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*Number 9 of 2023*

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**Sex Offenders (Amendment) Act 2023**

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**SEX OFFENDERS (AMENDMENT) ACT 2023**

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PART 3

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[2023.]

*Sex Offenders (Amendment) Act*  
2023.

[No. 9.]

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Housing (Miscellaneous Provisions) Act 1992 (No. 18)

Medical Practitioners Act 2007 (No. 25)

Parole Act 2019 (No. 28)

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*Number 9 of 2023*

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## **SEX OFFENDERS (AMENDMENT) ACT 2023**

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An Act to amend the Sex Offenders Act 2001 to provide for a change in the notification requirements imposed on persons who are subject to Part 2 of that Act, to provide a power for the Garda Síochána to take fingerprints, palm prints and photographs under that Act in certain circumstances, to make provision in relation to the assessment and management of the risk of harm posed by certain persons and in that regard to make provision for the disclosure and publication of information relating to such persons in certain circumstances, to provide for the electronic monitoring of certain persons under that Act, to provide for the variation of certain orders made under that Act and to make provision for the imposition of a prohibition on working with children and vulnerable persons on certain persons; to amend the Criminal Justice Act 1984 to allow for the retention, in certain circumstances, of fingerprints, palm prints and photographs taken under that Act of persons who are subject to Part 2 of the Sex Offenders Act 2001; and to provide for related matters. [5th April, 2023]

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

### PART 1

#### PRELIMINARY AND GENERAL

##### **Short title and commencement**

1. (1) This Act may be cited as the Sex Offenders (Amendment) Act 2023.
- (2) This Act shall come into operation on such day or days as the Minister for Justice may, by order or orders either generally or with reference to any particular purpose or provision, appoint and different days may be so appointed for different purposes or different provisions.

##### **Definition**

2. In this Act, “Principal Act” means the Sex Offenders Act 2001.

## PART 2

## AMENDMENT OF PRINCIPAL ACT

**Amendment of section 2 of Principal Act****3.** Section 2(1) of the Principal Act is amended—

- (a) by the substitution of the following definition for the definition of “imprisonment”:

“ ‘imprisonment’ includes detention in the Central Mental Hospital and ‘prison’ shall be construed accordingly;”,

- (b) in the definition of “sexual offence”, by the substitution of “section 3;” for “section 3.”, and

- (c) by the insertion of the following definitions:

“ ‘authorised person’ means a person who is appointed in writing by the Minister, or a person who is one of a prescribed class of persons, to be an authorised person for the purposes of section 16A or 30B;

‘children detention school’ has the same meaning as it has in section 3 of the Children Act 2001;

‘Commissioner’ means the Commissioner of the Garda Síochána;

‘probation officer’ means a person appointed by the Minister to be a probation officer;

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

‘vulnerable person’ means a person, other than a child, whose capacity to guard himself or herself against violence, exploitation or abuse, whether physical, sexual or emotional, by another person is significantly impaired through—

- (a) a physical disability, illness or injury,  
(b) a disorder of the mind, whether as a result of mental illness or dementia, or  
(c) an intellectual disability.”.

**Amendment of section 3 of Principal Act****4.** Section 3 of the Principal Act is amended—

- (a) in subsection (2)(a), by the substitution of “a vulnerable person” for “mentally impaired”, and

- (b) by the deletion of subsection (4).

#### **Application of amendments made by *Sex Offenders (Amendment) Act 2023***

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

“3A. (1) An amendment of this Act made by the *Sex Offenders (Amendment) Act 2023* shall apply in respect of—

- (a) persons who are convicted—

- (i) of a sexual offence, or  
(ii) in a place outside the State, of an offence, and the act constituting that offence would, if done in the State, constitute a sexual offence under the law of the State,

whether the person is so convicted before or after the coming into operation of the amendment,

- (b) sex offender orders (within the meaning of Part 3), whether made before or after the coming into operation of the amendment, and

- (c) sentences involving post-release supervision (within the meaning of Part 5), whether imposed before or after the coming into operation of the amendment.

- (2) Any legal proceedings (civil or criminal) in respect of a right, privilege, obligation or liability acquired, accrued or incurred under, or an offence against or contravention of, a relevant provision of this Act before the date of the coming into operation of *section 5* of the *Sex Offenders (Amendment) Act 2023* may, on or after that date, be instituted, continued or enforced, and any penalty, forfeiture or punishment in respect of such offence or contravention may be imposed and carried out, as if the said provision had not been amended by the *Sex Offenders (Amendment) Act 2023*.

- (3) In this section, ‘relevant provision of this Act’ means a provision of this Act that is amended by the *Sex Offenders (Amendment) Act 2023*.”.

#### **Amendment of section 4 of Principal Act**

6. Section 4(2) of the Principal Act is amended by the substitution of “under this Act” for “under this section”.

#### **Amendment of section 8 of Principal Act**

7. Section 8 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “in subsection (3) or specified by the court pursuant to subsection (4), as the case may be,” for “in subsection (3)”, and

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

“(4) If—

(a) a sentence is imposed on a person in respect of a sexual offence,  
and

(b) at the time of the commission of the offence concerned, the person  
was aged under 18 years,

the court shall, in imposing the sentence, specify the period for which  
the person shall be subject to the requirements of this Part, which  
period shall not exceed 5 years, having regard to—

(i) the nature and circumstances of the offence concerned, and

(ii) the degree of risk, if any, that the offender may commit a  
subsequent sexual offence.”.

