

General Scheme
Garda Síochána (Amendment) Bill

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Garda Síochána (Amendment) Bill

PART 1

PRELIMINARY AND GENERAL

Head 1 Short title and commencement.

Provide that -

(1) This Act may be cited as the Garda Síochána (Amendment) Act 2014.

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

Notes

This is a standard type provision which sets out the title of the proposed Act and makes provision for commencement.

Head 2 Interpretation and construction.

Provide that

In this Scheme—

“Act of 1924” means the Garda Síochána Act 1924;

“Principal Act” means the Garda Síochána Act 2005;

“Authority” means the Policing Authority established under *Head 5 [Establishment of Policing Authority]*

“document” means any book, record or other written or printed material in any form, including information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in legible form;

“establishment day” means the day appointed under *Head 5 [Establishment day]*;

“Garda Commissioner” means the Commissioner of the Garda Síochána and includes a Deputy Garda Commissioner or an Assistant Garda Commissioner acting in place of the Garda Commissioner;

“functions” includes powers and duties and references to the performance of functions include, with respect to powers and duties, references to the exercise of the powers and the carrying out of the duties;

“Minister” means the Minister for Justice and Equality;

“Ombudsman Commission” means the Garda Síochána Ombudsman Commission established under [section 64](#) of the Principal Act;

“policing matters” means the functions of the Garda Síochána referred to in section 7 of the Principal Act other than those comprehended by *Head 3 [Interpretation and construction – security matters]*;

“security matters” shall be construed in accordance with *Head 3 [Interpretation and construction –security matters]*;

“Service” means the Public Appointments Service.

Notes

This is a standard type provision which defines some of the terminology used in the Scheme. Many of the definitions are taken from the Principal Act with necessary amendments.

Head 2A Amendment to section 2 of Principal Act [*Interpretation and construction*].

Provide that

Section 2 of the Principal Act is amended by—

(a) the substitution of the following definition for the definition of “Garda Commissioner”:

“ “Garda Commissioner” means the Commissioner of the Garda Síochána and includes a Deputy Garda Commissioner or an Assistant Garda Commissioner acting in place of the Garda Commissioner; ” and

(b) the insertion of the following definitions:

““establishment day” means the day appointed under *section 5A [Establishment day]*;

“policing matters” means the functions of the Garda Síochána referred to in *section 7* other than those comprehended by *section 3A [Interpretation and construction – security matters]*;

”policing principles” means the policing principles referred to in *section 5H [Policing principles]*;

“security matters” shall be construed in accordance with *section 3A [Interpretation and construction –security matters]*;

“Service” means the Public Appointments Service.”

Notes

This Head amends section 2 of the Principal Act to replace the existing definition of “Garda Commissioner” and to insert a definition of “establishment day”, “policing matters”, “security matters” and “Service”.

Head 3 Interpretation and construction – security matters.

Provide that

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

“Interpretation and construction – security matters.

3A.—(1) For the purposes of this Act, “security matters” is to be construed as those aspects of the role of the Garda Síochána that are concerned with protecting the security of the State from:

- (a) [terrorism] [terrorist offences within the meaning of the Criminal Justice (Terrorist Offences) Act 2005];
- (b) espionage;
- (c) sabotage;
- (d) acts intended to subvert or undermine parliamentary democracy or the institutions of the State, but not including lawful advocacy, protest or dissent, unless carried on in conjunction with any of those acts; and
- (e) acts of foreign interference;

whether directed from, or committed within, the State or not.

(2)(a) Where—

- (i) a question arises as to whether a particular matter is a policing matter or a security matter, and
- (ii) the question cannot be resolved between the Authority and the Garda Commissioner,

the question shall be referred to the Minister for resolution.

(b) The Minister’s resolution of a question referred to in *paragraph (a)* shall be binding on the Authority and the Commissioner.

Authority to have regard to security matters.

3B. —Without prejudice to section 3A, in carrying out its functions, duties, and powers under this Act, the Authority shall, in addition to all other matters to which the Authority may properly have regard, have regard to the importance of the role of the Garda Síochána in relation to security matters.”

Notes

This Head inserts a new section 3A and 3B into the Principal Act and is intended to provide clarity in respect of the manner in which the division of accountability of the Garda Commissioner is to be operated. The general intention is that the Commissioner will be accountable to—

- the Authority for policing matters but not accountable to the Authority for security matters, and
- the Minister for security matters but not accountable to the Minister for policing matters.

Head 4 Repeals.

Provide that

The enactments specified in [the First Schedule] are repealed to the extent specified in the [third] column of that schedule.

Notes

This is a standard type provision relating to repeals of existing legislation. The relevant repeals will be inserted in the Schedule in the course of drafting.

PART 2

ESTABLISHMENT AND FUNCTIONS OF POLICING AUTHORITY

Head 5 Amendment of Principal Act [*Establishment and functions of Policing Authority*].

Provide that

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

“PART 1A

ESTABLISHMENT AND FUNCTIONS OF POLICING AUTHORITY

Establishment day.

5A.—The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Part.

Notes

This is a standard type provision.

Head 5 (continued)

Establishment of Policing Authority.

5B.— (1) On the establishment day there shall stand established a body to be known, in the English language, as the Policing Authority or, in the Irish language, as An tÚdarás Póilíneachta, to perform the functions conferred on it by or under this Act.

(2) The Authority—

(a) is a body corporate with perpetual succession and a seal, and

(b) may sue, and be sued, in its corporate name.

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

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

(a) the signature of a member of the Authority authorised by the Authority to act in that behalf, and

(b) the signature of a member of the staff of the Authority authorised by the Authority to act in that behalf.

(5) Judicial notice shall be taken of the seal of the Authority and, accordingly, every instrument—

(a) purporting to be an instrument made by the Authority, and

(b) purporting to be sealed with the seal of the Authority authenticated in accordance with *subsection (4)*,

shall be received in evidence and be deemed to be such instrument without further proof, until the contrary is proved.

(6) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal, may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority to act in that behalf.

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

Notes

This is a standard type provision which allows for the establishment of the Authority.

Head 5 (continued)

Membership of Authority and method of appointment.

5C.—(1)(a) Subject to *paragraph (b)*, the Authority shall consist of the following members—

- (i) a chairperson who is, subject to *subsection (3)(b)*, to be appointed by the Government, and
 - (ii) 8 ordinary members all of whom are to be appointed by the Government following the holding of a selection competition in accordance with *subsection (4)(a)*.
- (b) A person shall not be appointed in accordance with *paragraph (a)* unless a resolution has been passed in each House of the Oireachtas recommending the appointment.
- (c)(i) A person who holds judicial office in a superior court may, without relinquishing that office, be appointed, with his or her consent, as the chairperson of the Authority, but, unless otherwise provided by the terms of the appointment, he or she shall not, while a member, be required to carry out duties under statute as the holder of that judicial office.
- (ii) Schedule 6 [*Appointment to Authority of Person Holding Judicial Office*] has effect if a person who holds judicial office in a superior court is appointed as the chairperson of the Authority.

(2) In appointing members to the Authority, the Government shall have regard to the objective of there being no fewer than 4 members who are women and no fewer than 4 members who are men.

(3)(a) The Government may, before the establishment day, nominate a person to be the chairperson designate of the Authority.

(b) A person who has, in accordance with *paragraph (a)*, been nominated as chairperson designate of the Authority shall, on the establishment day, be deemed to have been appointed as the first chairperson of the Authority.

(4)(a) The Government shall invite the Service to undertake a selection competition for the purpose of recommending to it persons for appointment, in accordance with *subsection (1)(a)(ii)*, as members of the Authority.

- (b) The Service shall appoint a selection panel from amongst persons who, in the opinion of the Service, have relevant experience of, and expertise in relation to, matters connected with any or all of the following:
- (i) policing matters or law;
 - (ii) human rights and equality matters;
 - (iii) public sector administration and reform; or
 - (iv) board management and corporate governance.
- (5) The Minister shall agree with the Service the selection criteria and process to be implemented in respect of the selection competition.
- (6) The competition for the appointment of members to the Authority shall be advertised publicly and shall include details of the agreed selection criteria and the process to be implemented.
- (7) The provisions of *subsections (4) to (6)* shall apply in relation to the filling of any vacancy that arises in the membership of the Authority.
- (8) The Service may adopt such procedures as it thinks fit to carry out its functions under this section.
- (9)(a) Subject to *paragraph (b)*, a person shall not be recommended by the Service for appointment under this section unless the person is, in the opinion of the Service, suitably qualified for such appointment by reason of his or her possessing such relevant experience, training or expertise as is appropriate having regard in particular to the functions conferred on the Authority by or under this Act.
- (b) In considering whether to recommend a person for appointment by the Government, the Service shall have regard to the desirability that—
- (i) at least one of the members of the Authority should be a person who has experience of service as a senior officer in the police service of another state, and
 - (ii) at least one of the members of the Authority should be a person who has expertise in the strategic and financial management of organisations, the management of their human resources or the planning and review functions relating to them.

(10) The Service shall provide the Government with particulars of experience, training and expertise of each person whom it recommends under this section.

(11) Where the Service makes a recommendation for the appointment of a person to the Authority, the Government shall accept that recommendation.

(12) In exceptional circumstances, where the Government, for substantial and stated reasons, is unable to accept the recommendation by the Service of a particular person, it shall inform the Service of that fact and the reasons for it and shall request the Service to make another recommendation in respect of the appointment and, the Service shall—

(a) consider the Government's reasons, and

(b) unless the Service disagrees with the reasons and wishes to make representations to the Government in that behalf, make another recommendation for appointment to the Authority.

(13) Where either House of the Oireachtas has declined to pass a resolution recommending the appointment of a person in accordance with *subsection (1)(b)* the person shall be regarded as not eligible for appointment to the Authority.

SCHEDULE 6

Section 5C Membership of Authority and method of appointment

Appointment to Authority of Person Holding Judicial Office

If Supreme Court judge or former Supreme Court judge is appointed as Chairperson of Authority.

1. (1) If a person appointed as the chairperson of the Authority is, when so appointed, an ordinary judge of the Supreme Court, then, for so long as he or she continues to hold that judicial office, the number of ordinary judges of the Supreme Court otherwise provided for under any enactment for the time being in force may be exceeded by one.

(2) If the person so appointed is a former Chief Justice of the Supreme Court, the proviso to paragraph (a) (inserted by the [Courts \(No. 2\) Act 1997](#)) of section 14(1) of the [Law Reform Commission Act 1975](#) applies to him or her in respect of his or her appointment as a member of the Authority to the like extent as it

applies to a former Chief Justice who is appointed to be the President of the Law Reform Commission.

If Court of Appeal judge or former President of the Court of Appeal is appointed as chairperson of the Authority

2. (1) If a person appointed as the chairperson of the Authority is, when so appointed, the President of the Court of Appeal or an ordinary judge of the Court of Appeal, then, for so long as he or she continues to hold the judicial office held by him or her on being so appointed, the number of ordinary judges of the Court of Appeal otherwise provided for under any enactment for the time being in force may be exceeded by one.
- (2) If the person so appointed is a former President of the Court of Appeal, the proviso to paragraph (aa) of [section 14](#) (1) of the [Law Reform Commission Act 1975](#) applies to him or her in respect of his or her appointment as a member of the Authority to the like extent as it applies to a former President of the Court of Appeal who is appointed to be a member of the Law Reform Commission.
- (3) If the person so appointed is the President of the Court of Appeal, he or she may, for so long as he or she continues to be a member of the Authority, from time to time appoint an ordinary judge of the Court of Appeal to exercise on his or her behalf (and which judge is hereby empowered to exercise) all jurisdiction exercisable by the President of the Court of Appeal under section 7D (inserted by [section 19](#) of the *Court Of Appeal Act 2014*) of the [Courts \(Supplemental Provisions\) Act 1961](#) .”

If High Court judge or President or former President of High Court is appointed member of Authority.

3. (1) If a person appointed as the chairperson of the Authority is the President of the High Court or an ordinary judge of the High Court, then, for so long as he or she continues to hold the judicial office held by him or her on being so appointed, the number of ordinary judges of the High Court otherwise provided for under any enactment for the time being in force may be exceeded by one.
- (2) If the person so appointed is a former President of the High Court, the proviso to paragraph (b) (inserted by the [Courts \(No. 2\) Act 1997](#)) of [section 14](#) (1) of the [Law Reform Commission Act 1975](#) applies to him or her in respect of his or her appointment as a member of the Authority to the like extent as it applies to a

former President of the High Court who is appointed to be a member of the Law Reform Commission.

- (3) If the person so appointed is the President of the High Court, he or she may, for so long as he or she continues to be a member of the Authority, from time to time appoint an ordinary judge of the High Court to exercise on his or her behalf (and which judge is hereby empowered to exercise) all jurisdiction exercisable by the President of the High Court under [section 10](#) (5) of the [Courts \(Supplemental Provisions\) Act 1961](#).

