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CRIMINAL JUSTICE ACT, 1999

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Acts Referred to

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Courts (Supplemental Provisions) Act, 1961	1961, No. 39
Criminal Evidence Act, 1992	1992, No. 12
Criminal Justice Act, 1951	1951, No. 2
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Criminal Justice Act, 1984	1984, No. 22
Criminal Justice Act, 1993	1993, No. 6
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Criminal Justice (Drug Trafficking) Act, 1996	1996, No. 29
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Criminal Law Act, 1997	1997, No. 14
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Criminal Law (Rape) Act, 1981	1981, No. 10
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Criminal Procedure Act, 1967	1967, No. 12
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Explosive Substances Act, 1883	46 & 47 Vic., c. 3
Extradition Act, 1965	1965, No. 17
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Misuse of Drugs Act, 1977	1977, No. 12
Offences against the State Act, 1939	1939, No. 13
Offences against the State (Amendment) Act, 1998	1998, No. 39
Prisons Act, 1970	1970, No. 11



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CRIMINAL JUSTICE ACT, 1999

AN ACT TO CREATE A NEW DRUG OFFENCE, TO AMEND THE LAW RELATING TO PROCEEDINGS IN CRIMINAL MATTERS, TO AMEND THE LAW RELATING TO ENFORCEMENT OF PENALTIES AGAINST DRUG TRAFFICKERS, TO ESTABLISH RULES RELATING TO THE SENTENCING OF PERSONS WHO HAVE ENTERED GUILTY PLEAS, TO PROVIDE FOR EVIDENCE BY CERTIFICATE IN RELATION TO EXHIBITS, TO AMEND THE LAW RELATING TO THE CERTIFICATION, FOR EXTRADITION PURPOSES, OF CERTAIN OFFENCES UNDER THE LAW OF NORTHERN IRELAND AND SCOTLAND AND THE LAW DEFINING THE JUDGES WHO HAVE JURISDICTION TO HEAR EXTRADITION MATTERS, TO ABOLISH THE “YEAR AND A DAY” RULE, TO AMEND SECTION 4 OF THE CRIMINAL JUSTICE ACT, 1984, TO AMEND THE OFFENCES AGAINST THE STATE (AMENDMENT) ACT, 1998, TO PROVIDE FOR THE GIVING OF EVIDENCE THROUGH A LIVE TELEVISION LINK BY WITNESSES IN FEAR OR SUBJECT TO INTIMIDATION, FOR THE PROTECTION OF THE WHEREABOUTS AND IDENTITY OF WITNESSES UNDER A GARDA SÍOCHÁNA WITNESS PROTECTION PROGRAMME, FOR THE OFFENCE OF INTIMIDATION OF WITNESSES, JURORS AND OTHER PERSONS AND FOR THE ARREST AND DETENTION OF PRISONERS IN CONNECTION WITH THE INVESTIGATION OF OFFENCES AND TO PROVIDE FOR OTHER RELATED MATTERS. [26th May, 1999]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary And General

1.—(1) In this Act—

Interpretation.

“the Act of 1962” means the Criminal Justice (Legal Aid) Act, 1962;

“the Act of 1967” means the Criminal Procedure Act, 1967;

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“the Act of 1973” means the Criminal Procedure (Amendment) Act, 1973;

“the Act of 1977” means the Misuse of Drugs Act, 1977;

“the Act of 1981” means the Criminal Law (Rape) Act, 1981;

“the Act of 1984” means the Criminal Justice Act, 1984;

“the Act of 1990” means the Criminal Justice (Forensic Evidence) Act, 1990;

“the Act of 1992” means the Criminal Evidence Act, 1992;

“the Act of 1994” means the Criminal Justice Act, 1994;

“the Act of 1997” means the Criminal Justice (Miscellaneous Provisions) Act, 1997;

“the Minister” means the Minister for Justice, Equality and Law Reform.

(2) A reference in this Act to any other enactment is to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

Citation and commencement.

2.—(1) This Act may be cited as the Criminal Justice Act, 1999.

(2) This Act, other than *Part VI*, shall come into operation on such day or days as, by order or orders made by the Minister, may be fixed therefor either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes or different provisions.

Expenses.

3.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART II

Amendments to Provide for New Drug Related Offence

Amendment of Act of 1977.

4.—The Act of 1977 is hereby amended by the insertion after section 15 of the following section:

“Offence relating to possession of drugs with value of £10,000 or more.

15A.—(1) A person shall be guilty of an offence under this section where—

(a) the person has in his possession, whether lawfully or not, one or more controlled drugs for the purpose of selling or otherwise supplying the drug or drugs to another in contravention of regulations under section 5 of this Act, and

(b) at any time while the drug or drugs are in the person’s possession the market value of the controlled drug or the aggregate of the market values of the controlled drugs, as the case may be, amounts to £10,000 or more.

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(2) Subject to section 29(3) of this Act (as amended by section 6 of the *Criminal Justice Act, 1999*), in any proceedings for an offence under this section, where—

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- (a) it is proved that a person was in possession of a controlled drug, and
- (b) the court, having regard to the quantity of the controlled drug which the person possessed or to such other matters that the court considers relevant, is satisfied that it is reasonable to assume that the controlled drug was not intended for his immediate personal use,

he shall be presumed, until the court is satisfied to the contrary, to have been in possession of the controlled drug for the purpose of selling or otherwise supplying it to another in contravention of regulations under section 5 of this Act.

(3) If the court is satisfied that a member of the Garda Síochána or an officer of customs and excise has knowledge of the unlawful sale or supply of controlled drugs, that member or officer, as the case may be, shall be entitled in any proceedings for an offence under this section to be heard and to give evidence as to—

- (a) the market value of the controlled drug concerned, or
- (b) the aggregate of the market values of the controlled drugs concerned.

(4) No proceedings may be instituted under this section except by or with the consent of the Director of Public Prosecutions.

(5) In this section—

‘market value’, in relation to a controlled drug, means the price that drug could be expected to fetch on the market for the unlawful sale or supply of controlled drugs;

‘an officer of customs and excise’ has the same meaning as in section 6 of the *Criminal Justice (Drug Trafficking) Act, 1996*.”.

5.—Section 27 of the Act of 1977 is hereby amended by the insertion after subsection (3) of the following subsections:

Amendment of penalty provisions of Act of 1977.

“(3A) Every person guilty of an offence under section 15A shall be liable, on conviction on indictment—

- (a) to imprisonment for life or such shorter period as the court may, subject to subsections (3B) and (3C) of this section, determine, and

(b) at the court's discretion, to a fine of such amount as the court considers appropriate.

(3B) Where a person (other than a child or young person) is convicted of an offence under section 15A, the court shall, in imposing sentence, specify as the minimum period of imprisonment to be served by that person a period of not less than 10 years imprisonment.