#### **Amendment of section 10 of Principal Act**

**8.** Section 10 of the Principal Act is amended—

(a) in subsection (1)—

(i) by the substitution of “3 days” for “7 days”,

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

“(a) his or her name on the date on which the notification is given,

(aa) where he or she also uses, or at any time previously used, one or  
more other names, each of those names, and”,

and

(iii) in paragraph (b), by the substitution of “home address on the date on which  
the notification is given” for “home address”,

(b) in subsection (2)—

(i) by the substitution of “3 days” for “7 days” in each place it occurs,

(ii) in paragraph (d), by the substitution of “in the State on a date other than that  
notified under subsection (3)(c)” for “in the State”, and

(iii) by the substitution of “the fact of that return and the address to which the  
person has returned” for “the fact of that return”,

(c) by the substitution of the following subsection for subsection (3):

“(3) If a person who is subject to the requirements of this Part intends to  
leave the State for a continuous period of 3 days or more, he or she  
shall notify the Garda Síochána of—

(a) that intention,

- (b) the address of each place outside the State at which he or she intends to reside or stay, and
- (c) the date on which he or she intends to return to the State.”,
- (d) in subsection (4)—
  - (i) by the substitution of “3 days” for “7 days” in each place it occurs, and
  - (ii) by the substitution of “3rd day” for “7th day”,
- (e) by the insertion of the following subsection after subsection (4):
  - “(4A) A person may give a notification under subsection (4)—
    - (a) by sending, by post, a written notification of the matters concerned to any Garda Síochána station which is a divisional headquarters or which has been designated by the Commissioner for the purposes of this section, or
    - (b) by such other means as may be prescribed.”,
  - (f) in subsection (5), by the substitution of “3 days” for “7 days”,
  - (g) by the insertion of the following subsection after subsection (6):
    - “(6A) Without prejudice to subsections (1), (2), (3) and (4), a person who is subject to the requirements of this Part shall notify the Garda Síochána of the matters specified in paragraphs (a), (aa) and (b) of subsection (1) and paragraphs (a), (b) and (c) of subsection (6)—
      - (a) not later than 3 days after the coming into operation of *section 8(g)* of the *Sex Offenders (Amendment) Act 2023*,
      - (b) where the person gives a notification under subsection (1), (2), (3) or (4) and does not give another such notification in the 12 month period thereafter, not later than 7 days after the end of that 12 month period, and
      - (c) where a person has not given a notification under subsection (1), (2), (3) or (4) in the 12 month period after the giving of a notification under paragraph (a) or (b), not later than 7 days after the end of that 12 month period.”,
  - (h) in subsection (7)—
    - (i) in paragraph (b), by the substitution of “in prison,” for “in prison, or”, and
    - (ii) by the insertion of the following paragraph after paragraph (b):
      - “(ba) detained in a children detention school, or”,
    - (i) by the insertion of the following subsections after subsection (7):
      - “(7A) Where a person gives a notification under subsection (1), (2), (3) or (4) and the member of the Garda Síochána to whom the notification is

given is not satisfied that the person has a home address or that the person is currently residing or staying at such home address (other than in circumstances where the person has given a notification to that effect under subsection (2)(c)), the member shall inform that person in writing that he or she shall be required to—

- (a) notify the Garda Síochána of the specific location of the place in the State where he or she intends to reside or stay at on the night of that notification, and
- (b) subject to subsection (7B), continue to notify the Garda Síochána on every 3rd day thereafter of the specific location of the place in the State where he or she intends to reside or stay at on the night of that notification,

until such time as the member of the Garda Síochána to whom the notification is being given informs the person that he or she is satisfied that the person has acquired a home address or has returned to his or her home address in the State.

(7B) A member of the Garda Síochána not below the rank of inspector may, in respect of a person to whom subsection (7A) applies, specify such period of more or less than 3 days for the purposes of paragraph (b) of that subsection as he or she is satisfied is appropriate, having regard to—

- (a) the interests of public safety, or
- (b) the safety of a particular member of the public,

and where such a period is so specified, the member of the Garda Síochána informing a person under that subsection shall so inform the person.

(7C) Subject to subsection (7D), a person who is required to give a notification under this section (other than under subsection (4)) shall do so by attending in person at any Garda Síochána station which is a divisional headquarters or which has been designated by the Commissioner for the purposes of this section and notifying orally a member of the Garda Síochána at the station of the matters concerned.

(7D) Where a person who is required to give a notification under this section (other than under subsection (4))—

- (a) has a disability such that he or she is unable to give the notification in person, and
- (b) provides a written certificate signed by a person who is a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007 to that effect to the member in charge of any Garda Síochána station which is a divisional headquarters or which has been designated by the Commissioner for the purposes of this

section not later than the day before the date by which the notification is required to be given,

the member in charge shall arrange for the notification concerned to be given orally to a member of the Garda Síochána—

- (i) at the person’s home, or
- (ii) at any other place as may be agreed with the member in charge.”,
- (j) by the deletion of subsection (8),
- (k) in subsection (9), by the substitution of “a written notification under this section” for “such a notification”,

- (l) by the insertion of the following subsection after subsection (10):

“(10A) A designation of a Garda Síochána station by the Commissioner for the purposes of this section shall be in writing and the Commissioner shall cause a list of the Garda Síochána stations so designated to be published.”,

and

- (m) in subsection (11)—
  - (i) in the definition of “home address”, by the substitution of “stays” for “visits”, and
  - (ii) in the definition of “qualifying period”, by the substitution of “3 days” for “7 days” in each place it occurs.

