20A relating to security services;”,
    - (ii) in paragraph (c), by the substitution of “relates;” for “relates, and”,
    - (iii) in paragraph (d), by the substitution of “efficient use of those resources;” for “efficient use of those resources.”, and
    - (iv) by the addition of the following paragraph:
      - “(e) the policing principles.”,
  - (d) in subsection (4), by—
    - (i) the substitution of “The Authority shall, with the consent of the Minister, approve” for “The Minister shall approve”, and
    - (ii) the substitution of the following paragraph for paragraph (b):
      - “(b) with such amendments as the Authority with the consent of the Minister, after consulting with the Garda Commissioner, may determine.”,
  - (e) by the substitution of the following subsection for subsection (5):

“(5) As soon as practicable after the approval of the strategy statement under subsection (4), the Authority shall send a copy of the approved strategy statement to the Minister and the Minister shall cause a copy of it to be laid before each House of the Oireachtas as soon as practicable after he or she receives it.”,

and

(f) in subsection (6), by the substitution of “The Authority” for “The Minister”.

### **Amendment of section 22 of Principal Act**

**20.** Section 22 of the Principal Act is amended—

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

“(1) The Garda Commissioner shall each year prepare a policing plan setting out the proposed arrangements for policing services for the following year.”,

(b) in subsection (2)—

(i) in paragraph (e), by the substitution of “Government policy;” for “Government policy.”, and

(ii) by the addition of the following paragraph:

“(f) the policing principles.”,

(c) in subsection (4), by the substitution of “the Authority” for “the Minister”,

(d) in subsection (5)—

(i) by the substitution of “The Authority shall, with the consent of the Minister, approve” for “The Minister shall approve”, and

(ii) by the substitution of the following paragraph for paragraph (b):

“(b) with such amendments as the Authority with the consent of the Minister, after consulting with the Garda Commissioner, may determine.”,

and

(e) by the substitution of the following subsection for subsection (6):

“(6) As soon as practicable after the approval of the policing plan under subsection (5), the Authority shall send a copy of the approved policing plan to the Minister and the Minister shall cause a copy of it to be laid before each House of the Oireachtas as soon as practicable after he or she receives it.”.

### **Amendment of section 23 of Principal Act**

**21.** Section 23 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “the Authority” for “the Minister” and the insertion of “for policing services” after “resources available to the Garda Síochána”, and
- (b) in subsection (4), by the substitution of “after receiving the report, the Authority shall send a copy of the report to the Minister and the Minister shall” for “after receiving the report, the Minister shall”.

**Amendment of section 24(2) of Principal Act**

22. Section 24(2) of the Principal Act is amended by the substitution of “the Authority” for “the Minister”.

**Amendment of section 25 of Principal Act**

23. Section 25 of the Principal Act is amended—

- (a) by the insertion of the following subsections after subsection (1):

“(1A) The Authority may recommend to the Minister that a directive concerning a specified matter relating to policing services be issued under subsection (1).

(1B) Following the approval of the Government, the Minister may issue to the Authority written directives concerning any matter relating to policing services insofar as the matter concerned relates to the functions of the Authority under this Act.”,

- (b) by the substitution of the following subsection for subsection (2):

“(2) The Garda Commissioner and the Authority shall, in performing their respective functions under this Act, comply with any directive issued to the Commissioner or the Authority, as the case may be, under this section.”,

and

- (c) by the addition of the following subsections:

“(6) The Authority shall inform the Minister of the measures taken by the Authority to comply with a directive issued to it under this section and supply the information within the time specified by the Minister.

(7) The Minister shall supply the Authority with the information supplied to him or her by the Garda Commissioner under subsection (5) regarding the measures taken by the Garda Síochána to comply with a directive issued to the Commissioner under this section if and insofar as the directive and that information relate to policing services.”.

**Amendment of section 26 of Principal Act**

24. Section 26 of the Principal Act is amended—



- (a) in subsection (1), by the insertion of the following paragraph after paragraph (c):
- “(ca) to assist and co-operate with the Authority in order to facilitate the performance by the Authority of its functions under this Act;”,
- and
- (b) in subsection (2)—
- (i) in paragraph (b), by the substitution of “under sections 20 and 20A” for “under section 20”, and
- (ii) by the substitution of the following paragraphs for paragraph (f):
- “(f) any directive issued to him or her under section 25;
- (g) the policing principles.”.

**Amendment of section 27 of Principal Act**

**25.** Section 27 of the Principal Act is amended—

- (a) in subsection (1), by—
- (i) the insertion of “and the Authority, having regard to the respective functions of the Commissioner and the Authority under this Act,” after “The Garda Commissioner”, and
- (ii) the substitution of “matters concerning policing services” for “matters concerning policing and the state of crime”,
- and
- (b) in subsection (2), by the substitution of “the Authority” for “the Minister” in each place where it occurs.

**Amendment of section 32 of Principal Act**

**26.** Section 32 of the Principal Act is amended—

- (a) by the substitution of the following subsection for subsection (2):
- “(2) During any absence of the Garda Commissioner or other circumstance referred to in paragraph (a) or (b) of subsection (1), the Minister may authorise an Assistant Garda Commissioner to perform the functions of the Garda Commissioner—
- (a) where the offices at the rank of Deputy Garda Commissioner are vacant, or
- (b) during any absence, incapacity or suspension from duty of all officers at the rank of Deputy Garda Commissioner.”,
- and
- (b) by the addition of the following subsections:

- “(3) The Minister shall notify the Authority of an authorisation given by him or her under subsection (1) or (2).
- (4) Where a Deputy Garda Commissioner or an Assistant Garda Commissioner is authorised under this section to perform the functions of the Garda Commissioner, the provisions of section 11 relating to the removal from office of the Garda Commissioner (and not those relating to a Deputy Garda Commissioner or an Assistant Garda Commissioner, as the case may be) shall apply to such a Deputy Garda Commissioner or Assistant Garda Commissioner if the reasons for his or her removal from office relate to the performance of those functions during the period of his or her authorisation under this section.”.

**Amendment of section 33(3) of Principal Act**

27. Section 33(3) of the Principal Act is amended by the addition of “and continued to be such an area by section 7(1) of the Gaeltacht Act 2012” after “section 2 of the Ministers and Secretaries (Amendment) Act 1956”.

