



Number 32 of 2023

Garda Síochána (Recording Devices) Act 2023



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GARDA SÍOCHÁNA (RECORDING DEVICES) ACT 2023

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ACTS REFERRED TO

Civil Service Regulation Act 1956 (No. 46)

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Criminal Evidence Act 1992 (No. 12)

Criminal Justice (Surveillance) Act 2009 (No. 19)

Criminal Justice Act 1984 (No. 22)

Criminal Law Act 1997 (No. 14)

Data Protection Act 2018 (No. 7)

Data Protection Acts 1988 to 2018

Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015 (No. 49)

Garda Síochána Act 2005 (No. 20)

Local Government Act 2001 (No. 37)



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GARDA SÍOCHÁNA (RECORDING DEVICES) ACT 2023

An Act to provide that members of Garda personnel may operate, or cause to be operated, recording devices in certain circumstances; to provide for additional conditions regarding the operation of body-worn cameras; to provide for the circumstances in which ANPR data, which includes relevant data from relevant bodies, may be utilised by members of Garda personnel; to provide for the recording of certain telephone calls to or from the Garda Síochána and the processing thereof; to outline the circumstances in which CCTV may be installed or operated for particular purposes; to provide for authorisation by the Commissioner of the Garda Síochána for the installation and operation of CCTV by the Garda Síochána or by a local authority for those purposes; to provide for the repeal of section 38 of the Garda Síochána Act 2005 with associated transitional provisions; to provide that members of Garda personnel may, pursuant to an authorisation given by the District Court or an approval granted by an independent superior officer, process the live feed of CCTV operated by a third party; to provide for the installation or operation of CCTV in Garda Síochána premises pursuant to an authorisation; to provide for the preparation of draft codes of practice in relation to the operation of *Parts 2 to 6* and for the Minister to declare them by order to be codes of practice; to make certain provision for the admissibility of evidence; to provide for a review of the operation of *Part 3* and *Part 6*; to amend the Criminal Justice (Surveillance) Act 2009; to provide for certain offences; and to provide for related matters.

[5th December, 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 Garda Síochána (Recording Devices) Act 2023.
(2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Interpretation**2.** In this Act—

“Act of 2005” means the Garda Síochána Act 2005;

“Act of 2009” means the Criminal Justice (Surveillance) Act 2009;

“Act of 2018” means the Data Protection Act 2018;

“ANPR” means the system or technology commonly known as automatic number plate recognition;

“body-worn camera” means a recording device affixed to or contained in—

- (a) clothing,
- (b) a uniform, or
- (c) headgear (including a helmet);

“CCTV” means a closed circuit television system of one or more recording devices and includes any system for processing the images, any accompanying sounds, or other information obtained by those recording devices;

“code of practice” means a code of practice approved by the Minister by order under *Part 8* and includes part of a code of practice;

“data protection impact assessment” means a data protection impact assessment conducted in accordance with section 84 of the Act of 2018;

“document” means—

- (a) a book, record or other written or printed material,
- (b) a photograph,
- (c) any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in legible form, and
- (d) any audio or video recording;

“member of Garda personnel” means—

- (a) a member of the Garda Síochána, or
- (b) a member of the civilian staff of the Garda Síochána who was appointed under, or designated by order under, section 19 of the Act of 2005;

“member of the Garda Síochána” means a member within the meaning of section 3(1) of the Act of 2005;

“Minister” means the Minister for Justice;

“personal data” means information relating to—

- (a) an identified living individual, or

- (b) a living individual who can be identified from the data, directly or indirectly, in particular by reference to—
 - (i) an identifier such as a name, an identification number, location data or an online identifier, or
 - (ii) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual;

“processing”, of or in relation to data (including personal data), means an operation or a set of operations that is performed on the data or on sets of the data, whether or not by automated means, including—

- (a) the collection, recording, organisation, structuring or storage of the data,
- (b) the adaptation or alteration of the data,
- (c) the retrieval, consultation or use of the data,
- (d) the disclosure of the data by their transmission, dissemination or otherwise making the data available,
- (e) the alignment or combination of the data, or
- (f) the restriction, erasure or destruction of the data;

“public place” means a place to which the public have or are permitted access, whether as of right or by express or implied permission and whether subject to or free of charge;

“recording device”—

- (a) means a device or system that is capable of creating a record in any medium from which visual images (including moving visual images) or sounds, or both, may, by any means, be reproduced,
- (b) includes any devices or systems that are capable of processing the record made under *paragraph (a)*, which may include—
 - (i) reproducing by any means the visual images (including moving visual images) or sounds concerned,
 - (ii) using ANPR in respect of the record, or
 - (iii) producing a document relating to the record or the processing concerned,and
- (c) includes any device or system referred to in *paragraph (a)* or *(b)* that is in or affixed to a vehicle or a structure;

“structure” means any building, erection, structure or other thing constructed, erected, or made on, in or under any land, or any part of a structure so defined;

“vehicle” means any means in or by which any person or thing, or both, is transported or conveyed that is designed for use or may be used on land, in water or in the air, or in more than one of those ways, and includes an unmanned aerial vehicle.

Orders and regulations

3. (1) The Minister may make regulations for the purpose of enabling any provision of this Act to have full effect.
- (2) Regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulation.
- (3) Every order (other than an order under *section 2*) and regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Application of Act

4. (1) Nothing in this Act shall affect the validity of a recording or processing, of a type that is governed by a provision of this Act, that is created or carried out, as the case may be, before the coming into operation of the provision.
- (2) Nothing in this Act shall render unlawful any action of a member of Garda personnel with respect to data that is not personal data (including obtaining, retaining or processing that data) that would otherwise be lawful.
- (3) This Act shall not apply to the following:
- (a) the recording by electronic or other similar means under regulations made under section 27 of the Criminal Justice Act 1984 of the questioning of a person by a member of the Garda Síochána at Garda Síochána stations or elsewhere in connection with the investigation of offences;
 - (b) a recording referred to in paragraph (a) or (b) of section 16(1) of the Criminal Evidence Act 1992;
 - (c) surveillance carried out in accordance with—
 - (i) a valid authorisation given under, or
 - (ii) an approval given in accordance with section 7 or 8 of, the Act of 2009.
- (4) For the avoidance of doubt, the provisions of this Act are without prejudice to the provisions of the Data Protection Acts 1988 to 2018.

Expenses

5. The expenses incurred by the Minister and the Commissioner of the Garda Síochána in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

Repeal and revocation

6. (1) Subject to *section 7*, section 38 of the Act of 2005 is repealed.
- (2) Notwithstanding the manner of revocation provided for in section 59(3) of the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015, the Garda Síochána (CCTV) Order 2006 (S.I. No. 289 of 2006) is revoked.

Transitional provisions

7. (1) Notwithstanding the repeal of section 38 of the Act of 2005 by *section 6(1)*—
- (a) an authorisation given by the Commissioner of the Garda Síochána under the said section 38 that is in force on the date of the coming into operation of this section shall, subject to *subsection (2)*, remain in force after that date, and
- (b) the said section 38 shall remain in force in respect of such authorisations for a period of 4 years after that date.
- (2) An authorisation referred to in *subsection (1)* shall expire—
- (a) subject to *paragraph (b)*, after a period of 4 years has elapsed after the date of the coming into operation of this section, or
- (b) in the case of an authorisation given under section 38(3)(c) of the Act of 2005, on its revocation by the Commissioner of the Garda Síochána under section 38(8)(b) of the Act of 2005, or on the expiry of the period referred to in *paragraph (a)*, whichever is the earlier.