### **Power of Garda Síochána to take fingerprints, palm prints and photographs of persons subject to requirements of Part**

9. The Principal Act is amended by the insertion of the following section after section 10:

“**10A.**(1) Where a person is subject to the requirements of this Part—

- (a) a member of the Garda Síochána may, at any convenient place, take the fingerprints, palm prints or photograph of that person, within 7 days of the relevant date or the date of the giving of a notification under subsection (1), (2), (3), (4), (6A) or (7A) of section 10, or
  - (b) a member of the Garda Síochána not below the rank of sergeant may require, in writing, that person to attend, within 7 days of the relevant date or the date of the giving of a notification under subsection (1), (2), (3), (4), (6A) or (7A) of section 10, at a named Garda Síochána station for the purpose of having his or her fingerprints, palm prints or photograph taken.
- (2) Where a person has made it impracticable for his or her fingerprints, palm prints or photograph to be taken within the period of 7 days

referred to in paragraph (a) or (b) of subsection (1), a member of the Garda Síochána not below the rank of sergeant may require (or in the case of a person attending a Garda Síochána station pursuant to a requirement under this section, further require) in writing, that person to attend at a named Garda Síochána station on a specified day for the purpose of having his or her fingerprints, palm prints or photograph taken.

- (3) A member of the Garda Síochána may take the fingerprints, palm prints or photograph of a person on his or her attendance at a Garda Síochána station pursuant to a requirement under this section.
- (4) A fingerprint, palm print or photograph ('the first-mentioned fingerprint, palm print or photograph') of a person taken pursuant to a requirement under this section shall, if not previously destroyed, be destroyed—
  - (a) where a fingerprint, palm print or photograph, as the case may be, of the person is otherwise retained by the Garda Síochána under this or any other enactment, not later than 3 months from the date on which the first-mentioned fingerprint, palm print or photograph of the person is taken, or
  - (b) where a fingerprint, palm print or photograph, as the case may be, of the person is not otherwise so retained, not later than 3 months from the date on which the person ceases to be subject to the requirements of this Part.
- (5) A person who is required under subsection (4) to destroy, or cause to be destroyed, a fingerprint, palm print or photograph shall ensure that the fingerprint, palm print or photograph, every copy thereof and every record relating to the fingerprint, palm print or photograph in so far as it identifies the person from or of whom the fingerprint, palm print or photograph has been taken, are destroyed.
- (6) The power conferred by this section is without prejudice to any other power exercisable by a member of the Garda Síochána to take, or cause to be taken, the fingerprints, palm prints or photograph of a person or to require a person to attend at a Garda Síochána station for that purpose.
- (7) In this section, 'record', in relation to a fingerprint, palm print or photograph, includes a copy of a record."

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

**10.** Section 12 of the Principal Act is amended—

- (a) by the substitution of "(3), (4), (6A) or (7A)" for "(3) or (4)" in each place it occurs,

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

“(2A) A person who—

- (a) refuses to allow his fingerprints, palm prints or photograph to be taken pursuant to section 10A, or
- (b) fails or refuses, without reasonable excuse, to comply with a requirement under section 10A(2) to attend at a Garda Síochána station named under that section within the time period specified for the purposes of having his or her fingerprints, palm prints or photograph taken,

shall be guilty of an offence.”,

and

(c) in subsection (4), by the substitution of “by the means referred to in subsection (4A), (7C) or (7D) of section 10” for “by any of the means referred to in section 10(8).”.

#### **Amendment of section 13 of Principal Act**

**11.** Section 13 of the Principal Act is amended by the substitution of the following subsection for subsection (2):

“(2) For the purposes of such application, section 10 shall have effect as if for subsection (1) there were substituted the following subsection:

“(1) A person who is subject to the requirements of this Part shall, before the end of the period of 3 days beginning with—

- (a) in case the person is already resident in the State upon his or her so first returning and paragraph (c) does not apply, the date on which the person first returns to the State after being convicted of the offence concerned,
- (b) in case the person is not so resident and paragraph (c) does not apply, the date on which the person first becomes resident in the State after being convicted of the offence concerned, or
- (c) in case the date on which the person so first returns to, or becomes resident in, the State is prior to the coming into operation of *section 11* of the *Sex Offenders (Amendment) Act 2023*, the date of such coming into operation,

notify to the Garda Síochána—

- (i) his or her name on the date on which the notification is given,

- (ii) where he or she also uses, or at any time previously used, one or more other names, each of those names,
- (iii) his or her home address on the date on which the notification is given,
- (iv) the address of each other place (if any), whether in or outside the State, at which, on the date on which the notification is given, he or she resides or regularly stays, and
- (v) the address of each other place (if any), whether in or outside the State, at which the person has resided or regularly stayed since the date on which he or she was convicted of the offence concerned.’.”.

**Amendment of section 14 of Principal Act**

12. Section 14(5)(c) of the Principal Act is amended by the substitution of “the Probation Service” for “the probation and welfare service (within the meaning of Part 5)”.

**Insertion of Part 2A in Principal Act**

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

## “Part 2A

## ASSESSMENT AND MANAGEMENT OF RISK POSED BY SEX OFFENDERS

**Interpretation (Part 2A)****14A. (1)** In this Part—

‘Act of 2005’ means the Garda Síochána Act 2005;

‘housing authority’ has the same meaning as it has in the Housing (Miscellaneous Provisions) Act 1992;

‘relevant information’, in relation to a relevant offender, means any information concerning him or her that—

- (a) is necessary to carry out a proper assessment of the risk of the harm posed by him or her to the public, or a member of the public, or for the management of that risk, and
- (b) is appropriate and proportionate for the purposes of that assessment or management;

‘relevant offender’ means—

- (a) a person who is subject to the requirements of Part 2,
- (b) a person for whom Part 2 has effect under section 16(7), or

- (c) a person who has been convicted of a sexual offence and who is under the supervision of a probation officer;

‘risk assessment and management team’ shall be construed in accordance with section 14B(1).

- (2) This Part is without prejudice to any power in any other enactment or under any other law to provide or to receive information.