Notes

This Head makes provision for membership of the Authority.

Subhead (1), paragraph (a), provides that the Authority will comprise a chairperson to be appointed by the Government (subparagraph (i)) and 8 ordinary members to be appointed by the Government following the holding of a Public Appointments Service (PAS) competition (subparagraph (ii)).

By paragraph (b), no appointments can be made unless a resolution recommending the appointment of the persons concerned is passed in the Dáil and Seanad. Subhead (13) is concerned with the situation where a House of the Oireachtas declines to pass a resolution approving a proposed appointment.

Paragraphs (c)(i) and (ii) allow for the possibility of the appointment of a superior court judge as chairperson of the Authority.

Subhead (2) provides for a gender balance on the Authority.

Subhead (3) makes provision for the Government to nominate a person as a chairperson designate (paragraph (a)) and for that person to be deemed to be the first chairperson of the Authority upon the establishment day (paragraph (b)).

Subhead (4)(a) requires the Government to invite the PAS (“Service” is defined in Head 2 and 2A *[Interpretation and Construction]*) to undertake a selection competition for the purpose of recommending persons for appointment as ordinary members of the Authority. Paragraph (b) makes provision for the PAS to appoint a selection panel from amongst persons who, in the opinion of the Service, have relevant experience of, and expertise in relation to, matters connected with any or all of the following:

- (i) policing matters or law;
- (ii) human rights and equality matters
- (iii) public sector administration and reform; or
- (iv) board management and corporate governance.

Subhead (5) provides that the Minister will agree with the Service the selection criteria and process to be implemented in respect of the selection competition.

Subhead (6) provides that the competition for the appointment of members to the Authority must be advertised publicly and shall include details of the agreed selection criteria and the process to be implemented.

Subhead (7) applies the provisions of subheads (4) to (6) in relation to the filling of any vacancy that arises in the membership of the Authority.

Subhead (8) gives the PAS the freedom to adopt such procedures as it thinks fit to carry out its functions under this section.

Subhead (9) caters for selection criteria.

Subhead (10) requires the PAS to provide the Government with particulars of experience, training and expertise of each person whom it recommends under this section.

Subhead (11) requires the Government to accept the recommendation of the PAS for the appointment of a person to the Authority. However, by subhead (12) the Government can, in exceptional circumstances, require the PAS to make another recommendation for the appointment. This situation can only arise where the Government, for substantial and stated reasons, is unable to accept the recommendation by the PAS of a particular person. The PAS is required to—

- (a) consider the Government's reasons, and
- (b) unless it disagrees with the reasons and wishes to make representations to the Government in that behalf, make another recommendation for appointment to the Authority.

Head 5 (continued)

Term of appointment of members of Authority.

5D.—(1) Subject to *subsection (2)*, a member of the Authority shall hold office for such period, not exceeding 4 years from the date of his or her appointment, as the Government shall determine.

(2)(a) Of the members of the Authority that is first constituted under this Act, 4 (who shall not include the Chairperson) selected in accordance with *paragraph (b)*, shall hold office for a period of 3 years from the date of their appointment as members.

(b) The members of the Authority referred to in *paragraph (a)* shall be selected by the drawing of lots, conducted in such manner as the Chairperson of the Authority thinks proper, at the first meeting of the Authority referred to in *section 5I(4) [Meetings and Business]*.

(c) A member of the Authority may be selected in accordance with *paragraph (b)* notwithstanding the fact that he or she is not present at the first meeting of the Authority.

(d) The quorum for the first meeting of the Authority, in so far as that meeting relates to selecting the members of the Authority referred to in *paragraph (a)*, shall be 6 members of the Authority.

(3) Each member of the Authority shall hold office on the terms and conditions relating to remuneration (including expenses, benefits in kind and superannuation) or other matters that may be determined by the Government at the time of appointment or reappointment.

(4) Subject to *subsection (6)*, a member of the Authority (including the Chairperson) whose term of office expires by the effluxion of time shall be eligible for reappointment as a member of the Authority.

(5) Where it is proposed to reappoint a person as a member of the Authority it shall not be necessary for the person—

(a) to participate in a selection competition undertaken by the Service under *section 5C [Membership of Authority and method of appointment]* or to be recommended for reappointment by the Service, or

(b) to be recommended for reappointment following the passing of a resolution of each House of the Oireachtas.

(6) A person who is reappointed to the Authority in accordance with *subsection (4)* shall not hold office for periods the aggregate of which exceeds 8 years.

(7) A member of the Authority may resign from office by notice in writing addressed to the Minister, and the resignation takes effect on the date the Minister receives the notice.

(8) The Chairperson may resign from office as Chairperson by notice in writing addressed to the Minister and the resignation takes effect on the date the Minister receives the notice or, if a date is specified in the notice and the Government agrees to that date, on that date.

(9) Subject to *section 5I(3) [Meetings and business – sets out quorum for meetings]*, the Authority may act notwithstanding one or more vacancies in its membership.

Notes

This Head contains standard type provisions relating to the terms of appointment and the resignation of members of the Authority.

Head 5 (continued)

Ineligibility for appointment, disqualification from office of member of Authority, cessation of membership, etc.

5E.—(1) A person is not eligible to be nominated or appointed as a member of the Authority if he or she is—

- (a) a member of either House of the Oireachtas,
- (b) entitled under the rules of procedure of the European Parliament to sit in that Parliament,
- (c) a member of a local authority, or
- (d) a member of the Garda Síochána or a member of the civilian staff of the Garda Síochána.

(2) A person shall be disqualified from and shall cease to hold office as a member of the Authority if he or she—

- (a) is adjudicated bankrupt,
- (b) makes a composition or arrangement with his or her creditors,
- (c) is convicted on indictment of an indictable offence,
- (d) is convicted of an offence involving dishonesty, or
- (e) has a declaration under [section 150](#) of the [Companies Act 1990](#) made against him or her or is subject or is deemed to be subject to a disqualification order by virtue of Part VII of that Act.

(3) Where a member of the Authority, or a member of the staff of the Authority is—

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,
- (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to be a member of the European Parliament, or
- (d) elected or co-opted as a member of a local authority,

he or she shall thereupon—

- (i) in the case of a member of the Authority, cease to be a member of the Authority, and

(ii) in the case of a member of the staff of the Authority cease to be a member of its staff.

Notes

This Head contains standard type provisions for ineligibility for appointment, disqualification from membership and removal/resignation upon election.

Head 5 (continued)

Removal of member of Authority.

5F.—(1) The Government may, subject to this section, remove a member (including the chairperson) of the Authority from office, but only—

- (a) where one or more of the grounds referred to in *subsection (2)* apply, and
- (b) *subsections (3) to (6)* have been complied with,

and then only where a resolution is passed by both Houses of the Oireachtas calling for the member's removal from office.

(2) The grounds referred to in *subsection (1)* are that, in the opinion of the Government, the member—

- (a) has, without reasonable excuse, failed to discharge his or her functions,
- (b) has become incapable through ill health of effectively performing his or her functions,
- (c) has committed stated misbehaviour,
- (d) has a conflict of interest of such significance that he or she should cease to hold the office, or
- (e) is otherwise unfit to hold the office or unable to discharge its functions.

(3) Where the Government proposes to remove a member pursuant to *subsection (1)*, it shall notify the member concerned in writing of its proposal.

(4) A notification under *subsection (3)* shall include—

- (a) a statement of the reasons for the proposal,
- (b) a statement that the member concerned may, within 30 working days of the sending of the notification or such other period as the Government, having regard to the requirements of natural justice, may specify, make representations in the prescribed manner to the Government as to why the member should not be removed from office, and
- (c) a statement that, where no representations are received within the period specified under *paragraph (b)*, the Government will, without further notice, proceed with the removal of the member from office in accordance with this section.

(5) In considering whether to remove a member from office in accordance with this section, the Government shall take into account—

(a) any representations made pursuant to *subsection (4)(b)*, and

(b) any other matter that the Government considers relevant for the purpose of the decision.

(6) Where, having taken into account the matters referred to in *subsection (5)*, the Government decides to remove the member from office, it shall notify the member in writing of its decision, of the reasons for it and of its intention to seek a resolution of both Houses of the Oireachtas calling for the removal of the member.

Notes

This Head contains standard type provisions for removal by the Government of a member from the Authority. A removal can only be undertaken on specified grounds, where the member concerned has had the opportunity to make representations to the Government and following a resolution of both Houses of the Oireachtas.

Head 5 (continued)

Functions of Authority.

5G.—(1)(a) Subject to this Act and *paragraph (b)*, the Authority shall—

- (i) provide oversight in relation to the exercise by the Garda Síochána of any function conferred on the Garda Síochána by or under any enactment or the common law that relates to policing matters,
- (ii) be responsible for—
 - (I) nominating persons for appointment as Garda Commissioner or, as the case may be, Deputy Garda Commissioner in accordance with *section 9(1) [Appointment of Garda Commissioner, Deputy Garda Commissioner, etc.]*,
 - (II) appointing persons, in accordance with *section 9(6) [Appointment of Garda Commissioner, Deputy Garda Commissioner, etc.]* to the ranks of Assistant Garda Commissioner, chief superintendent or superintendent in the Garda Síochána, and
 - (III) removing and, as the case may be, recommending the removal of members of the Garda Síochána in accordance with *section 11 [Removal of Garda Commissioner, Deputy Garda Commissioner, etc., from office]*,
- (iii) hold the Garda Commissioner to account for policing matters,
- (iv) approve, in accordance with the provisions of *section 22 [Strategy statement]*, a strategy statement submitted by the Garda Commissioner,
- (v) approve, in accordance with *section 23 [Annual policing plan – policing matters]*, an annual policing plan relating to policing matters submitted by the Commissioner,
- (vi) establish and publish a code of ethics in accordance with *section 17 [Code of Ethics]*,
- (vii) assume overall responsibility for the maintenance of joint policing committees in conjunction with local authorities and the Garda Commissioner in accordance with *sections 35 [Guidelines concerning joint policing committees]* and *36 [Establishment and functions of joint policing committees]*,

(viii) provide, from time to time, information and advice to the Minister with regard to policing matters, and

(ix) promote and support the continuous improvement of policing in the State.

(b) The Authority shall have no function, nor shall it hold the Garda Commissioner to account, in respect of the exercise by the Garda Síochána of any power conferred on the Garda Síochána, by or under any enactment or the common law, that relates to security matters.

(2) Without prejudice to the generality of *subsection (1)(a)*, the Authority shall—

(a) ensure that the resources available to the Garda Síochána are used so as to achieve and maintain the highest levels of efficiency and effectiveness in its operation and administration, as measured by reference to the best standards of comparable police services,

(b) provide advice to the Minister with regard to best policing practice,

(c) keep under review—

(i) the performance by the Garda Síochána of its functions and the arrangements and strategies in place to support and enhance the performance of those functions,

(ii) the corporate governance arrangements and structures within the Garda Síochána,

(iii) the arrangements for the recruitment, training and development of the members and civilian staff of the Garda Síochána, and

(iv) the mechanisms in place within the Garda Síochána for the measurement of performance and accountability of such members and staff,

(d) promote the policing principles set out in *section 5H [Policing principles]*,

(e) promote public awareness and disseminate information to the public in respect of policing matters in the State,

(f) keep the Minister informed of developments in respect of policing matters in the State and make recommendations to assist the Minister in co-ordinating and developing policy in that regard,

(g) keep itself generally informed as to —

- (i) complaints made against members of the Garda Síochána and the application of the Disciplinary Regulations, and
 - (ii) trends and patterns in crimes committed,
- (h) undertake, commission or assist in research projects (including by way of public consultation) and other activities in respect of policing matters, which in the opinion of the Authority may—
- (i) promote an improvement in standards for those matters and public awareness of them, or
 - (ii) contribute to a reduction in the number of complaints against members of the Garda Síochána in relation to those matters, and
- make recommendations to the Minister arising from those projects or activities,
- (i) monitor and address the human rights compliance by the Garda Síochána in relation to policing matters,
 - (j) perform any other functions conferred on it by this Act or by regulations made under it.
- (3) Subject to this Act, the Authority may do anything which it considers necessary or expedient to enable it to perform its functions, including liaising and co-operating with other statutory bodies and with other relevant bodies.
- (4) Any function of the Authority may be performed through or by any member of its staff duly authorised in that behalf by the Authority but no such authorisation shall be granted in respect of a function exercised by the Authority in relation to the nomination or removal of the Garda Commissioner or a Deputy Garda Commissioner.....*[other functions may be specified here]*
- (5) The member of staff of the Authority who performs any of its functions is presumed in any proceedings to have been authorised by it to do so on its behalf, until the contrary is proved.
- (6) The Authority may provide for the performance, under the general direction of the Authority, of one or more of its functions by a committee.