PART 2

OPERATION OF RECORDING DEVICES BY MEMBERS OF GARDA PERSONNEL

Application of Part 2

8. This Part shall not apply to recording devices that are being operated for the purposes of CCTV or ANPR.

Operation of recording devices generally

9. (1) Subject to this Part, a member of Garda personnel acting in the course of his or her duties may operate or cause to be operated—
- (a) a recording device in—
- (i) a public place, or
- (ii) any other place—
- (I) under a power of entry authorised by law,

- (II) to which he or she was expressly or impliedly invited or permitted to be, or
 - (III) in which he or she is present for the purposes of the performance of his or her functions as such a member,
- (b) a recording device worn on any animal controlled by him or her, in—
- (i) a public place, or
 - (ii) any other place, where, if the member were in the same location as the recording device, the member could be in that place—
 - (I) under a power of entry authorised by law,
 - (II) as a result of being expressly or impliedly invited or permitted to be, or
 - (III) for the purposes of the performance of his or her functions as such a member,
- or
- (c) a recording device that is remotely controlled, including a device affixed to or part of an unmanned aerial vehicle.
- (2) A member of Garda personnel shall not operate, or cause to be operated, a recording device unless for one of the following principal purposes:
- (a) the prevention, investigation, detection or prosecution of criminal offences;
 - (b) safeguarding against, and the prevention of, threats to public security, including securing public safety and public order;
 - (c) the protection of the security of the State;
 - (d) the execution of criminal penalties.
- (3) Without prejudice to the generality of *subsection (2)*, a member of Garda personnel may operate a recording device where he or she—
- (a) believes on reasonable grounds that an offence has been, is being, or will be committed,
 - (b) believes on reasonable grounds that he or she may be required to exercise force to fulfil his or her duties,
 - (c) is executing a court order or a warrant,
 - (d) is recording damage to property as a result of an offence or an act of violence or force,
 - (e) is recording an individual where—
 - (i) the member believes on reasonable grounds that the immediate making of a record by the individual is necessary and the individual is unable to write,

- (ii) the member believes on reasonable grounds that the individual is dying and that he or she had been a victim of, or a witness to, an offence,
 - (iii) the member believes on reasonable grounds that domestic violence is occurring or may have occurred,
 - (iv) the member believes on reasonable grounds that a breach of the peace or a public order offence is occurring or may have occurred,
 - (v) the recording is of injuries to the individual that the member believes on reasonable grounds were sustained as a result of an offence or of an act of violence or force,
- or
- (f) considers on reasonable grounds that it is required for the performance of his or her functions.
- (4) The operation of a recording device under this section—
- (a) shall be necessary and proportionate with regard to the purposes of that operation under *subsection (2)*, and, where applicable, *subsection (3)*, and
 - (b) shall be presumed to be so necessary and proportionate if that operation is in accordance with an applicable code of practice.
- (5) Where a member of Garda personnel is operating a recording device—
- (a) subject to *paragraph (b)* and, in relation to body-worn cameras, *section 10*, the operation shall, in so far as practicable, be overt, and
 - (b) he or she shall, when operating the device in a dwelling, and where appropriate, notify the occupants at the start of the operation and record the notification.

Additional provisions regarding operation of body-worn cameras

- 10.** A member of Garda personnel shall ensure that a body-worn camera being operated, or caused to be operated, by him or her (whether being worn by him or her or by an animal)—
- (a) is visible on the clothing, uniform or headgear (including, where appropriate, the clothing, uniform or headgear of the animal) on which it is located, and
 - (b) has a visible indicator showing when it is being operated.

Power to process data obtained under this Part

- 11.** A member of Garda personnel may, for a purpose referred to in *section 9(2)*, and in accordance with an applicable code of practice, process data (including personal data) obtained as a result of the operation of a recording device under this Part.

Offences under this Part

- 12.** (1) A person who, without lawful authority or reasonable excuse, knowingly does any of the following:
- (a) falsifies, conceals, destroys or otherwise disposes of information (including visual or audio information) gathered by a recording device under this Part;
 - (b) permits the falsification, concealment, destruction or disposal of the information;
 - (c) causes damage to or destroys a recording device;
 - (d) permits damage to, or the destruction of, a recording device,
- for the purpose of making that information, any document derived therefrom or the recording device unavailable as evidence, shall be guilty of an offence.
- (2) A person who induces, coerces or requests, without lawful authority or reasonable excuse, a member of Garda personnel to commit an offence under *subsection (1)* shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a class A 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 both.

PART 3

ANPR

Interpretation (Part 3)

- 13.** In this Part—

“ANPR data” means—

- (a) the data and documents generated by the utilisation of ANPR, and
- (b) relevant data;

“arrestable offence” has the meaning it has in section 2 of the Criminal Law Act 1997;

“relevant body” means—

- (a) daa, public limited company,
- (b) Dublin Port Company,
- (c) the National Roads Authority, and
- (d) a body that is designated by the Minister under *section 16*;

“relevant data” means the data and documents generated by the operation of ANPR by a

relevant body;

“utilisation of ANPR” means—

- (a) the operation by a member of Garda personnel of ANPR from a recording device, and
- (b) the processing, by a member of Garda personnel, of ANPR data, whether through ANPR or otherwise, and which may include the production of documents,

and cognate expressions shall be construed accordingly.

Application of Part 3

14. *Parts 5, 6 and 7* shall not affect the operation of this Part.

Power of member of Garda personnel to utilise ANPR

15. (1) Subject to *sections 18 to 20*, a member of Garda personnel acting in the course of his or her duties may, in accordance with this Part, and, where appropriate, in accordance with a data sharing agreement entered into under *section 17(2)*, utilise ANPR for the following purposes:

- (a) the prevention, investigation, detection or prosecution of criminal offences;
- (b) safeguarding against, and the prevention of, threats to public security, including securing public safety and public order;
- (c) the protection of the security of the State.

(2) The utilisation of ANPR referred to in *subsection (1)*—

- (a) shall be necessary and proportionate with regard to the purposes of that utilisation under *subsection (1)*, and
- (b) shall be presumed to be so necessary and proportionate if that utilisation is in accordance with an applicable code of practice.

Designation of relevant body by Minister

16. The Minister may, after consultation with the Data Protection Commission and with the consent of the body concerned, designate in writing a body (other than the Garda Síochána) as a relevant body for the purposes of this Part if he or she is satisfied that—

- (a) the disclosure of relevant data to the Garda Síochána by the body is necessary and proportionate for the purposes of—
 - (i) the prevention, investigation, detection or prosecution of criminal offences,
 - (ii) safeguarding against, and the prevention of, threats to public security, including securing public order and public safety, or
 - (iii) the protection of the security of the State,

and

- (b) the body has in place systems to provide adequate safeguarding of relevant data in order to prevent unauthorised access, alteration, disclosure or erasure of that data.