#### **Risk assessment and management team**

**14B.** (1) A member of the Garda Síochána not below the rank of inspector and a probation officer not below the grade known as Senior Probation Officer may, where they are satisfied, in relation to a relevant offender, that it is necessary to do so, establish a team of persons (in this Part referred to as a ‘risk assessment and management team’) for the purpose of—

- (a) the full and proper assessment of—
  - (i) the risk of harm posed by the relevant offender to the public or a member of the public, and
  - (ii) how that risk might be managed,and
- (b) the management of that risk.

(2) A risk assessment and management team shall consist of—

- (a) a representative of the Garda Síochána, being a member not below the rank of inspector,
- (b) a representative of the Probation Service, being a probation officer not below the grade known as Senior Probation Officer, and
- (c) such of the following as the member of the Garda Síochána and the Senior Probation Officer referred to in paragraphs (a) and (b) consider appropriate, having regard to the expertise required to assess the risk of harm posed by the relevant offender, and to manage that risk effectively:
  - (i) a representative of the Child and Family Agency;
  - (ii) a representative of the Health Service Executive;
  - (iii) a representative of the Irish Prison Service (being the prison service of the Department of Justice, which is charged with the management of prisons);
  - (iv) a representative of any children detention school in which an offender was detained;
  - (v) a representative of a housing authority;

- (vi) a representative of such other organisations or bodies as may be prescribed.
- (3) In prescribing an organisation or body for the purposes of subsection (2)(c)(vi), the Minister shall take into account—
    - (a) the role played by the organisation or body in the assessment or management of the risk of harm posed by relevant offenders,
    - (b) the need to protect the public, or a member of the public, from such risk, and
    - (c) the role played by the organisation or body in providing and enabling access for relevant offenders to services that support the rehabilitation and reintegration into society of such offenders.
  - (4) A member of a risk assessment and management team may share with the other members of the team any relevant information relating to the relevant offender concerned that is necessary for the purpose of accurately and effectively assessing or managing the risk of harm posed by the relevant offender.
  - (5) A member of a risk assessment and management team may share with the organisation or body which he or she represents on the team any relevant information relating to the relevant offender concerned available to the team that is necessary for the purpose of accurately and effectively assessing or managing the risk of harm posed by the relevant offender.
  - (6) An organisation or body with whom information is shared in accordance with subsection (5) may use or share that information with another party where, and to the extent, necessary for the purpose referred to in that subsection.
  - (7) The risk assessment and management team may, for the purposes of the performance of its functions, consult with such persons as appear to it to be expert or knowledgeable in the assessment and management of the risk of harm posed by relevant offenders or by the relevant offender concerned.
  - (8) Where a risk assessment and management team consults with a person pursuant to subsection (7), it may share any relevant information relating to that offender available to the team that is necessary for such consultation and the person may use that information for the purposes of such consultation.
  - (9) Information shared by a member of a risk assessment and management team under this section shall not be disclosed to any other person or body except in so far as information can be disclosed in accordance with this section or section 14D.

**Regulations in relation to risk assessment and management teams**

- 14C.** (1) The Minister may by regulations make provision for such additional matters in relation to risk assessment and management teams, including their operation and functions, as appear necessary or expedient to him or her.
- (2) In making any such regulations, the Minister shall take into account—
- (a) the role and importance of risk assessment and management teams in the assessment and management of the risk of harm posed by relevant offenders,
  - (b) the effective and efficient operation of the risk assessment and management process, and
  - (c) the need to protect the public, and members of the public, from the risks being assessed and managed.

**Disclosure of information relating to relevant offender where offender poses risk of harm**

- 14D.** (1) Subject to this Part, a member of the Garda Síochána not below the rank of inspector ('the member concerned') may, where he or she is satisfied that there is a risk of harm to the public, or a member of the public, due to the commission by a relevant offender of a sexual offence, authorise the disclosure of such of the following as he or she considers necessary to prevent that harm:
- (a) the name of the relevant offender;
  - (b) a photograph of the relevant offender;
  - (c) the address at which the relevant offender is residing or staying;
  - (d) the nature of the sexual offence of which the relevant offender was convicted;
  - (e) the level of risk posed by the relevant offender to the public or a member of the public;
  - (f) such other information as the member considers necessary to avoid, mitigate or manage the risk.
- (2) A disclosure under this section may only be made to such persons in respect of whom the disclosure is necessary in order to prevent the harm referred to in subsection (1).
- (3) Subject to subsection (4), a disclosure under this section may only be authorised where the member concerned is satisfied that such disclosure is unlikely to result in—
- (a) public disorder,
  - (b) physical harm to a person,

- (c) damage to property, or
  - (d) intimidation of, or threats to, a person.
- (4) Subsection (3) shall not apply where the member concerned is satisfied that the harm referred to in subsection (1) of which the public, or a member of the public, is at risk is greater than any harm that may be caused by any of the matters specified in paragraphs (a) to (d) of subsection (3) that result from the disclosure.
- (5) The member concerned may, when authorising the disclosure of information pursuant to this section—
- (a) specify the purpose for which the information may be used by the person to whom it is being disclosed, or
  - (b) impose such conditions relating to the further disclosure of the information by that person as the member considers appropriate.
- (6) Without prejudice to section 14E(3), for the purposes of subsection (1) or (4), the member concerned may have regard to—
- (a) any assessment by a risk assessment and management team of the risk of harm posed by the relevant offender, and
  - (b) any other information or material that the member considers of relevance.

