General Scheme of the Policing, Security and Community Safety Bill
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Long title

An Act to make further and better provision in relation to An Garda Síochána and, in particular to strengthen the governance of An Garda Síochána and to provide for clear and effective oversight and accountability; to provide for the establishment of Bord an Gharda Síochána or, in English, the Board of An Garda Síochána to hold the Garda Commissioner to account for the performance of his or her functions and to carry out such functions as are assigned to it under this Act; to provide for the independence of the Garda Commissioner in relation to operational matters, to provide for the appointment of the members and staff of An Garda Síochána, to provide for multi-sectoral approaches at national and local level to enhance the safety, and perception of safety, in communities through collaboration between relevant Departments of State and public service bodies and community engagement in the prevention of crime and harm and for that purpose to make provision for the establishment of Grúpa Stiúrtha Náisiúnta na Sábhálteachta Pobail or, in English, the National Community Safety Steering Group, An Oifig Náisiúnta Sábhálteachta Pobail or, in English, the National Office for Community Safety and Local Community Safety Partnerships, to provide for the establishment of An tÚdarás Póilíneachta agus Sábhálteachta Pobail or, in English, the Policing and Community Safety Authority to oversee and assess in an independent and transparent manner the performance by An Garda Síochána of its functions relating to policing services in order to support the effective provision of such services to the benefit of the safety of the public, to provide for the body known as Coimisiún Ombudsman An Gharda Síochána or, in English, the Garda Síochána Ombudsman Commission to continue in being under the name of Oifig Ombudsman an Gharda Síochána or, in English, Office of the Garda Síochána Ombudsman and as organised under this Act, to provide for open and effective investigation of complaints and other matters in relation to An Garda Síochána, to provide for swift resolution by An Garda Síochána of complaints that concern matters appropriate to performance management processes, to provide for the establishment of Scrúdaitheoir Neamhspleách na Reachtaitheoir na Slándála or, in English, the Independent Examiner of Security Legislation, and to provide for related matters.
Part 1 - Preliminary and General Matters

Head 1  Short title and commencement

Provide that –

(1) This Act may be cited as the Policing, Security and Community Safety Act 2021.

(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.
Head 2 Interpretation

Provide that –

In this Act, unless the context otherwise requires, the following definitions will apply:

“approved capital plan” means a capital plan approved by the Minister under head 56 as read with head 57;

“approved strategic plan” means a strategic plan approved by the Minister under head 51 as read with head 52;

“approved annual service plan” means -

(a) an annual service plan approved by the Minister under head 53; or
(b) an amended annual service plan that is approved or deemed to have been approved by the Minister under head 54;

“Authority” means the Policing and Community Safety Authority established by head 98;

“Board” means the Board of An Garda Síochána Board established pursuant to head 10;

“capital expenditure” means expenditure to acquire a fixed asset or to significantly extend the life of an existing fixed asset;

“capital plan” means a plan the purpose of which is to acquire a fixed asset or to significantly extend the life of an existing fixed asset;

“Chief Executive of the Authority” means the chief executive officer of the Authority appointed pursuant to head 111;

“Chief Administrative Officer” means the chief administrative officer of the Office of the Garda Ombudsman appointed pursuant to head 147;

“Committee of Public Accounts” means the 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;

“Conduct Regulations” means any regulations in force under head 221;
“conduct code” means the conduct code applicable to a member of garda staff under his or her terms and conditions of employment;

“Director of the National Office” means the Director of the National Office for Community Safety appointed pursuant to head 88;

“document” means anything in which information of any description is recorded, including any electronic document or document generated automatically and, without prejudice to the generality of this definition, includes -

(a) anything on which there is writing,
(b) any map, plan, graph, drawing or photograph,
(c) any disc, tape, sound track, film, microfilm, negative or other device from which sounds, images or other data can be reproduced with or without the aid of other equipment, and
(d) any reproduction in permanent legible form, by a computer or other means (including enlarging), of information in non-legible form;

“establishment day of the Authority” means the day appointed under head 97;

“former Act” means the Garda Síochána Act 2005;

“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;

“Garda Commissioner” means the Commissioner of An Garda Síochána;

“Garda Síochána Ombudsman Commission” means the Garda Síochána Ombudsman Commission established by section 64 of the former Act;

“Garda Síochána Inspectorate” means the Garda Síochána Inspectorate established by section 114 of the former Act;

“information” includes any representation of fact, whether in words or otherwise;

“information in non-legible form” includes information on microfilm, microfiche, magnetic tapes or disk;
“Inspector of Policing Services” means members of staff of the Authority as appointed pursuant to head 113(1);

“local policing plan” means a plan prepared by the relevant divisional officer in relation to a division of An Garda Síochána that comes wholly or partly within the functional area of a safety partnership;

“member”, in relation to An Garda Síochána, means—

(a) a member of any rank (including the Garda Commissioner) appointed under Part 2, under an enactment repealed by this Act or under an enactment repealed by the former Act, and
(b) a reserve member,

but does not include a member of garda staff;

“member of garda staff” means a person appointed under head 45(1) or who becomes a member of garda staff under head 45(5);

“member of garda personnel” means a member and a member of garda staff;

“Minister” means the Minister for Justice;

“National Office” means the National Office for Community Safety established by head 87;

“Ombudsman Commission” means the Garda Síochána Ombudsman Commission;

“Policing Authority” means the Policing Authority established by section 62B of the former Act;

“policing services” means the functions of An Garda Síochána referred to in head 8 other than the provision of security services;

“policing principles” shall be read in accordance with head 7;

“prescribed” means prescribed by regulation;

“regulations” means regulations continued in force under this Act or made by the Minister under this Act;
“relevant divisional officer” means the chief superintendent who is for the time being in charge of a division of An Garda Síochána which comes wholly or partly within the functional area of the safety partnership concerned;

“reserve member” means a person appointed under head 42 or under an enactment repealed by this Act as a reserve member of An Garda Síochána;

“safety partnership” means a local community safety partnership established pursuant to head 92;

“security services” shall be read in accordance with head 3;

“senior garda staff member” means a member of garda staff of a grade to which the Board has reserved to itself the function of approving appointments;

“Service” means the Public Appointments Service;

“terms and conditions of employment” includes terms and conditions in respect of tenure of office, remuneration and related matters.
Head 3 Security Services

Provide that —

(1) In this Act “security services”, subject to subhead (2), means the functions of An Garda Síochána referred to in head 8 that are concerned with —

(a) protecting the security of the State including, but not limited to, the following:
   (i) preventing, detecting and investigating offences under the Offences against the State Acts 1939 to 1998, the Criminal Law Act 1976, the Criminal Justice (Terrorist Offences) Act 2005 and the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010;
   (ii) protecting the State from—
       (I) espionage,
       (II) sabotage,
       (III) unlawful acts that subvert or undermine, or are intended to subvert or undermine, parliamentary democracy or the institutions of the State, and
       (IV) acts of foreign interference that are, or are intended to be, detrimental to the interests of the State and are clandestine or deceptive or involve a threat to any person, whether directed from, or committed or intended to be committed within, the State or not,

(b) identifying foreign capabilities, intentions or activities within or relating to the State that impact on the international well-being or economic well-being of the State, and

(c) co-operating with authorities in other states and international organisations aimed at preserving international peace, public order and security.

(2) The reference in subhead (1) to the functions of An Garda Síochána referred to in head 8 that are concerned with protecting the security of the State does not include lawful advocacy, protest or dissent by any person.

(3) Where a question or dispute arises as to whether a particular matter relates to policing services or security services, the question or dispute shall be submitted to the Minister for determination.

(4) The determination by the Minister of the question or dispute referred to him or her under subhead (3) shall be final.
Head 4  Repeals

Provide that -

Each enactment specified in Schedule 1 is repealed to the extent specified in column (3) of that Schedule.
Head 5 Expenses

Provide that –

The expenses incurred in respect of An Garda Síochána, the National Community Safety Steering Group, the National Office for Community Safety, a local community safety partnership, the Policing and Community Safety Authority, the Office of the Garda Síochána Ombudsman and the Independent Examiner of Security Legislation and any other expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.
Part 2 – An Garda Síochána

Chapter 1 General

Head 6  Continuation of Garda Síochána

Provide that –

(1) The police service called the Garda Síochána shall continue in being under this Act and shall be known as An Garda Síochána.

(2) The Government may continue to maintain, equip and pay An Garda Síochána.
Head 7 Principles of policing

Provide that –

This Act is based on the following principles:

(a) effective policing services improve the safety of persons, localities and communities in the State,
(b) policing services are provided -
   (i) independently and impartially,
   (ii) in a manner that protects and vindicates human rights,
   (iii) in a manner that supports the proper and effective administration of justice,
(c) effective policing relies on securing public support and confidence,
(d) policing services are provided within a national framework but must also have a local community focus and be accessible to, and engaged with, local communities,
(e) when providing policing services every member of garda personnel is required to act professionally, ethically, with integrity and in a manner that protects and vindicates human rights.
Head 8 Functions of An Garda Síochána

Provide that —

(1) The function of An Garda Síochána is to provide policing and security, including vetting, services for the State with the objective of —

(a) preserving peace and public order,
(b) protecting life and property,
(c) protecting and vindicating the human rights of each individual,
(d) protecting the security of the State,
(e) preventing crime,
(f) preventing harm to individuals in particular those who are vulnerable or at risk,
(g) bringing criminals to justice, including by detecting and investigating crime,
(h) protecting and supporting victims of crime, and
(i) regulating and controlling road traffic and improving road safety.

(2) For the purpose of achieving the objective referred to in subhead (1) An Garda Síochána shall co-operate, as appropriate, with other Departments of State, agencies and bodies having, by law, responsibility for any matter relating to any aspect of that objective.

(3) In addition to its function under subhead (1), An Garda Síochána and members of garda personnel have such functions as are conferred on them by law including those relating to immigration.

(4) This head does not affect any powers, immunities, privileges or duties that members of garda personnel have by virtue of any other enactment or at common law.

(5) This head is not to be taken to confer on any person a right in law that he or she would not otherwise have to —

(a) require An Garda Síochána to perform a function or provide a service referred to in this head or to desist from any action, or
(b) seek damages for a member of garda personnel’s performance of, or failure to perform, such function or for his or her provision of, or failure to provide, such service.
Head 9  Prosecution of offences by members of An Garda Síochána

Provide that —

(1) No member of An Garda Síochána in the course of his or her official duties may institute a prosecution except as provided under this head.