Disclosure of relevant data by relevant body

17. (1) A relevant body shall disclose relevant data to the Garda Síochána in accordance with this Part.
- (2) A relevant body shall, for the purposes of this Part, enter into a data sharing agreement in writing with the Commissioner of the Garda Síochána, which shall—
- (a) specify the relevant data, or categories of relevant data, to be disclosed and the general purposes of that disclosure,
 - (b) specify the security measures to apply to the transmission, storage and accessing of relevant data, in a manner that does not compromise those security measures,
 - (c) specify the requirements in relation to the retention of the relevant data to be disclosed for the duration of the agreement and in the event that the agreement is terminated,
 - (d) specify the method to be employed to destroy or delete the relevant data to be disclosed at the end of the period for which the relevant data is to be retained in accordance with the agreement,
 - (e) specify the procedure in accordance with which a party may withdraw from the agreement, and
 - (f) specify any such other matters as considered appropriate by both parties to the agreement.
- (3) The relevant body and the Commissioner of the Garda Síochána who are parties to a data sharing agreement under *subsection (2)* shall review the operation of the agreement on a regular basis, with the initial review being carried out on a date that is not more than 3 years from the date the agreement came into effect and in the case of each subsequent review under this subsection, on a date that is not more than 3 years from the date of the previous review under this subsection.

Focussed monitoring by member of Garda personnel relating to arrestable offences and matters relating to security of State

18. (1) A member of Garda personnel may utilise ANPR to monitor the movements of a particular vehicle (in this section and *section 19* referred to as “focussed monitoring”) only if that utilisation—
- (a) has been approved under this section by a member of the Garda Síochána not below the rank of superintendent following receipt of an application which shall be made by the member of Garda personnel, or

- (b) has been authorised by a judge of the District Court under *section 19*.
- (2) A member of the Garda Síochána not below the rank of superintendent may approve an application under this section, having regard to the information contained in the application, if—
- (a) he or she believes on reasonable grounds that the vehicle in question is connected to an investigation relating to an arrestable offence or matters relating to the security of the State,
 - (b) he or she is independent of the investigation of the offence, or the matters relating to the security of the State, as the case may be, in relation to which the application is being made, and
 - (c) he or she is satisfied that the focussed monitoring is necessary and proportionate with regard to the purpose of the investigation or matters referred to in *paragraph (b)*.
- (3) An approval under this section—
- (a) shall be granted subject to the condition that the approval shall be for as short a period as in the opinion of the member of the Garda Síochána granting the approval is reasonably required but in any event, including where the approval is varied under *subsection (5)*, shall not exceed a duration of 3 months, and
 - (b) may be granted subject to such other conditions as the member of the Garda Síochána granting the approval considers appropriate, having regard to the information contained in the application for approval.
- (4) An approval under this section shall be in writing and shall specify—
- (a) the vehicle that is to be the subject of focussed monitoring,
 - (b) the name and rank of the member of the Garda Síochána who granted the approval,
 - (c) the conditions (if any) subject to which the approval is granted,
 - (d) the date of expiry of the approval, and
 - (e) any additional matters that may be specified in an applicable code of practice.
- (5) A member of the Garda Síochána referred to in *subsection (2)* may, following an application made by a member of Garda personnel, and taking into account the matters referred to in that subsection, vary, subject to *subsection (3)(a)*, the duration of an approval granted under this section at any time before the expiry of the approval.
- (6) The Garda Síochána shall create and maintain a written list of applications for focussed monitoring, which shall contain the details of each application and the reasons why each application was approved or refused, or varied under *subsection (5)*, and any further information provided for in an applicable code of practice.

Judicial authorisation of focussed monitoring for more than 3 months

19. (1) If an approval under *section 18* has been granted and a member of the Garda Síochána not below the rank of superintendent believes that focussed monitoring of the vehicle concerned for more than 3 months (in this section referred to as “continued focussed monitoring”) is justified for the purpose of investigating an arrestable offence or matters relating to the security of the State, he or she may make an application to a judge of the District Court assigned to the Dublin Metropolitan District before the expiry of the 3-month period for an authorisation to continue to utilise ANPR for that purpose.
- (2) An application referred to in *subsection (1)* shall include the following information on oath:
- (a) a copy of the written approval concerned to which *section 18(4)* refers;
 - (b) a summary of the results of the focussed monitoring;
 - (c) a statement of the reasons why the applicant believes that the continued focussed monitoring is justified for the purpose of investigating an arrestable offence or matters relating to the security of the State;
 - (d) a statement of the reasons why the applicant believes that the continued focussed monitoring is necessary and proportionate having regard to the purpose referred to in *paragraph (c)*.
- (3) An application under *subsection (1)* shall be made *ex parte* and shall be heard otherwise than in public.
- (4) A judge to whom an application under *subsection (1)* is made shall grant such authorisation as he or she considers reasonable, if he or she is satisfied that to do so is justified, having regard to the information on oath referred to in *subsection (2)* and to all other relevant circumstances.
- (5) Subject to *subsections (6) to (8)*, an authorisation under this section shall expire on the day fixed by the judge that he or she considers reasonable in the circumstances and that is not later than 3 months from the day on which it is granted.
- (6) A judge of the District Court assigned to the Dublin Metropolitan District may, on application in that behalf by the member to whom an authorisation was granted, if satisfied by information on oath of that member justifying the variation or renewal of the authorisation—
- (a) vary the authorisation, or
 - (b) renew the authorisation, on the same or different conditions, for such further period, not exceeding 3 months, as the judge considers appropriate.
- (7) An application for a renewal under this section shall be made before the authorisation concerned, or the last renewal of that authorisation, as the case may be, has expired.
- (8) Where an application for a renewal under this section has been made and the authorisation concerned would, but for this subsection, expire before the

determination of the application, it shall be deemed not to expire until the application has been determined.

- (9) An authorisation under this section shall be in writing and shall specify—
- (a) the vehicle that is to be the subject of continued focussed monitoring,
 - (b) such conditions (if any) subject to which the authorisation is granted, as the judge considers appropriate, and
 - (c) the date of expiry of the authorisation.
- (10) Subject to any conditions imposed by the judge under *subsection (9)*, an authorisation shall have effect both within the Dublin Metropolitan District and in any other part of the State.

Searches of ANPR data retained by Garda Síochána

20. (1) A member of Garda personnel shall make an application to a member of the Garda Síochána—
- (a) of a rank of sergeant or above that may be specified in the applicable code of practice having regard to the rank or grade of the member of Garda personnel making the application, or to the type of or the duration of the retention of the ANPR data concerned, and
 - (b) who is independent of the investigation, inquiry or the matters relating to the security of the State, as the case may be, to which the application relates,
- in order to search ANPR data that has been retained by the Garda Síochána (in this section referred to as “retained ANPR data”).
- (2) A member of the Garda Síochána to whom an application is made under *subsection (1)* may approve the application concerned if he or she—
- (a) believes on reasonable grounds that searching the retained ANPR data may be of material assistance for one or more of the following purposes:
 - (i) the prevention, investigation, detection or prosecution of criminal offences;
 - (ii) safeguarding against, and the prevention of, threats to public security, including securing public safety and public order;
 - (iii) the protection of the security of the State;
 - (iv) any other inquiry or investigation into any matter, having regard to the functions of the Garda Síochána,and
 - (b) believes on reasonable grounds that the search is necessary and proportionate with regard to the purposes referred to in *paragraph (a)*.

- (3) An approval under *subsection (2)* may be granted subject to such other conditions as the member of the Garda Síochána granting the approval considers appropriate, having regard to the information contained in the application.
- (4) The Commissioner of the Garda Síochána shall cause to be created and maintained a written list of applications to conduct a search of ANPR data retained by the Garda Síochána, which shall contain the details of the application, whether the application was granted or refused, the reasons for granting or refusing the application, as the case may be, and any other matters that may be specified in an applicable code of practice.