(3C) Subsection (3B) of this section shall not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or the person convicted of the offence, which would make a sentence of not less than 10 years imprisonment unjust in all the circumstances and for this purpose the court may have regard to any matters it considers appropriate, including—

(a) whether that person pleaded guilty to the offence and, if so,

(i) the stage at which he indicated the intention to plead guilty, and

(ii) the circumstances in which the indication was given,

and

(b) whether that person materially assisted in the investigation of the offence.

(3D) The power conferred by section 23 of the Criminal Justice Act, 1951, to commute or remit a punishment shall not, in the case of a person serving a sentence imposed under subsection (3A) of this section, be exercised before the expiry of the minimum period specified by the court under subsection (3B) of this section less any reduction of that period under subsection (3E) of this section.

(3E) The rules or practice whereby prisoners generally may earn remission of sentence by industry and good conduct shall apply in the case of a person serving a sentence imposed under subsection (3A) of this section and the minimum period specified by the court under subsection (3B) of this section shall be reduced by the amount of any remission so earned by that person.

(3F) Any powers conferred by rules made under section 2 of the Criminal Justice Act, 1960, to release temporarily a person serving a sentence of imprisonment shall not, in the case of a person serving a sentence imposed under subsection (3A) of this section, be exercised during the period for which the commutation or remission of his punishment is prohibited by subsection (3D) of this section unless for grave reason of a humanitarian nature, and any release so granted shall be only of such limited duration as is justified by that reason.

(3G) In imposing a sentence on a person convicted of an offence under section 15A of this Act, a court—

(a) may inquire whether at the time of commission of the offence the person was addicted to one or more controlled drugs, and

(b) if satisfied that the person was so addicted at that time and that the addiction was a substantial factor leading to the commission of the offence, may list the sentence for review after the expiry of not less than one-half of the period specified by the court under subsection (3B) of this section. Pt.II S.5

(3H) On reviewing a sentence listed under subsection (3G) (b) of this section, the court—

(a) may suspend the remainder of the sentence on any conditions it considers fit, and

(b) in deciding whether to exercise its powers under this subsection, may have regard to any matters it considers appropriate.

(3I) Paragraph (a) of section 13(2) of the Criminal Procedure Act, 1967, shall not apply in relation to an offence under section 15A of this Act, but that offence shall be deemed for the purposes of paragraph (b) of section 13(2) of that Act to be an offence to which section 13 of that Act applies.

(3J) The reference in subsection (3F) of this section to section 2 of the Criminal Justice Act, 1960, shall be construed to include that section as applied by section 4 of the Prisons Act, 1970.”.

6.—Section 29 of the Act of 1977 is hereby amended by the substitution of the following subsection for subsection (3): Amendment of defence provisions of Act of 1977.

“(3) In any proceedings for an offence under section 15 or 15A of this Act, a defendant may rebut the presumption raised by subsection (2) of the applicable section by showing that at the time of the alleged offence he was, by virtue of the regulations made under section 4 of this Act, lawfully in possession of the controlled drug or drugs to which the proceedings relate.”.

7.—Section 3(1) of the Act of 1994 is hereby amended in the definition of “drug trafficking offence” by the insertion of the following paragraph after paragraph (b): Amendment of Act of 1994.

“(bb) an offence under section 15A of that Act;”.

PART III

Amendments to Abolish Preliminary Examinations

8.—The Act of 1967 is hereby amended by the substitution of the following section for section 4: Amendment of section 4 of Act of 1967.

“Interpretation.

4.—(1) In this Act ‘the prosecutor’ means, in relation to an offence—

(a) in Part IA and section 13, the Director of Public Prosecutions, and

(b) in Parts II and III, other than section 13—

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- (i) the Director of Public Prosecutions,
- (ii) a person prosecuting the offence at the suit of the Director of Public Prosecutions, or
- (iii) a person authorised by law to prosecute the offence.

(2) Notwithstanding subsection (1), references to the prosecutor in Parts IA, II and III shall be construed, in relation to offences for which proceedings may not be instituted or continued except by, or on behalf or with the consent of, the Attorney General, as references to the Attorney General.”.

Insertion of Part IA
in Act of 1967.

9.—The Act of 1967 is hereby amended by the insertion after section 4 of the following Part:

“PART IA

Proceedings Relating to Indictable Offences

Accused to be sent
forward for trial.

4A.—(1) Where an accused person is before the District Court charged with an indictable offence, the Court shall send the accused forward for trial to the court before which he is to stand trial (the trial court) unless—

- (a) the case is being tried summarily,
- (b) the case is being dealt with under section 13, or
- (c) the accused is unfit to plead.

(2) The accused shall not be sent forward for trial under subsection (1) without the consent of the prosecutor.

(3) Where the prosecutor refuses to give a consent required under subsection (2) in relation to an indictable offence, the District Court shall strike out the proceedings against the accused in relation to that offence.

(4) The striking out of proceedings under subsection (3) shall not prejudice the institution of proceedings against the accused by the prosecutor.

(5) The accused shall not be sent forward for trial under subsection (1) until the documents mentioned in section 4B(1) have been served on the accused.

Service of
documents on
accused, etc.

4B.—(1) Where the prosecutor consents to the accused being sent forward for trial, the prosecutor shall, within 42 days after the accused first appears in the District Court charged with the indictable offence or within any extension of that period granted under subsection (3), cause the

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following documents to be served on the accused Pt.III S.9
or his solicitor, if any:

- (a) a statement of the charges against the accused;
- (b) a copy of any sworn information in writing upon which the proceedings were initiated;
- (c) a list of the witnesses the prosecutor proposes to call at the trial;
- (d) a statement of the evidence that is expected to be given by each of them;
- (e) a copy of any document containing information which it is proposed to give in evidence by virtue of Part II of the Criminal Evidence Act, 1992;
- (f) where appropriate, a copy of a certificate under section 6(1) of that Act;
- (g) a list of the exhibits (if any).

(2) As soon as the documents mentioned in subsection (1) are served, the prosecutor shall furnish copies of them to the District Court.

(3) On application by the prosecutor, the District Court may extend the period within which the documents mentioned in subsection (1) are to be served if it is satisfied that—

- (a) there is good reason for doing so, and
- (b) it would be in the interests of justice to do so.

(4) An application may be made and an extension may be granted under subsection (3) before or after the expiry of—

- (a) the period of 42 days mentioned in subsection (1), or
- (b) any extension of that period granted under subsection (3).

(5) Where it refuses to grant an extension, the District Court shall strike out the proceedings against the accused in relation to the offence.

(6) The striking out of proceedings under subsection (5) shall not prejudice the institution of any proceedings against the accused by the prosecutor.

Additional documents.