(2) Subject to subhead (3), any member of An Garda Síochána may institute and conduct prosecutions in a court of summary jurisdiction, but only in the name of the Director of Public Prosecutions.

(3) In deciding whether to institute and in instituting or conducting a prosecution, a member of An Garda Síochána shall comply with any applicable direction (whether of a general or specific nature) given by the Director of Public Prosecutions under subhead (4).

(4) The Director of Public Prosecutions may give, vary or rescind directions concerning the institution and conduct of prosecutions by members of An Garda Síochána.

(5) Directions under subhead (4) may be of a general or specific nature and may, among other things, prohibit members of An Garda Síochána from—

(a) instituting or conducting prosecutions of specified types of offences or in specified circumstances, or
(b) conducting prosecutions beyond a specified stage of the proceedings.

(6) If a prosecution is instituted or conducted by a member of An Garda Síochána in the name of the Director of Public Prosecutions—

(a) the member is presumed, unless the contrary is proved, to have complied with this head and any applicable direction given by the Director under this head, and
(b) nothing done by the member in instituting or conducting the prosecution is invalid by reason only of the member’s failure to comply with this head or that direction.

(7) Nothing in this head—

(a) precludes the Director of Public Prosecutions from, at any stage of the proceedings, assuming the conduct of a prosecution instituted by a member of An Garda Síochána, or
(b) authorises a member of An Garda Síochána to institute a proceeding without the consent of the Director of Public Prosecutions if an enactment prohibits the institution of that proceeding except by or with the Director’s consent.

(8) For the purpose of this head—

(a) a direction is of a general nature if it relates to a class of prosecutions, and

(b) a direction is of a specific nature if it relates to the prosecution of a person for a specific offence.
Chapter 2  Board of An Garda Síochána

Head 10  Establishment and membership of Board

Provide that -

(1) On the commencement of this head there shall stand established a board of An Garda Síochána (in this Act referred to as “the Board”) consisting of the following members –

(a) a chairperson, and
(b) 8 ordinary members.

(2) The chairperson and the 8 ordinary members of the Board shall be appointed by the Minister.

(3) When appointing a person to be a member of the Board, the Minister shall satisfy him or herself that the person has sufficient experience and expertise in –

(a) matters connected with the functions of An Garda Síochána,
(b) matters of organisational governance, management or public administration, or
(c) financial matters including the allocation, management of, and accountability for, the effective use of financial resources,

to enable him or her to make a substantial contribution to the effective and efficient performance of the functions of An Garda Síochána.

(4) In appointing the members of the Board, the Minister 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.

(5) Subject to subhead (6) a member of the Board shall hold office for such period, not exceeding 4 years from the date of appointment, as the Minister shall determine.

(6) Such 4 of the ordinary members of the Board as first constituted under this Act as are determined by the Minister shall hold office for a period of 3 years from the date of their respective appointment as ordinary members.
(7) Subject to subsection (8), a member of the Board whose term of office expires by the efflux of time shall be eligible for reappointment to the Board.

(8) A person who is reappointed to the Board in accordance with subhead (7) shall not hold office for periods the aggregate of which exceeds 8 years.

(9) A member of the Board may resign from office by letter sent to the Minister and the resignation shall take effect on the later of—

(a) the date specified in the letter, or
(b) the date of receipt of the letter by the Minister.
Head 11  Role of Board

Provide that -

(1) Subject to this Act the Board shall –

(a) oversee and approve the development of corporate strategy in relation to major plans of action, risk policy, annual budgets and service plans,
(b) promote high standards of governance with particular regard to the codes of ethics issued under heads 66 and 67,
(c) monitor implementation of organisational performance and oversee major capital expenditure and investment having regard to head 55,
(d) ensure that appropriate arrangements for the recruitment, appointment, training, development and performance management of members of garda personnel that comply with best practice are in place,
(e) ensure, having regard to the resources reasonably and prudently expected to be available to An Garda Síochána, the integrity of An Garda Síochána’s accounting and financial reporting systems, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards,
(f) ensure that An Garda Síochána has appropriate systems, policies and procedures in place to ensure compliance with its obligations under section 42 of the Irish Human Rights and Equality Commission Act 2014,
(g) establish and implement arrangements for the management of the performance of the Garda Commissioner and implement the necessary development and appraisal processes, and
(h) perform any other functions conferred on it by this Act or the regulations made under it.

(2) Subject to subhead (3) the Garda Commissioner shall provide the Board with all necessary information to enable the Board to perform its functions effectively.

(3) The Garda Commissioner may exclude from information to be provided to the Board any matter the disclosure of which, in his or her opinion, could be prejudicial to the interests of the security of the State.

(4) Within 3 months of the commencement of this head the Board and the Garda Commissioner shall agree by written protocols rules and procedures concerning the application of subhead (3).
(5) The Garda Commissioner shall not be a member of the Board or a committee of the Board, but he or she may, in accordance with procedures established by the Board or a committee of the Board, as the case may be, attend meetings of the Board or a committee and shall be entitled to speak at and advise such meetings.

(6) The Board is accountable to the Minister for the performance of its functions.

(7) The Board shall inform the Minister in writing of any matter that it considers requires the Minister’s attention.

(8) Subject to this Act the Board may do anything which it considers necessary or expedient to enable it to perform its functions.

(9) In this head “major plans of action” includes plans concerning the strategic direction of the organisation, the development of the capacity and capability of the organisation and of its personnel, and the optimum use of the resources but does not include operational policing or security plans (including plans for the management of major events).
Head 12 Meetings of Board and procedures

Provide that –

(1) The Minister, in consultation with the chairperson of the Board, shall fix the date, time and place of the first meeting of the Board.

(2) The Board shall hold such and so many meetings as may be necessary for the due fulfilment of its functions, but in each year shall hold no fewer than one meeting in every 2 months of that year.

(3) The chairperson may call a meeting of the Board at any reasonable time.

(4) Any 5 or more members may call a meeting of the Board if the chairperson-

(a) refuses to call a meeting after being presented with a requisition for that purpose signed by not fewer than 5 members of the Board, or
(b) without refusing to call a meeting, does not call one within 7 days after being presented with such requisition.

(5) The members being present at a meeting called under subhead (4) shall choose one of their number to chair the meeting.

(6) Subject to subheads (4) and (5) at a meeting of the Board—

(a) the chairperson, shall, if present, be the chairperson of the meeting, or
(b) if and so long as the chairperson of the Board is not present or if that office is vacant, the other members of the Board who are present shall choose one of their number to be chairperson of the meeting.

(7) The quorum for a meeting of the Board shall be 4 ordinary members of the Board and -

(a) subject to paragraph (b), the chairperson or other member chosen in accordance with subhead (6)(b) to be chairperson of the meeting, or
(b) for such meeting called in accordance with subhead (4), the member chosen under subhead (5).

(8) Every question at a meeting of the Board shall be determined by a majority of the votes of the members of the Board 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.

(9) Subject to subhead (7), the Board may act notwithstanding one or more vacancies among its members, so long as there is a quorum.

(10) Subject to this Act, the Board shall regulate its procedures by rules or otherwise.

(11) Notwithstanding subhead (10), non-compliance with the standing orders of the Board does not invalidate any decision of the Board.
Head 13  Ineligibility for appointment, disqualification for office, cessation of membership

Provide that –

(1) A person is not eligible for appointment as a member of the Board or a committee of the Board if the person 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 that Parliament, or
(d) elected or co-opted as a member of a local authority,
(e) a member of garda personnel,
(f) a member of the Policing and Community Safety Authority, or
(g) the Garda Síochána Ombudsman or the Deputy Garda Síochána Ombudsman.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament or a local authority shall, while he or she is so entitled or is such a member, be disqualified for membership of the Board or a committee of the Board.

(3) A member of the Board or a member of a committee of the Board shall cease to be qualified for office and shall cease to hold office if he or she—

(a) is adjudicated bankrupt,
(b) makes a composition or arrangement with creditors,
(c) is sentenced by a court of competent jurisdiction to a term of imprisonment,
(d) is convicted of any indictable offence,
(e) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,
(f) is, or is deemed to be, the subject of an order under section 160 of the Companies Act 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, or
(g) is removed by a competent authority for any reason (other than failure to pay a fee) from any register established for the purpose of registering members of a profession in the State or another jurisdiction.
Head 14  Removal of member of Board from office

Provide that –

(1) The Minister may at any time remove from office a member of the Board if, in the Minister’s opinion—

(a) the member has become incapable through ill-health of performing his or her functions,
(b) the member has committed stated misbehaviour,
(c) the member’s removal is necessary for the effective and efficient performance by the Board of its functions,
(d) the member has contravened head 67 of this Act relating to standards of integrity, codes of conduct or an applicable provision of the Ethics in Public Office Act 1995, or
(e) in performing functions under this Act, the member has not been guided by a code of conduct that has been drawn up under section 10(3) of the Standards in Public Office Act 2001 and that relates to the member.

(2) A member who does not, for a consecutive period of 6 months, attend a meeting of the Board ceases at the end of that period to hold office unless the member demonstrates to the Minister’s satisfaction that the failure was due to ill-health.

(3) In this head, “applicable provision of the Ethics in Public Office Act 1995”, in relation to a member, means a provision of that Act that, by virtue of a regulation under section 3 of that Act, applies to that member.
Head 15   Removal of all members of Board from office

Provide that –

(1) The Minister may remove all the members of the Board from office if—

   (a) the Board fails to achieve a quorum for 3 consecutive meetings,
   (b) the Board does not comply with a judgment, order or decree of any court,
   (c) the Board does not comply with any other requirement imposed on it by or under any enactment including this Act, or
   (d) the Minister is of the opinion that the Board’s functions (in particular, its functions under head 11) are not being performed in an effective and efficient manner.

(2) The Minister may, if of the opinion that the Board’s functions are not being performed in an effective and efficient manner, appoint a person to—

   (a) conduct an independent review of any matter giving rise to that opinion, and
   (b) submit a report to the Minister on the results of the review.

(3) The Board and the Garda Commissioner shall co-operate with a review under subhead (2) and give the person conducting it all reasonable assistance, including access to such premises, equipment and records as the person may require for the purposes of the review.
Head 16 Committees of Board

Provide that –

(1) Without prejudice to head 60 the Board may establish committees, consisting in whole or in part of persons who are members of the Board, to assist and advise it in relation to the performance of any of its functions.