Offences under this Part

- 21.** (1) A person who, without lawful authority or reasonable excuse, knowingly does any of the following:
- (a) falsifies, conceals, destroys or otherwise disposes of ANPR data;
 - (b) permits the falsification, concealment, destruction or disposal of the ANPR data;
 - (c) causes damage to or destroys a recording device used for the processing of ANPR data;
 - (d) permits damage to, or the destruction of, a recording device used for the processing of ANPR data,
- for the purpose of making that ANPR data, any document derived therefrom or the recording device concerned unavailable as evidence, shall be guilty of an offence.
- (2) A person who induces, coerces or requests, without lawful authority or reasonable excuse, a member of Garda personnel to commit an offence under *subsection (1)* shall be guilty of an offence.
 - (3) A person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to a class A 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 both.

PART 4

RECORDING OF CERTAIN TELEPHONE CALLS TO OR FROM GARDA SÍOCHÁNA

Designation of certain telephone lines or numbers

- 22.** (1) Telephone calls to or from the Garda Síochána shall not be recorded by the Garda Síochána unless—

- (a) they are transmitted to or from telephone lines or numbers designated in accordance with this Part, or
 - (b) the recording is otherwise authorised by law.
- (2) The Commissioner of the Garda Síochána may, subject to *subsection (3)*, designate in writing the following telephone lines or numbers (whether by description or by reference to the numbers or otherwise), or classes of telephone lines or numbers, that may be recorded by the Garda Síochána in accordance with any applicable code of practice:
- (a) emergency telephone lines or numbers transmitting—
 - (i) emergency calls, within the meaning of section 58A of the Communications Regulation Act 2002, to the Garda Síochána, and
 - (ii) other telephone calls of an emergency nature to or from the Garda Síochána;
 - (b) non-emergency telephone lines or numbers transmitting calls—
 - (i) which in the reasonable opinion of the Commissioner of the Garda Síochána are necessary to record, having regard to the purposes specified in *subsection (3)*, and
 - (ii) on which the person making and receiving the call is informed that the call is being recorded, and of the purpose of the recording.
- (3) The Commissioner of the Garda Síochána shall not designate telephone lines or numbers under *subsection (2)* unless—
- (a) such designation is for the purpose of—
 - (i) the prevention, investigation, detection, or prosecution of criminal offences,
 - (ii) the execution of criminal penalties,
 - (iii) safeguarding against, and the prevention of, threats to public security, including the securing of public safety and public order,
 - (iv) the protection of the security of the State,
 - (v) the performance of any other functions of the Garda Síochána, or
 - (vi) the performance of his or her functions as Commissioner, including for the purposes of maintaining quality of service and the training of members of Garda personnel,and
 - (b) he or she is satisfied that the designation is necessary and proportionate having regard to the purpose of such designation under *paragraph (a)*.
- (4) This section shall not apply to recorded audio or visual (including video) messages or other such recordings sent by, and with the consent of, the sender of the message or recording.

- (5) In this section, “telephone call” includes any electronic communication that is used to access a telephone line or number to or from the Garda Síochána.

Power to process data obtained under this Part

23. A member of Garda personnel may, for a purpose specified in *section 22(3)(a)* and in accordance with an applicable code of practice, process the data (including personal data) recorded by the Garda Síochána from telephone lines or numbers designated under this Part.

Offences under this Part

24. (1) Where a member of Garda personnel records a telephone call to or from the Garda Síochána on a telephone line or number that the Commissioner of the Garda Síochána has not designated under *section 22(2)* that person shall be guilty of an offence.
- (2) A person who, without lawful authority or reasonable excuse, knowingly does any of the following:
- (a) falsifies, conceals, destroys or otherwise disposes of data (including personal data) recorded by the Garda Síochána from telephone lines or numbers designated under this Part;
 - (b) permits the falsification, concealment, destruction or disposal of the data (including personal data),
- for the purpose of making that data or any document derived therefrom unavailable as evidence, shall be guilty of an offence.
- (3) A person who induces, coerces or requests, without lawful authority or reasonable excuse, a member of Garda personnel to commit an offence under *subsection (2)* shall be guilty of an offence.
- (4) A person guilty of an offence under *subsection (1)* shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.
- (5) A person guilty of an offence under *subsection (2)* or *(3)* shall be liable—
- (a) on summary conviction, to a class A 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 both.

PART 5

AUTHORISATION OF INSTALLATION AND OPERATION OF CCTV FOR PARTICULAR PURPOSES

Interpretation (Part 5)

25. In this Part—

“local authority” has the same meaning as it has in section 2(1) of the Local Government Act 2001;

“operation”, in relation to CCTV, includes the maintenance and monitoring of the CCTV.

Application of Part 5

26. (1) Subject to *section 7*, a person or body shall not install or operate, or be responsible for installing or operating, CCTV for the sole or primary purpose of recording a public place for—

(a) in the case of a member of Garda personnel acting in the course of his or her duties—

(i) the prevention, investigation, detection or prosecution of criminal offences,

(ii) safeguarding against, and the prevention of, threats to public security, including securing public safety and public order, or

(iii) the protection of the security of the State,

or

(b) in the case of a person or body other than a member of Garda personnel acting in the course of his or her functions, assisting the Garda Síochána with regard to one or more of the purposes referred to in *paragraph (a)*,

other than in accordance with an authorisation given under this Part.

(2) An authorisation to which *subsection (1)* refers is—

(a) an authorisation given by the Commissioner of the Garda Síochána under *section 27* to a member of Garda personnel for the purposes specified in that section, or

(b) an authorisation given by the Commissioner of the Garda Síochána to a local authority under *section 28* for the purposes specified in that section.

(3) This Part shall not apply to the following:

(a) the installation or operation of CCTV on any premises by the owner or occupier of the premises for the purpose of safeguarding persons or property on the premises or in its environs;

(b) the installation or operation of CCTV in Garda Síochána premises in accordance with an authorisation given under *section 44*.

Authorisation to member of Garda personnel

27. (1) A member of Garda personnel may apply in writing to the Commissioner of the Garda Síochána for an authorisation for the installation, operation or both, of CCTV in one or more specified locations for the sole or primary purpose of recording a public place for—
- (a) the prevention, investigation, detection or prosecution of criminal offences,
 - (b) safeguarding against, and the prevention of, threats to public security, including securing public safety and public order, or
 - (c) the protection of the security of the State.
- (2) When making an application referred to in *subsection (1)*, the member of Garda personnel shall provide information as to how he or she shall install, operate or both, the CCTV, or cause the CCTV to be installed, operated or both, in accordance with an applicable code of practice, and, without prejudice to the generality of the foregoing, shall—
- (a) state the period (which shall not be longer than 5 years) for which the authorisation is required,
 - (b) state the location and precise number of the cameras to be used and the extent of their coverage,
 - (c) provide a data protection impact assessment, and
 - (d) include any other matter that may be specified from time to time by the Commissioner of the Garda Síochána.
- (3) The Commissioner of the Garda Síochána may give an authorisation under this section if he or she is satisfied, having regard to the information in an application, that—
- (a) the installation, operation or both, of CCTV in the location or locations specified in the application is necessary and proportionate having regard to the purpose specified in *subsection (1)*, and
 - (b) the application is in accordance with *subsection (2)*.
- (4) An authorisation given by the Commissioner of the Garda Síochána under this section shall contain such terms and conditions as he or she considers necessary—
- (a) generally for the purposes of this section,
 - (b) with regard to the duration of the authorisation (which shall not be longer than 5 years from the date on which the authorisation was given), and
 - (c) which may include terms and conditions in relation to the location and precise number of cameras used in that location and the extent of their coverage.