4C.—(1) At any time after service of the documents mentioned in section 4B(1), the prosecutor shall cause the following documents to be served

on the accused or his solicitor, if any:

- (a) a list of any further witnesses the prosecutor proposes to call at the trial;
- (b) a statement of the evidence that is expected to be given by each witness whose name appears on the list of further witnesses;
- (c) a statement of any further evidence that is expected to be given by any witness whose name appears on the list already served under section 4B(1)(c);
- (d) any notice of intention to give information contained in a document in evidence under section 7(1)(b) of the Criminal Evidence Act, 1992, together with a copy of the document;
- (e) where appropriate, a copy of a certificate under section 6(1) of the Criminal Evidence Act, 1992;
- (f) a copy of any deposition taken under section 4F;
- (g) a list of any further exhibits.

(2) As soon as any documents are served in accordance with this section, the prosecutor shall furnish copies of them to the trial Court.

Examination of exhibits.

4D.—The accused shall have the right to inspect all exhibits mentioned in the list of exhibits served on the accused or his solicitor under section 4B or 4C.

Application by accused for dismissal of charge.

4E.—(1) At any time after the accused is sent forward for trial, the accused may apply to the trial court to dismiss one or more of the charges against the accused.

(2) Notice of an application under subsection (1) shall be given to the prosecutor not less than 14 days before the date on which the application is due to be heard.

(3) The trial court may, in the interests of justice, determine that less than 14 days notice of an application under subsection (1) may be given to the prosecutor.

(4) If it appears to the trial court that there is not a sufficient case to put the accused on trial for any charge to which the application relates, the court shall dismiss the charge.

(5) (a) Oral evidence may be given on an application under subsection (1) only if it appears to the trial court that such evidence is required in the interests of justice.

(b) In paragraph (a) 'oral evidence'

includes—

- (i) any evidence given through a live television link pursuant to Part III of the Criminal Evidence Act, 1992, or *section 39* of the *Criminal Justice Act, 1999*, or
- (ii) a videorecording of any evidence given through a live television link pursuant to that Part or section in proceedings under section 4F.

(6) Where the trial court is satisfied that it is in the interests of justice that any document required under this Part to be served on the accused or his solicitor be served at the hearing of an application under this section—

- (a) the prosecutor shall serve the document on the accused or his solicitor, if any, at the hearing, and
- (b) the court may, if it considers it appropriate to do so, adjourn the hearing for that purpose.

(7) Where a charge is dismissed by the trial court under subsection (4), the prosecutor may, within 21 days after the dismissal date, appeal against the dismissal to the Court of Criminal Appeal.

(8) On an appeal under subsection (7), the Court of Criminal Appeal may—

- (a) affirm the decision of the trial court, or
- (b) quash the decision of the trial court, in which case the trial of the accused may proceed as if the charge had never been dismissed.

Taking of evidence
by District Court.

4F.—(1) At any time after the accused is sent forward for trial, the prosecutor or the accused may apply to the trial court for an order requiring a person to appear before a judge of the District Court so that the person's evidence may be taken either—

- (a) by way of sworn deposition, or
- (b) in case the person's evidence is to be given through a live television link pursuant to Part III of the Criminal Evidence Act, 1992, or *section 39* of the *Criminal Justice Act, 1999*, through such a link,

whether or not the person's name appears in the list of witnesses served on the accused under section 4B or 4C.

(2) If satisfied that it would be in the interests of justice to do so, the trial court may order a person who is the subject of an application under

subsection (1) to attend before a judge of the District Court in the district court district—

- (a) in which the offence was committed, or
- (b) in which the accused was arrested or resides,

so that the judge may take the person’s evidence accordingly.

(3) The following rules shall apply to the taking of evidence under this section—

- (a) when the evidence is being taken, both the accused and a judge of the District Court shall be present;
- (b) before it is taken, the judge shall inform the accused of the circumstances in which it may be admitted in evidence at the accused’s trial;
- (c) the witness may be cross-examined and re-examined;
- (d) where the evidence is taken by way of sworn deposition, the deposition and any cross-examination and re-examination of the deponent shall be recorded, read to the deponent and signed by the deponent and the judge.

(4) A judge of the District Court shall have the same powers for—

- (a) enforcing compliance by a prospective witness with this section or with an order under this section, and
- (b) securing the attendance of the accused,

as the District Court has in relation to witnesses in criminal proceedings.

Admissibility of deposition or videorecording.

4G.—(1) A deposition taken under section 4F may be considered by the trial court on an application under section 4E(1).

(2) Such a deposition may be admitted in evidence at the trial of the accused if it is proved that—

- (a) the witness—
 - (i) is dead,
 - (ii) is unable to attend to give evidence at the trial,
 - (iii) is prevented from so attending, or
 - (iv) does not give evidence at the trial through fear or intimidation,

(b) the accused was present at the taking of the evidence, and Pt.III S.9

(c) an opportunity was given to cross-examine and re-examine the witness;

unless the court is of opinion that to do so would not be in the interests of justice.

(3) Subject to section 16 (admissibility at trial of videorecording of evidence given by witness under 17) of the Criminal Evidence Act, 1992, a videorecording of evidence given through a live television link in proceedings under section 4F shall, if the accused was present at the taking of the evidence and an opportunity was given to cross-examine and re-examine the witness, be admissible at the trial of the offence with which the accused is charged as evidence of any fact stated therein of which direct oral evidence by the witness would be admissible, unless the court is of opinion that in the interests of justice the videorecording ought not to be so admitted.

Legal Aid.

4H.—(1) The provision for legal aid made by section 2 of the Criminal Justice (Legal Aid) Act, 1962, shall extend to the accused in relation to all proceedings conducted under this Part before the District Court.

(2) The provision for legal aid made by section 3 of the Criminal Justice (Legal Aid) Act, 1962, shall extend to the accused in relation to all proceedings conducted under this Part before the trial court, the Court of Criminal Appeal or an alternative court referred to in section 4Q.

Power to exclude public.

4I.—(1) Subject to this section and any other enactment, a proceeding under this Part shall be conducted in open court.

(2) Where a court conducting a proceeding under this Part is satisfied, because of the nature or circumstances of the case or otherwise in the interests of justice, that it is desirable to do so, it may exclude from the court during the proceeding—

(a) the public or any portion of the public,
or

(b) any particular person or persons,

except bona fide representatives of the Press.

(3) Subsection (2) is without prejudice to the right of a parent, relative or friend of the accused or of an injured party to remain in court in any case to which section 20(4) of the Criminal Justice Act, 1951, or section 6 of the Criminal Law (Rape) Act, 1981 (as substituted by section 11 of the Criminal Law (Rape) (Amendment) Act, 1990) applies.

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Proceedings not to be published or broadcast.