Notes

This Head sets out the oversight and other functions of the Authority.

Head 5 (continued)

Policing principles.

5H.—The policing principles are as follows:

- (a) policing should be conducted independently, impartially, in accordance with the law and in a manner that respects human rights and supports the proper and effective administration of justice;
- (b) effective and efficient policing is dependent on the confidence, support, engagement and cooperation of local communities and every member of the Garda Síochána or member of the civilian staff of the Garda Síochána should, in carrying out his or her functions—
 - (i) act professionally, ethically and with integrity,
 - (ii) carry out his or her functions with the aim of securing the support of, and acting in co-operation with, the local community, and
 - (iii) be guided by the code of ethics under *section 17 [Code of ethics]*.

Notes

This Head sets out the principles that will govern policing in the State.

Head 5 (continued)

Meetings and business.

5I.—(1)(a) The Authority shall hold such and so many meetings as may be necessary for the due performance of its functions, but in each year shall hold not less than one meeting with the Garda Commissioner in each period of three months.

(b) In addition to a meeting with all participants physically present, the Authority may hold or continue a meeting by the use of any means of communication by which all the participants can hear and be heard at the same time.

(2)(a) Subject to *paragraph (b)*, members of the public may attend, and the media may record and broadcast, any meeting of the Authority.

(b) The Authority may, where it considers it appropriate to do so, exclude the public, particular members of the public or the media from a meeting, or from part of a meeting.

(c) Subject to *paragraph (d)*, the Authority shall publish—

(i) agendas for its proceedings and those of its committees,

(ii) the papers relating to those proceedings,

(iii) such reports of those proceedings as it thinks fit.

(d) The Authority may determine that all or part of any agenda, paper or report will not be published.

(e) The Authority shall publish a statement setting out—

(i) the circumstances in which the public, particular members of the public or the media can be excluded from meetings, or parts of meetings, of the Authority, and

(ii) the circumstances in which agendas, papers and reports will not be published.

(3) The quorum for a meeting of the Authority shall be 5 or such other number, not being less than 5, as the Authority shall determine.

(4) The Chairperson shall fix the date, time and place of the first meeting of the Authority.

(5) At a meeting of the Authority—

- (a) the Chairperson shall, if present, be the chairperson of the meeting, and
- (b) if and so long as the Chairperson is not present or if the office of Chairperson is vacant, the members of the Authority who are present shall choose one of their number to act as the chairperson of the meeting.
- (6) Each member of the Authority (including the Chairperson) present at a meeting of the Authority shall have a vote.
- (7) At a meeting of the Authority, a question on which a vote is required shall be determined by a majority of the votes of the members of the Authority present and voting on the question and, in the case of an equal division of votes, the Chairperson of the meeting shall have a second or casting vote.
- (8) Subject to this Act, the Authority may determine its own procedures.

Notes

This Head sets out the procedures for meetings of the Authority. In particular, subhead (1) requires the Authority to at least hold quarterly meetings with the Garda Commissioner (paragraph (a)). Paragraph (b) is intended to make provision for meetings by, for example, video-conference or conference call.

Subhead (2) makes provision for members of the public to attend and for the media to record/broadcast meetings of the Authority (paragraph (a)). It also allows the Authority to exclude the public, particular members of the public or the media from meetings or parts of meetings and to withhold the publication of agendas, reports, etc. (paragraphs (b) and (d)). The Authority is required (paragraph (e)) to publish a statement setting out—

- the circumstances in which members of the public, particular individuals or the media can be excluded from meetings, or parts of meetings, of the Authority, and
- the circumstances in which agendas, papers and reports will not be published.

Head 5 (continued)

Committees of Authority.

5J.—(1) The Authority may establish committees to—

- (a) assist and advise it in relation to the performance of all or any of its functions, and
- (b) perform such functions of the Authority as may be conferred on it under *section 5G(2)(j) [Functions of Authority]*.

(2) In appointing members of a committee, the Authority shall—

- (a) have regard to the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee, and
- (b) have regard to the desirability of there being such balance between men and women on the committee as is appropriate.

(3) A committee—

- (a) shall consist of such number of members as the Authority may determine, and
- (b) may include persons who are not members of the Authority or its staff.

(4) The Authority may—

- (a) appoint a person to be chairperson of a committee, and
- (b) at any time dissolve a committee.

Notes

This is a standard type provision which allows for the establishment of committees that the Authority deems necessary.

Head 5 (continued)

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

5K.—(1) The Authority may, with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, from time to time and as it may consider necessary to assist it in the performance of its functions—

(a) enter into contracts with persons or bodies, and

(b) appoint consultants or advisers.

(2) There may be paid by the Authority, out of the resources at its disposal, to persons, bodies, consultants or advisers referred to in *subsection (1)*, such fees (if any) or allowances for expenses (if any) incurred by them as the Authority, with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, may determine.

(3) The appointment of a person as a consultant or adviser shall be for such period and subject to such terms and conditions as the Authority considers appropriate.

Notes

This is a standard type provision which allows the Authority to enter into contracts with persons or bodies, and to appoint consultants or advisers.

Head 5 (continued)

Confidentiality of certain information.

5L.—(1) A person who is or was a member of the Authority or of the staff of the Authority or who is or was engaged under contract or other arrangement to work with or for the Authority shall not disclose, in or outside the State, any information obtained in the course of carrying out duties of that person's office, employment, contract or other arrangement if the person knows the disclosure of that information is likely to have a harmful effect.

(2) For the purpose of this section, the disclosure of information referred to in *subsection (1)* does not have a harmful effect unless it—

- (a) facilitates the commission of an offence,
- (b) prejudices the safekeeping of a person in legal custody,
- (c) impedes the prevention, detection or investigation of an offence,
- (d) impedes the apprehension or prosecution of a suspected offender,
- (e) prejudices the security of any system of communication of the Garda Síochána,
- (f) results in the identification of a person—
 - (i) who is a witness in a criminal proceeding or who has given information in confidence to a member of the Garda Síochána, and
 - (ii) whose identity is not at the time of the disclosure a matter of public knowledge,
- (g) results in the publication of information that—
 - (i) relates to a person who is a witness to or a victim of an offence, and
 - (ii) is of such a nature that its publication would be likely to discourage the person to whom the information relates or any other person from giving evidence or reporting an offence,
- (h) results in the publication of personal information (as defined in the [Freedom of Information Acts 1997](#) to 2014) and constitutes an unwarranted and serious infringement of a person's right to privacy,
- (i) reveals information provided in confidence by another state, an international organisation, another police service or an intelligence service, or

(j) affects adversely the international relations or interests abroad of the State,
including those with Northern Ireland.

(3) For the purpose of this section, a person is presumed, unless the contrary is proved, to know that disclosure of information referred to in *subsection (1)* is likely to have a harmful effect if a reasonable person would, in all the circumstances, be aware that its disclosure could have that effect.

(4) *Subsection (1)* does not prohibit a person from disclosing information referred to in that subsection if the disclosure—

(a) is made to—

- (i) the Garda Commissioner,
- (ii) the Minister,
- (iii) the Attorney General,
- (iv) the Director of Public Prosecutions,
- (v) the Chief State Solicitor,
- (vi) the Criminal Assets Bureau,
- (vii) the Comptroller and Auditor General,
- (viii) the Ombudsman Commission or an officer of the Commission,
- (ix) the Garda Síochána Inspectorate or an officer of the Inspectorate,
- (x) the Revenue Commissioners, or
- (xi) a member of either of the Houses of the Oireachtas where relevant to the proper discharge of the member's functions,

(b) is made to a court,

(c) is made to a tribunal appointed under the Tribunals of Inquiry (Evidence) Acts 1921 to 2002 or a commission of investigation established under the [Commissions of Investigation Act 2004](#),

(d) is made in the course of, and in accordance with, the duties of that person's office or employment or his or her duties under a contract or other arrangement to work with or for the Authority,

(e) is authorised by the chairperson of the Authority, or

(f) is otherwise authorised by law.

(5) A person who contravenes *subsection (1)* is guilty of an offence and is liable—

(a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

(6) A person who contravenes *subsection (1)* and who receives any gift, consideration or advantage as an inducement to disclose the information to which the contravention relates or as a reward for, or otherwise on account of, the disclosure of that information is guilty of an offence and is liable—

(a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €75,000 or imprisonment for a term not exceeding 7 years or both.

(7) The provisions of this section are in addition to, and not in substitution for, the provisions of the [Official Secrets Act 1963](#).

Notes

This is a standard type provision dealing with the confidentiality of certain information.

Head 5 (continued)

Strategic plans.

5M.—(1) The Authority shall, as soon as practicable after the establishment day and thereafter within 6 months before each third anniversary of the establishment day, prepare and submit to the Minister a strategic plan for the ensuing 3 year period.

(2) A strategic plan shall—

- (a) set out the key objectives, outputs and related strategies of the Authority, including the use of its resources, and
- (b) have regard to the need to ensure the most beneficial and efficient use of the Authority's resources.

(3) Before submitting a strategic plan to the Minister in accordance with *subsection (1)*, the Authority—

- (a) may publish in such manner as the Authority considers appropriate a draft of the strategic plan, and shall allow persons 30 days from the date of that publication within which to make representations in writing to the Authority in relation to the draft plan, and
- (b) following consultation and, where relevant, having considered the representations (if any) made, shall submit the plan to the Minister with or without modifications.

(4) The Minister shall cause a copy of a strategic plan prepared pursuant to this Head to be laid before each House of the Oireachtas as soon as practicable after the plan has been received by him or her.

Notes

This is a standard type provision governing the preparation (subhead (1)), contents (subhead (2)) and laying before the Oireachtas (subhead (4)) of the strategic plan for the Authority.

Subhead (3) allows the Authority to publish a draft plan for public comment and to consider any representations received before submitting the plan to the Minister.

Head 5 (continued)

Reports to Minister.

5N.—(1) Not later than March 31 in each year, the Authority shall submit to the Minister a report on its activities in the immediately preceding year.

(2) The Authority shall, within 2 years from the date of its establishment, submit to the Minister a report on—

(a) the effectiveness of the Authority, and

(b) the adequacy of the functions assigned to it by this Act.

(3) The report submitted under *subsection (2)* may contain recommendations for improving the effectiveness of the Authority.

(4) At the end of each 5 year period commencing with the date of its establishment, the Authority shall submit to the Minister a report reviewing the general performance of its functions in the preceding 5 years.

(5) The Authority may make any other reports that it considers appropriate for drawing to the Minister's attention matters that have come to its notice and that, in its opinion, should, because of their gravity or other exceptional circumstances, be the subject of a special report to the Minister.

(6) As soon as practicable after receiving a report under this section, the Minister shall cause a copy of the report to be laid before each House of the Oireachtas.

Notes

This is a standard type provision governing annual reports and other reports to be submitted to the Minister by the Authority.

Head 5 (continued)

Staff of Authority.

50.—(1) The Authority may, with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, appoint such and so many persons to be members of the staff of the Authority as it may determine.

(2) The terms and conditions of service of a member of the staff of the Authority and the grade at which he or she serves shall be such as may be determined by the Authority with the consent of the Minister and the Minister for Public Expenditure and Reform.

(3) A member of staff of the Authority shall be a civil servant in the Civil Service of the State.

(4) The Authority shall be the appropriate authority (within the meaning of the Civil Service Commissioners Act 1956 and the Civil Service Regulation Acts 1956 to 2005) in relation to its officers.

Notes

This is a standard type provision dealing with the appointment of the staff of the Authority.

Head 5 (continued)

Accounts and audit.

5P.—(1) The Authority, shall—

- (a) submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times as may be specified by the Minister, and
 - (b) provide to the Minister any information which the Minister may require regarding those estimates and also regarding the proposals and plans of the Authority in respect of a period specified by the Minister, and the Minister shall, as soon as practicable, cause copies of the information so submitted by the Authority to be laid before each House of the Oireachtas.
- (2) The Authority shall keep in such form and in respect of such accounting periods as may be approved of by the Minister, with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts of moneys received and spent by the Authority, including an income and expenditure account and a balance sheet.
- (3)(a) The accounts of the Authority shall be approved by it as soon as is practicable (but not later than 3 months after the end of the accounting period to which they relate) and submitted by it to the Comptroller and Auditor General for audit.
- (b) A copy of the accounts and the report of the Comptroller and Auditor General on them shall be presented to the members of the Authority and the Minister as soon as is practicable, and the Minister shall cause a copy of the accounts and report to be laid before each House of the Oireachtas.
- (4) The Authority and any a member of the staff of the Authority to whom duties relating to those accounts have been duly assigned shall, whenever so required by the Minister, permit any person appointed by the Minister to examine the accounts of the Authority in respect of any financial year or other period and shall facilitate any such examination, and the Authority shall pay to the Minister such fee for the examination as may be fixed by the Minister.