Authorisation to local authority

28. (1) A local authority may apply in writing to the Commissioner of the Garda Síochána for an authorisation for the installation, operation or both, of CCTV in one or more specified locations for the sole or primary purpose of recording a public place to assist the Garda Síochána in—
- (a) the prevention, investigation, detection or prosecution of criminal offences,
 - (b) safeguarding against, and the prevention of, threats to public security, including securing public safety and public order, or
 - (c) the protection of the security of the State.
- (2) When making an application referred to in *subsection (1)*, the local authority shall provide information as to how it shall install, operate or both, the CCTV, or cause the CCTV to be installed, operated or both, in accordance with an applicable code of practice, and, without prejudice to the generality of the foregoing, it shall—
- (a) state the period (which shall not be longer than 5 years) for which the authorisation is required,
 - (b) state the location and precise number of the cameras to be used and the extent of their coverage,
 - (c) provide a data protection impact assessment,
 - (d) provide an undertaking by it to enter into a joint data controller agreement with the Garda Síochána in relation to the CCTV, and
 - (e) include any other matter that may be specified from time to time by the Commissioner of the Garda Síochána.
- (3) The Commissioner of the Garda Síochána may give an authorisation under this section if he or she is satisfied, having regard to the information in the application, that—
- (a) the installation, operation or both, of CCTV in the location or locations specified in the application is necessary and proportionate having regard to the purpose specified in *subsection (1)*,
 - (b) the application is in accordance with *subsection (2)*, and
 - (c) the local authority has consulted with the joint policing committee for the local authority's administrative area.
- (4) An authorisation under this section shall provide that—
- (a) the local authority concerned shall give members of Garda personnel access at all times to the CCTV (including by way of processing through a live feed of the CCTV) for the purpose referred to in *subsection (1)* and for the purposes of supervising and controlling its operation and processing data recorded by it, and
 - (b) the CCTV shall at all times—

- (i) comply with any technical specifications that may be issued by the Commissioner of the Garda Síochána from time to time, and
 - (ii) be installed, operated or both in accordance with an applicable code of practice.
- (5) Subject to *subsection (4)*, an authorisation given by the Commissioner of the Garda Síochána under this section shall contain such terms and conditions as he or she considers necessary—
- (a) generally for the purposes of this section,
 - (b) with regard to the duration of the authorisation (which shall not be longer than 5 years from the date on which the authorisation was given),
 - (c) for the purposes of controlling and supervising the installation, operation or both, of the CCTV to which the authorisation relates, which may include terms and conditions in relation to the location and precise number of cameras used in that location and the extent of their coverage, and
 - (d) for the purpose of ensuring that any employees of the local authority concerned who are involved in the installation, operation or both, of the CCTV shall be, and shall remain, of good character.
- (6) The access referred to in *subsection (4)(a)*—
- (a) shall be necessary and proportionate with regard to the purpose referred to in *subsection (1)*, and
 - (b) shall be presumed to be so necessary and proportionate if that operation is in accordance with an applicable code of practice.
- (7) In this section, “joint policing committee” has the same meaning as it has in section 3(1) of the Act of 2005.

Provisions applying to person installing or operating CCTV on behalf of person to whom authorisation given

29. (1) A person installing, operating or both, CCTV on behalf of a person to whom an authorisation was given under this Part shall be bound by the terms of the authorisation and shall, before that installation, operation or both—
- (a) have fulfilled the criteria that shall have been specified by the Commissioner of the Garda Síochána in an applicable code of practice,
 - (b) have entered into a contract with the Commissioner of the Garda Síochána in respect of an authorisation given under *section 27*, or with the local authority in respect of an authorisation given under *section 28*, and
 - (c) have entered into an agreement regarding the processing of data with the Commissioner of the Garda Síochána, or the local authority, as the case may be.

- (2) A person installing, operating or both, CCTV on behalf of a person to whom an authorisation was given under this Part shall be, and shall remain, of good character.

Provisions regarding expiry of authorisation at end of its duration

- 30.** (1) An authorisation under *section 27* or *28* shall expire on the expiry date specified therein.
- (2) Subject to *subsection (3)*, where an authorisation expires in accordance with *subsection (1)*—
- (a) the person to whom the authorisation was given shall, as soon as may be, terminate, or cause the termination of, the operation of the CCTV to which the expired authorisation relates, and
- (b) where further installation, operation or both, of the CCTV concerned is required, it shall be necessary for him or her to apply for a new authorisation under *section 27* or *28*, as the case may be, in relation to such installation, operation or both.
- (3) Where an application for a new authorisation to which *subsection (2)(b)* refers has been made and the existing authorisation concerned would, but for this subsection, expire before the Commissioner of the Garda Síochána has decided whether to give a new authorisation referred to in that subsection, the existing authorisation shall be deemed not to expire until that decision has been made.

Provisions applying where certain amendments or additions proposed to be made to CCTV

- 31.** (1) A person to whom an authorisation under *section 27* or *28*, as the case may be, has been given shall, where the following amendments or additions to the CCTV the subject of the authorisation are proposed to be made, so inform the Commissioner of the Garda Síochána:
- (a) the installation of one or more additional cameras;
- (b) the relocation of a camera;
- (c) the installation of a new camera or technology that significantly increases the visual area captured by a previously installed camera;
- (d) the installation of equipment, software or technology that results in significant additional processing that was not covered by the authorisation;
- (e) any other changes that would alter the extent of the coverage of the CCTV, or the capability of the recording device or devices, concerned.
- (2) A person referred to in *subsection (1)* shall, when informing the Commissioner of the Garda Síochána under that subsection, provide the Commissioner with any data protection impact assessment conducted in relation to the proposed amendments or additions.

- (3) The Commissioner of the Garda Síochána, as soon as practicable after having been informed under *subsection (1)* and, where applicable, having been provided with the data protection impact assessment to which *subsection (2)* refers, shall—
- (a) if he or she is satisfied that the proposed amendments or additions are of a minor nature having regard to the existing authorisation concerned and to the applicable code of practice and are necessary and proportionate having regard to the purposes referred to in *section 27(1)* or *section 28(1)*, as the case may be, modify the authorisation accordingly (which may include such additional terms and conditions as he or she considers appropriate), or
 - (b) where he or she is not satisfied with regard to the matters referred to in *paragraph (a)*, direct under *section 33* that a new application for an authorisation under *section 27(1)* or *section 28(1)*, as the case may be, is required to be made having regard to the proposed amendments or additions.
- (4) An authorisation given under *section 27* or *28* shall expire if any amendments or additions referred to in *paragraphs (a) to (e)* of *subsection (1)* are made to the CCTV concerned without an authorisation modified under *subsection (3)(a)*, or a new authorisation given as a result of a new application referred to in *subsection (3)(b)*, having been given by the Commissioner of the Garda Síochána.
- (5) Where an authorisation expires in accordance with *subsection (4)*—
- (a) the person to whom the authorisation was given shall, as soon as may be, terminate, or cause the termination of, the operation of the CCTV to which the expired authorisation relates, and
 - (b) where further installation, operation or both, of the CCTV concerned is required, it shall be necessary for him or her to apply for a new authorisation under *section 27* or *28*, as the case may be, in relation to such installation, operation or both.