## PART 4

## CO-OPERATION WITH LOCAL AUTHORITIES AND SECURITY IN PUBLIC PLACES

**Amendment of section 34 of Principal Act**

28. Section 34 of the Principal Act is amended by the deletion of “, ‘local authority’ ”.

**Amendment of section 35 of Principal Act**

29. (1) Section 35 of the Principal Act is amended—

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

“(1) The Authority shall, after consulting with the Minister and the Minister for the Environment, Community and Local Government, issue to local authorities and the Garda Commissioner guidelines concerning the establishment and maintenance of joint policing committees by local authorities and the Garda Commissioner.”,

- (b) in subsection (2)—

- (i) in paragraph (b)(iii), by the substitution of “members of the Houses of the Oireachtas” for “members of the Oireachtas”,
- (ii) in paragraph (e), by the substitution of “members of the Houses of the Oireachtas” for “members of the Oireachtas”,
- (iii) in paragraph (k), by the substitution of “any subcommittees,” for “any subcommittees, and”, and

(iv) by the substitution of the following paragraphs for paragraph (l):

- “(l) the establishment and operation by the committee as it considers necessary of local policing fora within neighbourhoods of the administrative area of the local authority concerned to discuss and make recommendations to the committee concerning matters that the committee is to keep under review under section 36(2)(a) or on which the committee is to advise under section 36(2)(b), insofar as those matters affect their neighbourhoods,
- (m) the co-operation of, and consultation by, the committee with such other public authorities, bodies or persons, including local policing fora referred to in paragraph (l), as may be required by the committee in the performance of its functions, and
- (n) such other matters as the Authority considers appropriate.”,

(c) by the substitution of the following subsections for subsections (4) and (5):

- “(4) The Authority may, after consulting with the Minister and the Minister for the Environment, Community and Local Government—
  - (a) revise any guidelines issued under this section, or
  - (b) withdraw those guidelines and issue new guidelines.
- (5) The Authority shall supply a copy of guidelines issued under this section, and of any revisions to them, to the Minister as soon as practicable after the guidelines are issued or revised and the Minister shall cause a copy of such guidelines, and of any revisions to them, to be laid before each House of the Oireachtas as soon as practicable after he or she receives them.”,

and

(d) by the addition of the following subsection:

- “(6) The Authority may convene meetings of the chairpersons, and such other members as the Authority considers appropriate, of joint policing committees for the purpose of coordinating, or otherwise facilitating, the performance by such committees of the functions assigned to them.”.

(2) Guidelines issued by the Minister under section 35 of the Principal Act before the commencement of this section continue in force until they are replaced by guidelines issued under that section of the Principal Act as it is amended by *subsection (1)*.

#### **Amendment of section 36 of Principal Act**

**30.** (1) Section 36 of the Principal Act is amended—

- (a) in subsection (2)—

- (i) by the deletion of paragraph (d), and
  - (ii) in paragraph (e), by the substitution of “local policing fora established in accordance with guidelines issued under section 35” for “local policing fora established under paragraph (d) or otherwise”,
  - (b) by the deletion of subsection (3), and
  - (c) in subsection (5)(b), by the insertion of “the Authority,” after “supply a copy of the report to”.
- (2) Local policing fora that were established and in operation under section 36(2)(d) of the Principal Act or otherwise immediately before the commencement of this section may continue in operation after that commencement but, if they do so, they shall operate in accordance with guidelines issued under section 35 of that Act.

**Amendment of section 38 of Principal Act**

**31.** Section 38 of the Principal Act is amended—

- (a) in subsection (5), by the substitution of “The Authority shall, by order, made with the approval of the Government” for “The Government shall, by order”,
- (b) in subsection (8)(b), by the substitution of “the consent of the Authority” for “the Minister’s consent”,
- (c) in subsection (11), by the substitution of “The Authority, with the consent of the Minister” for “The Minister”, and
- (d) by the substitution of the following subsection for subsection (12):

“(12) The Authority shall supply a copy of any guidelines issued under this section, and of any revisions to them, to the Minister as soon as practicable after the guidelines are issued or revised and the Minister shall cause a copy of any such guidelines, and of any revisions to them, to be laid before each House of the Oireachtas as soon as practicable after he or she receives them.”.

**PART 5****ACCOUNTABILITY****Amendment of section 40 of Principal Act**

**32.** Section 40 of the Principal Act is amended—

- (a) by the insertion of the following subsection after subsection (1):

“(1A) Notwithstanding subsection (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 under this Act.”.

(b) in subsection (2), by the deletion after “statements made by members” of “of the Garda Síochána”, and

(c) by the insertion of the following subsection after subsection (2):

“(2A) The Garda Commissioner’s duty under subsection (1A) includes the duty to provide, on request by the Authority, any document relating to policing services in the power or control of the Garda Síochána.”.

#### **Amendment of section 41 of Principal Act**

**33.** Section 41 of the Principal Act is amended by the insertion of the following subsection after subsection (3):

“(3A) If and insofar as a report under subsection (2) relates to matters concerning policing services, the Minister shall inform the Authority of those matters.”.

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

**34.** The Principal Act is amended by the insertion of the following section after section 41:

“**41A.**(1) The Garda Commissioner shall keep the Authority fully informed of the following:

- (a) matters relevant to the functions of the Authority under this Act;
  - (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 under this Act.
- (2) Whenever required 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 functions of the Commissioner relating to such services that may be specified in the requirement.
- (3) A report under subsection (2) shall—
- (a) address the matters of general or specific concern that are specified in the Authority’s requirement, and
  - (b) be made in the form and within the period specified in that requirement.
- (4) The Authority may publish all or a part of a report submitted under this section.”.

#### **Amendment of section 42 of Principal Act**

**35.** Section 42 (inserted by section 42 of the Criminal Justice Act 2007) of the Principal Act is amended—

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

“(1) The Minister may, with respect to any matter considered by him or her to be of public concern, on his or her own initiative or, in the case of a matter relating to policing services, either—

(a) having consulted with the Authority, or

(b) on the request of the Authority, where the Authority is satisfied that an inquiry should be ordered,

by order appoint a person to—

(i) inquire into any aspect of the administration, operation, practice or procedure of the Garda Síochána, or the conduct of its members, and

(ii) make a report to the Minister on the conclusion of the inquiry.

(1A) If, following a request under paragraph (b) of subsection (1) from the Authority to do so, the Minister does not make an order under that subsection, the Minister shall inform the Authority of his or her reasons for not doing so.”

(b) by the substitution of the following subsections for subsection (3):

“(3) The Minister shall, subject to subsection (3A), specify the terms of reference of the inquiry in the order under subsection (1) and may, by order, made at any time before the submission of the final report, amend those terms of reference for the purpose of clarifying, limiting or extending the scope of the inquiry.

(3A) Where the matter the subject of the inquiry relates to policing services, the Minister shall consult with the Authority before specifying or amending, as the case may be, the terms of reference of the inquiry.”