**Notice of proposed disclosure of information to relevant offender concerned**

**14E.** (1) Subject to subsection (2), a member of the Garda Síochána shall, in advance of making a disclosure under section 14D in respect of a relevant offender—

- (a) inform the relevant offender—
    - (i) that such a disclosure is proposed, and
    - (ii) that he or she is entitled to make a submission in writing, in respect of whether the disclosure should be made, within 5 days or such other period as may be specified by the member where he or she considers it appropriate in the circumstances,
- and
- (b) provide, other than where such provision would undermine the purpose of the disclosure or would be prejudicial to the assessment and management of the risk of harm posed by the offender, to the relevant offender a summary of—
    - (i) the information that is proposed to be disclosed, and
    - (ii) the reasons for making such disclosure.

(2) Subsection (1) shall not apply where—

- (a) the relevant offender has consented to the disclosure concerned,
  - (b) having made reasonable efforts to do so, the relevant offender cannot be located, or
  - (c) the member of the Garda Síochána is satisfied that there is an immediate need to make the disclosure concerned in order to prevent harm to the public or a member of the public.
- (3) A member of the Garda Síochána shall, when making a decision as to whether to make a disclosure under section 14D, take into account any submissions made in that regard by the relevant offender pursuant to this section.

**Publication of information in certain circumstances**

**14F.** (1) Subject to subsection (2), where a relevant offender fails to comply with a requirement to which he or she is subject under Part 2 and the offender's whereabouts are unknown to the Garda Síochána, a member not below the rank of inspector may, for the purpose of locating the offender or protecting the public, or a member of the public, from harm, authorise the publication of such of the following as appears to him or her to be necessary for that purpose:

- (a) any of the following in relation to the offender:
    - (i) his or her name;
    - (ii) his or her address;
    - (iii) a description of him or her;
    - (iv) his or her age;
    - (v) a photograph of him or her;
    - (vi) details of any distinguishing feature;
  - (b) the fact that the offender is a relevant offender;
  - (c) where available, information concerning the risk of harm posed by the offender or any other information which would assist in locating the offender or protecting the public, or a member of the public, from harm.
- (2) Information published under this section should be limited to that information necessary to locate the offender or to protect the public, or a member of the public, from harm.

**Record of disclosure or publication to be maintained**

**14G.** (1) Where a member of the Garda Síochána makes a decision to disclose information under section 14D, or to publish information under section 14F, the member shall compile and maintain a record of the decision made which shall include—

- (a) the reasons for making the decision,
  - (b) the information which is disclosed or published under this Part,
  - (c) in relation to information disclosed under section 14D, the name and address of the person to whom information is disclosed under this Part, and
  - (d) in relation to information published under section 14F, the manner of such publication.
- (2) Where a record compiled and retained pursuant to subsection (1) is required to be shared with any person who is not a member of the Garda Síochána, the record may be redacted by a member of the Garda Síochána not below the rank of inspector where, and to the extent, necessary—
- (a) to protect the public, or a member of the public, from harm, or
  - (b) to prevent any prejudice to the assessment and management of the risk of harm posed by the relevant offender concerned.

#### **Power of Commissioner to conduct research and publish information**

- 14H.** (1) The Commissioner may undertake, commission or assist in research projects related to any matter relevant to his or her functions in protecting the public, or members of the public, from the risk of harm posed by relevant offenders.
- (2) The Commissioner shall publish, or cause to be published, such information as he or she considers appropriate setting out the manner in which section 14D operates to permit the disclosure of information under that section.
- (3) Section 31 of the Act of 2005 shall apply to the function of the Commissioner under subsection (1) as it applies to his or her functions under that Act, subject to the modification that the reference in subsection (4) thereof to a provision of that Act shall be read as a reference to subsection (1).”.

#### **Amendment of section 16 of Principal Act**

**14.** Section 16 of the Principal Act is amended—

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

“(1) If, on application to it in that behalf by a member of the Garda Síochána not below the rank of inspector, it appears to the court, on evidence tendered by the applicant, that the conditions specified in subsection (2) are satisfied in respect of the respondent, the court may make an order (in this Act referred to as a ‘sex offender order’)—

- (a) prohibiting the respondent from doing one or more things specified in the order, and
- (b) subject to section 16A, including a direction under subsection (1) of that section.”,
- (b) in subsection (2)(b), by the substitution of “an order under this section (including where appropriate, a direction under section 16A(1))” for “an order under this section”, and
- (c) in subsection (5), by the substitution of “the public, or a member of the public, from” for “a member or members of the public from”.

**Insertion of sections 16A to 16C in Principal Act**

15. The Principal Act is amended by the insertion of the following sections after section 16:

**“Monitoring compliance with sex offender order**

**16A.** (1) Subject to subsections (2) and (3), where the court makes or varies a sex offender order in respect of a respondent who is over the age of 18 years that prohibits him or her from going to, being in or leaving a specific place (whether at a particular time or generally), the court may, in making the order, on application in that regard by the applicant, direct that—

- (a) the movements of the respondent are monitored electronically in accordance with this section so that his or her compliance or non-compliance with such prohibition can be established,
  - (b) for that purpose, the respondent has an electronic monitoring device attached to his or her person, either continuously or for such periods as may be specified, and
  - (c) an authorised person is responsible for monitoring the respondent’s compliance or non-compliance with—
    - (i) the prohibition concerned, or
    - (ii) paragraph (b).
- (2) A direction under subsection (1) shall not be given—
- (a) if the respondent is to reside or remain in a particular place, without the consent of the owner of the place or of an adult person habitually residing there, or, as the case may be, of the person in charge of the place, and
  - (b) unless the respondent agrees to comply with the direction.
- (3) A direction under subsection (1) shall continue in force until the expiration of—

- (a) 6 months from the date of the notification of its making being given to the respondent,
  - (b) such shorter period as the court may provide for in the direction, or
  - (c) the sex offender order of which it forms part,
- whichever is the earlier.
- (4) Where the court makes or varies a sex offender order to include a direction under subsection (1), the period for which the order continues in force shall not be affected by the direction ceasing to be in force.