Provisions regarding review and revocation of authorisation

- 32.** (1) The Commissioner of the Garda Síochána may, if he or she considers it necessary, review an authorisation given under *section 27* or *28*, or the operation of such authorisation.
- (2) The Commissioner of the Garda Síochána may, following a review under *subsection (1)* or otherwise, revoke an authorisation given under *section 27* or *28*—
- (a) for failure to comply with—
 - (i) the terms and conditions of the authorisation, or
 - (ii) a direction issued in accordance with *section 33*,or
 - (b) where he or she considers that the authorisation is no longer necessary or proportionate for the purpose for which it was given,

and the Commissioner shall, as soon as may be, notify the person to whom the authorisation was given of the revocation.

- (3) Where a person receives a notification under *subsection (2)*—
- (a) he or she shall, as soon as may be, terminate, or cause the termination of, the operation of the CCTV to which the revoked authorisation relates, and
 - (b) it shall be necessary for him or her to apply for a new authorisation under *section 27* or *28*, as the case may be, for any further installation, operation or both, of the CCTV concerned.

Directions

33. (1) A member of the Garda Síochána not below the rank of chief superintendent may issue one or more directions to the person to whom an authorisation under this Part was given, or a person to whom *section 29* applies, in relation to the installation, operation or both, of the CCTV the subject of the authorisation.
- (2) A person to whom a direction under *subsection (1)* is issued shall comply with the direction.

Power to process data obtained under this Part

34. A member of Garda personnel may, for a purpose referred to in *section 27(1)*, and in accordance with an applicable code of practice, process data (including personal data) obtained—
- (a) pursuant to an authorisation given under this Part, and
 - (b) where the authorisation was given to a local authority under *section 28*, pursuant to access given to members of Garda personnel under *subsection (4)(a)* of that section.

Offences under this Part

35. (1) Where a person—
- (a) requires an authorisation under this Part to install, operate or both, or to cause to be installed, operated or both, CCTV for a purpose referred to in *section 26(1)*, and
 - (b) installs, operates or both, or causes to be installed, operated or both, the CCTV concerned without having such an authorisation,
- that person shall be guilty of an offence.
- (2) A person who—
- (a) fails, without reasonable excuse, to comply with *section 30(2)*, *subsection (1)* or *(5)* of *section 31* or *section 32(3)*, or

- (b) fails, without reasonable excuse, to comply with a direction issued to him or her under *section 33*,
shall be guilty of an offence.
- (3) A person who, without lawful authority or reasonable excuse, knowingly does any of the following:
- (a) falsifies, conceals, destroys or otherwise disposes of information (including visual or audio information) gathered by CCTV authorised under this Part;
 - (b) permits the falsification, concealment, destruction or disposal of the information;
 - (c) causes damage to or destroys the CCTV or part thereof;
 - (d) permits damage to, or the destruction of, the CCTV or part thereof,
- for the purpose of making that information, any document derived therefrom or the CCTV or part thereof unavailable as evidence, shall be guilty of an offence.
- (4) A person who induces, coerces or requests, without lawful authority or reasonable excuse, a member of Garda personnel to commit an offence under *subsection (3)* shall be guilty of an offence.
- (5) A person guilty of an offence under *subsection (1)* or *(2)* is liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.
- (6) A person guilty of an offence under *subsection (3)* or *(4)* shall be liable—
- (a) on summary conviction, to a class A 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 both.

PART 6

PROCESSING BY MEMBERS OF GARDA PERSONNEL OF CCTV OPERATED BY THIRD-PARTY THROUGH LIVE FEED

Definition (Part 6)

- 36.** In this Part, “superior officer” means a member of the Garda Síochána not below the rank of superintendent.

Application of Part 6

- 37.** This Part shall not apply to the processing by members of Garda personnel of CCTV (including live feed of CCTV) that is operated by or on behalf of a local authority under an authorisation given under *Part 5*.

Live feed processing by member of Garda personnel of third-party CCTV

38. A member of Garda personnel may process CCTV operated by a third party through a live feed only in accordance with an—
- (a) authorisation granted in accordance with *section 40*, or varied or renewed in accordance with *section 41*, or
 - (b) approval granted in accordance with *section 42*.

Application by superior officer for authorisation

39. A superior officer may make an application to the District Court in accordance with *section 40(1)* for an authorisation to process a live feed from CCTV operated by a third party, where the superior officer has reasonable grounds for believing that such processing is required for the purpose of—
- (a) the prevention, investigation, detection or prosecution of criminal offences,
 - (b) safeguarding against, and the prevention of, threats to public security, including securing public safety and public order, or
 - (c) the protection of the security of the State.

Authorisation

40. (1) An application under *section 39* for an authorisation or under *section 41* for a variation or renewal of an authorisation shall be made—
- (a) on notice to the third-party CCTV operator concerned and shall be heard otherwise than in public, and
 - (b) to a judge of the District Court of the district in which the CCTV cameras are situated.
- (2) A judge shall grant such authorisation or such variation or renewal of an authorisation as he or she considers reasonable if satisfied by information on oath of the superior officer concerned that—
- (a) in the case of an application under *section 39*—
 - (i) that the superior officer making the application has reasonable grounds for his or her belief referred to in that section, and
 - (ii) where *section 42(8)(a)* applies, that the superior officer making the application has reasonable grounds for believing that access beyond 72 hours is warranted,
 - or
 - (b) in the case of an application under *section 41(1)*, that the superior officer making the application has reasonable grounds for believing that the variation or renewal is justified.

- (3) The information on oath of a superior officer specifying the grounds for his or her belief that the processing of CCTV operated by a third party through a live feed is required for any of the purposes referred to in *section 39* need not specify a particular offence in respect of which the authorisation is being sought.
- (4) An authorisation may impose such conditions in respect of the authorised processing of third-party CCTV through a live feed as the judge considers appropriate.
- (5) An authorisation shall be in writing and shall specify—
 - (a) the particulars of the third-party CCTV that is authorised to be processed through a live feed,
 - (b) the purpose for which the third-party CCTV that is authorised to be processed through a live feed will be used,
 - (c) the name and rank of the superior officer to whom it is given,
 - (d) the conditions (if any) subject to which the authorisation is given, and
 - (e) the date of the expiry of the authorisation.
- (6) Subject to *section 41*, an authorisation shall expire on the day fixed by the judge that he or she considers reasonable in the circumstances and that is not later than 6 months from the day on which it is given.

Variation or renewal of authorisation

- 41.** (1) A superior officer may make an application to the District Court in accordance with *section 40(1)* for a variation or renewal of an authorisation (in this section referred to as an “original authorisation”), and the judge to whom the application is made may, if he or she is satisfied by information on oath of the superior officer justifying the variation or renewal of the original authorisation—
- (a) vary the authorisation, or
 - (b) renew the authorisation, on the same or different conditions, for such further period, not exceeding 6 months, as the judge considers appropriate.
- (2) The information on oath referred to in *subsection (1)* shall include—
- (a) a copy of the original authorisation or any authorisations renewing or varying the original authorisation if applicable,
 - (b) the outcome of the processing carried out under any of the authorisations referred to in *paragraph (a)*, and
 - (c) the reasons why the superior officer believes that the renewal or variation, as the case may be, is required.
- (3) An application for a renewal under this section shall be made before the authorisation concerned, or any previous renewal of that authorisation, as the case may be, has expired.