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4J.—(1) No person shall publish or broadcast or cause to be published or broadcast any information about a proceeding under this Part other than—

(a) a statement of—

- (i) the fact that the proceeding has been brought by a named person in relation to a specified charge against a named person, and
- (ii) any decision resulting from the proceeding,

and

(b) in the case of an application under section 4E for the dismissal of a charge against the accused, any information that the judge hearing the application permits to be published or broadcast at the request of the accused.

(2) If, on application by the prosecutor, it appears to a judge of the District Court that a person has contravened subsection (1), the judge may certify to that effect to the High Court.

(3) On receiving a certificate under subsection (2), the High Court may—

- (a) inquire into the matter to which the certificate relates, and
- (b) after hearing any witnesses and after considering any statement that may be offered in defence of the person alleged to have contravened subsection (1), punish, or take steps for the punishment of, that person in the like manner as if he had been guilty of contempt of the Court.

(4) This section shall not affect—

- (a) the operation of any other enactment that imposes further restrictions on the extent to which information relating to court proceedings may be published or broadcast, or
- (b) any power conferred on a court by such an enactment to make an order authorising the publication or broadcast of such information.

(5) In this section—

‘broadcast’ means the transmission, relaying or distribution by wireless telegraphy of communications, sounds, signs, visual images or signals, intended for direct reception by the general public whether or not such communications, sounds, signs, visual images or signals are actually received;

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'publish' means publish to the public or a portion of the public. Pt.III S.9

Witness order.

4K.—(1) The trial court may, in relation to the trial of the accused, make an order requiring a person whose statement of evidence was served on the accused or whose deposition was taken to—

- (a) attend before the trial court and give evidence at the trial of the accused, and
- (b) produce to that court any document or thing specified in the order.

(2) A person who without just excuse disobeys a witness order shall be guilty of contempt of the trial court.

(3) If, on application by the prosecutor or the accused, the trial court is satisfied by evidence on oath that any person is unlikely to comply with a witness order, the court—

- (a) may bind the person by recognisance to appear at the trial,
- (b) if the person refuses to be so bound, may, by warrant, commit him to custody until the trial or until he enters into a recognisance, and
- (c) shall have the same powers for enforcing the person's attendance before the trial court for the purposes of this subsection as that court has in relation to witnesses in criminal proceedings.

(4) In this section, 'witness order' means an order made under subsection (1).

Witness summons.

4L.—(1) On application by the prosecutor or the accused, a summons may be issued out of the trial court requiring the person to whom the summons is directed to—

- (a) attend before the trial court and give evidence at the trial of the accused, and
- (b) produce to that court any document or thing specified in the summons,

unless the court is satisfied that the person proposed to be summoned cannot give any material evidence or, as the case may be, produce any document or thing likely to be material evidence.

(2) A person who without just excuse disobeys a witness summons shall be guilty of contempt of the court out of which the summons was issued.

(3) This section is without prejudice to any

other powers for enforcing the attendance of witnesses at the trial.

(4) In this section, 'witness summons' means a summons issued under subsection (1).

Amendment of charges.

4M.—Where the accused has been sent forward for trial in accordance with this Part, the indictment against the accused may include, either in substitution for or in addition to counts charging the offence for which he has been sent forward, any counts that—

(a) are founded on any of the documents served on the accused under section 4B or 4C, and

(b) may lawfully be joined in the same indictment.

Joinder of unrelated charges.

4N.—Where the accused has been sent forward for trial in accordance with this Part, the indictment against the accused may, with the consent of the accused and notwithstanding any other enactment, include counts that—

(a) charge an offence justiciable within the State, other than the offence for which the accused was sent forward, and

(b) are not founded on the documents served on the accused under section 4B or 4C,

and section 25 (3) of the Courts (Supplemental Provisions) Act, 1961, shall be construed accordingly.

Correction of defect in charge.

4O.—Where the accused has been sent forward for trial in accordance with this Part, the trial court may correct any defect in a charge against the accused unless it considers that the correction would result in injustice.

Transfer of proceedings from Circuit Court to Central Criminal Court.

4P.—Where, after being sent forward for trial in accordance with this Part to the Circuit Court for an indictable offence (the original offence), the accused is sent forward for trial to the Central Criminal Court for another indictable offence connected with or arising from the circumstances that gave rise to the original offence, the Circuit Court may, unless it considers it would not be in the interests of justice to do so, transfer the trial of the original offence to the Central Criminal Court.

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Jurisdiction of Circuit Court to remand accused to alternative circuit and hear applications.

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4Q.—(1) Notwithstanding any other enactment, where the accused has been sent forward for trial in accordance with this Part to the Circuit Court, it may remand the accused in custody to appear at a sitting of the Circuit Court ('alternative court') in the circuit of the Circuit Court in which is situated the prison or place of detention where the accused is to be held in custody.

(2) If the accused is remanded under this section to a sitting of an alternative court—

- (a) the alternative court may, from time to time as occasion requires, further remand the accused, in custody or on bail, to that court or another alternative court,
- (b) a reference in section 4B(3) or (5), 4E or 4P to the trial court shall be read as a reference to the alternative court to which the accused is remanded, and
- (c) the alternative court shall have the same power to correct any defect in the charge against the accused as the trial court has under section 4O.

(3) An alternative court shall, for the purposes of the trial of the offence, remand the accused to a sitting of the Circuit Court in the circuit of the Circuit Court—

- (a) in which the offence was committed, or
- (b) in which the accused was arrested or resides.”.

10.—(1) Part II of the Act of 1967 is hereby amended by the substitution of the following title for the title to that Part:

Amendment or repeal of other provisions of Act of 1967.

“Guilty Pleas and Other Matters”.

(2) Sections 5 to 12 of the Act of 1967 are hereby repealed.

(3) Section 13 of the Act of 1967 is hereby amended by the substitution of the following subsections for subsection (2):

“(2) If at any time the District Court ascertains that a person charged with an offence to which this section applies wishes to plead guilty and the court is satisfied that he understands the nature of the offence and the facts alleged, the Court—

- (a) may, with the consent of the prosecutor, deal with the offence summarily, in which case the accused shall be liable to the penalties provided for in subsection (3), or
- (b) if the accused signs a plea of guilty, may, subject to subsection (2A), send him forward for sentence with

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that plea to that court to which, but for that plea, he would have been sent forward for trial.

(2A) The accused shall not be sent forward for sentence under this section without the consent of the prosecutor.”.

(4) Section 13(4) of the Act of 1967 is hereby amended by the substitution of the following paragraph for paragraph (b):

“(b) In that event—

- (i) the court shall enter a plea of not guilty, which shall have the same effect in all respects as if the accused had been sent forward for trial to that court on that charge in accordance with Part IA,
- (ii) the prosecutor shall cause to be served on the accused any documents that under section 4B or 4C are required to be served and have not already been served, and
- (iii) the period referred to in section 4B(1) shall run from the date on which the not guilty plea is entered.”.