(2) In appointing members of a committee the Board shall have regard to the knowledge and experience necessary for the proper, effective and efficient discharge of the functions of the committee.

(3) The Board may at any time remove a member of a committee for stated reasons.

(4) The acts of a committee shall be subject to confirmation by the Board, unless the Board otherwise determines.

(5) The Board shall specify in writing the terms of reference and the procedures of a committee.

(6) The Board may appoint a member of a committee to be the chairperson of a committee.

(7) A committee shall provide the Board with such information as the Board may from time to time require, in respect of the committee’s activities and operations, for the purposes of the performance by the Board of its functions.

(8) The Board may at any time dissolve a committee of the Board established under this section.

(9) In this head “committee” means a committee established under subhead (1).
Head 17 Remuneration and expenses of members of Board and committees

Provide that —

(1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, determine the remuneration and expenses payable under this head.

(2) The remuneration and allowances for expenses, if any, determined in accordance with subhead (1) are payable by An Garda Síochána out of funds at its disposal to—

(a) the members of the Board, and
(b) the members of a committee of the Board.

(3) The remuneration and allowances for expenses, if any, determined in accordance with subhead (1) are payable by the Minister out of money provided by the Oireachtas to a person appointed under head 15(2) to conduct an independent review.
Head 18  Provision of services to Board

Provide that -

(1) The Garda Commissioner shall provide the Board with such resources including accommodation, facilities, services and staff as the Board reasonably determines are necessary for the due fulfilment of its functions.

(2) (a) The Board shall, in consultation with the Garda Commissioner, appoint as secretary to the Board a senior garda staff member who has the requisite skills for the position.
   (b) The secretary shall serve the Board in a full-time capacity and shall carry out only such duties as are assigned to him or her by the Board.

(3) Notwithstanding head 26(3) the secretary shall report to the chairperson of the Board and be accountable to him or her for the performance of his or her duties as secretary.

(4) The Board may appoint in consultation with the Garda Commissioner such and so many other garda staff members as it considers reasonably necessary to assist the secretary in the performance of his or her duties.

(5) The duration of appointment of the secretary and such other members of garda staff who are appointed to assist the secretary shall be a matter for the Board as shall their removal.
Chapter 3  Garda Commissioner, Deputy Garda Commissioner

Head 19  Appointment of Garda Commissioner

Provide that –

(1) Subject to this head and the regulations, the appointment of a person to be the Garda Commissioner shall be made by Government.

(2) The Minister shall invite the Service to undertake a selection competition for the purpose of identifying and recommending a person for appointment as the Garda Commissioner.

(3) Prior to inviting the Service to undertake a selection competition under subhead (2) the Minister shall consult with –

(a) the Board, and
(b) the Authority,

with regard to the requirements relating to knowledge, ability and suitability for appointment as the Garda Commissioner and the recruitment process.

(4) The Minister shall agree with the Service the selection criteria and process that are to apply to the competition having regard to the views of the Board and the Authority.

(5) A person shall not be recommended by the Service under this head unless the Service is satisfied that the person is suitable for appointment as Garda Commissioner by reason of his or her possessing such relevant experience, qualifications or expertise as is appropriate having regard in particular to the functions of the Garda Commissioner under the Act.

(6) An appointment under subhead (1) shall be for a period not exceeding 5 years in accordance with the regulations.

(7) Notwithstanding subheads (2) and (6) the Garda Commissioner may be reappointed by the Government for a period not exceeding 2 years following consultation with the Board and the Authority in accordance with the regulations.
(8) Subject to subhead (9) a person appointed as Garda Commissioner holds office on the terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) that have been approved by the Minister given with the consent of the Minister for Public Expenditure and Reform.

(9) Subject to head 23 the person who, on the commencement of this head, holds the office of Garda Commissioner, shall be deemed to have been appointed under this head and shall continue in office in accordance with the terms and conditions of his or her appointment.
Head 20  Appointment of Deputy Garda Commissioner

Provide that –

(1) Subject to this head and the regulations, the appointment of a person to the rank of Deputy Garda Commissioner shall be made by Government.

(2) The Minister shall invite the Service to undertake a selection competition for the purpose of identifying and recommending a person for appointment as a Deputy Garda Commissioner.

(3) Prior to inviting the Service to undertake a selection competition under subhead (2) the Minister shall consult with -

(a) the Board, and
(b) the Authority,

with regard to the requirements relating to knowledge, ability and suitability for appointment as a Deputy Garda Commissioner and the recruitment process.

(4) The Minister shall agree with the Service the selection criteria and process that are to apply to the competition having regard to the views of the Board and the Authority.

(5) A person shall not be recommended by the Service under this head unless the Service is satisfied that the person is suitable for appointment as a Deputy Garda Commissioner by reason of his or her possessing such relevant experience, qualifications or expertise as is appropriate having regard in particular to the functions that may be assigned to a member of that rank.

(6) Subject to subhead (5) a person appointed to the rank of Deputy Garda Commissioner holds office on the terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) that have been approved by the Minister given with the consent of the Minister for Public Expenditure and Reform.

(7) Subject to head 23 the person who, on the commencement of this head, holds the office of Deputy Garda Commissioner, shall be deemed to have been appointed under this head and shall continue in office in accordance with the terms and conditions of his or her appointment.
Head 21    Power of Deputy to perform functions of Garda Commissioner

Provide that –

(1) The appropriate Deputy Garda Commissioner may 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 the Garda Commissioner.

(2) The appropriate Deputy Garda Commissioner does not have power to act by virtue of (1)(a) or (1)(b) for a continuous period exceeding 2 months, except with the consent of the Minister.

(3) (a) Where there is not more than one Deputy Garda Commissioner, that person shall be the appropriate Deputy Garda Commissioner for the purposes of this head.
(b) Where there is more than one Deputy Garda Commissioner, the most senior Deputy Garda Commissioner shall be the appropriate Deputy Garda Commissioner for the purposes of this head.

(4) Where there is more than one Deputy Garda Commissioner the Minister shall designate the Deputy Garda Commissioners in order of seniority for the purpose of subhead (3)(b).

(5) During any absence, incapacity or suspension from duty of the person who –

(a) is designated as the most senior Deputy Garda Commissioner for the purposes of subhead (3)(b), or
(b) is treated under this head as the most senior Deputy Garda Commissioner,

the person designated as the next most senior is to be treated as the most senior one for the purposes of subhead (3)(b).

(6) The Assistant Garda Commissioner designated for this purpose by the Minister may perform the functions of the Garda Commissioner during any period where –
(a) the Garda Commissioner is unable to perform his or her functions, and
(b) a Deputy Garda Commissioner is unable to perform the functions of the Garda Commissioner.

(7) The Minister shall consult the Board before making a designation under subhead (6).

(8) Where a Deputy Garda Commissioner or an Assistant Garda Commissioner (the “Acting Garda Commissioner”) is authorised under subhead (1) or (6) to perform the functions of the Garda Commissioner the provisions of head 23 apply in relation to the Acting Garda Commissioner as they apply to the Garda Commissioner.

(9) The Minister shall notify the Authority of any consent given by him or her under subhead (2) or any designation made by him or her under subhead (4) or (6).

(10) In this head -

(a) a reference to any period where the Garda Commissioner is unable to perform his or her functions, is a reference to a period when -
   (i) the Garda Commissioner is absent, incapacitated or suspended from duty, or
   (ii) the office of Garda Commissioner is vacant.

(b) a reference to any period where a Deputy Garda Commissioner is unable to perform his or her functions, is a reference to a period when -
   (i) a Deputy Garda Commissioner is absent, incapacitated or suspended from duty, or
   (ii) the office of Deputy Garda Commissioner, or each office of Deputy Garda Commissioner, is vacant.
Head 22  Resignation of Garda Commissioner, Deputy Garda Commissioner

Provide that –

(1) A person who holds the office of Garda Commissioner or Deputy Garda Commissioner may resign from office by notice in writing addressed to the Minister and copied to the Board 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.

(2) The Minister shall, as soon as may be, inform the Authority of the resignation of a person under subhead (1).
Head 23  Suspension and removal of Garda Commissioner and Deputy Garda Commissioner

Provide that –

(1) The Minister may suspend a person who holds the office of Garda Commissioner or a person who holds the office of Deputy Garda Commissioner from duty where the person is the subject of an investigation into allegations that he or she may have –

(a) committed an offence, or
(b) behaved in a manner that would constitute serious misconduct,

and it appears to the Minister that the circumstances render such a course desirable in the interests of An Garda Síochána.

(2) The Board may, for the reasons set out in subhead (1), recommend to the Minister the suspension of a person who holds the office of Garda Commissioner or Deputy Garda Commissioner from duty and the Minister shall consider any such recommendation.

(3) Before considering the suspension of a person under subhead (1) or (2) the Minister shall –

(a) notify the person that he or she intends to consider suspending the person from duty and include in that notification a statement of the reasons for doing so,
(b) give the person an opportunity to make representations personally or in writing as to why he or she ought not to be suspended from duty,
(c) consider any representations made by the person,
(d) consult the Board, and
(e) consult the Authority in so far as the matter relates to policing services.

(4) The Minister may terminate the suspension of a person suspended under subhead (1) or subhead (2) of this head.

(5) Subject to head 24 a person who holds the office of Garda Commissioner or Deputy Garda Commissioner may be removed from office by the Government, but only for stated reasons, including because—
(a) the person has failed to perform the functions of the office with due
diligence and effectiveness or, in the case of the Garda Commissioner, has
failed to have regard to any of the matters specified in head 25,
(b) the person has engaged in conduct that brings discredit on the office or
that may prejudice the proper performance of the functions of the office,
or
(c) the removal of the person from office would, in the opinion of the
Government, be in the best interests of An Garda Síochána.

(6) The Board may, for the purposes of subhead (5), recommend to the
Government the removal from office of a person who holds the office of
Garda Commissioner or Deputy Garda Commissioner, and the Government
shall consider any such recommendation.

(7) Before considering the removal of a person from office under subhead (5) or
(6), the Government shall –

(a) notify the person that the Government intends to consider the matter
and include in that notification a statement of the reasons for doing so,
(b) give the person an opportunity to make representations as to why he or
she ought not to be suspended,
(c) consider any representations made by the person,
(d) consult the Board, and
(e) consult the Authority in so far as the matter relates to policing services.