**Evidence of electronic monitoring under section 16A**

**16B.** (1) Where the movements of a respondent are subject to electronic monitoring pursuant to section 16A, evidence of his or her—

- (a) presence or absence in or from a particular place at a particular time, or
- (b) compliance or non-compliance with a direction under section 16A(1)(b),

may, subject to this section, be given in any proceedings by the production of the following documents:

- (i) a statement purporting to be generated automatically or otherwise by a prescribed device by which the respondent's whereabouts were electronically monitored;
  - (ii) a certificate—
    - (I) that the statement relates to the whereabouts of the respondent at the dates and times shown in it, and
    - (II) purporting to be signed by an authorised person who is responsible for monitoring electronically the respondent's compliance with a prohibition in a sex offender order that prohibits him or her from going to, being in or leaving a specific place or a direction under section 16A(1).
- (2) Subject to subsection (3), in any proceedings the statement and certificate referred to in paragraphs (i) and (ii) of subsection (1) are admissible as evidence of the facts contained in them, unless the contrary is shown.
- (3) Neither the statement nor the certificate referred to in paragraphs (i) and (ii) of subsection (1) is admissible pursuant to subsection (2) unless a copy of the statement or certificate, as the case may be, has been served on the respondent concerned before the commencement of the proceedings concerned.

**Arrangements for electronic monitoring under section 16A**

**16C.** The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, make such arrangements, including contractual arrangements, as he or she considers appropriate with such persons as he or she thinks fit for monitoring the compliance or non-compliance of respondents with prohibitions in sex offender orders prohibiting them from going to, being in or leaving a specific place or a direction under section 16A(1)(b).”.

**Amendment of section 17 of Principal Act**

**16.** Section 17 of the Principal Act is amended by the insertion of the following subsection after subsection (1):

“(1A) Where the court gives a direction under section 16A(1) as part of a sex offender order, a copy of the direction and of the prohibition in the sex offender order to which it relates shall be given to—

- (a) the respondent,
- (b) the Garda Síochána, and
- (c) if an authorised person is to be responsible for monitoring the respondent’s movements electronically, the authorised person.”.

**Amendment of section 19 of Principal Act**

**17.** Section 19 of the Principal Act is amended—

- (a) in subsection (1)(a), by the substitution of “of the public, or a member of the public, from” for “of the public from”,
- (b) by the insertion of the following subsections after subsection (1):

“(1A) Where a sex offender order is in force, the court, on application to it in that behalf at any time by a member of the Garda Síochána not below the rank of inspector, may, if it is shown to the satisfaction of the court that—

- (a) the protection of the public, or a member of the public, from serious harm from the respondent requires the variation of the order, and
  - (b) such variation would not be a cause of injustice,
- vary the order to the extent it deems necessary to protect the public, or a member of the public, from serious harm.

(1B) A variation of a sex offender order under subsection (1A) shall take effect on notification of the variation being given to the respondent.

- (1C) Oral communication to the respondent by or on behalf of the applicant of the fact that a sex offender order has been varied, together with production of a copy of the order varying the sex offender order, shall, without prejudice to the sufficiency of any other form of notification, be taken to be sufficient notification to the respondent of the variation.
- (1D) If the respondent is present at the sitting of the court at which the sex offender order is varied, he or she shall be taken, for the purposes of subsection (1), to have been notified of its variation.”,

and

- (c) in subsection (3), by the substitution of “references in subsections (1) and (1A)” for “reference in subsection (1)”.

#### **Amendment of section 25 of Principal Act**

- 18.** Section 25(1) of the Principal Act is amended by the deletion of the definition of “mentally impaired”.

#### **Amendment of section 26 of Principal Act**

- 19.** Section 26(1) of the Principal Act is amended—
- (a) by the substitution of “having access to” for “having unsupervised access to”, and
- (b) by the substitution of “vulnerable” for “mentally impaired”.

#### **Insertion of Part 4A in Principal Act**

- 20.** The Principal Act is amended by the insertion of the following Part after Part 4:

#### “Part 4A

##### PROHIBITION ON WORKING WITH CHILDREN AND VULNERABLE PERSONS

#### **Interpretation (Part 4A)**

#### **26A.** (1) In this Part—

‘applicable offender’ means a person who, after the coming into operation of *section 20* of the *Sex Offenders (Amendment) Act 2023*, is convicted of a sexual offence for which, in the opinion of the court before which the person appears, the appropriate sentence is, apart from the provisions of this Part, one of imprisonment for any term (whether in addition to the imposition of a fine or not);

‘child’ has the same meaning as it has in Part 4;

‘prohibition’ shall be construed in accordance with section 26C(1);

‘prohibition commencement date’, in relation to an applicable offender, means—

- (a) where the sentence of imprisonment referred to in section 26D(1) (a) is suspended in its entirety, the date on which the sentence is imposed on the offender,
- (b) where that sentence of imprisonment is suspended in part, the date on which the offender is released from prison, or
- (c) in any other case, the date on which—
  - (i) the sentence expires,
  - (ii) the offender’s remission from the sentence begins, or
  - (iii) the offender is released on parole in accordance with the Parole Act 2019;

‘prohibition period’ shall be construed in accordance with section 26D(1)(b);

‘relevant work’ has the same meaning as it has in section 26;

‘sentence including a prohibition’ shall be construed in accordance with section 26D(1).

(2) In this Part—

- (a) references to protecting a child or a vulnerable person from serious harm from an applicable offender shall be construed as references to protecting a child or a vulnerable person from death or serious personal injury, whether physical or psychological, which would be occasioned if the offender were to commit a sexual offence after he or she has been released into the community, and
- (b) a reference to a person applying to another person includes a reference to the person applying to another person without that other’s having requested or solicited the making of the application.