(5) Sections 14 to 18 of the Act of 1967 are hereby repealed.

Amendment of Offences against the State Act, 1939.

11.—Sections 45(2) and 46(2) of the Offences against the State Act, 1939, are amended by the deletion of “receives informations in relation to such charge and”.

Amendment of Act of 1962.

12.—(1) Section 2A of the Act of 1962 (as inserted by section 15(4) of the Act of 1992) is hereby repealed.

(2) Section 3 of the Act of 1962 is hereby amended—

- (a) in subsections (1) and (2) by the substitution of “sent forward for trial” for “returned for trial”, wherever the latter phrase appears, and
- (b) in subsection (2)(c) by the substitution of the following subparagraph for subparagraph (i):

“(i) the person is charged with murder, or”.

(3) Section 9(2) of the Act of 1962 (as amended by section 15 of the Act of 1992) is hereby amended by the deletion of “a legal aid (preliminary examination) certificate,”.

Amendment of Act of 1973.

13.—(1) The Act of 1973 is hereby amended by the substitution of the following section for section 2:

“Correction of defect in charge after accused is sent forward for sentence.

2.—Where under section 13(2) of the Criminal Procedure Act, 1967, an accused person is sent forward for sentence on any charge with a plea of guilty—

- (a) any defect in the charge may be corrected by the court to which the accused has been sent forward, and

[1999.]

Criminal Justice Act, 1999.

[No. 10.]

(b) the plea of guilty shall be treated as a plea of guilty to the charge so corrected,

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unless such correction would, in the opinion of the court, result in injustice.”.

(2) Section 3(2) of the Act of 1973 is amended by the substitution of “as if he had been sent forward for trial” for “as if he had been returned for trial”.

14.—The Criminal Law (Jurisdiction) Act, 1976 is hereby amended by the substitution of the following section for section 18:

Amendment of Criminal Law (Jurisdiction) Act, 1976.

“Restriction of section 4F of Criminal Procedure Act, 1967.

18.—Section 4F of the Criminal Procedure Act, 1967, shall not entitle a judge of the District Court to require the attendance of a person before that Court for the purpose of taking the person’s evidence by way of a sworn deposition if it appears to the judge that—

- (a) the person is outside the State, and
- (b) it is not reasonably practicable to secure his attendance before the Court.”.

15.—The Act of 1981 is hereby amended by the substitution of the following section for section 4:

Amendment of Act of 1981.

“Proceedings under Part IA of the Criminal Procedure Act, 1967.

4.—(1) In a proceeding under Part IA of the Criminal Procedure Act, 1967, relating to—

- (a) the dismissal of a charge of a sexual assault offence, or
- (b) the taking of a person’s evidence by way of deposition in the case of a sexual assault offence,

then, except with leave of the judge conducting the proceeding, evidence shall not be adduced and a question shall not be asked which, if the proceeding were a trial such as is mentioned in section 3(1), could not be adduced or asked without leave in pursuance of that section.

(2) On an application for leave the judge shall—

- (a) refuse leave unless he is satisfied that leave in respect of the evidence or question would be likely to be given at such a trial, or
- (b) give leave if he is so satisfied.

(3) Section 3(3) shall apply to an application under subsection (2) of this section.”.

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Amendment of Act
of 1984.

16.—(1) Sections 18(1) and 19(1) of the Act of 1984 are hereby amended by the substitution of “in determining whether a charge should be dismissed under Part IA of the Criminal Procedure Act, 1967” for “in determining whether to send forward the accused for trial”.

(2) Sections 18(2) and 19(2) of the Act of 1984 are hereby amended by the substitution of “, in relation to the hearing of an application under Part IA of the Criminal Procedure Act, 1967, for the dismissal of a charge,” for “, in relation to the preliminary examination of a charge,”.

(3) Section 20 of the Act of 1984 is hereby amended—

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

“(6) A notice under subsection (1) or under paragraph (c) or (d) of subsection (2) shall be given in writing to the solicitor for the prosecution.”,

(b) in subsection (8) by the substitution of the following paragraph for paragraph (a) of the definition of “prescribed period”:

“(a) the period of fourteen days after the date the accused is, in accordance with section 4B(1) of the Criminal Procedure Act, 1967, served with the documents referred to in that section, or”,

(c) in subsection (8) by the deletion of paragraph (b) of the definition of “prescribed period”, and

(d) in subsection (8) by the substitution of the following for paragraph (c) of the definition of “prescribed period”:

“(c) where the accused, on being sent forward for sentence, changes his plea to not guilty, the period of fourteen days after the accused is, in accordance with section 13(4)(b) of the Criminal Procedure Act, 1967, served with the documents referred to in section 4B(1) of that Act, or”.

(4) Section 21(1) of the Act of 1984 is hereby amended by the substitution of “, other than the hearing of an application under Part IA of the Criminal Procedure Act, 1967, for the dismissal of a charge,” for “, other than the preliminary examination of an indictable offence,”.

Amendment of Act
of 1990.

17.—(1) Section 3(1)(a) of the Act of 1990 is hereby amended by the substitution of the following subparagraph for subparagraph (i):

“(i) whether a charge against that person should be dismissed under Part IA of the Criminal Procedure Act, 1967, or”.

(2) Section 3(2) of the Act of 1990 is hereby amended by the substitution of “, in relation to the hearing of an application under Part IA of the Criminal Procedure Act, 1967, for the dismissal of a charge,” for “, in relation to the preliminary examination of a charge,”.

18.—(1) Section 5(4)(a)(ii) of the Act of 1992 is hereby amended by the substitution of “section 4F” for “section 14”.

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Amendment of sections 5, 7 and 13 of Act of 1992.

(2) Section 7 (1) (a) of the Act of 1992 is hereby amended by the substitution of “pursuant to section 4B(1) or 4C(1) of the Criminal Procedure Act, 1967,” for “pursuant to section 6(1) of the Criminal Procedure Act, 1967,”.

(3) Section 13(1) of the Act of 1992 is hereby amended by the insertion, after “proceedings”, of “(including proceedings under section 4E or 4F of the Criminal Procedure Act, 1967)”.

19.—The Act of 1992 is hereby amended by the substitution of the following section for section 15:

Amendment of section 15 of Act of 1992.

“Procedure in relation to certain offences.

15.—(1) Where—

- (a) under Part IA of the Criminal Procedure Act, 1967, the prosecutor consents to the sending forward for trial of an accused person who is charged with an offence to which this Part applies,
- (b) the person in respect of whom the offence is alleged to have been committed is under 17 years of age on the date consent is given to the accused being sent forward for trial, and
- (c) it is proposed that a videorecording of a statement made by the person referred to in paragraph (b) of this subsection during an interview as mentioned in section 16(1)(b) shall be given in evidence pursuant to that section,

the prosecutor shall, in addition to causing the documents mentioned in section 4B(1) of that Act to be served on the accused—

- (i) notify the accused that it is proposed so to give evidence, and
- (ii) give the accused an opportunity of seeing the videorecording of the interview.