(c) in subsection (4)—

(i) in paragraph (a), by the insertion of “a member of the Authority nominated for that purpose by the Authority,” after “member of the Garda Síochána,” and

(ii) in paragraph (b), by the insertion of “, member of the Authority” after “the member”,

(d) in subsection (5), by the insertion of “, the member of the Authority” after “member”,

(e) by the substitution of the following subsection for subsection (6):

“(6) Where the member, member of the Authority or other person fails to comply with a requirement under subsection (4), the High Court may, on application by the appointed person and on notice to the member, member of the Authority or other person, as may be appropriate—

- (a) order the member, member of the Authority or person to comply with the requirement, and
- (b) include in the order any other provision it considers necessary to enable the order to have full effect.”,

and

- (f) in subsection (7), by the insertion of “, member of the Authority” after “member”.

#### **Amendment of section 44 of Principal Act**

**36.** (1) Section 44 of the Principal Act is amended—

- (a) in subsection (2), by the insertion of “the Authority” for “the Minister”,
- (b) in subsection (3), by the substitution of “The Authority” for “The Minister”,
- (c) by the substitution of the following subsection for subsection (4):

“(4) The members of the audit committee hold office for the period that may be determined by the Authority, but a member—

- (a) may resign from the committee by letter addressed to the Authority, or
- (b) may at any time be removed from office by the Authority for stated reasons.”,

and

- (d) in subsection (5), by the substitution of “determined by the Authority with the consent of the Minister” for “determined by the Minister”.

- (2) Where, immediately before the commencement of this section, a person stands appointed by the Minister under section 44 of the Principal Act as a member of the audit committee of the Garda Síochána referred to in that section, the person shall continue to act for the remainder of the period for which he or she was so appointed, and on such terms and conditions as he or she was so appointed, as if he or she were appointed under that section of the Principal Act as it is amended by *subsection (1)*.

#### **Amendment of section 45 of Principal Act**

**37.** Section 45 of the Principal Act is amended—

- (a) in subsection (1)—
  - (i) in paragraph (a), by the substitution of “governance and financial matters” for “financial matters”, and
  - (ii) in paragraph (c), by the substitution of “the Authority and the Minister” for “the Minister”,

and

- (b) in subsection (2)(a), by the substitution of “Government guidelines on governance and financial issues” for “Government guidelines on financial issues”.

**Amendment of section 46 of Principal Act**

**38.** Section 46 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “the Authority” for “the Minister” in both places where it occurs and the substitution of “policing services” for “the policing of the State”,
- (b) in subsection (2), by the insertion of “relating to policing services” after “an account of the following”, and
- (c) by the insertion of the following subsection after subsection (2):
- “(2A) As soon as practicable and not later than 30 days after receiving the report, the Authority shall supply a copy of it to the Minister.”.

**PART 6****INTERNATIONAL SERVICE AND CO-OPERATION WITH OTHER POLICE SERVICES****Amendment of section 52(1) of Principal Act**

**39.** Section 52(1) of the Principal Act is amended by the substitution of “The Authority, with the approval of the Government,” for “The Government” and the insertion of “not above Assistant Garda Commissioner and” before “not below superintendent”.

**Amendment of section 53 of Principal Act**

**40.** Section 53 of the Principal Act is amended—

- (a) in subsection (1)(b), by the substitution of “the Authority” for “the Government” and the insertion of “not above that of Assistant Garda Commissioner and” before “not below that of superintendent”,
- (b) by the substitution of the following subsection for subsection (2):
- “(2) Subject to subsection (3), the Authority may comply with a request under subsection (1)(b) but may do so only with the approval of the Government.”,
- (c) in subsection (6), by the substitution of “the Authority, with the approval of the Government,” for “the Government”, and
- (d) by the addition of the following subsection:
- “(7) The Government may terminate an appointment approved by them under subsection (2).”.



**Amendment of section 55 of Principal Act**

**41.** (1) Section 55 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “the Garda Commissioner, the Authority or the Government, as may be appropriate” for “the Garda Commissioner or the Government, as appropriate”, and
  - (b) in subsection (3), by the substitution of “the Garda Commissioner, the Authority or the Government” for “the Garda Commissioner or the Government”.
- (2) If any steps have been taken before the commencement of this section to discipline a member of the Garda Síochána under section 55 of the Principal Act, that section shall apply to any disciplinary action in relation to the member as if the amendments of it in *subsection (1)* had not been made.
- (3) After the commencement of this section, section 55 of the Principal Act (as amended by *subsection (1)*) shall, other than in the case of members of the Garda Síochána to whom *subsection (2)* applies, apply to disciplinary action in relation to a member of the Garda Síochána even if the act done or omission made concerned, the doing or omission of which by a member of the Police Service of Northern Ireland would constitute a breach of discipline (within the meaning of that section), occurred before that commencement.

**Amendment of section 56(4) of Principal Act**

**42.** Section 56(4) of the Principal Act is amended by the substitution of “the Authority and the Minister” for “the Minister”.

**Amendment of section 62 of Principal Act**

**43.** Section 62 of the Principal Act is amended—

- (a) in subsection (4), by the substitution of the following paragraph for paragraph (c):

“(c) is made to 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,”

and

- (b) in subsection (8), by the substitution of “section 2(1) of the Freedom of Information Act 2014” for “section 2(1) of the Freedom of Information Act 1997”.

## PART 7

## ESTABLISHMENT AND FUNCTIONS OF POLICING AUTHORITY

**Establishment and functions of Policing Authority**

44. The Principal Act is amended by the insertion of the following Part after Part 2:

## “PART 2A

## ESTABLISHMENT AND FUNCTIONS OF POLICING AUTHORITY

**Establishment day of Authority**

**62A.** The Minister shall, by order, appoint a day to be the establishment day of the Authority.

**Establishment of Authority**

**62B.** (1) On the establishment day of the Authority, a body to be known as an tÚdarás Póilíneachta or, in the English language, the Policing Authority stands established to perform the functions assigned to it by this Act.

(2) The Authority shall be a body corporate with perpetual succession and an official seal and may sue, or may be sued, in its corporate name.

(3) The Authority may, with the consent of the Minister and the Minister for Public Expenditure and Reform, acquire, hold and dispose of property other than land or an interest in land.

(4) The official seal of the Authority shall be authenticated by the signature of—

(a) a member of the Authority, and

(b) the Chief Executive or other member of the staff of the Authority authorised by the Authority to act in that behalf.

(5) Judicial notice shall be taken of the seal of the Authority and every 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 (4),

shall be received in evidence and be deemed to be such instrument without proof, unless the contrary is shown.

(6) 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 to act in that behalf.

- (7) Subject to this Act, the Authority shall be independent in the performance of its functions.