Notes

This is a standard type provision relating to the accounts of the Authority.

Head 5 (continued)

Accountability of Authority to Oireachtas Committee established to examine etc. appropriation accounts etc.

5Q.— A member of the Authority nominated by it for the purpose shall, whenever required in writing by a Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General (in this section referred to as the “Committee”), give evidence to that Committee on—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any account kept under *section 5P(2) [Accounts and Audit]*,
- (b) the economy and efficiency of the Authority in the use of its resources,
- (c) the systems, procedures and practices employed by the Authority for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the Authority referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.

Notes

This is a standard type provision relating to the accountability of the Authority to the Public Accounts Committee.

Head 5 (continued)

Accountability of Authority to other Oireachtas Committees.

5R.—(1) Subject to *subsection (3)*, a member of the Authority nominated by it for the purpose shall, at the request in writing of the Committee attend before it to give account for the general administration of the Authority as is required by the Committee.

(2) In giving evidence to the Committee, the member of the Authority shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

(3) The member of the Authority shall not be required to give account before the Committee for any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.

(4) Where the member of the Authority is of the opinion that a matter, the subject of a request under *subsection (1)*, is a matter to which *subsection (3)* applies, he or she shall inform the Committee concerned of that opinion and the reasons for that opinion and, unless the information is conveyed to the Committee at a time when the member is before it, the information shall be so conveyed in writing.

(5) Where the member of the Authority has informed the Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (1)* in so far as it relates to a matter the subject of that opinion—

(a) the member may, not later than 21 days after being informed by the Committee of its decision not to withdraw the request, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (3)* applies, or

(b) the chairperson of the Committee may, on behalf of the Committee, make such an application, and the High Court shall determine the matter.

(6) Pending the determination of an application under *subsection (5)*, the member of the Authority shall not attend before the Committee to give account for the matter the subject of the application.

(7) If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (1)*, but if the

High Court determines that *subsection (3)* does not apply, the member of the Authority shall attend before the Committee to give account for the matter.

(8) In this section “Committee” means—

(a) a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee of Public Accounts, the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann), or

(b) a sub-committee of a committee as defined in *paragraph (a)*.

Notes

This is a standard type provision relating to the accountability of the member of the Authority nominated for that purpose to the relevant Oireachtas Committees.

Head 5 (continued)

Advances by Minister to Authority.

5S.—The Minister shall advance to the Authority out of moneys provided by the Oireachtas such amount or amounts as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine for the purposes of expenditure by the Authority in the performance of its functions.

Notes

This is a standard type provision making provision for advances of moneys provided by the Oireachtas to the Authority for the performance of its functions.

PART 3

PERSONNEL AND ORGANISATION OF THE GARDA SÍOCHÁNA

Head 6 **Amendment of Part 2, Chapter 2, of Principal Act [*Personnel and organisation*]**

Provide that

Part 2 of the Principal Act is amended by the substitution of the following for Chapter 2:

“Chapter 2

Personnel and Organisation

Appointment of Garda Commissioner, Deputy Garda Commissioner, etc.

9.—(1) The Government shall, upon the nomination of the Authority, appoint—

- (i) a person to be the Garda Commissioner, and
- (ii) such number of persons as the Government may determine to the rank of Deputy Garda Commissioner.

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

(3)(a) The Authority shall agree with the Minister and the Service the selection criteria and process to be implemented in respect of the selection competition.

(b) The Service may adopt such procedures as it thinks fit to carry out its functions under this section.

(c)(i) A person shall not be recommended by the Service for nomination under this section unless the person is, in the opinion of the Service, suitably qualified for such nomination by reason of his or her possessing such relevant experience, training or expertise as is appropriate having regard in particular to the functions

conferred on the Garda Commissioner or, as the case may be, a Deputy Garda Commissioner by or under this Act.

(ii) The Service shall provide the Authority with particulars of experience, training and expertise of the person whom it recommends under this section.

(4) Subject to *subsection (5)*, where the Authority makes a nomination for the appointment of a person under this section, the Government shall accept that nomination.

(5)(a) In exceptional circumstances, where the Government, for substantial and stated reasons, is unable to accept the nomination by the Authority of a particular person, it shall inform the Authority of that fact and the reasons for it and request the Authority to nominate another person in respect of the appointment.

(b) The Authority shall—

(i) consider the Government's reasons provided in accordance with *paragraph (a)*, and

(ii) unless, having consulted with the Service, the Authority disagrees with those reasons and wishes to make representations to the Government in that behalf, make another nomination to the Government on the basis of a further recommendation from the Service.

(6) The Authority may, in accordance with the regulations and on the recommendation of the Service after a competition for that purpose has been held on behalf of the Authority, appoint such number of persons as may have been approved by the Minister with the prior approval of the Minister for Public Expenditure and Reform to the ranks of Assistant Garda Commissioner, chief superintendent and superintendent in the Garda Síochána.

(7) A person appointed pursuant to this section may resign from office by notice in writing—

(a) in the case of an appointment under *subsection (1)*, addressed to the Minister and the resignation shall take effect on the date the Minister receives the notice or, if a date is specified in the notice and the Minister agrees to that date, on that date, and

(b) in the case of an appointment under *subsection (6)*, addressed to the Authority and the resignation shall take effect on the date the Authority receives the notice or, if a date is specified in the notice and the Authority agrees to that date, on that date.

(8) Subject to *section 11 [Removal, etc]*, a person who, on the commencement of this section, holds the office of Garda Commissioner, a Deputy Garda Commissioner or, as the case may be, an Assistant Garda Commissioner, chief superintendent or superintendent in the Garda Síochána, continues in office in accordance with the terms and conditions of his or her appointment.

Notes

This Head substitutes a new Chapter 2 into Part 2 of the Principal Act. It makes provision for the appointment of the Garda Commissioner and Deputy Commissioners, Assistant Garda Commissioners, chief superintendents or superintendents

Subhead (1) provides for the new arrangements for the appointment of a Garda Commissioner and Deputy Garda Commissioner. Under these arrangements, the Government will make the appointments following nomination by the Authority

By subhead (2), the Authority will not make such a nomination unless the Public Appointments Service (PAS) has held a competition for the positions concerned.

Subhead (3) makes provision for the settlement of selection criteria and the competition process.

While the Government will be required to accept the Authority's nominee (subhead (4)), provision is made (subsection (5)) for exceptional circumstances where, for substantial and stated reasons, it is unable to accept the nomination by the Authority of a particular person. In those circumstances the Government can request the Authority to nominate another person in respect of an appointment.

Subhead (6) provides that the Authority will make appointments to the ranks of Assistant Commissioner, chief superintendent and superintendent.

Subhead (7) makes provision for the resignation of persons appointed pursuant to this Head.

Subhead (8) is a transitional provision.

Head 6 - continued

Exercise of functions in Garda Commissioner's absence.

10.— (1) The Minister may authorise a Deputy Garda Commissioner to perform the functions of the Garda Commissioner—

(a) during any absence, incapacity or suspension from duty of the Garda Commissioner, or

(b) during any vacancy in the office of Garda Commissioner.

(2) In the absence of a Deputy Garda Commissioner, the Minister may authorise an Assistant Garda Commissioner to perform the functions of the Garda Commissioner during any absence or other circumstance described in *paragraph (a) or (b) of subsection (1)*.

(3) The Minister shall notify the Authority where he or she makes an authorisation in accordance with *subsection (1) or (2)*.

Notes

This is essentially a restatement of section 32 of the Principal Act.

Head 6 - continued

Removal of Garda Commissioner, Deputy Garda Commissioner etc. from office.

11.—(1)(a) Subject to *section 12 [Steps to be taken...]*, a person who holds the office of Garda Commissioner or Deputy Garda Commissioner may, on the recommendation of the Authority, be removed from office by the Government, but only for stated reasons related to policing matters, including because—

(i) the person has—

(I) failed to perform the functions of the office relating to policing matters with due diligence and effectiveness, or

(II) in the case of the Garda Commissioner, failed to have regard to any of the matters specified in *Head 7 [Functions of Garda Commissioner – proposed substituted section 27]*,

(ii) the person has engaged in conduct that brings discredit on the office or that may prejudice the proper performance of the functions of the office relating to policing matters, or

(iii) the person's removal from office would, in the Government's opinion, be in the best interests of the Garda Síochána.

(b) Subject to *section 13 [Steps to be taken...]*, a person who holds the office of Assistant Garda Commissioner, chief superintendent or superintendent may be removed from office by the Authority, but only for stated reasons related to policing matters, including because—

(i) the person has failed to perform the functions of the office relating to policing matters with due diligence and effectiveness,

(ii) the person has engaged in conduct that brings discredit on the office or that may prejudice the proper performance of the functions of the office relating to policing matters, or

(iii) the person's removal from office would, in the Authority's opinion, be in the best interests of the Garda Síochána.

(c) Subject to *section 12 [Steps to be taken...]*, a person who holds the office of Garda Commissioner, Deputy Garda Commissioner, Assistant Garda Commissioner, chief

superintendent or superintendent may be removed from office by the Government, but only for stated reasons related to security matters, including because—

- (i) the person has failed to perform the functions of the office relating to security matters with due diligence and effectiveness,
- (ii) the person has engaged in conduct that brings discredit on the office or that may prejudice the proper performance of the functions of the office relating to security matters, or
- (iii) the person's removal from office would, in the Government's opinion, be in the best interests of the Garda Síochána.

(2)(a) On notifying under *section 12(1)(a)* or *13(1)(a)* a person who holds the office of Garda Commissioner, Deputy Garda Commissioner, Assistant Garda Commissioner, chief superintendent or superintendent, the Government or, as the case may be, the Authority may immediately suspend the person from duty.

(b) The suspension from duty continues until the Government or the Authority makes a decision in relation to the matter under consideration, but only if there is no undue delay in taking steps under *section 12* or, as the case may be, *section 13* in making that decision.

(3) The Government shall, as soon as may be, notify the Authority of a proposal to remove a person from office in accordance with *subsection (1)(c)* and any related suspension from duty referred to in *subsection (2)*.

(4) The Authority shall, as soon as may be, notify the Government of a proposal to remove a person from office in accordance with *subsection (1)(b)* and any related suspension from duty referred to in *subsection (2)*.

Notes

This Head sets out the process for the removal of a Garda Commissioner, Deputy Garda Commissioner, Assistant Garda Commissioner, chief superintendent or superintendent. Three situations are catered for —

- removal of the Commissioner or a Deputy Commissioner in respect of policing matters by the Government on the recommendation of the Authority;
- removal of an Assistant Commissioner, chief superintendent or superintendent in connection with policing matters by the Authority; and
- removal of the Commissioner, a Deputy Commissioner, Assistant Commissioner, chief superintendent or superintendent in relation to security matters by the Government.

Removals are subject to the provisions of proposed sections 12 and 13 which set out the procedures to be followed before these senior officers can be removed.

Head 6 - continued

Steps to be taken before the removal of an office holder by the Government

12.—(1) Before considering a person's removal from office under *section 11(1)(a)* or *11(1)(c)* the Government shall—

- (a) notify the person and the Authority that the Government intends to consider the matter and include in the notice a statement of its reasons for doing so, and
- (b) give the person an opportunity to make representations as to why he or she ought not to be removed from office.

(2) The Government may, if it considers it necessary or appropriate to do so, appoint a person to—

- (a) hold an inquiry into any matter giving rise to a notification under *subsection (1)*, and
- (b) report to the Government on the findings of the inquiry.

(3) A person appointed under this section to hold an inquiry may do one or more of the following:

- (a) direct a person, by notice delivered to him or her, to provide any information that is specified in the notice and is required for the purposes of the inquiry;
- (b) direct any person, by notice delivered to him or her, to produce at the time and place specified in the notice a document specified in the notice that is relevant to the inquiry and is in the person's power or control;
- (c) summon witnesses to attend the inquiry;
- (d) direct a witness to answer a question put to him or her at the inquiry;
- (e) give any other direction that appears to the person appointed under this section to be necessary, just and reasonable for the purposes of the inquiry;
- (f) administer oaths and affirmations to witnesses and examine witnesses attending the inquiry.

(4) If a person fails or refuses to comply with or disobeys a direction or summons under *subsection (3)*, the High Court may, on application by the person appointed under this section—

- (a) order the person in relation to whom the application was made to comply with the direction or, in the case of a summons, to attend the inquiry, and
- (b) make such other (if any) order as it considers necessary and just to enable the direction to have full effect or, in the case of a summons, to ensure the attendance at the inquiry.