(8) On notifying a person under subhead (7) that the Government intends to
consider removing the person from office the Government may (if the person
is not already suspended under subhead (1) or (2)) immediately suspend the
person from duty.

(9) A suspension from duty under subhead (8) continues until the Government
makes a decision in relation to the matter under consideration, but only if
there is no undue delay in taking the steps under this head or head 24.

(10) As soon as practicable after a person is removed from office under subhead
(5) or (6), the Minister shall cause a statement of the reasons for the removal
to be laid before each House of the Oireachtas.
Head 24 Inquiry into any matter giving rise to notification under head 23(7)

Provide that –

(1) The Government may, if they consider it necessary or appropriate to do so, appoint a person to—

(a) hold an inquiry into any matter giving rise to a notification under head 23(7)(a),
(b) report to the Government on the findings of the inquiry.

(2) A person appointed under this head 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.

(3) If a person fails or refuses to comply with or disobeys a direction or summons under subhead (2), the High Court may, on application by the person appointed under this head—

(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.

(4) A person who—
(a) is notified under subhead (2) and who, without lawful excuse, refuses or fails to comply with a direction under subhead (2)(a) or (b),
(b) fails, without lawful excuse, to attend an inquiry in response to a summons under subhead (2)(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.

(5) A statement or admission made by a person pursuant to a direction under subhead (2) shall not be admissible as evidence in proceedings brought against that person for an offence (other than an offence under subsection (4)).

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

(a) consider the report on the findings of the inquiry,
(b) inform the Board of the findings of the inquiry,
(c) in a case where the reasons for the proposed removal from office of the person concerned relate either solely or partially to policing services, inform the Authority of the findings of the inquiry in so far as they relate to policing services,
(d) make a copy of the report available to the person whose removal from office is the subject of the report, and
(e) give that person an opportunity to make representations relating to the report.
Chapter 4  Functions, duties of Garda Commissioner

Head 25  Functions of Garda Commissioner

Provide that –

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

(a) to direct and control An Garda Síochána;
(b) to carry on and manage and control generally the administration and business of An Garda Síochána, including by -
   (i) being responsible for the allocation and deployment of resources available to him or her,
   (ii) arranging for the recruitment, training and appointment of its members and garda personnel and their continuing professional development, and
   (iii) fulfilling the obligation on An Garda Síochána under section 42 of the Irish Human Rights and Equality Act 2014;
(c) to seek to secure the continuous improvement in the policing and security of the State;
(d) to advise the Minister on policing and security matters;
(e) to assist and co-operate with the Authority and the Office of the Garda Síochána Ombudsman in order to facilitate the performance by the Authority and the Office of the Garda Ombudsman of their respective functions under this Act;
(f) 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) The Garda Commissioner shall seek to ensure that his or her functions are carried out with due regard to –

(a) the policing principles, and
(b) the objective of promoting effectiveness, efficiency and economy in An Garda Síochána.

(3) The Garda Commissioner shall seek to ensure that his or her functions are carried out in accordance with-

(a) the policing priorities determined under head 49 by the Authority and any security priorities determined by the Minister under head 50,
(b) the approved strategic plan,
(c) the approved annual service plan,
(d) the approved capital plan,
(e) the relevant allocated resources,
(f) any relevant policies of the Minister or the Government, and
(g) any directive issued to him or her under head 30;

(4) The Garda Commissioner shall, to the extent practicable, ensure that members of garda personnel stationed in an area 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.

(5) The Garda Commissioner is accountable to the Board for the performance of the Commissioner’s functions.

(6) In this head “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 and continued to be such an area by section 7(1) of the Gaeltacht Act 2012.
Head 26  Direction and control of An Garda Síochána

Provide that –

(1) Members are, in carrying out their functions (including any functions held by virtue of their particular rank), subject to the direction and control of the Garda Commissioner.

(2) A member must –

(a) carry out lawful orders, and
(b) punctually and promptly perform all appointed duties and attend to all matters within the scope of that member’s office.

(3) Garda staff are, in the carrying out of their functions, subject to the direction and control of the Garda Commissioner.

(4) A member of garda staff must perform the functions and duties within the scope of his or her area of responsibility in a professional, punctual and prompt manner.
Head 27 Independence of Garda Commissioner

Provide that –

Notwithstanding heads 11 and 28 the Garda Commissioner is not accountable to, and must act independently of –

(a) the Board or any member of the Board, and
(b) the Minister or any Minister of the Government, regarding -
   (i) the maintenance of order in relation to any individual or group of individuals,
   (ii) the enforcement of the law in relation to any individual or group of individuals,
   (iii) the investigation and prosecution of offences, and
   (iv) decisions about individual members of garda personnel.
Head 28        Duty of Garda Commissioner to account to Government, and provide information to Attorney General

Provide that –

(1) Without prejudice to head 25(5) the Garda Commissioner shall account fully to the Government and the Minister through the Secretary General of the Department of Justice in relation to matters connected with policing and the security of the State.

(2) The Garda Commissioner’s duty under subhead (1) includes the duty to provide, on request by the Secretary General, any document in the power or control of An Garda Síochána, including material in the form of Garda records, statements made by members of garda personnel and by other persons and reports.

(3) The Garda Commissioner shall provide the Attorney General with all of the material specified in subhead (2) that is required by the Attorney General in connection with the conduct of legal proceedings on behalf of the State.
Head 29  Duty of Garda Commissioner to provide information

Provide that –

(1) The Garda Commissioner shall keep the Minister and the Secretary General of the Department of Justice informed of the following:

(a) matters relating to significant developments concerning—
   (i) the preservation of peace and public order in the State,
   (ii) the protection of life and property in the State, and
   (iii) the protection of the security of the State;
(b) significant developments that might reasonably be expected to affect adversely public confidence in An Garda Síochána;
(c) matters relevant to the accountability of the Government to the Houses of the Oireachtas;
(d) any other matters that, in the Commissioner’s opinion, should be brought to the Minister’s attention.

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

(3) A report under subhead (2) must—

(a) address matters of general or specific concern that are specified in the Minister’s requirement, and
(b) be made in the form and within the period specified in the requirement.

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

(5) The Minister may publish all or part of a report submitted under this head.
Head 30  Directives from Minister

Provide that –

(1) Subject to head 27 following the approval of the Government, the Minister may issue to the Garda Commissioner written directives concerning any matter relating to An Garda Síochána.

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

(3) The Garda Commissioner shall, in performing his or her functions under this Act, comply with any directive issued to the Commissioner under this head.

(4) As soon as practicable after issuing a directive under this head, 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 Garda Commissioner shall inform the Minister of the measures taken by the Commissioner to comply with a directive issued under this head and supply the information within the time specified by the Minister.

(6) The Minister shall supply the Authority with the information supplied to him or her by the Garda Commissioner under subhead (5) regarding the measures taken by An Garda Síochána to comply with a directive issued to the Commissioner under this head if and insofar as the directive and that information relate to policing services.
Head 31 Delegation of powers, functions, or duties of Garda Commissioner

Provide that –

(1) Subject to the regulations, the Garda Commissioner may, in writing, delegate any of his or her functions under this Act to members of garda personnel specified by rank, grade, position, name or otherwise.

(2) A delegation under this head 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 head has the same force and effect as if done by the Garda Commissioner.

(6) A delegation under this head shall continue in force notwithstanding that it preceded the appointment of a person as Garda Commissioner under head 19, unless it is revoked or varied by the Commissioner.
Head 32  Powers relating to contracts, bank accounts, etc.

Provide that –

(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 An Garda Síochána—

(a) enter on behalf of An 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 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) The power conferred by subhead (1)(a) includes the power with the consent of the Minister and the Minister for Public Expenditure and Reform to enter into a contract relating to land or an interest in land.

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

(4) A contract entered into under this head 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.

(5) Subhead (4) applies whether or not the contract was entered into pursuant to a power delegated under head 31.

(6) Notwithstanding subhead (1)(b), the Garda Commissioner does not have power to borrow money by means of a bank overdraft or otherwise.
Head 33  Arrangements for obtaining views of public

Provide that –

(1) The Garda Commissioner shall make arrangements for obtaining the views of the public about matters concerning the functions of An Garda Síochána.

(2) Before making any arrangements under this head, the Garda Commissioner shall consult with the Board about the proposed arrangements.
Head 34  Provision of police services for certain events, etc.

Provide that –

(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 subhead (3), if—

(a) it is in the public interest and consistent with the functions of An 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 head:

(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 head, but only in the circumstances and to the extent authorised by regulation under head 219.

(4) Subject to any regulation under head 219 the Garda Commissioner may set charges for police services provided under this head 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 head.

(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 head.
Chapter 5  Garda personnel

Head 35  Garda personnel

Provide that –

The personnel of An Garda Síochána (referred to as “garda personnel”) comprise members and members of garda staff.
Head 36  Ranks, numbers in each rank, terms and conditions

Provide that –

(1) The members of An Garda Síochána shall be divided into the ranks specified in the table to this head.

Table

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<th>1. Garda Commissioner</th>
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(2) Subhead (1) may by regulations be modified to add or remove any rank below that of Assistant Garda Commissioner.

(3) There shall be one or more of each of the ranks specified in the table (with the exception of the rank of Garda Commissioner) as determined –

(a) in the case of the rank of Deputy Commissioner, by the Government with due regard to the views of the Garda Commissioner,

(b) in the case of the other ranks, by the Garda Commissioner with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform.

(4) For the purposes of subhead (3)(b) and head 45(3)(b) the Garda Commissioner shall ensure that a strategic workforce planning exercise is conducted from time to time.
(5) The Garda Commissioner shall determine the terms and conditions (including terms and conditions relating to remuneration and allowances) of members appointed under this Act with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform.

(6) Subhead (5) is without prejudice to any regulations made or continued in force under this Act or any other enactment which makes provision in that regard.
Head 37  Member’s solemn declaration

Provide that –

On or after the commencement of this head an appointment of a person as a member has effect only where the person has made a declaration orally and in writing before a Peace Commissioner in the following terms:

“I do solemnly, sincerely and truly declare and affirm that -

• I will faithfully discharge the duties of a member of An Garda Síochána with fairness, integrity, diligence and impartiality, in a manner that protects and vindicates human rights, upholding the Constitution and the laws 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 the law, and I will conduct myself in accordance with the Code of Ethics established under head 66, and

• I do not belong to, and will not while I remain a member form, belong to, or subscribe to, any political party or any secret society whatsoever.”
Head 38  Appointment of persons to ranks of Assistant Garda Commissioner and chief superintendent

Provide that –

The Garda Commissioner may, subject to and in accordance with the regulations, and following a selection competition undertaken for that purpose by the Service, appoint, with the approval of the Board, persons to the ranks of Assistant Garda Commissioner and chief superintendent.
Head 39  Suspension, removal of persons appointed to rank of Assistant Garda Commissioner or chief superintendent

Provide that –

(1) The Garda Commissioner may suspend a person who is a member of the rank of Assistant Garda Commissioner or chief superintendent from duty in accordance with the regulations.