- (4) Where an application for a renewal under this section has been made and the authorisation concerned would, but for this subsection, expire before the determination of the application, it shall be deemed not to expire until the application has been determined.

Approval for processing of live feed of third-party CCTV

- 42.** (1) A member of Garda personnel may, in accordance with this section, process CCTV operated by a third party through a live feed without an authorisation granted under *section 40* if such processing has been approved by a superior officer who is independent of the investigation or matter in relation to which the approval is being sought (in this section referred to as an “independent superior officer”).
- (2) The member of Garda personnel referred to in *subsection (1)* may apply to an independent superior officer for the grant of an approval to process CCTV operated by a third party through a live feed for one or more of the following purposes:
- (a) that information relevant to a criminal offence that has been, is being, or will be committed in the vicinity of the third-party CCTV can be obtained by processing the third-party CCTV;
 - (b) that the processing of the third-party CCTV is necessary in order to safeguard against, and prevent threats to public security, including securing public safety and public order;
 - (c) that the processing of the third-party CCTV is necessary in order to protect the security of the State.
- (3) An independent superior officer to whom an application under *subsection (2)* is made may approve the processing of the live feed of the third-party CCTV concerned as he or she considers appropriate—
- (a) having regard to the information contained in the application,
 - (b) if he or she considers on reasonable grounds that the processing is necessary and proportionate having regard to the purpose or purposes of such processing referred to in *subsection (2)*, and
 - (c) the processing shall be limited to a duration that is required to achieve its objectives.
- (4) An approval under *subsection (3)* or a variation of the approval under *subsection (7)*—
- (a) shall, if granted orally, be recorded in writing as soon as practicable,
 - (b) may, subject to *subsection (6)*, be granted subject to conditions, including as to the duration of the access,
 - (c) shall set out the grounds of approval, and the conditions, if any, attached to the approval, and

- (d) shall be provided in writing to the third party concerned as soon as practicable and in any event before the processing to which it relates occurs.
- (5) The approval in writing or the variation thereof in writing referred to in *subsection (4)* shall specify—
- (a) the particulars of the third-party CCTV that is approved to be processed through a live feed,
 - (b) the purpose for which the third-party CCTV that is approved to be processed through a live feed shall be used, and
 - (c) the name, and rank or grade, of the member of Garda personnel to whom it is granted.
- (6) Subject to *subsection (8)(b)*, a member of Garda personnel shall not process CCTV operated by a third party through a live feed under this section for a period of more than 72 hours from the time at which the approval is granted.
- (7) An independent superior officer who has granted an approval under *subsection (3)* may, following an application by a member of Garda personnel setting out the reasons justifying the variation and having regard to the matters referred to in *subsection (3)*, vary the approval or any condition attached to it, other than the duration of the approval, at any time before the expiry of the period of 72 hours referred to in *subsection (6)*.
- (8) (a) If a superior officer (other than the independent superior officer) believes on reasonable grounds that access beyond the period of 72 hours is warranted, he or she shall, as soon as possible but in any case before the expiry of that period, make an application under *section 39* for an authorisation.
- (b) Where an application under *section 39* referred to in *paragraph (a)* has been made and the period of 72 hours referred to in that paragraph would, but for this paragraph, expire before the determination of the application, that period shall be deemed not to expire until the application has been determined.
- (9) The information on oath supporting the application referred to in *subsection (8)* shall include a copy of the written record of approval referred to in *subsection (5)* concerned, a summary of the outcome of the actions taken pursuant to that approval and the reasons why continued processing is required.
- (10) A member of Garda personnel who processes under this section the CCTV operated by a third party through a live feed shall make a report to a member of the Garda Síochána of the rank of chief superintendent as soon as possible and, in any case, not later than 7 days, after the access to the live feed concerned has concluded, specifying the following matters:
- (a) the name and address of the operator of the third-party CCTV;
 - (b) the time and date on which the access to the live feed began and ceased;
 - (c) the grounds on which the approval was granted, including a copy of the written record of approval, and

- (d) a summary of the outcome of the processing.

Offences under this Part

43. (1) A person who owns or operates the third-party CCTV that is specified in an authorisation granted under and in accordance with *section 40*, or varied or renewed under *section 41*, or in an approval granted under *section 42*, or varied under that section, shall comply with the terms of the authorisation or the approval as the case may be.
- (2) A person referred to in *subsection (1)* who fails to comply with an authorisation granted under and in accordance with *section 40*, or varied or renewed under *section 41*, or an approval granted under *section 42* shall be guilty of an offence.
- (3) A person who, without lawful authority or reasonable excuse, knowingly does any of the following:
- (a) falsifies, conceals, destroys or otherwise disposes of information (including visual or audio information) gathered by CCTV to which this Part relates;
 - (b) permits the falsification, concealment, destruction or disposal of the information;
 - (c) causes damage to or destroys the CCTV or part thereof;
 - (d) permits damage to, or the destruction of, the CCTV or part thereof,
- for the purpose of making that information, any document derived therefrom or the CCTV or part thereof unavailable as evidence, shall be guilty of an offence.
- (4) A person who induces, coerces or requests, without lawful authority or reasonable excuse, a member of Garda personnel to commit an offence under *subsection (3)* shall be guilty of an offence.
- (5) A person guilty of an offence under *subsection (2)* shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.
- (6) A person guilty of an offence under *subsection (3)* or *(4)* shall be liable—
- (a) on summary conviction, to a class A 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 both.

PART 7

CCTV IN GARDA SÍOCHÁNA PREMISES

Authorisation to install or operate CCTV in Garda Síochána premises

44. (1) The Commissioner of the Garda Síochána, or a member of Garda personnel not below the rank of chief superintendent or the principal officer grade or equivalent who is designated in writing by the Commissioner, may authorise the installation, operation or both, of CCTV on, or in the vicinity of, Garda Síochána premises for the principal purpose of—
- (a) safeguarding persons at, or property on, or in the vicinity of, those premises, or
 - (b) the prevention, investigation, detection or prosecution of criminal offences,
- if that installation, operation or both, is necessary and proportionate with regard to its principal purpose under this subsection.
- (2) In this section, “Garda Síochána premises” shall include—
- (a) a Garda Síochána station within the meaning of section 99 of the Act of 2005, and
 - (b) a premises or structure, including a temporary structure, used by the Garda Síochána, whether on a temporary basis or otherwise, for the purpose of performing its functions,
- or any part thereof.

Power to process data obtained under this Part

45. A member of Garda personnel may, for a purpose referred to in *section 44(1)*, process the data (including personal data) obtained pursuant to the operation of CCTV in accordance with an authorisation under this Part.

Offences under this Part

46. (1) A person who, without lawful authority or reasonable excuse, knowingly does any of the following:
- (a) falsifies, conceals, destroys or otherwise disposes of information (including visual or audio information) gathered by CCTV to which this Part relates;
 - (b) permits the falsification, concealment, destruction or disposal of the information;
 - (c) causes damage to or destroys the CCTV or part thereof;
 - (d) permits damage to, or the destruction of, the CCTV or part thereof,
- for the purpose of making that information, any document derived therefrom or the CCTV or part thereof unavailable as evidence, shall be guilty of an offence.

- (2) A person who induces, coerces or requests, without lawful authority or reasonable excuse, a member of Garda personnel to commit an offence under *subsection (1)* shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a class A 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 both.