(5) A person who—

- (a) is notified under *subsection (3)* and who, without lawful excuse, refuses or fails to comply with a direction under *subsection (3)(a)* or *(b)*,
- (b) fails, without lawful excuse, to attend an inquiry in response to a summons under *subsection (3)(c)*,
- (c) refuses to answer a question that the person conducting the inquiry may legally direct him or her to answer, or
- (d) does or omits to do in relation to the inquiry any other thing the doing or omission of which would, if the inquiry had been a proceeding in the High Court, have been contempt of that Court,

is guilty of an offence and is liable on summary conviction to a Class C fine or to imprisonment for a term not exceeding 6 months or both.

(6) If an inquiry is held, the Government shall—

- (a) consider the report on the findings of the inquiry,
- (b) make a copy of the report available to the person whose removal from office is the subject of the report, and
- (c) give that person an opportunity to make representations relating to the report.

(7) As soon as practicable after a person is removed from office under *section 11(1)(a)* or *11(1)(c)* the Minister shall cause a statement of the reasons for the removal to be laid before each House of the Oireachtas.

Notes

This Head sets out the steps to be taken by the Government before the removal of the Commissioner or another senior officer under section 11. The emphasis is on ensuring that fair procedures will be followed and an opportunity must be provided to the person concerned to make representations.

Head 6 - continued

Steps to be taken before the removal of an office holder by the Authority.

13.—(1) Before considering a person's removal from office under *section 11(1)(b)* the Authority, shall—

- (a) notify the person and the Government that the Authority intends to consider the matter and include in the notice a statement of its reasons for doing so, and
- (b) give the person an opportunity to make representations as to why he or she ought not to be removed from office.

(2) The Authority may, if it considers it necessary or appropriate to do so, appoint a person to—

- (a) hold an inquiry into any matter giving rise to a notification under *subsection (1)*, and
- (b) report to the Authority on the findings of the inquiry.

(3) A person appointed under this section to hold an inquiry may do one or more of the following:

- (a) direct a person, by notice delivered to him or her, to provide any information that is specified in the notice and is required for the purposes of the inquiry;
- (b) direct any person, by notice delivered to him or her, to produce at the time and place specified in the notice a document specified in the notice that is relevant to the inquiry and is in the person's power or control;
- (c) summon witnesses to attend the inquiry;
- (d) direct a witness to answer a question put to him or her at the inquiry;
- (e) give any other direction that appears to the person appointed under this section to be necessary, just and reasonable for the purposes of the inquiry;
- (f) administer oaths and affirmations to witnesses and examine witnesses attending the inquiry.

(4) If a person fails or refuses to comply with or disobeys a direction or summons under *subsection (3)*, the High Court may, on application by the person appointed under this section—

- (a) order the person in relation to whom the application was made to comply with the direction or, in the case of a summons, to attend the inquiry, and
- (b) make such other (if any) order as it considers necessary and just to enable the direction to have full effect or, in the case of a summons, to ensure the attendance at the inquiry.

(5) A person who—

- (a) is notified under *subsection (3)* and who, without lawful excuse, refuses or fails to comply with a direction under *subsection (3)(a)* or *(b)*,
- (b) fails, without lawful excuse, to attend an inquiry in response to a summons under *subsection (3)(c)*,
- (c) refuses to answer a question that the person conducting the inquiry may legally direct him or her to answer, or
- (d) does or omits to do in relation to the inquiry any other thing the doing or omission of which would, if the inquiry had been a proceeding in the High Court, have been contempt of that Court,

is guilty of an offence and is liable on summary conviction to a Class C fine or to imprisonment for a term not exceeding 6 months or both.

(6) If an inquiry is held, the Authority shall—

- (a) consider the report on the findings of the inquiry,
- (b) make a copy of the report available to the person whose removal from office is the subject of the report, and
- (c) give that person an opportunity to make representations relating to the report.

(7) As soon as practicable after a person is removed from office under *section 11(1)(b)*, the Minister shall cause a statement of the reasons for the removal to be laid before each House of the Oireachtas.

Notes

This Head sets out the steps to be taken by the Authority before the removal of an Assistant Commissioner, chief superintendent or superintendent with regard to policing matters under section 11. The procedures to be adopted are similar to those provided for under section 12.

Head 6 - continued

Appointment of members to other ranks etc.

14.—(1) The Garda Commissioner may appoint, subject to and in accordance with the regulations, such numbers of persons as he or she sees fit to the ranks of garda, sergeant and inspector in the Garda Síochána.

(2) Notwithstanding anything in this Act or the regulations, the Garda Commissioner may dismiss from the Garda Síochána a member not above the rank of inspector if—

(a) the Commissioner is of the opinion that—

(i) by reason of the member's conduct (which includes any act or omission), his or her continued membership would undermine public confidence in the Garda Síochána, and

(ii) the dismissal of the member is necessary to maintain that confidence,

(b) the member has been informed of the basis for the Commissioner's opinion and has been given an opportunity to respond to the stated basis for that opinion and to advance reasons against the member's dismissal,

(c) the Commissioner has considered any response by the member and any reasons advanced by the member, but the Commissioner remains of his or her opinion, and

(d) the Authority consents to the member's dismissal.

(3) *Subsection (2)* is not to be taken to limit the power to make or amend Disciplinary Regulations.

Notes

This Head essentially restates the current provisions, with necessary amendments to take account of the establishment of the Authority, relating to the appointment and removal of members of the Garda Síochána up to and including the rank of inspector.

Head 6 - continued

Reserve members.

15.— (1) The Garda Commissioner may, subject to *subsection (4)* and the regulations, appoint persons as reserve members of the Garda Síochána to assist it in performing its functions.

(2) A person is not eligible to be appointed as a reserve member unless he or she has completed the prescribed training.

(3) Subject to *subsection (5)*, a reserve member has, while on duty, the same powers, immunities, privileges and duties as a person appointed under *section 14 [Appointment of members to other ranks]* to the rank of garda.

(4) The power to appoint persons under *subsection (1)* may be exercised only if—

(a) the Garda Commissioner has submitted proposals to the Authority for the training of persons to be so appointed, and

(b) regulations have been made concerning their recruitment and training and prescribing the terms and conditions of their position.

(5) The Garda Commissioner, following consultation with the Authority, may determine the range of powers to be exercised and duties to be carried out by reserve members.

(6) A reserve member is a volunteer and does not perform his or her functions as such a member under a contract of employment.

Notes

This Head is essentially a restatement of the current provisions for appointment of reserve members of the Garda Síochána with amendments to take account of the establishment of the Authority.

Head 6 - continued

Solemn declaration.

16.—(1) On being appointed, each member of the Garda Síochána shall make before a Peace Commissioner a declaration in the following form:

“I hereby solemnly and sincerely declare before God that—

- I will faithfully discharge the duties of a member of the Garda Síochána with fairness, integrity, regard for human rights, diligence and impartiality, upholding the Constitution and the laws and according equal respect to all people,
- while I continue to be a member, I will to the best of my skill and knowledge discharge all my duties according to law, and
- I do not belong to, and will not while I remain a member form, belong to or subscribe to, any political party or secret society whatsoever.”.

(2) The words “before God” may be omitted from the declaration at the request of the declarant.

Notes

This Head restates section 16 of the Principal Act.

Head 6 - continued

Code of ethics.

17.—(1) The Authority shall, by order within 12 months of the establishment day, establish and publish a code of ethics that—

- (a) includes standards of conduct and practice for members,
- (b) is fully consistent with the policing principles [*section 5H – Policing principles*],
and
- (c) encourages and facilitates the reporting of wrongdoing in the Garda Síochána by members.

(2)(a) A code of ethics, established in accordance with *subsection (1)* shall be binding on all members.

(b) The Garda Commissioner shall take such steps as are necessary to ensure that all members have read and understood a code of ethics referred to in *paragraph (a)* and that a record is kept of the steps taken in relation to each member.

(c) A failure to comply with any specified provision of a code of ethics referred to in *paragraph (a)* shall constitute a breach of discipline in accordance with the Disciplinary Regulations.

(3)(a) Before establishing or amending a code of ethics, the Authority shall request the Garda Commissioner to prepare and submit to the Authority a draft code of ethics.

(b) A request under *paragraph (a)* may specify a time period within which the Garda Commissioner shall prepare and submit to the Authority a draft code of ethics.

(c) The Garda Commissioner shall, unless the Authority is satisfied, following a request in writing from the Commissioner, that the time period should be extended, prepare and submit to the Authority a draft code of ethics within the time period specified in *paragraph (b)*.

(4) When requested to prepare a draft code of ethics the Garda Commissioner shall consult with the following about the content of the draft:

- (a) the representative associations established under [section 18](#) or [section 13](#) of the [Act of 1924](#);

- (b) the Minister for Public Expenditure and Reform;
- (c) the Irish Human Rights and Equality Commission;
- (d) the Standards in Public Office Commission;
- (e) the Ombudsman Commission;
- (f) any other person or body appearing to the Garda Commissioner to have an interest in the matter.

(5) In preparing a draft code of ethics or amendments, the Garda Commissioner shall have regard to—

- (a) the policing principles [*section 5H Policing principles*],
- (b) the standards, practices and procedures applicable to the conduct of police officers in other member states of the European Union, and
- (c) any relevant recommendations of the Council of Europe.

(6) The Authority may amend or revoke a code of ethics established and published under this section.

(7) *Subsections (3), (4) and (5)* shall, with all necessary modifications, apply to any amendments to a code of ethics that the Authority proposes to make under *subsection (6)*.

(8) Before establishing and publishing of a code of ethics under this section, the Authority—

- (a) may publish in such manner as the Authority considers appropriate a draft of the code of ethics, and shall allow persons 30 days from the date of that publication within which to make representations in writing to the Authority in relation to the draft code concerned or such further period, not exceeding 15 days, as the Authority thinks fit, and
- (b) following consultation and, where relevant, having considered the representations (if any) made, shall establish and publish the code with or without modifications.

(9) Where the Authority establishes, amends or revokes a code of ethics under this section, the Minister shall cause a notice to that effect to be laid before each House of the Oireachtas as soon as may be after the code is established, amended or, as the case may be, revoked.

Notes

This Head requires the Authority to establish and publish, within 12 months of the establishment day, a code of ethics for members of the Garda Síochána that—

- (a) includes standards of conduct and practice for members of the Garda Síochána,
- (b) is fully consistent with the policing principles in proposed section 5H [*Policing principles*] (see Head 5), and
- (c) encourages and facilitates the reporting of wrongdoing in the Garda Síochána by members of the Garda Síochána.

The code will be binding on all members of the Garda Síochána. The Commissioner must ensure that all members of the Garda Síochána have read and understood the code and failure to comply with any specified provision of a code will be a disciplinary matter.

The Head also sets out the process for the establishment of the code and enables the Authority to undertake a public consultation process in respect of a draft code.

Head 6 - continued

Representative associations.

18.—(1) For the purpose of representing members of the Garda Síochána in all matters affecting their welfare and efficiency (including pay, pensions and conditions of service), there may be established, in accordance with the regulations, one or more than one association for all or any one or more of the ranks of the Garda Síochána below the rank of Assistant Garda Commissioner.

(2) An association established under *subsection (1)* must be independent of and not associated with any body or person outside the Garda Síochána, but it may employ persons who are not members of the Garda Síochána.

(3) A member of the Garda Síochána shall not be or become a member of any trade union or association (other than an association established under this section or [section 13](#) of the [Act of 1924](#)) any object of which is to control or influence the pay, pensions or conditions of service of the Garda Síochána.

(4) If any question arises whether any body or association is a trade union or association referred to in *subsection (3)*, the question shall be determined by the Minister whose determination shall be final.

(5) The Minister—

(a) may, notwithstanding *subsection (2)*, authorise an association established under this section to be associated with a person or body outside the Garda Síochána in such cases and in such manner and subject to such conditions or restrictions as he or she may specify, and

(b) may vary or withdraw any such authorisation.

(6) An association established under this section for the purpose of representing members of the Garda Síochána holding the rank of Garda may include persons admitted, in accordance with the regulations, to training for membership in the Garda Síochána.

Notes

This Head restates the existing provisions relating to representative associations.

Head 6 - continued

Civilian staff.

19.—(1) The Garda Commissioner may appoint such numbers of persons as civilian staff of the Garda Síochána as may be approved by the Authority with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform.

(2) The Garda Commissioner shall determine the grades of civilian staff and the numbers in each grade in the categories of professional, administrative and specialist staff, as may be approved by the Authority with the consent of the Minister given with the approval for Public Expenditure and Reform.

(3) A member of civilian staff of the Garda Síochána is a civil servant of the Government.”

Notes

This Head makes necessary amendments to take account of the establishment of the Authority in respect of the appointment of the civilian staff of the Garda Síochána.

Head 7 Amendment of Part 2, Chapter 3, of Principal Act [*Roles of Minister and Garda Commissioner*].