(2) Subject to head 40 a person who is a member of the rank of Assistant Garda Commissioner or chief superintendent may be removed from office by the Garda Commissioner with the approval of the Board, but only for stated reasons, including because —

(a) the person has failed to perform the functions of the office with due diligence and effectiveness,

(b) the person has engaged in conduct that brings discredit on the office or that may prejudice the proper performance of the functions of the office,

or

(c) the removal of the person from office would, in the opinion of the Garda Commissioner, be in the best interests of An Garda Síochána.

(3) Before considering the removal of a person under subhead (2), the Garda Commissioner shall –

(a) notify the person that the he or she intends to consider the matter and include in that notification a statement of the reasons for doing so,

(b) give the person an opportunity to make representations as to why he or she ought not to be removed,

(c) consider any representations made by the person,

(4) On notifying a person under subhead (3) that the Garda Commissioner intends to consider removing the person the Garda Commissioner may (if the person is not already suspended under subhead (1) immediately suspend the person from duty.

(5) A suspension from duty under subhead (4) continues until the Garda Commissioner makes a decision in relation to the matter under consideration and the Board approves that decision, but only if there is no undue delay in taking the steps under this head or head 40.
(6) The Garda Commissioner shall as soon as may be, inform the Minister and the Authority of

(a) a suspension under subhead (1), or
(b) a proposal to remove a person from office under subhead (2) and any related suspension from duty under subhead (4).

(7) As soon as practicable after a person is removed from office under subhead (2) the Garda Commissioner shall inform the Minister and the Authority of the removal of the person from office and the reasons for it and the Minister shall cause a statement of the reasons for the removal to be laid before each House of the Oireachtas.
Head 40 Inquiry into any matter giving rise to notification under head 39(3)

Provide that—

(1) The Garda Commissioner may, if he or she considers it necessary or appropriate to do so and with the approval of the Board, appoint a person to—

(a) hold an inquiry into any matter giving rise to a notification under head 39(3), and
(b) report to the Garda Commissioner on the findings of the inquiry.

(2) A person appointed under this head 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.

(3) If a person fails or refuses to comply with or disobeys a direction or summons under subhead (2), the High Court may, on application by the person appointed under this head—

(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.

(4) A person who—
(a) is notified under subhead (2) and who, without lawful excuse, refuses or fails to comply with a direction under subhead (2)(a) or (b),
(b) fails, without lawful excuse, to attend an inquiry in response to a summons under subsection (2)(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.

(5) A statement or admission made by a person pursuant to a direction under subhead (2) shall not be admissible as evidence in proceedings brought against that person for an offence (other than an offence under subsection (4).

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

(a) consider the report on the findings of the inquiry,
(b) inform the Board of the findings of the inquiry,
(c) in a case where the reasons for the proposed removal from office of the person concerned relate either solely or partially to policing services, inform the Authority of the findings of the inquiry in so far as they relate to policing services,
(d) make a copy of the report available to the person whose removal from office is the subject of the report, and
(e) give that person an opportunity to make representations relating to the report.
Head 41 Appointment of persons to ranks below rank of chief superintendent and dismissal of such members for reasons of public confidence

Provide that –

(1) The Garda Commissioner may appoint, subject to and in accordance with the regulations, persons to any of the ranks below the rank of chief superintendent.

(2) The Garda Commissioner may suspend from duty a person who is a member of any of the ranks below the rank of chief superintendent in accordance with the regulations.

(3) Notwithstanding anything in this Act or the regulations, the Garda Commissioner may dismiss from An Garda Síochána a member below the rank of chief superintendent 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 An 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

(4) Subhead (3) is not to be taken to limit the power to make or amend Conduct Regulations.
Head 42  Appointment of reserve members

Provide that –

(1) The Garda Commissioner may, subject to the regulations, appoint persons as reserve members of An Garda Síochána.

(2) Subject to subhead (3), a reserve member has, while on duty, the same powers, immunities, privileges and duties as a person appointed under head 41 to the rank of garda.

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

(4) A reserve member is a volunteer and does not perform his or her functions as such a member under a contract of employment.
Head 43  Duty of members of Garda personnel to account

Provide that –

(1) A member of garda personnel shall, when directed to do so by a member of garda personnel of a higher rank or grade, account for any act done or omission made by the member concerned while on duty.

(2) A failure to comply with a direction under subhead (1) shall be the subject of action in accordance with the Conduct Regulations or conduct code as the case may be.

(3) The member of garda personnel concerned shall be informed by the member of higher rank or grade that such failure may lead to dismissal from An Garda Síochána.

(4) Any information provided by a member of garda personnel in accordance with a direction under subhead (1) is not admissible in any criminal proceedings against the member concerned and this shall be explained to him or her in ordinary language by the member of higher rank or grade concerned.

(5) For the purpose of subhead (4) “criminal proceedings” does not include disciplinary proceedings.
Head 44  Admission of Garda trainees

Provide that –

(1) The Garda Commissioner may, subject to and in accordance with the regulations, arrange for the admission of a person as a trainee with a view to his or her subsequent appointment and enrolment as a member.

(2) Subject to head 26 and the regulations conditions of service of a trainee shall be governed by a contract entered into between the Garda Commissioner and the trainee.
Head 45  Appointment of members of garda staff

Provide that –

(1) Subject to this head the Garda Commissioner may appoint persons (to be known as “garda staff”) to carry out the functions of An Garda Síochána and may determine their duties.

(2) Garda staff shall be recruited in accordance with the Public Service Management (Recruitment and Appointments) Act 2004.

(3) The Garda Commissioner with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, shall determine –

(a) the terms and conditions of employment (including terms and conditions relating to remuneration and allowances) of garda staff appointed under this head; and
(b) the grades of garda staff and the number of garda staff in each grade.

(4) Senior garda staff shall be appointed by the Garda Commissioner with the approval of the Board.

(5) Every member of the civilian staff of An Garda Síochána who is a civil servant of the Government before the commencement of this head and who is designated by order of the Minister for the purposes of this head shall, on being so designated, become a member of garda staff.

(6) Before making an order for the purpose of subhead (5), the Minister shall—

(a) notify in writing any recognised trade union or staff association concerned of the Minister’s intention to do so, and
(b) consider, within such time as may be specified in the notification, any representations made by that trade union or staff association in relation to the matter.

(7) Schedule 2 has effect in relation to civilian staff who become garda staff under this head.
Head 46  Garda staff undertaking

Provide that –

(1) A member of garda staff, before beginning his or her duties, must give a solemn undertaking that he or she will faithfully perform his or her duties as a member of the garda staff of An Garda Síochána.

(2) The declaration—

(a) must be given before the member of garda staff’s supervisor; and
(b) may be recorded in any manner that the Garda Commissioner determines from time to time.
Head 47  Power to appoint consultants and advisers

Provide that –

The Garda Commissioner with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, may engage such consultants or advisers as he or she considers necessary for the performance of his or her functions and the functions of An Garda Síochána under this Act.
Head 48  Representative associations

Provide that—

(1) For the purpose of representing members of An 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 An Garda Síochána below the rank of Assistant Commissioner.

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

(3) A member of An Garda Síochána shall not be or become a member of any trade union or association (other than an association established under this head, section 18 of the Garda Síochána Act 2005 or section 13 of the Garda Síochána Act 1924) any object of which is to control or influence the pay, pensions or conditions of service of An 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 subhead (2), authorise an association established under this head to be associated with a person or body outside An 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 head for the purpose of representing members of An Garda Síochána holding the rank of Garda may include persons admitted under head 44 as a trainee with a view to his or her subsequent appointment and enrolment as a member.
Chapter 6  Accountability and funding of An Garda Síochána

Head 49  Setting of priorities by Authority for policing services

Provide that –

(1) The Authority shall, in accordance with this head, determine and from time to time revise priorities for An Garda Síochána in performing its functions relating to policing services for submission to the Minister for approval.

(2) Before determining or revising priorities under this head the Authority must consult with –

(a) the Garda Commissioner,
(b) the National Community Safety Office, and
(c) such other persons as the Authority considers appropriate.

(3) When determining or revising priorities under this head the Authority must have regard to the policing principles.

(4) Where the Minister approves the determination or revision of priorities under this head he or she shall notify the Authority of that approval in writing.

(5) As soon as practicable after the Authority has received the notification under subhead (4) the Authority shall cause a copy of the approved priorities or revised priorities to be supplied to the Minister, the Garda Commissioner and the Board of An Garda Síochána.

(6) As soon as practicable after the Minister receives a copy of the approved priorities or revised priorities from the Authority under subhead (5) the Minister shall -

(a) cause a copy of the priorities to be laid before each House of the Oireachtas, and
(b) arrange for the priorities to be published on the Internet or in such manner as the Minister considers appropriate.
Head 50 Setting of priorities by Minister for security services

Provide that –

(1) The Minister may –

(a) determine and from time to time revise priorities for An Garda Síochána in performing its functions relating to security services, and
(b) establish and from time to time revise the performance targets to be achieved in relation to each priority referred to in (a).

(2) Before determining or revising priorities or establishing or revising performance targets under this head the Minister must consult with –

(a) the Garda Commissioner, and
(b) such other persons as the Minister considers appropriate.

(3) The Minister shall supply details of the determined priorities, the established performance targets and any revisions thereto in writing to the Garda Commissioner.

(4) Subject to subhead (5), as soon as practicable after the determination or revision of priorities or the establishment or revision of performance targets the Minister shall –

(a) cause a copy of the priorities or performance targets or revisions thereto, as the case may be, to be laid before each House of the Oireachtas, and
(b) arrange for their publication on the Internet or in such manner as the Minister considers appropriate.