**Membership of Authority**

**62C.** (1) Subject to this section, the Authority shall comprise 9 members who are to be appointed by the Government:

- (a) a chairperson;
  - (b) 8 ordinary members.
- (2) In appointing the members of the Authority, the Government shall have regard to the objective of there being no fewer than 4 members who are women and no fewer than 4 members who are men.
- (3) The Government may, before the establishment day of the Authority, designate a person to be appointed as the first chairperson of the Authority.
- (4) If, immediately before the establishment day of the Authority, a person stands designated under subsection (3), the person shall, on that day, stand appointed as the first chairperson of the Authority.
- (5) The Government may, before the establishment day of the Authority, designate persons to be appointed as the first ordinary members of the Authority.
- (6) If, immediately before the establishment day of the Authority, a person stands designated under subsection (5), the person shall, on that day, stand appointed as an ordinary member of the Authority.
- (7) Except for the first appointed members of the Authority and subject to section 62E(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 his or her appointment.
- (8) Except for the first appointed ordinary members of the Authority and subject to section 62E(5), the Government shall appoint the ordinary members of the Authority from among such persons as are recommended by the Service in accordance with section 62D for appointment as such ordinary members.

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

**62D.** (1) The Government shall invite the Service to undertake a selection competition for the purpose of identifying and recommending to the Government persons who are suitable for appointment as ordinary 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 the selection competition.

- (3) In making recommendations of persons who are suitable for appointment as ordinary members of the Authority under this section, the Service shall have regard to the desirability of the members of the Authority possessing knowledge of, and experience in, matters connected with the following:
- (a) policing matters;
  - (b) human rights and equality matters;
  - (c) public sector administration;
  - (d) board management and corporate governance;
  - (e) work undertaken by voluntary or other groups or bodies with local communities, in particular, for the purpose of promoting safety in the community, the prevention of crime or promoting awareness of other issues that are relevant to policing services.
- (4) Subject to subsection (3), 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 an ordinary member of the Authority by reason of his or her possessing such relevant experience, qualifications, training or expertise as is appropriate having regard, in particular, to the functions of the Authority under this Act.
- (5) The Service shall provide the Government with particulars of the experience, qualifications, training and expertise of each person whom it recommends under this section as suitable for appointment as an ordinary member of the Authority.
- (6) This section shall, with any necessary modifications, apply in relation to the filling of any vacancy that arises in the ordinary membership of the Authority.

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

- 62E.** (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) Such four of the ordinary members of the Authority that is first constituted under this Act as are determined by the Government shall hold office for a period of 3 years from the date of their respective appointments as such ordinary members.
- (3) A member of the Authority holds office on such terms and conditions as may be determined by the Government at the time of appointment or reappointment.

- (4) Subject to subsection (6), 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.
- (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 62D or to be recommended for reappointment by the Service, or
  - (b) to be recommended for reappointment following the passing of a resolution of each House of the Oireachtas.
- (6) A person who is reappointed as a member of the Authority in accordance with subsection (4) shall not hold office for periods the aggregate of which exceeds 8 years.
- (7) A member of the Authority may resign from office by notice in writing addressed to the Minister and the resignation takes effect on the date the Minister receives the notice or, if a date is specified in the notice and the Government agrees to that date, on that date.
- (8) Subject to section 62J(5), the Authority may act notwithstanding one or more vacancies in its membership.

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

- 62F.** (1) A person is not eligible to be recommended for or appointed as a member of the Authority or a 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 the Garda Síochána or a member of the civilian staff of the Garda Síochána,
  - (e) a member of the Ombudsman Commission, or
  - (f) a member of the Garda Síochána Inspectorate.
- (2) A person shall be disqualified for holding and shall cease to hold office as a member of the Authority or a committee if he or she—
- (a) is adjudicated bankrupt,
  - (b) makes a composition or arrangement with his or her creditors,
  - (c) is convicted on indictment of an offence,
  - (d) is convicted of an offence involving fraud or dishonesty,

- (e) has a declaration under section 819 of the Companies Act 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
  - (f) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act.
- (3) Where a member of the Authority or a 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 Authority or the committee, as the case may be.

**Removal of member of Authority**

- 62G.** (1) The Government may only remove a member of the Authority from office where—
- (a) one or more of the grounds referred to in subsection (2) apply,
  - (b) subsections (3) to (6) have been complied with, and
  - (c) a resolution is passed by both Houses of the Oireachtas calling for the removal of the member from office.
- (2) The grounds referred to in subsection (1) are that, in the opinion of the Government, the member of the Authority—
- (a) has, without reasonable excuse, failed to discharge the functions of the office,
  - (b) has become incapable through ill health of effectively performing those functions,
  - (c) has committed stated misbehaviour,
  - (d) has 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 unable to discharge its functions.

- (3) Where the Government propose to remove a member of the Authority pursuant to subsection (1), the Government 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 the manner specified in the notification to the Government as to why the member 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 will, without further notice, proceed with the removal of the member of the Authority from office in accordance with this section.
- (5) In considering whether to remove a member of the Authority from office in accordance with this section, the Government shall take into account—
  - (a) any representations made pursuant to subsection (4)(b), and
  - (b) any other matter 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.

### **Functions of Authority**

**62H.** (1) Subject to this Act, the Authority shall—

- (a) oversee the performance by the Garda Síochána of its functions relating to policing services,
- (b) be responsible for—
  - (i) nominating persons for appointment to the office of Garda Commissioner under section 9(1) or to the rank of Deputy Garda Commissioner under section 10(1),
  - (ii) appointing persons, in accordance with section 13, to the ranks of Assistant Garda Commissioner, chief superintendent and superintendent in the Garda Síochána, and

- (iii) removing or recommending the removal, as the case may be, in accordance with section 11 of members of the Garda Síochána at the ranks referred to in subparagraphs (i) and (ii),
  - (c) establish, amend or revoke a code of ethics in accordance with section 17,
  - (d) approve, in accordance with section 21, a strategy statement submitted by the Garda Commissioner,
  - (e) approve, in accordance with section 22, an annual policing plan submitted by the Garda Commissioner,
  - (f) perform the functions conferred on it by sections 35 and 36 concerning the establishment and maintenance of joint policing committees,
  - (g) perform the functions conferred on it by section 117A with regard to monitoring, assessing and reporting to the Minister on the measures taken by the Garda Síochána in relation to recommendations made in a report of the Garda Síochána Inspectorate,
  - (h) inform the Minister of matters relevant to the accountability of the Government to the Houses of the Oireachtas,
  - (i) provide information and advice to the Minister with regard to matters relating to policing services,
  - (j) promote and support the continuous improvement of policing in the State, and
  - (k) perform any other functions conferred on it by this Act or the regulations.
- (2) Without prejudice to the generality of subsection (1), the Authority shall—
- (a) keep under review the performance by the Garda Síochána of its functions and the arrangements and strategies in place to support and enhance the performance of those functions and, in particular, shall keep under review the adequacy of—
    - (i) the corporate governance arrangements and structures within the Garda Síochána,
    - (ii) the arrangements for the recruitment, training and development of the members and members of the civilian staff of the Garda Síochána,
    - (iii) the mechanisms in place within the Garda Síochána for the measurement of performance and accountability of such members and staff, and