Provide that

Part 2 of the Principal Act is amended by the substitution of the following for Chapter 3:

“Chapter 3

Roles of Authority, Minister and Garda Commissioner

Setting of priorities by Authority – policing matters.

20.—(1) The Authority shall, with the prior agreement of the Minister and subject to *subsection (3)*—

- (a) determine, and from time to time revise, priorities for the Garda Síochána in performing its functions relating to policing matters, and
- (b) establish, and from time to time revise, levels of performance (“performance targets”) to be aimed at in seeking to achieve the objective of each priority.

(2) The Authority shall—

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

(3) In exceptional circumstances, where the Minister, for substantial and stated reasons in the public interest, is unable to agree to any proposed determination or, as the case may be, revision of priorities or establishment or revision of performance targets, he or she shall notify the Authority in writing of that fact and the reasons for it and shall request the Authority to make another proposed determination, establishment or revision, as the case may be, of priorities or performance targets.

(4) The Minister shall convey his or her agreement to the determination, establishment or revision, as the case may be, of priorities or performance targets in writing.

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

(6) The Garda Commissioner shall—

(a) inform the Authority of the measures taken to achieve the objectives of the priorities determined and performance targets established under this section and of the outcome of those measures, and

(b) supply that information within the time specified by the Authority or, if no such time is specified, in the annual report.

Notes

This Head substitutes a new Chapter 3 into Part 2 of the Principal Act.

Proposed new section 20 of the Principal Act relates to the setting by the Authority of priorities and performance targets for the Garda Síochána in relation to policing matters. The relevant priorities and performance targets will be approved by the Minister.

Head 7 - continued

Setting of priorities by Minister – security matters.

21.—(1) The Minister may—

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

(2) The Minister shall—

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

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

(4) The Minister may exclude from the copy of the priorities, revisions or performance targets, as the case may be, to be laid before each House of the Oireachtas any matter that, in his or her opinion—

- (a) would be prejudicial to the interests of national security, or
- (b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

(5) The Garda Commissioner shall—

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

Notes

This Head makes provision for the setting by the Minister of priorities and performance targets for the Garda Síochána in relation to security matters.

Head 7 - continued

Strategy statement.

22.—(1) Every 3 years or as directed under *subsection (6)*, the Garda Commissioner shall submit to the Authority for its approval a strategy statement for the Garda Síochána and for the policing of the State for the following 3 years.

(2) The strategy statement shall be prepared in such form and manner as the Authority, with the consent of the Minister, may direct and shall include the following:

- (a) a mission statement;
- (b) medium term objectives, the strategies to achieve those objectives and the expected outputs and outcomes;
- (c) an identification of issues of concern to Departments of State and agencies in the State and a plan for managing those issues, and
- (d) material relating to security matters that has been approved by the Minister for inclusion.

(3) In preparing the strategy statement, the Garda Commissioner shall have regard to the following matters:

- (a) relevant Government policy;
- (b) the priorities determined by—
 - (i) the Authority under *section 20 [Setting of priorities by Authority – policing matters]*, and
 - (ii) the Minister under *section 21 [Setting of priorities by Minister – security matters]*;
- (c) the resources expected to be available to the Garda Síochána for the period to which the statement relates;
- (d) the need to ensure the most beneficial, effective and efficient use of those resources; and
- (e) the policing principles [*section 5H Policing principles*].

(4) The Authority shall, with the prior agreement in writing of the Minister, approve the strategy statement—

(i) in the form of the draft submitted, or

(ii) with such amendments as the Authority or the Minister may determine.

(5) As soon as practicable after the approval of the strategy statement by the Authority, the Minister shall cause a copy of it to be laid before each House of the Oireachtas.

(6) The Authority may direct that the strategy statement be submitted at shorter intervals than every 3 years and cover a shorter period than 3 years.

Notes

This Head makes provision for the adoption of a strategy statement for the Garda Síochána every 3 years. The Authority will be responsible for approving the strategy statement subject to the consent of the Minister.

Head 7 - continued

Annual policing plan – policing matters.

23.—(1) The Garda Commissioner shall each year prepare a policing plan relating to policing matters, setting out the proposed arrangements for the policing of the State for the following year, including any proposal to—

- (a) establish or dissolve a national unit of the Garda Síochána,
- (b) alter the boundaries of a regional geographical area under the control of an Assistant Garda Commissioner or of a divisional geographical area under the control of a chief superintendent,
- (c) establish or relocate a divisional headquarters under the control of a chief superintendent or of a district headquarters under the control of a superintendent, or
- (d) open a Garda Síochána station in a new location or cease stationing members in an existing station.

(2) In preparing a policing plan relating to policing matters, the Garda Commissioner shall have regard to the following:

- (a) the priorities determined and performance targets established *section 20 [Setting of priorities by Authority – policing matters]*;
- (b) the strategy statement in operation under *section 22 [Strategy statement]* during the year to which the plan relates;
- (c) relevant directives issued under *section 26 [Directives]*;
- (d) the resources expected to be available to the Garda Síochána for that year and the proposed allocation of those resources;
- (e) relevant Government policy; and
- (f) the policing principles [*section 5H Policing principles*].

(3) In preparing the policing plan relating to policing matters, the Garda Commissioner may have regard to the most recent report of each joint policing committee.

(4) Before the month of November in each year, the Garda Commissioner shall submit to the Authority for approval a draft of the policing plan relating to policing matters for the following year.

(5) The Authority shall, with the prior agreement in writing of the Minister, approve the policing plan relating to policing matters —

(a) in the form of the draft submitted, or

(b) with such amendments as the Authority, after consulting with the Garda Commissioner, or the Minister may determine.

(6) As soon as practicable after the approval of the policing plan relating to policing matters by the Authority, the Minister shall cause a copy of it to be laid before each House of the Oireachtas.

Notes

This Head makes provision for an annual policing plan relating to policing matters. It will be approved by the Authority with the agreement of the Minister.

Head 7 - continued

Three year review report.

24.—(1) At the end of each 3 year period, beginning on the day after the end of the period for which the previous report was submitted in accordance with *section 23* [of the Principal Act], the Garda Commissioner shall submit to the Authority a report, prepared by the Commissioner, containing a review of the efficiency and effectiveness of the management and deployment of resources available to the Garda Síochána during that 3 year period.

(2) The report may contain recommendations that the Garda Commissioner considers necessary for improving the management and deployment of resources.

(3) As soon as practicable after receiving the report, the Authority shall forward it to the Minister who shall, subject to *subsection (4)*, cause a copy of it to be laid before each House of the Oireachtas.

(4) The Minister may exclude from the copies of reports that are to be laid before the Houses of the Oireachtas any matter that, in his or her opinion—

- (a) would be prejudicial to the interests of national security, or
- (b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

Notes

This Head makes provision for the Garda Commissioner to submit to the Authority a three year review report relating to policing matters.

Head 7 - continued

Professional Standards Unit – report to Authority.

25.—Not later than 31 March in each year, the Garda Commissioner shall submit a report to the Authority on the activities of the Professional Standards Unit, established in accordance with section 24 [of the Principal Act], in the preceding year.

Notes

This Head makes provision for the Garda Commissioner to submit an annual report to the Authority on the activities of the Professional Standards Unit in the preceding year.

Head 7 - continued

Directives.

26.—(1) Following the approval of the Government—

(a) the Authority may issue to the Garda Commissioner written directives concerning any policing matter, and

(b) the Minister may issue to the Garda Commissioner written directives concerning any security matter.

(2) In exceptional circumstances, where the Government for substantial and stated reasons considers it appropriate in the public interest to do so, the Government may approve the issuing by the Minister of a written directive to the Authority or, as the case may be, the Garda Commissioner concerning any policing matter.

(3) The Garda Commissioner and the Authority, as the case may be, shall comply with any directive issued under this section.

(4) As soon as practicable after a directive is issued under this section, the Minister shall cause a copy of the directive to be laid before each House of the Oireachtas, but if compliance with this requirement might prejudice the security of the State or might impede the prevention, investigation or prosecution of an offence, it is sufficient if a written statement indicating that a directive has been issued is laid before each House.

(5) The power under *subsection (1) or (2)* may not be exercised to limit the independence of a member in performing functions relating to the investigation of a specific offence or the prosecution of an offence as authorised by *section 8*.

(6)(a) The Garda Commissioner shall inform the Authority or, as the case may be, the Minister of the measures taken by the Commissioner to comply with a directive issued under this section and supply the information within any time period specified by the Authority or, as the case may be, the Minister, and

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

Notes

This Head makes provision for the Government to approve the issuing by the Authority to the Garda Síochána of directives in relation to policing matters and for the Minister to issue directives to the Garda Commissioner in relation to security matters. In addition, it makes provision for the Government, in exceptional circumstances, to approve the issuing by the Minister of a directive relating to policing matters to the Authority or the Garda Commissioner.

Head 7 - continued

Functions of Garda Commissioner.

27.—(1) Subject to this Act and the regulations, the Garda Commissioner has the following functions:

- (a) to direct and control the Garda Síochána;
- (b) to carry on and manage and control generally the administration and business of the Garda Síochána,
- (c) to advise—
 - (i) the Authority on policing matters, and
 - (ii) the Minister on security matters; and
- (d) to perform any other functions that are assigned to him or her by this Act or that may, by regulation, be assigned to him or her.

(2) In performing his or her functions, the Garda Commissioner shall have regard to the following matters:

- (a) the objective of promoting effectiveness, efficiency and economy in the Garda Síochána;
- (b) the priorities and performance targets in operation under *section 20 [Setting of priorities by Authority – policing matters]* or *section 21 [Setting of priorities by Minister – security matters]* as the case may be at the relevant time;
- (c) any relevant policies of the Minister or the Government;
- (d) the strategy statement in operation under *section 22 [Strategy statement]* at that time;
- (e) the annual policing plan prepared under *section 23 [Annual policing plan – policing matters]*;
- (f) any directive issued under *section 26 [Directives]*; and
- (g) the policing principles [*section 5H Policing principles*].

(3) Subject to this Act, the Garda Commissioner is accountable to—

- (a) the Authority for the performance of the Commissioner's functions and those of the Garda Síochána insofar as they relate to policing matters, and
- (b) the Minister for the performance of the Commissioner's functions and those of the Garda Síochána insofar as they relate to security matters.

Notes

This Head sets out the functions of the Garda Commissioner. In addition it provides for his or her accountability to the Authority in relation to policing matters and to the Minister in relation to security matters.

Head 7 - continued

Arrangements for obtaining views of public.

28.—(1) The Garda Commissioner and, as the case may be, the Authority shall make arrangements for obtaining the views of the public about policing matters.

(2) Before making any arrangements under this section, the Garda Commissioner shall consult with the Authority about the proposed arrangements and the Authority may approve the arrangements—

(a) as proposed, or

(b) with such revisions as the Authority, after consulting with the Commissioner, may determine.

Notes

This Head makes provision for the Commissioner and the Authority to obtain the views of the public in relation to policing matters.

Head 7 - continued

Power to enter into agreements with other law enforcement agencies.

29.—(1) Following the approval of the Government—

- (a) the Authority may consent to the Garda Commissioner, on behalf of the Garda Síochána, entering into an agreement relating to policing matters, and
- (b) the Minister may consent to the Garda Commissioner, on behalf of the Garda Síochána, entering into an agreement relating to security matters,

with a police service or other law enforcement agency outside the State.

(2) An agreement in accordance with *subsection (1)* may provide for the co-operation of the parties or the exchange of information or such other matters as the Garda Commissioner thinks fit.

Notes

This Head enables the Garda Commissioner to enter into agreements with other law enforcement agencies. It adapts the current arrangements provided for in the Principal Act to take account of the establishment of the Authority.

Head 7 - continued

Powers relating to contracts, bank accounts, etc.

30.—(1) Subject to this Act and the regulations, the Garda Commissioner may, for the purposes of performing his or her functions under this Act in relation to the administration and business of the Garda Síochána—

- (a) enter on behalf of the Garda Síochána into a contract with any person or body concerning any matter arising in relation to those functions,
- (b) with the prior consent of the Authority and the Minister given with the agreement of the Minister for Public Expenditure and Reform, operate in the State or elsewhere bank accounts of any description, and
- (c) do any other thing necessary for enabling the Commissioner to perform those functions.

(2) Subject to the consent of the Authority and the Minister given with the agreement of the Minister for Public Expenditure and Reform, the power conferred by *subsection (1)(a)* includes the power to engage consultants or advisers to assist the Garda Commissioner in performing functions under this Act.

(3) The power conferred by *subsection (1)(a)* does not include the power to enter into a contract relating to land or an interest in land.

(4) The Garda Commissioner may sue and be sued in the name of his or her office.

(5) A contract entered into under this section by a person holding the office of Garda Commissioner is binding on and enforceable by that person and his or her successors in office, but neither that person nor any successor in office is personally liable on the contract.