(5) The Minister may exclude from the copy of the priorities or performance targets or revisions thereto, to be laid before each House of the Oireachtas or published any matter that, in his or her opinion –

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

(6) The Garda Commissioner shall –
(a) inform the Minister of the measures taken to achieve the objectives of the
priorities determined and the performance targets established under this
head and the outcome of those measures, and
(b) supply that information in a form and within the time specified by the
Minister.
Head 51 Strategic plan

Provide that –

(1) Subject to subhead (2) the Garda Commissioner shall at the request of the Board, and in accordance with this head, prepare at the times specified in subhead (3), a strategic plan for An Garda Síochána for submission to the Minister for approval with or without amendment, for the ensuing 3 years.

(2) A strategic plan prepared by the Garda Commissioner under subhead (1) shall not be submitted to the Minister unless it has been adopted by the Board.

(3) A strategic plan shall -

(a) be prepared in a form and manner in accordance with any directions issued from time to time by the Minister and must specify—
   (i) the main objectives of An Garda Síochána for the period concerned and the reasons for selecting each main objective,
   (ii) the strategies for achieving those main objectives,
   (iii) where reasonably practicable the outcomes by which the achievement of the main objectives may be measured,
   (iv) in accordance with section 42 of the Irish Human Rights and Equality Commission Act 2014 an assessment of the human rights and equality issues An Garda Síochána believes to be relevant to its functions and the policies, plans and actions in place or proposed to be put in place to address those issues,
   (v) the uses for which An Garda Síochána proposes to apply its resources, and
   (vi) any other information connected with the functions of An Garda Síochána which the Board or the Garda Commissioner considers appropriate;

(b) except in the case of the first such plan, include a review and evaluation of the work of An Garda Síochána in the performance of its statutory functions in the previous 3 years;

(c) be prepared, adopted and submitted to the Minister -
   (i) within 6 months of the Board being established under head 10, and
   (ii) at the end of the 3 year period since the last strategic plan was submitted.

(4) Before preparing the strategic plan the Garda Commissioner shall –
(a) request the Authority to provide its views on what the plan should contain in relation to the provision of policing services, and
(b) make arrangements for obtaining views from such other bodies or persons who are likely to have an interest in the functions of An Garda Síochána.

(5) In preparing a strategic plan, the Garda Commissioner shall have regard to –

(a) the views of the Authority and such other bodies or persons provided under subhead (5),
(b) the policies of the Government or any Minister of the Government to the extent that those policies may affect or relate to the functions of An Garda Síochána,
(c) the policing priorities determined under head 49 by the Authority and any security priorities determined by the Minister under head 50 and ensure that the strategic plan is not inconsistent with them,
(d) the policing principles,
(e) the national community safety strategy approved under head 85, and
(f) the resources reasonably and prudently expected to be available to An Garda Síochána for the period to which the strategic plan relates and the need to ensure the most effective and efficient use of those resources.

(6) Within 3 months after receiving a strategic plan, the Minister shall—

(a) approve the plan,
(b) issue directions regarding amendments to the proposed plan following consultation with the Board, or
(c) refuse to approve the plan where the plan is not amended in accordance with any directions that may be given by the Minister.

(7) An approved strategic plan may be amended by the Minister at any time following consultation with the Board or may be amended by the Board but in the latter case only after—

(a) the Board submits the proposed amendment to the Minister for approval, and
(b) the amendment is approved by the Minister.

(8) Subhead (5) applies with the necessary modifications in respect of an amendment by the Board to an approved strategic plan.
(9) Nothing in a strategic plan is to be taken to prevent the Garda Commissioner or the Board from, or to limit, the Garda Commissioner or Board in, performing their functions.
Head 52 Publication and implementation of approved strategic plan

Provide that –

(1) Subject to subhead (2) the Minister shall cause a copy of an approved strategic plan to be laid before each House of the Oireachtas—

(a) as soon as practicable after the plan is approved by the Minister, and
(b) if the plan is amended under head 51 after being approved by the Minister, as soon as practicable —
   (i) in the case of an amendment made by the Minister, the making of the amendment, or
   (ii) in the case of an amendment made by An Garda Síochána, the amendment is approved by the Minister.

(2) The Minister may exclude from the copy of the approved strategic plan to be laid before each House of the Oireachtas or published any matter that, in his or her opinion –

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

(3) The Garda Commissioner shall ensure that, as soon as practicable after copies of an approved strategic plan are laid before the Houses of the Oireachtas, the plan, as laid, is published on the Internet or in accordance with such other arrangements as the Minister may specify.

(4) The Board, in consultation with the Garda Commissioner shall provide the Minister with progress reports on the implementation of an approved strategic plan—

(a) in the annual report under head 64, and
(b) in such other manner and at such intervals as the Minister may direct.
Head 53 Annual service plan

Provide that –

(1) Before the expiry of the specified period the Garda Commissioner shall prepare, in accordance with this head, an annual service plan for An Garda Síochána for the following year and submit it to the Minister for approval with or without amendment.

(2) Subject to subhead (8) an annual service plan prepared by the Garda Commissioner shall not be submitted to the Minister unless it has been adopted by the Board.

(3) For the purpose of this head, the specified period is –

(a) the period ending 42 days following the publication by the Government of the Estimates for Public Services (within the meaning of section 17(1) of the Ministers and Secretaries (Amendment) Act 2011), or
(b) such other period as the Minister may allow.

(4) The Minister may issue a direction to the Garda Commissioner as respects the form and manner in which the annual service plan is to be prepared.

(5) An annual service plan shall be prepared in a form and manner which is consistent with any direction issued by the Minister under subhead (4) and shall—

(a) indicate the type and volume of services to be provided by An Garda Síochána during the period to which the plan relates,
(b) set out the objectives to be achieved through the services to be provided and contain estimates of the financial resources required to meet each such objective,
(c) set out the performance targets to be achieved in relation to each objective referred to in (b),
(d) indicate any capital expenditure proposed by An Garda Síochána,
(e) contain estimates of the income and expenditure of An Garda Síochána for the period to which the plan relates,
(f) be consistent with the resources reasonably and prudently expected to be available to An Garda Síochána for the period to which the plan relates,
(g) contain estimates of the number of garda personnel for the period and the services to which the plan relates,
(h) contain any other information specified by the Minister,
(i) be consistent with any directives issued by the Minister under head 30, and
(j) accord with the policies and objectives of the Government or any Minister of the Government to the extent that those policies may affect or relate to the functions of An Garda Síochána.

(6) Before preparing the annual service plan the Garda Commissioner shall request the Authority to provide its views on what the plan should contain in relation to the provision of policing services and shall give due regard to any such views in the preparation of the plan.

(7) In addition to subhead (6) when preparing the annual service plan, the Garda Commissioner shall –

(a) ensure that the plan is not inconsistent with -
   (i) the policing priorities determined under head 49 by the Authority and any security priorities determined by the Minister under head 50,
   (ii) the approved strategic plan in operation at that time, and
   (iii) any directive issued by the Minister under head 30,
(b) have regard to the requirement to exercise the highest standards of prudent and effective financial and budgetary management, including with regard to the achievement of value-for-money, and recognition of the importance of managing within authorised financial and staffing resources.

(8) If the Garda Commissioner fails to submit an annual service plan adopted by the Board to the Minister before the expiry of the specified period, the Minister may, in writing, issue a direction, directing the Garda Commissioner to prepare and submit a service plan to him or her not later than—

(a) 10 days after the date on which the Minister issues the direction to the Garda Commissioner, or
(b) such earlier date as may be specified in the direction.

(9) A service plan submitted to the Minister by the Garda Commissioner in compliance with subhead (8) shall be deemed to have been adopted by the Board.

(10) Not later than 21 days after receiving an annual service plan under this head, the Minister shall –
(a) approve the annual service plan in the form in which it was submitted,
(b) approve the annual service plan with such amendments as the Minister, having consulted with the Garda Commissioner, may determine, or
(c) issue a direction to the Garda Commissioner under subhead (11) to amend the plan.

(11) The Minister may direct the Garda Commissioner to amend an annual service plan submitted under this head if, in the opinion of the Minister, the plan—

(a) does not contain any information required to be included in the service plan pursuant to subhead (5),
(b) does not in some other respect comply with subsection (5),
(c) has been prepared by the Garda Commissioner without sufficient regard to the matters referred to in subheads (6) or (7), or
(d) does not accord with the policies and objectives of the Minister or the Government to the extent to which those policies and objectives relate to the functions of An Garda Síochána and have been communicated in writing to An Garda Síochána prior to the commencement of the specified period.

(12) The Minister may refuse to approve a service plan unless it is amended in accordance with a direction issued under subhead (11).

(13) The Garda Commissioner shall comply with a direction issued to him or her under this head.

(14) Subject to subhead (15) the Minister shall ensure that a copy of an approved annual service plan is laid before both Houses of the Oireachtas as soon as practicable after the plan is approved by the Minister.

(15) The Minister may exclude from the copy of the approved annual service plan 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 the security of the State, or
(b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.
(16) The Garda Commissioner shall ensure that, as soon as practicable after copies of an approved annual service plan are laid before the Houses of the Oireachtas, the plan as laid is published on the Internet or in accordance with such other arrangements as the Minister may specify.
Head 54 Amendment of approved annual service plan

Provide that –

(1) After approving an annual service plan, the Minister may direct the Garda Commissioner to submit an amended plan and may specify in the direction the manner in which the plan is to be amended.

(2) (a) Subject to subhead (4) the Garda Commissioner may amend an approved annual service plan.
   (b) Subheads (5) to (7) of head 53 shall apply with all necessary modifications to the amended plan.

(3) If the Minister directs the Garda Commissioner to submit an amended annual service plan in accordance with subhead (1), subhead (2) and subheads (5) to (13) of head 53 shall apply with all necessary modifications to the amended service plan.

(4) The Garda Commissioner shall submit an annual service plan amended under subhead (2) as soon as practicable and in any event not later than 5 days after the day on which the Board adopts the amended service plan.

(5) Within 21 days after receiving an amended service plan submitted in accordance with subsection (4), the Minister may—
   (a) direct the Garda Commissioner to amend the service plan specifying the manner in which the annual service plan is to be amended, or
   (b) notify the Garda Commissioner that he or she intends to amend the plan in consultation with him or her.

(6) Unless the direction or notification relating to an amended annual service plan is issued by the Minister within the period specified in subhead (5), the amended service plan is deemed to have been approved by the Minister immediately before the end of that period.