- (iv) the arrangements for managing and deploying the resources available to the Garda Síochána so as to ensure the most beneficial, effective and efficient use of those resources,
  - (b) provide advice to the Minister before each financial year with regard to the resources that are likely to be required by the Garda Síochána to perform its functions in that financial year,
  - (c) promote the policing principles,
  - (d) promote public awareness of matters relating to policing services,
  - (e) keep the Minister informed of developments in respect of matters relating to policing services and make recommendations to assist the Minister in co-ordinating and developing policy in that regard,
  - (f) keep itself generally informed as to—
    - (i) complaints made against members of the Garda Síochána and the application of the Disciplinary Regulations, and
    - (ii) trends and patterns in crimes committed,
  - (g) 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 an improvement in standards for those matters and public awareness of them, or
    - (ii) contribute to a reduction in the number of complaints against members of the Garda Síochána in relation to those matters,and make recommendations to the Minister arising from those projects or activities, and
  - (h) provide advice to the Minister with regard to best policing practice.
- (3) Subject to this Act, the Authority may do anything which it considers necessary or expedient to enable it to perform its functions, including liaising and co-operating with bodies (whether statutory or otherwise) that are relevant to those functions.
- (4) Any function of the Authority, other than nominating a person for appointment to, or recommending the removal of a person from, the office of Garda Commissioner or Deputy Garda Commissioner, may be performed through or by the Chief Executive or other member of its staff duly authorised in that behalf by the Authority.
- (5) The Chief Executive or other member of the staff of the Authority who, pursuant to subsection (4), 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.

- (6) The Authority may provide for the performance by a committee, under the general direction of the Authority, of one or more of its functions, other than nominating a person for appointment to, or recommending the removal of a person from, the office of Garda Commissioner or Deputy Garda Commissioner.

**Authority to have regard to security services**

**62I.** The Authority shall, in performing its functions under this Act and in addition to all other matters to which the Authority may properly have regard, have regard to the importance of the functions of the Garda Síochána concerning security services.

**Meetings and business**

- 62J.** (1) The Authority shall hold such and so many meetings as may be necessary for the due performance of its functions, including meetings with the Garda Commissioner.
- (2) Subject to subsections (3) and (4), 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,
- any meeting or a part of a meeting of the Authority.
- (3) Members of the public may attend, and the media shall be permitted to record and broadcast, not less than four meetings of the Authority with the Garda Commissioner in each year.
- (4) The Authority may publish all or any of the following:
- (a) agendas for its meetings and those of its committees;
  - (b) the papers relating to those meetings;
  - (c) such reports of those meetings as it considers appropriate.
- (5) The quorum for a meeting of the Authority shall be 5 or such other number, not being less than 5, as the Authority shall determine.
- (6) The chairperson of the Authority shall fix the date, time and place of the first meeting of the Authority.
- (7) At a meeting of the Authority—
- (a) if the chairperson thereof is present, he or she shall be the chairperson of the meeting, or
  - (b) if and for so long as the chairperson is not present or if the office of chairperson is vacant, the ordinary members of the Authority who are present shall choose one of their number to act as the chairperson of the meeting.

- (8) Each member of the Authority present at a meeting of the Authority shall have a vote.
- (9) At a meeting of the Authority, a question 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.
- (10) 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.
- (11) Subject to this Act, the Authority may determine its own procedures.

**Committees of Authority**

**62K.** (1) The Authority may establish committees to—

- (a) assist and advise it in relation to the performance of all or any of its functions, and
  - (b) perform such functions of the Authority as may stand delegated to them.
- (2) In appointing the members of a committee, the Authority shall—
- (a) have regard to the range of qualifications and experience necessary for the proper and effective performance of the functions of the committee, and
  - (b) have regard to the desirability of there being such balance between men and women on the committee as is appropriate.
- (3) A committee—
- (a) shall consist of such number of members as the Authority may determine, and
  - (b) may include persons who are not members of the Authority or its staff.
- (4) The Authority may—
- (a) appoint a person to be the chairperson of a committee, and
  - (b) at any time dissolve a committee.

**Power to appoint consultants and advisers and to enter into contracts**

- 62L.** (1) The Authority may, with the consent of the Minister and the Minister for Public Expenditure and Reform, as it considers necessary to assist it in the performance of its functions—
- (a) enter into contracts with persons, or

- (b) appoint consultants or advisers,  
or both.
- (2) There may be paid by the Authority, out of the resources at its disposal, to persons, consultants or advisers referred to in subsection (1), such fees (if any) or allowances for expenses (if any) incurred by them as the Authority, with the consent of the Minister and the Minister for Public Expenditure and Reform, may determine.
- (3) The appointment of a person as a consultant or adviser shall be for such period and on such terms and conditions as the Authority considers appropriate.

**Confidentiality of certain information**

- 62M.** (1) A person who is or was a member of the Authority or a committee or the Chief Executive or other member of the staff of the Authority or who is or was engaged under contract or other arrangement by the Authority shall not disclose, in or outside the State, any information obtained in the course of carrying out the duties of that person's office, employment, contract or other arrangement if the person knows the disclosure of that information is likely to have a harmful effect.
- (2) For the purpose of this section, the disclosure of information referred to in subsection (1) does not have a harmful effect unless it—
    - (a) facilitates the commission of an offence,
    - (b) prejudices the safekeeping of a person in legal custody,
    - (c) impedes the prevention, detection or investigation of an offence,
    - (d) impedes the apprehension or prosecution of a suspected offender,
    - (e) prejudices the security of any system of communication of the Garda Síochána,
    - (f) results 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 the Garda Síochána, and
      - (ii) whose identity is not at the time of the disclosure a matter of public knowledge,
    - (g) results 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) results in the publication of personal information (within the meaning of section 2(1) of the Freedom of Information Act 2014) and constitutes an unwarranted and serious infringement of a 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) Subsection (1) does not prohibit a person from disclosing information referred to in that subsection if the disclosure—
- (a) is made to—
    - (i) the Garda Commissioner,
    - (ii) the Minister,
    - (iii) the Attorney General,
    - (iv) the Director of Public Prosecutions,
    - (v) the Chief State Solicitor,
    - (vi) the Criminal Assets Bureau,
    - (vii) the Comptroller and Auditor General,
    - (viii) the Ombudsman Commission or an officer of the Commission,
    - (ix) the Garda Síochána Inspectorate or an officer of the Inspectorate,
    - (x) the Revenue Commissioners, or
    - (xi) a member of either of the Houses of the Oireachtas where relevant to the proper discharge of the member's functions,
  - (b) is made to a court,
  - (c) is made to 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,
  - (d) is 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 with the Authority,

- (e) is authorised by the chairperson of the Authority, or
  - (f) is otherwise authorised by law.
- (5) 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.
- (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) The provisions of this section are in addition to, and not in substitution for, the provisions of the Official Secrets Act 1963.