(6) *Subsection (5)* applies whether or not the contract was entered into pursuant to a power delegated under *section 32*.

(7) Notwithstanding *subsection (1)(b)*, the Garda Commissioner does not have power to borrow money by means of a bank overdraft or otherwise.

Notes

This Head makes revised provision for the Garda Síochána with regard to contracts, bank accounts and other matters, to take account of the establishment of the Authority.

Head 7 - continued

Provision of police services for certain events, etc.

31.— (1) At the request of a person, the Garda Commissioner may provide and charge for police services for events on private property or in areas open to the public or, subject to the regulations, for police services of a kind described in *subsection (3)*, if—

- (a) it is in the public interest and consistent with the functions of the Garda Síochána to provide the services, and
- (b) the Commissioner is satisfied that the person has paid or will pay to the Commissioner the charges for the services.

(2) The following are examples of the types of events for which police services may be provided under this section:

- (a) sports fixtures;
- (b) concerts;
- (c) festivals and exhibitions;
- (d) meetings and conferences;
- (e) the making of films, videos, television programmes and advertisements;
- (f) appearances by individuals or groups of individuals likely to attract large numbers of people.

(3) Police services relating to the protection, whether by means of police escorts or otherwise, of persons or property at risk of harm while in transit within the State may be provided under this section, but only in the circumstances and to the extent authorised by regulation under [section 122 \(1\)\(o\)](#).

(4) Subject to any regulation under [section 122 \(1\)\(p\)](#), the Garda Commissioner may set charges for police services provided under this section that are sufficient to cover the costs of providing those services.

(5) The Public Offices Fees Act 1879 does not apply to any charges payable under this section.

(6) The Garda Commissioner may recover as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable, any amount due under this section.

Notes

This Head restates the existing provisions relating to provision of police services for certain events.

Head 7 - continued

Delegation of Garda Commissioner's functions.

32.— (1) Subject to the regulations, the Garda Commissioner may, in writing, delegate any of his or her functions under this Act to—

- (a) members of the Garda Síochána specified by rank or name, or
- (b) members of the Garda Síochána's civilian staff specified by grade, position, name or otherwise.

(2) A delegation under this section may—

- (a) relate to the performance of a function either generally or in a particular case or class of case or in respect of a particular matter,
- (b) be made subject to conditions or restrictions, and
- (c) be revoked or varied by the Garda Commissioner at any time.

(3) The delegation of a function does not preclude the Garda Commissioner from performing the function.

(4) Where the Garda Commissioner's functions under a provision of this Act are delegated to a person, any references in that provision to the Commissioner are to be read as references to that person.

(5) An act or thing done by a person pursuant to a delegation under this section has the same force and effect as if done by the Garda Commissioner.

Notes

This Head restates the existing provisions relating to delegation of the Commissioner's functions.

Head 7 - continued

Distribution of Garda Síochána.

33.— (1) Subject to [section 23](#) [*Annual policing plan – policing matters*], the Garda Commissioner shall determine the manner in which the Garda Síochána are to be distributed and stationed throughout the State.

(2) The Garda Commissioner shall, to the extent practicable, ensure that members of the Garda Síochána stationed in a district that includes a Gaeltacht area are sufficiently competent in the Irish language to enable them to use it with facility in carrying out their duties.

(3) In this section “Gaeltacht area” means an area for the time being determined to be a Gaeltacht area by order made under [section 2](#) of the [Ministers and Secretaries \(Amendment\) Act 1956](#).

Notes

This Head restates the existing provisions relating to distribution of Garda Síochána.

PART 4

CO-OPERATION WITH LOCAL AUTHORITIES AND SECURITY IN PUBLIC PLACES

Head 8 Amendment of section 35 of Principal Act [*Guidelines concerning joint policing committees*].

Provide that

Section 35 of the Principal Act is amended by—

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

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

(b) in subsection (2), paragraph (1), the substitution of “the Authority” for “the Minister”;

(c) in subsection (4), the substitution of “The Authority may, after consulting with the Minister, the Minister for the Environment, Community and Local Government [and the Minister for Arts, Heritage and the Gaeltacht]” for “The Minister may, after consulting with the Minister for the Environment, Heritage and Local Government and the Minister for Community, Rural and Gaeltacht Affairs”;

(d) the insertion, after subsection (5) of the following subsection:

“(6) The Authority may convene meetings of the chairpersons of joint policing committees for the purpose of coordinating or otherwise generally facilitating the performance of the functions assigned to the committees.”.

Notes

This Head generally transfers the Minister’s functions relating to joint policing committees to the Authority.

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Head 9 Amendment of section 36 of Principal Act [*Establishment and functions of joint policing committees*].

Provide that

Section 36 of the Principal Act is amended by—

- (a) in subsection (3), the substitution of “submit the dispute to the Authority whose decision, made after consulting with the Minister for the Environment, Community and Local Government [and the Minister for Arts, Heritage and the Gaeltacht]” for “submit the dispute to the Minister whose decision, made after consulting with the Minister for the Environment, Heritage and Local Government and the Minister for Community, Rural and Gaeltacht Affairs”; and
- (b) in subsection (5), paragraph (b), the insertion of “the Authority,” after “supply a copy of the report to”.

Notes

This Head contains an amendment to section 36 of the Principal Act relating to joint policing committees to take account of the establishment of the Authority.

Head 10 Amendment of section 38 of Principal Act [*Security in public places*].

Provide that

Section 38 of the Principal Act is amended by—

- (a) in subsection (5), the substitution of “The Authority shall, by order and with the approval of the Government,” for “The Government shall, by order,”;
- (b) in subsection (8), paragraph (b), the substitution of “the Authority’s consent” for “the Minister’s consent”;
- (c) in subsection (10), the substitution of “a class C fine” for “a fine not exceeding €2,500”; and
- (d) in subsection (11), the substitution of “The Authority having consulted with the Minister” for “The Minister”.

Notes

This Head amends section 38 of the Principal Act to substitute the “Authority” for the “Government” or the “Minister”, as appropriate, within the section.

PART 5

ACCOUNTABILITY

Head 11 Amendment of section 40 of Principal Act [*Duty of Garda Commissioner to account to Government and provide material to Attorney General*].

Provide that

The Principal Act is amended by the substitution of the following for section 40:

“Duty of Garda Commissioner to account to Authority and Government and to provide material to Attorney General.

- 40.—**(1)(a) The Garda Commissioner shall account fully to the Authority for any aspect of his or her functions relating to policing matters.
- (b) The Garda Commissioner’s duty under *paragraph (a)* includes the duty to provide, on request by the Authority, any document relating to policing matters in the power or control of the Garda Síochána, including material in the form of Garda records, statements made by members and by other persons and reports.
- (2)(a) The Garda Commissioner shall account fully to the Government and the Minister through the Secretary General of the Department of Justice and Equality for any aspect of his or her functions relating to security matters.
- (b) The Garda Commissioner’s duty under *paragraph (a)* includes the duty to provide, on request by the Secretary General, any document in the power or control of the Garda Síochána, including material in the form of Garda records, statements made by members and by other persons and reports.
- (3) The Garda Commissioner shall provide the Attorney General with all of the material specified in *subsection (1)(b)* or, as the case may be, *subsection (2)(b)*

that is required by the Attorney General in connection with the conduct of legal proceedings on behalf of the State.”

Notes

This Head substitutes a new section 40 in the Principal Act and sets out the duty of the Garda Commissioner to account to the Authority in relation to policing matters and the Government/Minister in relation to security matters.

Head 12 Amendment of section 41 of Principal Act [*Duty of Garda Commissioner to provide information to Minister*].

Provide that

The Principal Act is amended by the substitution of the following for section 41:

“Duty of Garda Commissioner to provide information to Authority and Minister.

41.—(1) The Garda Commissioner shall keep—

(a) the Authority fully informed of the following:

- (i) significant developments concerning policing matters;
- (ii) significant developments that might reasonably be expected to affect adversely public confidence in relation to policing matters;
- (iii) matters relevant to the accountability of the Authority or the Government to the Houses of the Oireachtas; and
- (iv) any other matters that, in the Commissioner’s opinion, should be brought to the attention of the Authority,

(b) the Minister and the Secretary General of the Department of Justice and Equality fully informed of the following:

- (i) significant developments concerning security matters;
- (ii) significant developments that might reasonably be expected to affect adversely public confidence in the Garda Síochána;
- (iii) matters relevant to the accountability of the Government to the Houses of the Oireachtas; and
- (iv) any other matters that, in the Commissioner’s opinion, should be brought to the Minister’s attention.

(2)(a) Whenever required by the Authority, the Garda Commissioner shall submit to the Authority a report on any matters connected with policing matters or the performance of the Commissioner’s functions relating to such matters that may be specified in the requirement.

- (b) Whenever required by the Minister, the Garda Commissioner shall submit to the Minister a report on any matters connected with security matters or the performance of the Commissioner's other functions relating to such matters that may be specified in the requirement.
- (3) A report under *subsection (2)* must—
- (a) address the matters of general or specific concern that are specified in the requirement, and
- (b) be made in the form and within the period specified in the requirement.
- (4) The Authority or, as the case may be, the Minister, may publish all or part of a report submitted under this section.”

Notes

This Head inserts a new section 41 into the Principal Act and makes provision in relation to keeping the Authority and the Minister informed in relation to policing and security matters respectively.

Head 13 Amendment of section 42 of Principal Act [*Special inquiries relating to Garda Síochána*].

Provide that

Section 42 (as substituted by section 42 of the Criminal Justice Act 2007) of the Principal Act is amended by—

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

“(1) The Minister, with respect to any matter considered by him or her to be of public concern, may—

(a) on his or her own initiative, or

(b) in the case of a matter that is a policing matter, either—

(i) having consulted with the Authority, or

(ii) where the Authority forms the view that an inquiry should be initiated, on the request of the Authority,

by order appoint a person to inquire into any aspect of administration, operation, practice or procedure of the Garda Síochána, or the conduct of its members and make a report to the Minister on the conclusion of the inquiry.

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

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

(b) Where the matter the subject of the inquiry is a policing matter, the Minister shall consult with the Authority before specifying or, as the case may be, amending the terms of reference of the inquiry.

(c) in subsection (4)—

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

- (ii) in paragraph (b), the insertion of “, the member of the Authority” after “member”;
- (d) in subsection (5), the insertion of “, the member of the Authority” after “member”;
- (e) the substitution of the following subsection for subsection (6)—
 - “(6) Where the member, the member of the Authority or other person fails to comply with a requirement under *subsection (4)*, the High Court may, on application by the appointed person and on notice to the member, the member of the Authority or other person—
 - (a) order the member, the member of the Authority or person to comply with the requirement, and
 - (b) include in the order any other provision it considers necessary to enable the order to have full effect.”;
- (f) in subsection (7) the insertion of “, the member of the Authority” after “member”.

Notes

This Head amends section 42 of the Principal Act to reflect the establishment of the Authority.

Head 14 Amendment of section 44 of Principal Act [*Audit committee: appointment of members, etc*].

Provide that

Section 44 of the Principal Act is amended by—

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

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

 - (a) may resign from the committee by letter addressed to the Authority,
or
 - (b) may at any time be removed from office by the Authority, with the consent of the Minister, for stated reasons.
- (d) in subsection (5), the substitution of “determined by the Authority with the consent of the Minister given with the agreement of the Minister for Public Expenditure and Reform” for “determined by the Minister and the Minister for Finance”.

Notes

This Head amends section 44 of the Principal Act to provide a role for the Authority in respect of the audit committee.

Head 15 Amendment of section 45(1)(c) of Principal Act [*Functions of audit committee*].

Provide that

Section 45(1)(c) of the Principal Act is amended by the insertion of “the Authority and” after “provide”.

Notes

This Head amends section 45(1)(c) of the Principal Act to provide that a report of the audit committee will be forwarded to both the Authority and the Minister.

Head 16 Amendment of section 46 of Principal Act [*Annual report*].

Provide that

Section 46 of the Principal Act is amended by—

(a) in subsection (1), the substitution of “the Authority” for “the Minister” in each place that it appears,

(b) in subsection (2)—

(i) in paragraph (c), the substitution of “sections 20 and 21” for “section 20”,

(ii) in paragraph (d), the substitution of “section 26” for “section 25;

(iii) the substitution of the following paragraphs for paragraph (e):

“(e) a report on the use of the resources available to the Commissioner (e.g. in patrolling hours, community engagement hours, etc.);

(f) any other matter that the Garda Commissioner thinks fit.”, and

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

“(3)(a) As soon as practicable and not later than 30 days after receiving the report, the Authority shall forward a copy of the report to the Minister.

(b) As soon as practicable and not later than 30 days after receiving the report, the Minister shall cause a copy of it to be laid before each House of the Oireachtas.”.