(7) If a direction relating to an amended annual service plan is issued by the Minister within the period specified in subsection (5), any amendment made (either in the amended service plan or in response to the direction) by the Garda Commissioner to its approved service plan has no effect until the amendment is approved by the Minister.
(8) Subject to subhead (9) the Minister shall ensure that a copy of an approved annual service plan amended under this head is laid before both Houses of the Oireachtas as soon as practicable after the amended plan is approved or deemed to have been approved by the Minister.

(9) The Minister may exclude from the copy of the approved annual service plan amended under this head 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 the security of the State, or
(b) might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

(10) The Garda Commissioner shall ensure that, as soon as practicable after copies of an approved amended service plan are laid before the Houses of the Oireachtas, the plan as laid is published on the Internet or in accordance with such other arrangements as the Minister may specify.
Head 55  Implementation of approved annual service plan

Provide that –

(1) The Garda Commissioner shall manage the services set out in an approved annual service plan so as to ensure that those services are delivered in accordance with the plan, and in a manner that does not exceed the resources available to An Garda Síochána for the period to which the plan relates.

(2) The Garda Commissioner shall, as soon as is practicable, inform the Board and the Minister if he or she forms the opinion that an action undertaken by him or her, will, or that a proposed action to be undertaken by him or her, if made, result in An Garda Síochána exceeding the resources available to An Garda Síochána for the period to which the plan relates.
Head 56   Annual and multi annual capital plan

Provide that —

(1) The Minister may, following consultation with the Minister for Public Expenditure and Reform, request the Garda Commissioner to submit to the Minister for approval a capital plan—

(a) prepared in such form and containing such information as may be specified by the Minister,
(b) relating to such year or years as may be specified by the Minister, and
(c) having regard to the resources reasonably and prudently expected to be available to An Garda Síochána for capital expenditure for the year or years to which the plan relates.

(2) The Garda Commissioner shall not submit a capital plan under subhead (1) unless it has been adopted by the Board.

(3) The capital plan shall be submitted to the Minister within—

(a) 21 days after the Garda Commissioner receives the request from the Minister under subhead (1), or
(b) such longer period as the Minister may allow.

(4) Subheads (8) to (13) of head 53 shall apply with all necessary modifications to a capital plan.

(5) Notwithstanding any other provision of this head, the Minister may at any time direct in writing the Garda Commissioner to submit to the Minister for approval a capital plan prepared in such form, containing such information and covering such period as may be specified by the Minister in such direction.

(6) In preparing a capital plan for submission under this head, the Garda Commissioner shall have regard to any priorities that may be determined by the Minister for the year or years concerned.

(7) The Minister may at any time direct the Garda Commissioner to amend a capital plan submitted and approved under this head.
(8) The Garda Commissioner may, with the approval of the Board and subject to the prior consent of the Minister, amend a capital plan submitted and approved under this head.
Head 57  Implementation of approved capital plan

Provide that –

(1) The Garda Commissioner shall take steps to ensure that the capital expenditure under an approved capital plan does not exceed the resources available to An Garda Síochána for such expenditure for the year or years to which the plan relates.

(2) The Garda Commissioner shall, as soon as is practicable, inform the Board and the Minister if he or she forms the opinion that an action undertaken by him or her, will, or that a proposed action to be undertaken by him or her, if made, result in An Garda Síochána’s capital expenditure exceeding the amount available to the Garda Commissioner for the year or years to which an approved plan relates.
Head 58  Accountability of Garda Commissioner for accounts of Garda Síochána

Provide that –


(2) Whenever required to do so by the Committee of Public Accounts, the Garda Commissioner shall give evidence to it on the following matters:

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or record of account subject to audit by the Comptroller and Auditor General;
(b) the economy and the efficiency of An Garda Síochána in using its resources;
(c) the systems, procedures and practices employed by An Garda Síochána for evaluating the effectiveness of its operations;
(d) any matter affecting An Garda Síochána that is referred to in—
   (i) a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or
   (ii) any other report of the Comptroller and Auditor General that is laid before Dáil Éireann in so far as the report relates to a matter specified in any of paragraphs (a) to (c).

(3) In carrying out duties under subhead (2), the Garda Commissioner shall not –

(a) 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 policy,
(b) discuss matters relating to the security of the State,
(c) provide information, other than financial information, relating to specific criminal investigations or prosecutions except an investigation or prosecution relating to money or assets for which he or she is the accounting officer, or
(d) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of a person.
Head 59 Attendance of Garda Commissioner before other Oireachtas Committees

Provide that –

(1) Subject to subhead (2), the Garda Commissioner shall, at the request in writing of a committee, attend before it to give an account of the general administration of An Garda Síochána.

(2) The Garda Commissioner shall not be required to give account before a committee for any matter that is, or is likely to be, the subject of proceedings before a court or tribunal in the State, including a tribunal of inquiry established under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011 and a commission of investigation established under the Commissions of Investigation Act 2004.

(3) The Garda Commissioner shall, if of opinion that subhead (2) applies to a matter about which he or she is requested to give account before a committee, inform the committee of that opinion and the reasons for the opinion.

(4) The information required under subhead (3) shall be given to the committee in writing unless it is given when the Garda Commissioner is before the committee.

(5) If, on being informed of the opinion of the Garda Commissioner about the matter, the committee decides not to withdraw its request relating to the matter, the High Court may, on application under subhead (6), determine whether subhead (2) applies to the matter.

(6) Either the Garda Commissioner or the committee may apply in a summary manner to the High Court for a determination under subhead (5), but only if the application is made within 21 days after the date on which the Garda Commissioner is informed of the decision of the committee not to withdraw its request.

(7) Pending the determination of an application under subhead (6), the Garda Commissioner shall not attend before the committee to give account for the matter that is the subject of the application.
(8) If the High Court determines that subhead (2) applies to the matter, the committee shall withdraw its request insofar as it relates to the matter, but if the Court determines that subhead (2) does not apply, the Garda Commissioner shall attend before the committee to give account for the matter.

(9) In carrying out duties under this head, the Garda Commissioner shall not -

(a) 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,
(b) discuss matters relating to the security of the State,
(c) provide information relating to specific criminal investigations or prosecutions, or
(d) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of a person.

(10) With the permission of the chairperson of the Oireachtas Committee making the request under subhead (1), either -

(a) the chairperson of the Board, or
(b) a member of garda personnel nominated by the Garda Commissioner,

may attend before the Committee in place of the Garda Commissioner to give an account of the general administration of An Garda Síochána, and in that case a reference in subheads (2) to (9) to the Garda Commissioner is to be read as a reference to the person attending in his or her place.

(11) In this head ‘committee’ means—

(a) a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee of Public Accounts, the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann), or
(b) a sub-committee of a committee falling under paragraph (a).
Head 60  Audit committee

Provide that –

(1) As soon as practicable after the commencement of head 10, the Board shall establish an audit committee to perform the functions specified in head 62.

(2) The audit committee shall be appointed by the Board and shall consist of—

(a) not fewer than 3 of the Board members, and
(b) not fewer than 4 other persons who, in the opinion of the Board, have the relevant skills and experience to perform the functions of the committee, at least one of whom shall hold a professional qualification in accountancy or auditing.

(3) The Board shall designate one of the persons appointed pursuant to subhead (2)(b) to be the chairperson of the audit committee.

(4) The duration of a person’s membership of the audit committee shall be determined by the Board when appointing that person.

(5) A member of the audit committee may resign from the committee by letter addressed to the chairperson of the Board.

(6) The Board may at any time remove a member of the audit committee for stated reasons.

(7) The Minister may, with the consent of the Minister for Public Expenditure and Reform, determine the remuneration and expenses payable under this head.

(8) The remuneration and allowances for expenses, if any, determined in accordance with subhead (7) are payable by the Garda Commissioner out of funds at his or her disposal to a member of the audit committee.

(9) The Garda Commissioner shall ensure that the audit committee is provided with the necessary secretarial and other resources to enable it to perform its functions.
Head 61  Provisions supplementary to head 60

Provide that –

(1) The old audit committee shall stand dissolved on the relevant day.

(2) Anything commenced and not completed before the relevant day by or under the authority of the old audit committee may, in so far as it relates to a function of the new audit committee, be carried on or completed on or after that day by the new audit committee.

(3) Every document granted or made, by the old audit committee, if and in so far as it was operative immediately before the relevant day, shall have effect on and after that day as if it had been granted or made by the new audit committee.

(4) Each record held by the old audit committee immediately before the relevant day shall, on that day, stand transferred to the new audit committee and shall, on and after that day, be the property of the new audit committee and be regarded as being held by the new audit committee.

(5) In this head and head 62 -

“new audit committee” means the audit committee established pursuant to head 60 after the commencement of that head;

“old audit committee” means the audit committee established pursuant to section 44 of the former Act before the repeal of that section;

“relevant day” means the day on which the Board establishes an audit committee under head 60.
Head 62  Functions of audit committee

Provide that—

(1) The audit committee shall, on and after the relevant day—

(a) advise the Garda Commissioner on governance and financial matters related to his or her functions,
(b) report in writing at least once in every year to the Garda Commissioner on those matters and on the activities of the committee in the previous year, and
(c) provide a copy of that report to the Board and the Minister.

(2) The audit committee shall, on and after the relevant day—

(a) advise the Board on financial matters relating to its functions,  
(b) report in writing at least once in every year to the Board on those matters, and provide a copy of that report to the Minister.

(3) The audit committee’s functions under subheads (1)(a) and (2)(a) include advising on the following matters:

(a) the proper implementation of Government guidelines on governance and financial issues;
(b) compliance by An Garda Síochána with—
   (i) heads 55 and 57, and
   (ii) any other obligations imposed by law relating to financial matters;
(c) compliance by the Garda Commissioner with head 32;
(d) the appropriateness, effectiveness and efficiency of An Garda Síochána’s procedures relating to—
   (i) public procurement,
   (ii) seeking sanction for expenditure and complying with that sanction,
   (iii) the acquisition, holding and disposal of assets,
   (iv) risk management,
   (v) financial reporting,
   (vi) internal audits,
   (vii) preventing fraud,
   (viii) preventing corruption, and
   (ix) protected disclosures,
   (x) such other matter as the Board may determine.
(4) Subject to subhead (7), the audit committee shall meet at least 4 times in each year and may invite any person it considers appropriate (whether that person is or is not a member of garda personnel) to attend a meeting of the committee.