**Strategy statement of Authority**

- 62N.** (1) Subject to subsection (2), every 3 years the Authority shall prepare and submit to the Minister a strategy statement for the following 3 years.
- (2) The first strategy statement shall be prepared by the Authority and submitted to the Minister as soon as practicable after the establishment day of the Authority and shall relate to the period from its submission to the Minister until the day immediately before the third anniversary of the establishment day of the Authority.
  - (3) A second or subsequent strategy statement shall be prepared by the Authority and submitted to the Minister within the period of 6 months before the expiry of the period to which the previous strategy statement relates and the second or subsequent strategy statement shall relate to the period of 3 years from the anniversary of the establishment day of the Authority concerned.
  - (4) The Authority shall, in a strategy statement prepared under this section—
    - (a) set out the key objectives, outputs and related strategies of the Authority, including the use of its resources, and
    - (b) have regard to the need to ensure the most beneficial and efficient use of the resources of the Authority.

- (5) Before submitting a strategy statement to the Minister in accordance with this section, the Authority—
  - (a) may publish in such manner as the Authority considers appropriate a draft of the strategy statement and, where it publishes the draft, it shall allow persons 30 days from the date of that publication within which to make representations in writing to the Authority with regard to the draft strategy statement, and
  - (b) following consultation under paragraph (a) and, where appropriate, having considered the representations (if any) made, shall submit the strategy statement to the Minister with or without modifications to take account of such representations.
- (6) The Minister shall cause a copy of a strategy statement prepared and submitted to him or her pursuant to this section to be laid before each House of the Oireachtas as soon as practicable after the strategy statement has been received by him or her.

**Reports to Minister**

- 62O.** (1) Not later than 3 months after the end of each year, the Authority shall submit to the Minister a report on its activities in the immediately preceding year.
- (2) The Authority shall, within 2 years from the establishment day of the Authority, submit to the Minister a report on—
    - (a) the effectiveness of the Authority, and
    - (b) the adequacy of the functions assigned to it by this Act.
  - (3) The report submitted under subsection (2) may contain recommendations for improving the effectiveness of the Authority.
  - (4) At the end of each 5 year period commencing with the establishment day of the Authority, the Authority shall submit to the Minister a report reviewing the general performance of its functions in the preceding 5 years.
  - (5) The Authority may make any other reports that 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.
  - (6) 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.

- (7) 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.

**Chief Executive**

- 62P.** (1) There shall be a chief executive officer of the Authority who, subject to subsections (2) and (3), shall be appointed by the Authority, with the consent of the Minister and the Minister for Public Expenditure and Reform, and who is referred to in this Act as the ‘Chief Executive’.
- (2) The Minister may, before the establishment day of the Authority, designate a person to be the first chief executive officer of the Authority.
- (3) If, immediately before the establishment day of the Authority, a person stands designated by the Minister under subsection (2), the Authority shall appoint that person to be the first Chief Executive.
- (4) The Chief Executive 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 Authority with the consent of the Minister and the Minister for Public Expenditure and Reform, and
  - (b) be paid out of moneys at the disposal of the Authority.
- (5) The Chief Executive shall—
- (a) have the appropriate experience, qualifications, training and expertise for the appointment, and
  - (b) be appointed by the Authority following a selection competition.
- (6) The Chief Executive shall—
- (a) implement the policies and decisions of the Authority,
  - (b) manage and control generally the staff, administration and business of the Authority, and
  - (c) perform such other functions (if any) as may be required by the Authority or as may be authorised under this Act.
- (7) The Chief Executive may be removed or suspended from office by the Authority, with the consent of the Minister, for stated reasons.
- (8) The Chief Executive shall not be a member of the Authority or a committee, but he or she may, in accordance with procedures established by the Authority or such a committee, as the case may be,



attend meetings of the Authority or a committee and shall be entitled to speak at and give advice at such meetings.

- (9) The Chief Executive shall provide the Authority with such information, including financial information, in respect of the performance of his or her functions as the Authority may require.
- (10) The Chief Executive 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.
- (11) If the Chief Executive—
  - (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 until—

    - (i) in the circumstances mentioned in paragraph (a), a new Chief Executive is appointed in accordance with this section, or
    - (ii) in the circumstances mentioned in paragraph (b), the Chief Executive is able to resume the performance of his or her functions.

#### **Staff of Authority**

- 62Q.** (1) The Authority may, with the consent of the Minister and the Minister for Public Expenditure 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 by the Authority with the consent of the Minister and the Minister for Public Expenditure and Reform.
  - (3) Members of staff of the Authority are civil servants in the Civil Service of the State.
  - (4) The Authority is the appropriate authority (within the meaning of the Public Service Management (Recruitment and Appointments) Act 2004 and the Civil Service Regulation Acts 1956 to 2005) in relation to the members of its staff.

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

- 62R.** The Chief Executive is 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.

**Accountability of Authority to other Oireachtas Committees**

- 62S.** (1) Subject to subsection (2), the Chief Executive shall, at the request in writing of a committee, attend before it to give account for the general administration of the Authority.
- (2) The Chief Executive shall not be required to give account before a committee for any matter that is, or is likely to be, the subject of proceedings before a court or tribunal in the State, including a tribunal of inquiry established under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011 and a commission of investigation established under the Commissions of Investigation Act 2004.
- (3) The Chief Executive shall, if of opinion that subsection (2) applies to a matter about which he or she is requested to give account before a 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 committee in writing unless it is given when the Chief Executive is before the committee.
- (5) If, on being informed of the opinion of the Chief Executive about the matter, the 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) Either the Authority or the committee may apply in a summary manner to the High Court for a determination under subsection (5), but only if the application is made within 21 days after the date on which the Chief Executive is informed of the decision of the committee not to withdraw its request.
- (7) Pending the determination of an application under subsection (6), the Chief Executive shall not attend before the committee to give account for the matter that is the subject of the application.
- (8) If the High Court determines that subsection (2) applies to the matter, the committee shall withdraw its request insofar as it relates to the matter, but if the Court determines that subsection (2) does not apply, the Chief Executive shall attend before the committee to give account for the matter.
- (9) In carrying out duties under this section, the Chief Executive shall not 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 a policy.
- (10) In this section ‘committee’ means—
- (a) a committee appointed by either House of the Oireachtas or jointly by both Houses 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 sub-committee of a committee falling under paragraph (a).”.