Notes

This Head amends section 46 of the Principal Act which makes provision for the submission by the Garda Commissioner of an annual report, to reflect the establishment of the Authority.

Head 17 Amendment of section 47 of Principal Act [*Statistical information*].

Provide that

Section 47 of the Principal Act is amended by the substitution of the following subsection for subsection (2):

“(2) The Garda Commissioner shall make information compiled in accordance with *subsection (1)* available to the Authority, the Minister and the Central Statistics Office at the times and in the manner that the Authority or, as the case may be, the Minister may require.”

Notes

This Head amends section 47 of the Principal Act which deals with the making available of statistical information, to reflect the establishment of the Authority.

PART 6

INTERNATIONAL SERVICE AND COOPERATION WITH OTHER POLICE SERVICES

Head 18 Amendment to section 52(1) of Principal Act [*Appointment of members of Police Service of Northern Ireland to certain ranks in Garda Síochána*].

Provide that

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

Notes

This Head amends section 52 of the Principal Act which makes provision for the appointment of members of the PSNI to ranks in the Garda Síochána, to reflect the establishment of the Authority.

Head 19 Amendment to section 53 of Principal Act [*Secondment from Police Service of Northern Ireland to certain ranks in Garda Síochána*].

Provide that

Section 53 of the Principal Act is amended by—

(a) in subsection (1)(b)-

(i) the substitution of “the Authority, with the approval of the Government,” for “the Government”, and

(ii) the addition of “and not above Assistant Commissioner” after “not below that of superintendent”.

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

“(2)(a) Subject to *paragraph (b)* and *subsection (3)*, the Authority may comply with a request under *subhead (1)(b)*.

(b) The Authority shall not comply with a request under *subsection (1)(b)* unless the Government has agreed to the appointment.”, and

(c) in subsection (6), the substitution of “the Authority, with the approval of the Government” for “the Government”.

(d) the addition of the following subsection-

“(7) The Government may terminate an appointment made under subsection (1)(b).”.

Notes

This Head amends section 53 of the Principal Act which makes provision for the secondment of members of the PSNI to ranks in the Garda Síochána, to reflect the establishment of the Authority.

Head 20 Amendment to section 54 of Principal Act [*Breach of discipline by seconded member of Garda Síochána*].

Provide that

Section 54 of the Principal Act is amended by—

- (a) in subsection (1), the substitution of “the Authority, with the approval of the Government” for “the Government”, and
- (b) in subsection (3), the substitution of “the Authority” for “the Government”.

Notes

This Head amends section 54 of the Principal Act which makes provision for dealing with breaches of discipline by seconded members of the Garda Síochána, to reflect the establishment of the Authority.

Head 21 **Amendment of section 56(4) of Principal Act [*Breach of discipline by seconded member of Police Service of Northern Ireland*].**

Provide that

Section 56(4) of the Principal Act is amended by the insertion of “the Authority and” after “inform”.

Notes

The purpose of this amendment is to amend section 56(4) of the Principal Act, to reflect the establishment of the Authority.

PART 7

MATTERS RELATING TO GARDA SÍOCHÁNA OMBUDSMAN COMMISSION AND GARDA SÍOCHÁNA INSPECTORATE

Head 22 **Amendment to section 67 of Principal Act [*Objectives, functions and powers of GSOC*].**

Provide that

Section 67 of the Principal Act is amended at paragraph (b) of subsection (1) by the insertion after “complaints” of “, including by the active promotion and encouragement of the use of mediation or other informal means of dispute resolution to resolve those complaints where it considers it appropriate to do so”.

Notes

This amendment allows GSOC to give greater emphasis to mediation and informal resolution as a means of dealing with complaints.

Head 22A Amendment of section 90 of Principal Act [*Resolution of complaint by mediation or other informal means*].

Provide that

Section 90 of the Principal Act is amended—

(a) at subsection (1) by the substitution of “shall, following consultation with the Garda Commissioner, prepare guidelines” for “may issue guidelines”,

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

“(2A) The guidelines may also include provision for the resolution of a complaint by means of a response to the complainant, by or on behalf of the Garda Commissioner, which seeks to address the concerns of the complainant by way of explanation, acknowledgement, apology, or other action.”, and

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

“(3) A complaint may not be resolved by mediation or other informal means without the consent of the complainant and the member of the Garda Síochána whose conduct is the subject matter of the complaint.”.

Notes

This Head amends section 90 of the Principal Act to facilitate the resolution of complaints by informal means.

Head 23 Amendment of section 102 of Principal Act [*Other investigation by Ombudsman Commission*].

Provide that

Section 102 of the Principal Act is amended by

(a) the insertion of the following after subsection (5):

“(5AA) The Authority may, if it appears to it desirable in the public interest to do so, request the Ombudsman Commission to investigate any policing matter that gives rise to a concern that a member of the Garda Síochána may have done anything referred to in *subsection (4)*, and the Commission shall investigate the matter.”,

(b) In subsection (5A), by the substitution of “subsection (4), (5) or (5AA)” for “subsection (4) or (5)”, and

(c) In subsection (6), by the substitution of “subsection (4), (5) or (5AA)” for “subsection (4) or (5) of this section”

Notes

This Head enables the Authority to request the Ombudsman Commission to investigate any policing matter that gives rise to a concern that a member of the Garda Síochána may have committed an offence, or behaved in a manner that would justify disciplinary proceedings.

Head 24 Amendment of section 102B of Principal Act [*Investigation of matters relating to Garda Commissioner by Ombudsman Commission*].

Provide that

Section 102B of the Principal Act (inserted by section 7 of the Garda Síochána (Amendment)(No. 3) Bill 2014) is amended by the substitution of the following subsections for subsections (2) and (3):

- “(2)(a) The Minister may, if he or she considers it desirable in the public interest to do so, request the Ombudsman Commission to investigate any matter that gives rise to a concern that the Garda Commissioner may have done anything referred to in *subsection (1)*, and the Commission shall investigate that matter.
- (b) The Authority may, subject to the consent of the Minister, request the Ombudsman Commission to investigate any matter that gives rise to a concern that the Garda Commissioner may, in the performance of his or her functions relating to policing matters, have done anything referred to in *subsection (1)*, and the Commission shall investigate that matter.
- (3)(a) If the Minister refuses to consent to an investigation by the Ombudsman Commission of any matter under *subsection (1)*, he or she shall inform the Commission of his or her reasons for the refusal.
- (b) If the Minister refuses to consent to the Authority making a request in accordance with *subsection (2)(b)*, he or she shall inform the Authority of his or her reasons for the refusal.”

Notes

This Head amends section 102B of the Principal Act, proposed to be inserted by section 7 of the Garda Síochána (Amendment) (No. 3) Bill 2014. It enables the Authority to initiate an investigation by the Ombudsman Commission into behaviour of the Garda Commissioner in the context of his or her functions relating to policing matters that leads it to believe that the Commissioner may have committed an offence or behaved in a manner that would constitute serious misconduct.

Head 25 Amendment of section 103 of Principal Act [*Duty to keep certain persons informed*].

Provide that

Section 103 of the Principal Act is amended by the substitution of the following for paragraph (c), as inserted by section 8 of the Garda Síochána (Amendment)(No. 3) Bill 2014, of subsection (1):

“(c) if the investigation is one to which section 102B applies—

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

Notes

This Head amends section 103 of the Principal Act to add, at subsection (1)(c)(ii), the Authority to the list of persons/bodies that should be kept informed of the progress of an investigation under section 102B which is proposed to be inserted by the Garda Síochána (Amendment) (No. 3) Bill 2014.

Head 26 Amendment to section 106 of Principal Act [*Examination of certain practices, policies and procedures of Garda Síochána*].

Provide that

The Principal Act is amended by the substitution of the following section for section 106 (inserted by section 10 of the Garda Síochána (Amendment)(No. 3) Bill 2014:

- “106. (1)(a) For the purpose of preventing complaints arising in relation to a practice, policy or procedure of the Garda Síochána or of reducing the incidence of such complaints, the Ombudsman Commission —
- (i) may, if it considers it appropriate to do so, or
 - (ii) shall, subject to *paragraph (b) and (c)*, if so requested by—
 - (I) the Minister within such period as he or she may specify in the request,
 - or
 - (II) the Authority, in relation to policing matters, within such period as it may specify in the request,
- examine the practice, policy or procedure.
- (b) The Minister shall notify the Authority of a request under *subsection (1)(a)(ii)(I)*.
- (c) The Authority shall notify the Minister of a request under *subsection (1)(a)(ii)(II)*.
- (2) The Ombudsman Commission shall, before an examination of a practice, policy or procedure under *subsection (1)*, inform the Garda Commissioner in writing of—
- (a) if appropriate, the nature of a request from the Minister under *subsection (1)(a)(ii)(I)* or, as the case may be, the Authority under *subsection (1)(a)(ii)(II)*,
 - (b) the specific practice, policy or procedure to be examined under *subsection (1)*, and
 - (c) the reasons for the examination.
- (3) The Ombudsman Commission shall—
- (a) report to—

- (i) the Minister as soon as practicable or, if appropriate, within such period as the Minister specifies in his or her request under *subsection (1)(a)(ii)(I)* or
 - (ii) the Authority as soon as practicable or, if appropriate, within such period as the Authority specifies in the request under *subsection (1)(a)(ii)(II)*,
on the results of the examination,
 - (b) include in the report any recommendations of the Commission for achieving the purpose referred to in *subsection (1)* in relation to the practice, policy or procedure examined, and
 - (c) provide the Garda Commissioner with a copy of the report.
- (4)(a) The Authority shall provide the Minister with a copy of any report under *subsection (3)(a)(ii)*.
- (b) The Minister may provide the Authority with a copy of any report under *subsection (3)(a)(i)*.
- (5) Subject to *subsection (6)*, the Minister shall cause copies of any reports received by him or her under *subsection (3)* or *(4)* to be laid before the Houses of the Oireachtas.
- (6) The Minister may exclude from the copies of reports which are to be laid before the Houses of the Oireachtas under *subsection (4)* any matter which, in his or her opinion—
- (a) would be prejudicial to the interests of national security, or
 - (b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.”

Notes

This Head amends section 106 of the Principal Act to enable the Authority to require GSOC to examine practices, policies or procedures of the Garda Síochána.

Head 27 Amendment of section 117 of Principal Act [*Garda Inspectorate – Objective and functions*].

Provide that

Section 117 of the Principal Act is amended by

(a) the substitution of the following subsection for subsection (2):

“(2) The functions of the Inspectorate are—

- (a) in furtherance of its objective to carry out, if it considers it appropriate to do so or at the request of the Authority in relation to policing matters or, as the case may be, the Minister, inspections or inquiries in relation to any particular aspects of the operation and administration of the Garda Síochána,
- (b) to submit to the Authority or, as the case may be, the Minister—
 - (i) a report on those inspections or inquiries, and
 - (ii) if required by the Authority or, as the case may be, the Minister, a report on the operation and administration of the Garda Síochána during a specified period and on any significant developments in that regard during that period, and
- (c) to provide advice to the Authority in relation to policing matters or, as the case may be, the Minister, with regard to best policing practice.

(b) the insertion, after subsection (3), of the following subsection:

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

(b) The Minister shall notify the Authority of a request made by him or her under *subsection (2)(a)* may provide the Authority with a copy of any report under *subsection (2)(b)*.

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

Notes

This Head amends section 117 of the Principal Act to enable the Authority to require the Garda Síochána Inspectorate to inquire into aspects of the operation and administration of the Garda Síochána insofar as they relate to policing matters.

PART 8
MISCELLANEOUS PROVISIONS

Head 28 **Amendment of section 121(2) of Principal Act [*General power to make regulations*].**

Provide that

Section 121(2) of the Principal Act is amended by the substitution of the following for paragraph (c):

“ (c) the Ombudsman Commission;

(d) the Authority.”

Notes

This provision includes the Authority in the list of bodies for consultation by the Minister when making regulations under section 121 of the Principal Act.

Head 29 Review of operation of Act.

Provide that

(1) The Minister shall, in consultation with the Minister for Public Expenditure and Reform, not later than 5 years after the commencement of this Act, commence a review of its operation.

(2) A review under *subsection (1)* shall be completed not later than one year after its commencement.

(3) Having completed the review the Minister, in consultation with the Minister for Public Expenditure and Reform, shall prepare a report setting out the assessment arrived at.

(4) The Minister shall lay a copy of a report prepared under *subsection (3)* before each House of the Oireachtas as soon as reasonably practicable after it has been completed.

Notes

This Head provides for a review of the operation of the Act after 5 years.

PART 9
TRANSITIONAL ARRANGEMENTS.

The arrangements to be made in this Part will be determined during drafting.

FIRST SCHEDULE *[Repeals]*

The list of the legislation to be repealed will be compiled in the course of the drafting process.