PART 8

CODES OF PRACTICE FOR *PARTS 2 TO 6***Codes of practice for *Parts 2 to 6***

47. (1) Subject to this section, the Commissioner of the Garda Síochána shall, having had regard to the matters contained in *Parts 2 to 6*, as the case may be—
- (a) prepare one or more draft codes of practice, to provide further detail on the operation of those Parts and any associated procedures and, where applicable, on the content of agreements to which those Parts refer, and
 - (b) submit each draft code of practice (amended, where applicable, in accordance with *subsection (3)*) to the Minister.
- (2) Without prejudice to the generality of *subsection (1)*, a draft code or codes of practice referred to in *subsection (1)* shall include provisions—
- (a) relating to the procedures to be followed by members of Garda personnel in the operation of *Parts 2 to 6*,
 - (b) relating to the confidentiality, security, storage, access, retention, erasure and destruction of data gathered as a result of the operation of *Parts 2 to 6*, and
 - (c) relating to those sections of this Act that provide that a matter is to be specified, or otherwise contained in, or to be the subject of, a code of practice,
- and the draft code or codes of practice may contain different provisions in relation to each Part, in relation to different types of recording devices or systems, in relation to different categories of persons or data and in relation to the circumstances in which such recording devices or systems are operated.
- (3) Before submitting a draft code of practice to the Minister under this section, the Commissioner of the Garda Síochána—
- (a) shall cause an assessment of the impact of the proposed draft code on the human rights of individuals affected by the code to be carried out,

- (b) shall consult with the following regarding the content of the draft code and, where an assessment under *paragraph (a)* has been carried out, provide them with the results of the assessment and the results of any applicable data protection impact assessment:
- (i) the Minister;
 - (ii) the Policing Authority;
 - (iii) the Garda Síochána Ombudsman Commission;
 - (iv) the Garda Síochána Inspectorate;
 - (v) the Data Protection Commission;
 - (vi) the Irish Human Rights and Equality Commission,
- (c) may, where appropriate, consult with the Local Government Management Agency,
- (d) shall ensure that the draft code of practice is published on the website of the Garda Síochána in order to allow persons a period that he or she shall specify to make written representations in relation to the draft code, and
- (e) may consult with any other person appearing to the Commissioner of the Garda Síochána to have an interest in the matter,

and the Commissioner of the Garda Síochána may, if he or she considers it appropriate to do so, amend the draft code of practice as a result of the assessment (where applicable), consultations or representations referred to in *paragraphs (a) to (e)*.

- (4) Where a draft code of practice is submitted to the Minister under *subsection (1)* or *subsection (7)*—
- (a) the Minister may by order declare that it is a code of practice for the purposes of this Act,
 - (b) an order under this subsection shall set out the text of the code of practice to which the order relates, and
 - (c) the code of practice shall come into operation on the date specified in the order.
- (5) The Commissioner of the Garda Síochána shall ensure that—
- (a) a code of practice to which an order under *subsection (4)* relates is first reviewed not later than 5 years from the date of the order, or in the case of a subsequent review, not later than 5 years from the date of the previous review under this subsection,
 - (b) in conducting a review under this subsection, the provisions of *subsection (3)* shall be complied with in respect of the review, and
 - (c) the Minister is informed of the outcome of the review.

- (6) The Commissioner of the Garda Síochána, on foot of a review of a code of practice under *subsection (5)* or at any other time that he or she considers appropriate, may, on or after the date of the coming into operation of this section, submit a further draft code of practice to the Minister in order to amend, revoke or replace an existing code of practice, or to create a new code of practice.
- (7) The provisions of this section shall apply to or in relation to a draft code of practice submitted to the Minister under *subsection (6)* as they apply to a draft code of practice submitted to the Minister under *subsection (1)*.
- (8) The Commissioner of the Garda Síochána shall take all reasonable steps to ensure that any code of practice or amendment thereto that is the subject of an order under this section has been brought to the attention of members of Garda personnel.

PART 9

MISCELLANEOUS PROVISIONS

Admissibility of evidence

- 48.** (1) Documents obtained in accordance with this Act may, subject to this section and any applicable rules of evidence, be admitted as evidence in criminal and civil proceedings and in disciplinary actions.
- (2) Nothing in this Act is to be construed as prejudicing the admissibility of documents obtained otherwise than as a result of the use, in accordance with this Act, of a recording device.
 - (3) A failure to observe any provision of an order (other than an order under *section 1(2)*) made under this Act, or a code of practice, on the part of any member of Garda personnel in the performance by him or her of any function under this Act, shall not (without prejudice to the power of the court to exclude evidence at its discretion) of itself affect the admissibility of any evidence thereby obtained.
 - (4) It shall be presumed, until the contrary is shown, that a recording device operated for the purposes referred to in this Act is a device capable of producing accurate information or material without the necessity of—
 - (a) proving that the recording device was capable of producing accurate information or material or was in good working order,
 - (b) proving any matters relating to the storage of the recording device or the documents derived from it, or
 - (c) exhibiting the recording device in any court proceedings.
 - (5) In any proceedings (including proceedings for an offence), the production of an approval, authorisation or designation under this Act that is purported to be signed by a member of Garda personnel shall, until the contrary is proved, be evidence of the

making of the approval, authorisation or designation, as the case may be, without proof of the signature of such member or of his or her official capacity.

- (6) In this section, “disciplinary action” means—
- (a) any proceedings conducted in accordance with regulations made under section 123 of the Act of 2005, or
 - (b) disciplinary measures within the meaning of section 15 of the Civil Service Regulation Act 1956.

Review of operation of *Parts 3 and 6*

49. (1) The President of the High Court shall, after consulting with the Minister, invite a judge of the High Court to undertake (while serving as such a judge) the functions specified in this section and, if the invitation is accepted, the Government shall designate the judge (in this section referred to as the “designated judge”) for the purposes of performing those functions.
- (2) The designated judge shall hold office in accordance with the terms of the designation.
- (3) The functions of the designated judge are to—
- (a) keep under review the operation of *Parts 3 and 6*, and
 - (b) report to the Taoiseach from time to time and at least once every 12 months concerning any matters relating to the operation of those Parts that the designated judge considers should be reported.
- (4) A person in charge of any premises where a member of Garda personnel is stationed or any other place in which documents relevant to the performance of the functions of the designated judge are kept shall ensure that the designated judge has access to those premises or places, and to the authorisations, written records of approvals, reports and other relevant documents that the designated judge may request.
- (5) The Taoiseach shall ensure that a copy of a report under *subsection (3)(b)* is laid before each House of the Oireachtas not later than 6 months after it is made, together with a statement of whether any matter has been excluded under *subsection (6)*.
- (6) If the Taoiseach considers, after consultation with the designated judge, that the publication of any matter in a report, copies of which are to be laid before the Houses under *subsection (5)*, would be prejudicial to the security of the State, the Taoiseach may exclude that matter from those copies.

Amendment of Act of 2009

50. The Act of 2009 is amended—
- (a) in section 1, in paragraph (c) of the definition of “surveillance device”, by the substitution of—
 - (i) “camera (including a video camera)” for “camera”, and

(ii) “photographs or video footage” for “photographs”,
and

(b) in section 2, by the insertion of the following subsection after subsection (4):

“(5) This Act shall not apply to processing (including recording) to which
the *Garda Síochána (Recording Devices) Act 2023* applies.”.