#### **Part 4A without prejudice to Part 5**

**26B.** This Part is without prejudice to Part 5 and a prohibition may be imposed on an applicable offender under section 26D—

- (a) regardless of whether a sentence involving post supervision release (within the meaning of Part 5) is being imposed on the offender, and
- (b) where such a sentence is being imposed on the offender, in addition to that sentence.

#### **Duty of court to consider imposition of sentence involving prohibition**

**26C.** (1) In determining the sentence to be imposed on an applicable offender in respect of the sexual offence concerned, the court shall consider

whether to impose a sentence including a prohibition on the offender engaging in relevant work ('a prohibition').

- (2) In considering that matter, the court shall have regard to—
  - (a) the need to protect children or vulnerable persons from serious harm from the offender, and
  - (b) the need to prevent the commission by the applicable offender of subsequent sexual offences.
- (3) For the purposes of this Part, the court may, if it thinks it necessary to do so, receive evidence or submissions from any person concerned.

#### **Power of court to impose prohibition**

- 26D.** (1) Subject to subsections (2) and (3), a court may, where it is satisfied that it is necessary to do so to protect children or vulnerable persons from serious harm from the applicable offender, having regard to the matters specified in section 26C(2), impose on an applicable offender in respect of the sexual offence concerned a sentence including a prohibition, that is to say a sentence which consists of—
- (a) the imposition of a sentence of imprisonment (whether in addition to the imposition of a fine or not), and
  - (b) a provision that during a specified period ('the prohibition period') commencing on the prohibition commencement date, the offender shall be subject to the prohibition.
- (2) The aggregate of the sentence of imprisonment referred to in subsection (1)(a) and the prohibition period shall not exceed the duration of the maximum term of imprisonment that may be imposed in respect of the sexual offence concerned.
- (3) The term of the sentence of imprisonment referred to in subsection (1)
  - (a) shall not be less than the term the court would have imposed if it had considered the matter apart from the provisions of this Part.
- (4) The court may, when imposing a sentence including a prohibition, specify a particular type or category of relevant work to which the prohibition applies.

#### **Duty of court to explain effect of sentence to offender**

- 26E.** In imposing a sentence including a prohibition on an applicable offender, the court shall explain to him or her—
- (a) the effect of the sentence,
  - (b) the consequences provided for under section 26G if he or she fails to comply with the prohibition, and
  - (c) that under this Act, the court may vary or discharge the prohibition on the application of either the offender or a probation officer.

**Discharge or variation of prohibition**

**26F.** The court may, not more than one month before the proposed prohibition commencement date or at any time during the prohibition period, on the application of—

- (a) the offender on whom the sentence including a prohibition was imposed, or
- (b) a probation officer,

discharge or vary the prohibition, if, having regard to the circumstances which have arisen since the sentence was imposed—

- (i) it would be in the interests of justice to do so, and
- (ii) the protection of children or vulnerable persons from serious harm from the offender no longer requires that the prohibition should continue in force or, as appropriate, that it should continue in force in the form in which it stands at the date of the making of the application.

**Non-compliance with prohibition**

**26G.** (1) A person on whom a sentence including a prohibition is imposed who, during the prohibition period—

- (a) applies to another person to be employed by that person to do prohibited work,
  - (b) enters into a contract of employment to do prohibited work,
  - (c) applies to another person to do prohibited work on the other person's behalf (whether in return for payment or for any other consideration or not),
  - (d) enters into a contract for services to do prohibited work, or
  - (e) does prohibited work,
- shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable—

- (a) on summary conviction, to a class C fine or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or more.

(3) The conviction of a person for an offence under this section shall not prevent the prohibition period continuing to have effect.

(4) In proceedings for an offence under subsection (1), it shall be a defence for the accused to prove that he or she neither knew nor could reasonably be expected to have known that the work—

- (a) to which the application or contract referred to in paragraph (a), (b), (c) or (d) of that subsection related was prohibited work, or
  - (b) that the work referred to in paragraph (e) of that subsection was prohibited work.
- (5) If a sentence of imprisonment is imposed on an applicable offender for an offence under this section, that sentence shall, for the period the offender spends in prison on foot of that sentence, operate to suspend the prohibition and the period for which that prohibition is so suspended shall not be reckoned in calculating the date on which the prohibition period expires.
- (6) In this section, ‘prohibited work’, in relation to a person, means relevant work that is the subject of a sentence including a prohibition imposed on the person.”.

**Amendment of section 27 of Principal Act**

21. Section 27(1) of the Principal Act is amended by the deletion of the definitions of “probation and welfare officer” and “probation and welfare service”.

**Amendment of section 29 of Principal Act**

22. Section 29(1) of the Principal Act is amended—
- (a) by the substitution of “Without prejudice to Part 4A, a court may” for “A court may”, and
  - (b) in paragraph (b), by the substitution of “probation officer” for “probation and welfare officer”.

**Amendment of section 30 of Principal Act**

23. Section 30(2)(b) of the Principal Act is amended by the substitution of “Probation Service” for “probation and welfare service” in each place it occurs.

**Amendment of section 30A of Principal Act**

24. Section 30A of the Principal Act is amended—
- (a) in subsection (1), by the substitution of “aforesaid sections or a condition requiring the sex offender to comply with a direction under section 30B” for “aforesaid sections”, and
  - (b) in subsection (2), by the substitution of “section 29(1)(b) or a condition requiring the sex offender to comply with a direction under section 30B” for “section 29(1)(b)”.