## PART 8

### MATTERS RELATING TO GARDA SÍOCHÁNA OMBUDSMAN COMMISSION AND GARDA SÍOCHÁNA INSPECTORATE

#### **Amendment of section 67(1) of Principal Act**

**45.** Section 67(1) of the Principal Act is amended by—

- (a) in paragraph (a) by the substitution of “members of the Garda Síochána,” for “members of the Garda Síochána, and”, and
- (b) the substitution of the following paragraphs for paragraph (b):
- “(b) to promote and encourage the use of mediation and other informal means of resolving complaints that are suitable for resolution by such means, and
- (c) to promote public confidence in the process for resolving complaints referred to in paragraph (a).”.

#### **Amendment of section 81 of Principal Act**

**46.** Section 81 of the Principal Act is amended—

- (a) in subsection (2)(d), by the substitution of “personal information (within the meaning of section 2(1) of the Freedom of Information Act 2014)” for “personal information (as defined in the Freedom of Information Act 1997)”, and
- (b) in subsection (4), by the substitution of the following paragraph for paragraph (d):
- “(d) is made to 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,”.

#### **Amendment of section 90 of Principal Act**

**47.** (1) Section 90 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “Ombudsman Commission shall, following consultation with the Garda Commissioner, issue guidelines” for “Ombudsman Commission may issue guidelines”, and
  - (b) in subsection (7), by the substitution of “Ombudsman Commission may, following consultation with the Garda Commissioner, revise any guidelines issued under this section or withdraw those guidelines” for “Ombudsman Commission may revise any guidelines issued under this section or may withdraw those guidelines”.
- (2) Guidelines issued by the Garda Síochána Ombudsman Commission under section 90 of the Principal Act before the commencement of this section continue in force until they are replaced by guidelines issued under that section of the Principal Act as it is amended by *subsection (1)*.

**Amendment of section 102 of Principal Act**

**48.** Section 102 (as amended by section 6 of the Act of 2015) of the Principal Act is amended—

- (a) by the insertion of the following subsection after subsection (4):

“(4A) The Authority may, if it appears to it desirable in the public interest to do so, request the Ombudsman Commission to investigate any matter relating to policing services that gives rise to a concern that a member of the Garda Síochána may have done anything referred to in subsection (4), and the Commission shall investigate that matter.”

- (b) in subsection (5A), by the substitution of “subsection (4), (4A) or (5)” for “subsection (4) or (5)”,

- (c) in subsection (6), by the substitution of “subsection (4), (4A) or (5)” for “subsection (4) or (5)”, and

- (d) by the addition of the following subsection after subsection (6):

“(7) Notwithstanding subsections (4A) and (5)—

- (a) the Authority may refer to the Ombudsman Commission any matter relating to policing services, and

- (b) the Minister may refer to the Ombudsman Commission any matter, that gives rise to a cause for concern that a member of the Garda Síochána may have done anything referred to in subsection (4) for the Commission to consider whether the matter is one that it should investigate under that subsection.”

**Amendment of section 102B of Principal Act**

**49.** Section 102B (inserted by section 7 of the Act of 2015) of the Principal Act is amended—

- (a) by the insertion of the following subsection after subsection (1):
- “(1A) The Authority may, if it appears to it desirable in the public interest to do so and subject to the consent of the Minister, request the Ombudsman Commission to investigate any matter that gives rise to a concern that the Garda Commissioner may, in the performance of his or her functions relating to policing services, have done anything referred to in subsection (1), and the Commission shall investigate that matter.”,
- (b) in subsection (3), by the substitution of “any matter under subsection (1)” for “any matter under subsection (2)”,
- (c) by the insertion of the following subsection after subsection (3):
- “(3A) If the Minister refuses to consent to the Authority making a request for an investigation by the Ombudsman Commission under subsection (1A), he or she shall inform the Authority of his or her reasons for the refusal.”,
- (d) by the insertion of the following subsections after subsection (3A) (inserted by *paragraph (c)*):
- “(3B) The Minister shall issue a directive to a Deputy Garda Commissioner or an Assistant Garda Commissioner requiring him or her to take any lawful measures that appear to him or her to be necessary or expedient for the purposes of—
- (i) preserving evidence relating to the conduct of the Garda Commissioner that is the subject of an investigation of a matter under subsection (1), (1A) or (2), and
- (ii) facilitating the Ombudsman Commission to obtain that evidence.
- (3C) A Deputy Garda Commissioner or an Assistant Garda Commissioner to whom a directive is issued under subsection (3B) shall comply with the directive.”,
- (e) in subsection (4), by the substitution of “a matter under subsection (1), (1A) or (2)” for “a matter under subsection (1) or (2)” in both places where it occurs, and
- (f) in subsection (5), by the substitution of “an investigation under subsection (1), (1A) or (2)” for “an investigation under subsection (1) or (2)”.

**Amendment of section 103(1) of Principal Act**

- 50.** Section 103(1) of the Principal Act is amended by the substitution of the following paragraph for paragraph (c) (inserted by section 8(b) of the Act of 2015):

- “(c) if the investigation is one to which section 102B applies—
- (i) the Garda Commissioner,

- (ii) the Authority,
- (iii) the Minister, and
- (iv) any other person that the Commission considers has a sufficient interest in the matter.”.

**Amendment of section 104 of Principal Act**

- 51.** Section 104 of the Principal Act is amended by the substitution of “within 18 months from the date of the offence” for “within 12 months from the date of the offence”.

**Examination of certain practices, policies and procedures of Garda Síochána**

- 52.** The Principal Act is amended by the substitution of the following section for section 106 (as amended by section 10 of the Act of 2015):

**“106.** (1) For the purpose of preventing complaints arising in relation to a practice, policy or procedure of the Garda Síochána or of reducing the incidence of such complaints, the Ombudsman Commission—

- (a) may, if it considers it appropriate to do so, or
- (b) shall, if so requested by—
  - (i) the Minister within such period as he or she may specify in the request, or
  - (ii) the Authority, in respect of any matter relating to policing services, within such period as it may specify in the request,examine the practice, policy or procedure.

(2) The Minister shall notify the Authority of a request made by him or her under subsection (1)(b).

(3) The Authority shall notify the Minister of a request made by it under subsection (1)(b).

(4) The Ombudsman Commission shall, before commencing an examination of a practice, policy or procedure under subsection (1), inform the Garda Commissioner in writing of—

- (a) if appropriate, the nature of a request from the Minister under subsection (1)(b)(i) or the Authority under subsection (1)(b)(ii), as the case may be,
- (b) the specific practice, policy or procedure to be examined under subsection (1), and
- (c) the reasons for the examination.