(2) If the person in respect of whom the offence is alleged to have been committed is available for cross-examination at the hearing of an application under section 4E of the Criminal Procedure Act, 1967, the judge hearing the application may consider any statement made in relation to that offence by that person on a videorecording mentioned in section 16(1)(b) of this Act.

(3) If the accused consents, an edited version of the videorecording of an interview mentioned in section 16(1)(b), may, with leave of the judge hearing an application referred to in subsection (2) of this section, be shown at the hearing of the application, and, in that event, subsection (2) and

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section 16(1)(b) shall apply in relation to that version as it applies in relation to the original video-recording.”.

Amendment of section 16 of Act of 1992.

20.—Section 16(1) of the Act of 1992 is hereby amended—

(a) by the substitution of the following paragraph for paragraph (a):

“(a) a videorecording of any evidence given, in relation to an offence to which this Part applies, by a person under 17 years of age through a live television link in proceedings under Part IA of the Criminal Procedure Act, 1967, and”, and

(b) by the substitution of the following for the proviso:

“Provided that, in the case of a videorecording mentioned in paragraph (b), the person whose statement was videorecorded is available at the trial for cross-examination.”.

Amendment of Act of 1997.

21.—Section 5 of the Act of 1997 is hereby amended by the substitution of the following subsection for subsection (3):

“(3) An alternative court shall, for the purposes of the trial of a person, remand the person to a sitting of the court in the District Court District—

(a) in which the offence to which the trial relates was committed, or

(b) in which the person resides or was arrested.”.

Repeal of other enactments.

22.—The following enactments are hereby repealed:

(a) section 79(3)(a) of the Courts of Justice Act, 1924 (as substituted by the Act of 1997);

(b) section 8(1) of the Courts (No. 2) Act, 1986;

(c) section 11 of the Criminal Justice Act, 1993.

Transitional provision.

23.—If, before the commencement of this Part, any steps have been taken under Part II of the Act of 1967 in relation to the prosecution of an accused person, the applicable provisions of the enactments amended or repealed by this Part shall continue to apply to all matters connected with or arising out of the prosecution of the accused, as if those enactments had not been so amended or repealed.

Amendment of section 3 of Offences against the State (Amendment) Act, 1998.

24.—Section 3 of the Offences against the State (Amendment) Act, 1998, is hereby amended—

(a) by the substitution of the following subsection for subsection (5):

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“(5) A notice under subsection (1) or under paragraph (c) or (d) of subsection (2) shall be given in writing to the solicitor for the prosecution.”, Pt.III S.24

(b) in subsection (7) by the substitution of the following for paragraph (a):

“(a) the period of fourteen days after the date the accused is, in accordance with section 4B (1) of the Criminal Procedure Act, 1967, served with the documents mentioned in that section, or”,

(c) in subsection (7) by the deletion of paragraph (b), and

(d) in subsection (7) by the substitution of the following for paragraph (c):

“(c) where the accused, on being sent forward for sentence, changes his or her plea to not guilty, the period of fourteen days after the date the accused is, in accordance with section 13(4)(b) of the Criminal Procedure Act, 1967, served with the documents mentioned in section 4B (1) of that Act, or”.

PART IV

Amendments Relating to Confiscation Orders

25.—Section 4 of the Act of 1994 is hereby amended by the substitution of the following subsections for subsections (1) to (3): Amendment of section 4 of Act of 1994.

“(1) Where a person has been sentenced or otherwise dealt with by a court in respect of one or more drug trafficking offences of which he has been convicted on indictment, the court shall, subject to subsections (2) and (3), determine whether the person has benefited from drug trafficking.

(2) A court may decide not to make a determination under subsection (1) of this section where, following such preliminary inquiries, if any, as it may make, it is satisfied that having regard to—

(a) the present means of the convicted person, and

(b) all of the other circumstances of the case, including the matters which are to be taken into account under section 12(3) of this Act,

the amount, if any, which might be recovered under any confiscation order which might be made would not be sufficient to justify proceeding with consideration of the making of such an order.

(3) The duty of a court to make a determination under subsection (1) of this section shall not apply if the convicted person has died or absconded, and accordingly the provisions of section 13 of this Act shall apply in such a case.”.

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26.—Section 7 of the Act of 1994 is hereby amended—

Amendment of section 7 of Act of 1994.

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

“(1) This section applies where a court has—

(a) determined under section 4 of this Act that a defendant has not benefited from drug trafficking, or

(b) decided under section 4(2) of this Act not to make a determination as to whether a convicted person has benefited from drug trafficking.”,

(b) in subsection (2) by the substitution of the following paragraph for paragraph (a):

“(a) which was not considered by the court in making, or in deciding not to make, the determination referred to in subsection (1) of this section, but”,

(c) in subsection (3)(a) by the substitution of the following subparagraph for subparagraph (i):

“(i) make a determination or a fresh determination, as the case may be, of whether the defendant has benefited from drug trafficking; and”, and

(d) by the substitution of the following subsection for subsection (4):

“(4) In considering an application under this section, the court may take into account any payment or other reward received by the defendant on or after the determination, or the decision not to make a determination, referred to in subsection (1) of this section, but only if the Director of Public Prosecutions shows that it was received by the defendant in connection with drug trafficking carried on by the defendant or another person on or before that date.”.

Amendment of section 10 of Act of 1994.

27.—Section 10(1)(a) of the Act of 1994 is hereby amended by the substitution of the following for everything before subparagraph (i):

“(a) a court is engaged in a determination under section 4 of this Act as to whether a convicted person has benefited from drug trafficking or as to any amount to be recovered by virtue of that section, or an application has been made to the court under section 7, 8 or 9 of this Act, and there is tendered to the court by or on behalf of the Director of Public Prosecutions a statement as to any matters relevant to—”.

Amendment of section 11 of Act of 1994.

28.—(1) Section 11 of the Act of 1994 is hereby amended by the substitution of the following subsection for subsection (1):

“(1) This section applies where—

[1999.] *Criminal Justice Act, 1999.* [No. 10.]

- (a) a court is engaged in a determination under Pt.IV S.28 section 4 of this Act as to whether a convicted person has benefited from drug trafficking or as to any amount to be recovered by virtue of that section, or
- (b) an application has been made to a court under section 7, 8 or 9 of this Act.”.