**Insertion of sections 30B to 30D in Principal Act**

25. The Principal Act is amended by the insertion of the following sections after section 30A:

**“Monitoring compliance with condition**

**30B.** (1) Subject to subsections (2), (3) and (4), where the court amends a condition or includes a further condition pursuant to section 30A(1) in respect of a sex offender who is over the age of 18 years that relates to the sex offender’s presence in or absence from a particular place, the court may, in so amending or including, on application in that regard by the probation officer making the application under section 30A(1), direct that—

- (a) the movements of the sex offender are monitored electronically in accordance with this section so that his or her compliance or non-compliance with such condition can be established,
  - (b) for that purpose, the sex offender has an electronic monitoring device attached to his or her person, either continuously or for such periods as may be specified, and
  - (c) an authorised person is responsible for monitoring the sex offender’s compliance or non-compliance with—
    - (i) paragraph (b), or
    - (ii) the condition concerned.
- (2) The court shall not give a direction under subsection (1) unless it is satisfied that it is necessary to protect the public, or a member of the public, from serious harm from the sex offender concerned.
- (3) A direction under subsection (1) shall not be given—
- (a) if the sex offender is to reside or remain in a particular place, without the consent of the owner of the place or of an adult person habitually residing there, or, as the case may be, of the person in charge of the place, and
  - (b) unless the sex offender agrees to comply with the direction.
- (4) A direction under subsection (1) shall continue in force until the expiration of—
- (a) 6 months from the applicable date,
  - (b) such shorter period as the court may provide for in the direction, or
  - (c) the supervision period,
- whichever is the earlier.
- (5) Where the court gives a direction under subsection (1), a copy of the direction and of the supervision period condition shall be given to—

- (a) the sex offender,
  - (b) the Garda Síochána, and
  - (c) if an authorised person is to be responsible for monitoring the respondent's movements electronically, the authorised person.
- (6) Where the court gives a direction under subsection (1), the supervision period relating to the sex offender concerned shall not be affected by the direction ceasing to be in force.
- (7) In this section, 'applicable date', in relation to a sex offender, means—
- (a) the date of the notification of the giving of a direction under subsection (1) relating to him or her being given to him or her, or
  - (b) the date of his or her release from prison,
- whichever is the later.
- (8) The reference in this section to the offender's release from prison shall be construed in accordance with section 29(5).

**Evidence of electronic monitoring under section 30B**

- 30C.** (1) Where the movements of a sex offender are subject to electronic monitoring pursuant to section 30B, evidence of his or her—
- (a) compliance or non-compliance with a supervision period condition referred to in section 30B(1), or
  - (b) compliance or non-compliance with a direction under section 30B(1)(b),
- may, subject to this section, be given in any proceedings by the production of the following documents:
- (i) a statement purporting to be generated automatically or otherwise by a prescribed device by which the sex offender's whereabouts were electronically monitored;
  - (ii) a certificate—
    - (I) that the statement relates to the whereabouts of the sex offender at the dates and time shown in it, and
    - (II) purporting to be signed by an authorised person who is responsible for monitoring electronically the offender's compliance with a supervision period condition referred to in section 30B(1) or with a direction under section 30B(1).
- (2) Subject to subsection (3), in any proceedings the statement and certificate referred to in paragraphs (i) and (ii) of subsection (1) are admissible as evidence of the facts contained in them, unless the contrary is shown.

- (3) Neither the statement nor the certificate referred to in paragraphs (i) and (ii) of subsection (1) is admissible pursuant to subsection (2) unless a copy of the statement or certificate, as the case may be, has been served on the respondent concerned before the commencement of the proceedings concerned.

**Arrangements for electronic monitoring under section 30B**

**30D.** The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, make such arrangements, including contractual arrangements, as he or she considers appropriate with such persons as he or she thinks fit for monitoring the compliance or non-compliance of sex offenders with a supervision period condition referred to in section 30B(1), or a direction under section 30B(1)(ii).”.

**Amendment of section 31 of Principal Act**

26. Section 31(c) of the Principal Act is amended by the substitution of “probation officer” for “probation and welfare officer”.

**Amendment of section 33 of Principal Act**

27. Section 33(4) of the Principal Act is amended by the substitution of “probation officer” for “probation and welfare officer”.

**Amendment of Schedule to Principal Act**

28. The Schedule to the Principal Act is amended by the insertion of the following paragraphs after paragraph 7:

“7A. An offence under section 1 of the Act of 1935 (defilement of girl under 15 years of age).

8. An offence under section 2 of the Act of 1935 (defilement of girl between 15 and 17 years of age).”.

PART 3

AMENDMENTS OF OTHER ACTS OF OIREACTHAS

**Amendment of section 8A of Criminal Justice Act 1984**

29. Section 8A(1) of the Criminal Justice Act 1984 is amended by the insertion of the following paragraph after paragraph (d):

“(da) the person is subject to the requirements of Part 2 of the Sex Offenders Act 2001 and there are reasonable grounds for believing that the fingerprint, palm print or photograph of the person may be

required for the purposes of establishing or verifying the identity of the person;”.

**Amendment of Garda Síochána (Functions and Operational Areas) Act 2022**

- 30.** (1) Section 7 of the Act of 2022 is repealed.
- (2) The Act of 2022 is amended by the substitution of the following section for section 25:
- “Transitional provisions relating to amendment of section 92 of Criminal Justice Act 2006 by section 8**
- 25.** Any legal proceedings (civil or criminal) in respect of a right, privilege, obligation or liability acquired, accrued or incurred under, or an offence against or contravention of section 92 of the Criminal Justice Act 2006 before the date of the coming into operation of this section may, on or after that date, be instituted, continued or enforced, and any penalty, forfeiture or punishment in respect of such offence or contravention may be imposed and carried out, as if the said section 92 had not been amended by section 8.”.
- (3) In this section, “Act of 2022” means the Garda Síochána (Functions and Operational Areas) Act 2022.