(5) The Ombudsman Commission shall—

- (a) report to—

- (i) the Minister as soon as practicable or, if appropriate, within such period as the Minister specifies in his or her request under subsection (1)(b)(i), or
  - (ii) the Authority as soon as practicable or, if appropriate, within such period as the Authority specifies in its request under subsection (1)(b)(ii),
- as the case may be, on the results of the examination,
- (b) include in the report any recommendations of the Commission for achieving the purpose referred to in subsection (1) in relation to the practice, policy or procedure examined, and
  - (c) provide the Garda Commissioner with a copy of the report.
- (6) The Authority shall, as soon as practicable, provide the Minister with a copy of any report received by it under subsection (5)(a).
  - (7) The Minister may, if he or she considers it appropriate to do so having regard to the functions of the Authority under this Act, provide the Authority with a copy of any report received by him or her under subsection (5)(a).
  - (8) Subject to subsection (9), the Minister shall cause copies of any reports received by him or her under subsection (5) or (6) to be laid before the Houses of the Oireachtas.
  - (9) The Minister may exclude from the copies of reports which are to be laid before the Houses of the Oireachtas under subsection (8) any matter which, in his or her opinion—
    - (a) would be prejudicial to the interests of national security, or
    - (b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.”.

### **Amendment of section 117 of Principal Act**

**53.** Section 117 of the Principal Act is amended—

- (a) by the substitution of the following subsection for subsection (2) (as amended by section 11 of the Act of 2015):

“(2) The functions of the Inspectorate are—

- (a) in furtherance of its objective to carry out, if it considers it appropriate to do so or at the request of—
  - (i) the Authority in respect of a matter relating to policing services, or
  - (ii) the Minister,

inspections or inquiries in relation to any particular aspects of the operation and administration of the Garda Síochána,

(b) to submit to the Authority or the Minister, as the case may be—

(i) a report on those inspections or inquiries, and

(ii) if required by—

(I) the Authority in relation to policing services, or

(II) the Minister,

as the case may be, a report on the operation and administration of the Garda Síochána during a specified period and on any significant developments in that regard during that period,

and

(c) to provide advice to the Authority and the Minister with regard to best policing practice.”,

(b) by the insertion of the following subsections after subsection (3):

“(3A) The Authority shall notify the Minister of a request made by it under subsection (2)(a) and shall, as soon as practicable, provide the Minister with a copy of any report received by it under subsection (2) (b).

(3B) The Minister shall notify the Authority of a request made by him or her under subsection (2)(a) and may, if he or she considers it appropriate having regard to the functions of the Authority under this Act, provide the Authority with a copy of any report received by him or her under subsection (2)(b).”,

and

(c) in subsection (4), by the substitution of “subsection (2)(b) or (3A)” for “subsection (2)(b)”.

### **Recommendations in Inspectorate report**

**54.** The Principal Act is amended by the insertion of the following section after section 117:

“**117A.**(1)The Minister or the Authority, as may be appropriate, may monitor and assess the measures taken by the Garda Síochána in relation to the recommendations contained in a report prepared by the Garda Síochána Inspectorate and submitted to the Minister or the Authority under section 117(2)(b).

(2) Without prejudice to subsection (1), the Minister may request the Authority to monitor and assess the measures taken by the Garda Síochána in relation to such of the recommendations contained in a report prepared by the Garda Síochána Inspectorate, and submitted to



the Minister or the Authority under section 117(2)(b), as the Minister may specify in the request.

- (3) The Garda Commissioner shall supply 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.
- (4) The Authority shall, as soon as practicable after a request to it under subsection (2), submit to the Minister a report on the matter the subject of 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.”.

## PART 9

### REGULATIONS AND MISCELLANEOUS PROVISIONS

#### **Amendment of section 121(2) of Principal Act**

55. Section 121(2) of the Principal Act is amended by the insertion of the following paragraph after paragraph (a):

“(aa) the Authority;”.

#### **Amendment of section 122 of Principal Act**

56. Section 122 of the Principal Act is amended by—

- (a) in subsection (1), the insertion of “and the Authority” after “after consulting with the Garda Commissioner”, and
- (b) the deletion of subsections (2) and (3).

#### **Amendment of section 123 of Principal Act**

57. Section 123 of the Principal Act is amended—

- (a) in subsection (1), by the insertion of “and the Authority” after “after consulting with the Garda Commissioner”,
- (b) by the deletion of subsection (2)(b), and
- (c) in subsection (4)—
  - (i) in paragraph (d), by the insertion of “a board, the Garda Commissioner, the Authority or the Government” for “a board, the Garda Commissioner or the Government”, and
  - (ii) in paragraph (e), by the insertion of “a board, the Garda Commissioner or the Authority” for “a board or the Garda Commissioner”.

**Amendment of section 125(1) of Principal Act**

58. Section 125(1) of the Principal Act is amended by the insertion of “and the Authority” after “after consulting with the Garda Commissioner”.

**Continuation of certain regulations and order**

59. (1) The regulations continued or made under the Principal Act before it was amended by this Act continue in force until they are revoked by the Minister under section 128 of the Principal Act or this section, as may be appropriate, or other regulations are made in their place under Part 6 of the Principal Act (as amended by this Part).
- (2) The Minister may, with the approval of the Government, amend or revoke regulations continued in force under *subsection (1)*.
- (3) An order made under subsection (5) of section 38 of the Principal Act before it was amended by *section 31* continues in force until it is revoked by the Authority by order made with the approval of the Government or another order is made under that subsection of that section of the Principal Act in its place.

**Amendment of section 18A of Comptroller and Auditor General (Amendment) Act 1993**

60. Section 18A (inserted by section 132 of the Principal Act) of the Comptroller and Auditor General (Amendment) Act 1993 is amended by the substitution of “Garda Síochána and the Policing Authority as though they were Departments” for “Garda Síochána as though it were a Department”.

**Review of operation**

61. (1) The Minister shall, in consultation with the Minister for Public Expenditure and Reform, not later than 5 years after the establishment day of the Authority, review the operation of the amendments of the Principal Act made by this Act insofar as those amendments relate to the Authority.
- (2) A review under *subsection (1)* shall be completed not later than one year after its commencement.
- (3) Having completed the review, the Minister shall, in consultation with the Minister for Public Expenditure and Reform, prepare a report setting out such findings as the Minister considers appropriate consequent on such review.
- (4) The Minister shall cause a copy of a report prepared under *subsection (3)* to be laid before each House of the Oireachtas as soon as practicable after it has been prepared.

## SCHEDULE

*Section 7*

## ENACTMENTS REPEALED

<b>Number and Year (1)</b>	<b>Short Title (2)</b>	<b>Extent of Repeal (3)</b>
No. 31 of 1924	Dublin Police Act 1924	The whole Act
No. 7 of 1925	Police Forces Amalgamation Act 1925	Section 16
No. 10 of 1926	Police Forces Amalgamation (Amendment) Act 1926	The whole Act
No. 14 of 1958	Garda Síochána Act 1958	The whole Act
No. 20 of 2005	Garda Síochána Act 2005	Sections 33A to 33H