(2) Section 11 of the Act of 1994 is hereby amended by the insertion of the following subsections:

“(7) A defendant who—

- (a) fails, without reasonable excuse, to comply with an order under this section, or
- (b) gives to the court, in purported compliance with this section, information which the defendant knows or has reason to believe is false or misleading,

shall be guilty of an offence.

(8) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding £1,500 or to both, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

(9) Information that is specified in an order under this section and is given to the court in compliance with that order shall not be admissible in evidence in any proceedings for an offence, other than an offence under this section.”.

PART V

Guilty Pleas and Certificate Evidence

29.—(1) In determining what sentence to pass on a person who has pleaded guilty to an offence, other than an offence for which the sentence is fixed by law, a court, if it considers it appropriate to do so, shall take into account—

- (a) the stage in the proceedings for the offence at which the person indicated an intention to plead guilty, and
- (b) the circumstances in which this indication was given.

(2) To avoid doubt, it is hereby declared that *subsection (1)* shall not preclude a court from passing the maximum sentence prescribed by law for an offence if, notwithstanding the plea of guilty, the court is satisfied that there are exceptional circumstances relating to the offence which warrant the maximum sentence.

(3) In this section, “fixed by law”, in relation to a sentence for an offence, means a sentence which a court is required by law to impose on a person of full capacity who is guilty of the offence.

Pt.V
Certificate evidence
relating to custody
of exhibits.

30.—(1) In any criminal proceedings, a certificate purporting to be signed by a member of the Garda Síochána and stating that the member had custody of an exhibit at a specified place or for a specified period or purpose shall be admissible as evidence of the matters stated in the certificate.

(2) In any criminal proceedings, the court may—

(a) if it considers that the interests of justice so require, direct that oral evidence be given of the matters stated in a certificate under this section, and

(b) adjourn the proceedings to a later date for the purpose of receiving the oral evidence.

(3) A certificate under this section shall be tendered in evidence by a member of the Garda Síochána not below the rank of sergeant.

(4) The Minister may, by regulations, prescribe the form of a certificate under this section.

PART VI

Extradition and Other Matters

Offences under the
law of Northern
Ireland.

31.—(1) For the purposes of Part III of the Extradition Act, 1965, an offence punishable under the law of Northern Ireland by imprisonment for a maximum period of at least 6 months and triable either summarily or on indictment at the election of the prosecution shall be treated as follows:

(a) as an indictable offence and not also as a summary offence, if it is certified by the Director of Public Prosecutions for Northern Ireland that the offence is so punishable and triable and that it will not be or, as the case may be, has not been prosecuted summarily;

(b) as a summary offence, if it is certified by the Director of Public Prosecutions for Northern Ireland that the offence is so punishable and triable and that it will be or, as the case may be, has been prosecuted summarily.

(2) A certificate appearing to be given by the Director of Public Prosecutions for Northern Ireland and certifying as to the matters mentioned in *paragraph (a)* or *(b)* of *subsection (1)* may, without further evidence—

(a) be accepted by the Commissioner of the Garda Síochána, and

(b) be admitted in any proceedings, unless the court sees good reason to the contrary,

as evidence of the matters so certified.

(3) In this section “Director of Public Prosecutions” includes a person for the time being exercising the functions of that office.

(4) This section shall be construed as one with Part III of the Extradition Act, 1965.

32.—(1) For the purposes of Part III of the Extradition Act, 1965—

Pt. VI
Offences under the
law of Scotland.

- (a) an offence punishable under the law of Scotland by imprisonment for a maximum period of at least 6 months shall be treated as an indictable offence and not also as a summary offence if it is certified by a Procurator Fiscal that the offence is an indictable offence so punishable and that it will not be or, as the case may be, has not been prosecuted summarily, and
- (b) an offence punishable under the law of Scotland by imprisonment for a maximum period of at least 6 months shall be treated as a summary offence if it is certified by a Procurator Fiscal that the offence will be or, as the case may be, has been prosecuted summarily, and that it is so punishable.

(2) A certificate appearing to be given by a Procurator Fiscal and certifying as to the matters mentioned in *paragraph (a) or (b) of subsection (1)* may, without further evidence—

- (a) be accepted by the Commissioner of the Garda Síochána, and
- (b) be admitted in any proceedings, unless the court sees good reason to the contrary,

as evidence of the matters so certified.

(3) In this section “Procurator Fiscal” includes a Depute.

(4) This section shall be construed as one with Part III of the Extradition Act, 1965.

(5) Section 37 of the Act of 1967 is hereby repealed.

33.—(1) Section 3 of the Extradition Act, 1965, is hereby amended in the definition of “judge of the District Court assigned to the Dublin Metropolitan District” (inserted by the Extradition (Amendment) Act, 1994) by the deletion of “nominated for the purposes of this Act by the President of the District Court”.

Amendment of
Extradition Acts,
1965 to 1994.

(2) Section 4 of the Extradition (Amendment) Act, 1994, is hereby amended by the deletion of subsection (2).

34.—Section 4 of the Act of 1984 is hereby amended—

Amendment of Act
of 1984.

- (a) by the substitution, in subsection (5) (as inserted by the Act of 1997), of “subject to subsection (5A)” for “subject to subsection (6)”, and
- (b) by the renumbering of subsection (6) (as inserted by the Act of 1997) as subsection (5A).

35.—Section 1 of the Criminal Justice (Drug Trafficking) Act, 1996, is hereby amended by the deletion of the definition of “judge of the District Court”.

Amendment of
Criminal Justice
(Drug Trafficking)
Act, 1996.

Pt. VI
Amendment of
section 15 of
Offences against the
State (Amendment)
Act, 1998.

36.—Section 15 of the Offences against the State (Amendment) Act, 1998, is hereby amended by the substitution of the following subsection for subsection (3):

“(3) Section 3 of the Explosive Substances Act, 1883, inserted by section 4 of the Criminal Law (Jurisdiction) Act, 1976, is hereby amended by the substitution of ‘shall be liable to a fine or imprisonment’ for ‘shall be liable to imprisonment’.”.

Amendment of
section 18 of
Offences against the
State (Amendment)
Act, 1998.

37.—Section 18 of the Offences against the State (Amendment) Act, 1998, is hereby amended by the substitution of the following subsection for subsection (2):

“(2) A section referred to in subsection (1) may, by resolution of each House of the Oireachtas passed before the expiry of the section, be continued in operation from time to time for such period, not exceeding twelve months, as is specified in the resolutions.”.

Abolition of “year
and a day” rule.

38.—(1) In this section, “the ‘year and a day’ rule” means the rule of law that an act or omission is conclusively presumed not to have caused a person’s death if more than a year and a day elapsed between the act or omission and the death.

(2) The “year and a day” rule is hereby abolished for all purposes, including—

- (a) for the purposes of offences involving the death of a person, and
- (b) for the purpose of determining whether a person committed suicide.

(3) *Subsection (2)* does not affect the continued application of the “year and a day” rule to any case where the act or omission, or the last of the acts or omissions, that caused the death occurred before the day on which this Act is passed.

Witnesses in fear or
subject to
intimidation.

39.—(1) Subject to *subsection (2)*, in any proceedings on indictment for an offence (including proceedings under Part IA of the Act of 1967) a person other than the accused may, with the leave of the court, give evidence through a live television link.

(2) A court shall not grant leave under *subsection (1)* unless it is satisfied that the person is likely to be in fear or subject to intimidation in giving evidence otherwise.

(3) Evidence given under *subsection (1)* shall be videorecorded.

(4) In any proceedings referred to in *subsection (1)* in any circuit or district court district where the court is satisfied that leave should be granted for evidence to be given through a live television link pursuant to *subsection (1)* but the necessary facilities for doing so are not available in that circuit or district, the court may by order transfer the proceedings to a circuit or district court district where such facilities are available and, where such an order is made, the jurisdiction of the court to which the proceedings have been transferred may be exercised—

(a) in the case of the Circuit Court, by the judge of the circuit Pt.VI S.39
concerned, and

(b) in the case of the District Court, by the judge of that court
for the time being assigned to the district court district
concerned.

(5) Where evidence is given by a person (“the witness”) through
a live television link pursuant to *subsection (1)*—

(a) in case evidence is given that the accused was known to the
witness before the date on which the offence in question
is alleged to have been committed, the witness shall not
be required to identify the accused, unless the court in
the interests of justice directs otherwise, and

(b) in any other case, evidence by a person other than the wit-
ness that the witness identified the accused as being the
offender at an identification parade or by other means
shall be admissible as evidence that the accused was so
identified.

(6) This section is without prejudice to any other enactment pro-
viding for the giving of evidence through a live television link.

40.—(1) A person who without lawful authority makes enquiries Relocated
or takes any other steps whatever, whether within or outside the Witnesses.
State, for the purpose of discovering—

(a) the whereabouts of a person whom he or she knows, or
reasonably suspects, to be a relocated witness, or

(b) any new name or other particulars related to any new ident-
ity provided for such a witness,

shall be guilty of an offence.

(2) A person who without lawful authority discloses, whether
within or outside the State, to any other person any information
(including information lawfully obtained pursuant to *subsection (1)*)
concerning—

(a) the whereabouts of a person whom he or she knows, or
reasonably suspects, to be a relocated witness, or

(b) any new name or other particulars related to any new ident-
ity provided for such a person,

shall be guilty of an offence.

(3) In this section “relocated witness” means any person who
intends to give or has given evidence in proceedings for an offence
and who as a consequence has moved residence, under any pro-
gramme operated by the Garda Síochána for the protection of wit-
nesses, to any place, whether within or outside the State.

(4) In this section “lawful authority” means the authority of—

(a) a court in any proceedings involving the relocated witness,
or

(b) a member of the Garda Síochána not below the rank of chief superintendent.

(5) A court shall give authority pursuant to *subsection (1)* or *(2)* only if it is satisfied—

(a) that to do so would be in the interests of justice, and

(b) that another way of proceeding which would not prejudice the continued participation of the relocated witness in the programme aforesaid, including, without prejudice to the generality of the foregoing, the transmission of any documents required to be served on the witness to the Commissioner of the Garda Síochána for the purpose of effecting such service, is not available.

(6) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both, and

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding five years or both.

Intimidation etc. of witnesses, jurors and others.

41.—(1) Without prejudice to any provision made by any other enactment or rule of law, a person—

(a) who harms or threatens, menaces or in any other way intimidates or puts in fear another person who is assisting in the investigation by the Garda Síochána of an offence or is a witness or potential witness or a juror or potential juror in proceedings for an offence, or a member of his or her family,

(b) with the intention thereby of causing the investigation or the course of justice to be obstructed, perverted or interfered with,

shall be guilty of an offence.

(2) In this section, “potential juror” means a person who, at the time an offence under this section is alleged to have been committed, has been summoned for jury service but has not been empanelled as a juror to serve on a particular jury.

(3) In proceedings for an offence under this section, proof to the satisfaction of the court or jury, as the case may be, that the accused did an act referred to in *subsection (1)(a)* shall be evidence that the act was done with the intention required by *subsection (1)(b)*.

(4) In *subsection (1)* the reference to a member of a person’s family includes a reference to—

(a) the person’s spouse,

(b) a parent, grandparent, step-parent, child (including a step-child or an adopted child), grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece of the person or his or her spouse, or

(c) any person who is cohabiting or residing with him or her. Pt.VI S.41

(5) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both, and

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 10 years or both.

42.—(1) In this section—

“offence” means an arrestable offence as defined in section 2 of the Criminal Law Act, 1997;

Arrest and detention of prisoners in connection with investigation of other offences.

“prison” means a place of custody administered by the Minister for Justice, Equality and Law Reform;

“prisoner” means a person who is in prison on foot of a sentence of imprisonment, on committal awaiting trial, on remand or otherwise.

(2) A member of the Garda Síochána may arrest a prisoner on the authority of a judge of the District Court who is satisfied on information supplied on oath by a member of the Garda Síochána not below the rank of superintendent that the following conditions are fulfilled—

(a) there are reasonable grounds for suspecting that the prisoner has committed an offence other than an offence in respect of which he or she is imprisoned;

(b) the arrest of the prisoner is necessary for the proper investigation of the offence which he or she is suspected of having committed;

(c) where the prisoner has previously been arrested for the same offence, whether prior to his or her imprisonment or under this section, further relevant information has since come to the knowledge of the Garda Síochána.

(3) A person arrested under this section—

(a) shall be taken forthwith to a Garda Station and may, subject to *subsection (5)*, be detained there for such period as is authorised under section 4 of the Act of 1984, and

(b) shall, subject to this section, be dealt with as though he or she had been detained under that section.

(4) Sections 4(4), (5), (5A) and 10 of the Act of 1984 shall not apply to a person arrested and detained under this section.

(5) If at any time during the detention of a person under this section there are no longer reasonable grounds for—

(a) suspecting that the person has committed the offence in respect of which he or she was arrested under this section, or

(b) believing that his or her detention is necessary for the proper investigation of that offence,

the detention shall be terminated forthwith.

(6) On termination of the detention in accordance with *subsection (5)* or by reason of the expiry of the period referred to in *subsection (3)(a)*, the member of the Garda Síochána in charge of the Garda Station where the person is detained shall transfer him or her, or cause him or her to be transferred, forthwith back into the custody of the governor of the prison where the person was imprisoned at the time of the arrest.

(7) This section shall not prejudice any power conferred by law apart from this section in relation to the arrest, detention or transfer of prisoners.