(5) The Garda Commissioner shall—

(a) ensure that the audit committee is provided with all of An Garda Síochána’s audit reports, audit plans and monthly reports on expenditure, and

(b) if he or she has reason to suspect that any material misappropriation of the money for which he or she is accounting officer, or any fraudulent conversion or misapplication of An Garda Síochána’s property, may have taken place, report that matter to the audit committee as soon as practicable.

(6) The Garda Commissioner shall furnish to the audit committee information on any financial matter or procedure necessary for the performance of its functions by the committee when requested to do so by the audit committee and where such information relates to—

(a) any contract that the Garda Commissioner proposes to enter into involving expenditure of an amount in excess of a threshold specified by the committee, and

(b) any legal proceedings taken or threatened against the Garda Commissioner that may give rise to potential financial liability.

(7) The audit committee shall review, at its own initiative or at the request of the Board, its own effectiveness and make a report to the Board.

(8) A meeting of the old audit committee held in the same year as the year in which the relevant day falls shall count as a meeting of the new audit committee for the purposes of subhead (4).
Head 63  Governance framework

Provide that –

(1) The Board shall, as soon as practicable after it is established, submit to the Minister for approval a governance framework document that includes an outline of—

(a) the guiding principles applicable to An Garda Síochána as a public body having functions relating to policing and security services,
(b) the managerial, organisation and governance structures of An Garda Síochána, including the roles and responsibilities of the Board and the Garda Commissioner,
(c) the processes and guidelines to be followed to ensure compliance with the reporting requirements imposed on the Garda Commissioner by or under this Act or other Acts, and
(d) An Garda Síochána’s internal controls, including its procedures relating to internal audits, risk management, public procurement, financial reporting and protected disclosures.

(2) The Board shall review the governance framework document periodically and at such times as may be specified by the Minister and shall revise the document as the Board considers appropriate.

(3) In preparing, or making any revisions to, the governance framework document, the Board shall have regard to any directives issued by the Minister under head 30.

(4) Following the Minister’s approval of the governance framework document or of any revisions to it, the Board shall arrange for the publication of the document or the revised document.

(5) The annual report prepared under head 64 shall set out the arrangements for implementing and maintaining adherence to the governance framework document.
Head 64  Annual Report

Provide that –

(1) The Garda Commissioner shall, not later than 3 months after the end of each year, prepare and submit to the Minister a report on the performance of An Garda Síochána during the preceding year.

(2) An annual report shall not be submitted under subhead (1) unless it has been adopted by the Board.

(3) An annual report shall include—

(a) a general statement of the services provided during the preceding year by An Garda Síochána and of the activities undertaken in that year,
(b) a report on the implementation of the approved strategic plan in the year,
(c) a report on the implementation of the approval annual service plan in the year including the achievement of the performance targets,
(d) a report on the implementation of the capital plan in the year,
(e) an indication of An Garda Síochána’s arrangements for implementing and maintaining adherence to its governance framework,
(f) the implementation of any directives issued under head 30 laid before the Houses of the Oireachtas during the year,
(g) in accordance with section 42 of the Irish Human Rights and Equality Commission Act 2014 the developments and achievements in relation to its policies, plans and actions to address the human rights and equality issues it believes to be relevant to the functions and purpose of the body, and
(h) any other matters that the Board thinks fit.

(4) The Minister shall ensure that copies of the annual report are laid before each House of the Oireachtas as soon as practicable after the Minister receives that report.

(5) The Garda Commissioner shall ensure that the annual report is published on the Internet, or in accordance with such other arrangements as the Minister may specify, as soon as practicable after copies of the report are laid before the Houses of the Oireachtas.
Head 65  Statistical information

Provide that—

(1) The Garda Commissioner shall ensure that, in respect of each specified period, statistical information concerning offences, criminal proceedings and the state of crime in the State is compiled and stored.

(2) The Garda Commissioner shall make information compiled in accordance with subhead (1) available to the Minister and the Central Statistics Office at the times and in the manner that the Minister may require.

(3) In this head “specified period” means—

(a) the period beginning [date to be inserted] and ending 3 months after that date, and
(b) each subsequent period of 3 months beginning on the day after the end of the previous period.
Chapter 7 Codes of ethics, standards of integrity, unauthorised disclosure of information

Head 66 Code of ethics for members of garda personnel

Provide that—

(1) The Authority shall establish a code of ethics that includes—

(a) standards of conduct and practice for members of garda personnel, and
(b) provisions to encourage and facilitate the reporting by members of garda personnel of wrongdoing in An Garda Síochána.

(2) The Authority shall, before establishing a code of ethics under this head, consult with the following about the content of the code:

(a) the Minister;
(b) the Minister for Public Expenditure and Reform;
(c) the Garda Commissioner
(d) the Board;
(e) the representative associations established under head 48 of this Act, section 18 of the Garda Síochána Act 2005 or section 13 of the Garda Síochána Act 1924;
(f) any recognised trade union or staff association representing members of garda staff;
(g) the Irish Human Rights and Equality Commission;
(h) the Standards in Public Office Commission;
(i) the Office of the Garda Síochána Ombudsman;
(j) any other person or body appearing to the Authority to have an interest in the matter.

(3) In preparing a code of ethics under this head, the Authority shall have regard to—

(a) the policing principles,
(b) the standards, practices and procedures applicable to the conduct of police officers and police staff in other Member States of the European Union, and
(c) any relevant recommendations of the Council of Europe.
(4) The Authority may, in like manner to the establishment of a code of ethics under this head, amend or revoke such a code.

(5) Whenever the Authority establishes, amends or revokes a code of ethics under this head, the Authority shall provide the Minister with a copy of the code as so established, amended or revoked and the Minister shall cause a copy of it to be laid before each House of the Oireachtas as soon as practicable after he or she receives it.

(6) Subject to subhead (5) the Authority shall publish a code of ethics established under this head in such manner as it considers appropriate.

(7) The Garda Commissioner shall take such steps as are necessary to ensure that all members of garda personnel have read and understood a code of ethics established under this head and that a record is kept of the steps so taken in relation to each member of garda personnel.

(8) The code of ethics established by the Policing Authority under section 17 of the former Act before it was repealed by this Act continues in being unless or until it is amended or revoked in accordance with this head.
Head 67  Standards of integrity, codes of ethics for members of committees, advisors or consultants etc.

Provide that –

(1) In performing functions under this or any other enactment as—

(a) a person engaged by the Garda Commissioner under head 47 as an adviser or consultant,
(b) an employee of a person referred to in paragraph (a), or
(c) a member of the Board of An Garda Síochána or a committee of the Board of An Garda Síochána,

a person shall maintain proper standards of integrity, conduct and concern for the public interest.

(2) Subhead (1) applies to a person referred to in subhead (1)(a) in respect only of duties of employment relating to the purposes for which An Garda Síochána has engaged that person.

(3) For the purposes of subhead (1), the Board shall issue codes of ethics for the guidance of persons who are—

(a) members of a committee of the Board but are not members of the Board,
(b) engaged by An Garda Síochána as advisers or consultants, or
(c) employees of persons referred to in paragraph (b).

(4) A code of ethics issued under this head for the guidance of persons referred to in subhead (3) must indicate the standards of integrity and conduct to be maintained by them in performing their functions under this or any other enactment.

(5) A person to whom such a code of ethics relates is required to have regard to and be guided by the code in performing the person’s functions under this or any other enactment.

(6) The terms and conditions on which a person is employed by a person referred to in subhead (3)(c) or on which a person is engaged by An Garda Síochána as an adviser or consultant, as the case may be, are deemed to include any requirements that apply to that person under subhead (5).
(7) Subject to subhead (8), the Board shall as soon as practicable after issuing a code of conduct make the code available to the persons for whose guidance it was issued.

(8) A code of conduct for the guidance of employees of a person engaged by the Garda Commissioner as an adviser or consultant shall be issued by the Garda Commissioner to the employer and be made available by the employer to those employees.

(9) A document purporting to be a code of ethics issued under this head is, in the absence of evidence to the contrary, to be taken to be such code and is admissible in any proceedings before a court or other tribunal.

(10) Any provision of such code that appears to the court or other tribunal to be relevant to a question in the proceedings may be taken into account by it in determining the question.
Head 68  Confidentiality of certain information

Provide that –

(1) A person who is or was -

(a) a member of garda personnel,
(b) engaged under contract or other arrangement to work with or for An Garda Síochána, or
(c) a member of the Board or a committee of the Board,

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 head, “likely to have a harmful effect” means likely to —

(a) facilitate the commission of an offence,
(b) prejudice the safekeeping of a person in legal custody,
(c) impede the prevention, detection or investigation of an offence,
(d) impede the apprehension or prosecution of a suspected offender,
(e) prejudice the security of any system of communication of An Garda Síochána,
(f) result 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 An Garda Síochána, and
(ii) whose identity is not at the time of the disclosure a matter of public knowledge,
(g) result 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) result in the publication of personal information and constitutes an unwarranted and serious infringement of a person’s right to privacy,
(i) reveal information provided in confidence by another state, an international organisation, another police service or an intelligence service, or
(j) affect adversely the international relations or interests abroad of the State, including those with Northern Ireland.

(3) For the purpose of this head, a person is presumed, unless the contrary is proved, to know that disclosure of information referred to in subhead (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) Subhead (1) does not prohibit a person from disclosing information referred to in that subsection if the disclosure—

(a) is made to—
   (i) the Minister,
   (ii) the Attorney General,
   (iii) the Director of Public Prosecutions,
   (iv) the Chief State Solicitor,
   (v) the Criminal Assets Bureau,
   (vi) the Comptroller and Auditor General and the staff of the Office of the Comptroller and Auditor General,
   (vii) the Office of the Garda Síochána Ombudsman,
   (viii) the Policing and Community Safety Authority,
   (ix) the Revenue Commissioners, or
   (x) a member of either of the Houses of the Oireachtas where relevant to the proper discharge of the member’s functions,

(b) is made to a court,

(c) is made to a tribunal appointed under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011, a commission of investigation established under the Commissions of Investigation Act 2004 or a committee within the meaning of section 2 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 for the purposes of a Part 2 inquiry, within the meaning of that section, under that Act,

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

(e) is authorised by the Garda Commissioner, or

(f) is otherwise authorised by law.

(5) A person who contravenes subhead (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 subhead (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 head are in addition to, and not in substitution for, the provisions of the Official Secrets Act 1963.

(8) In this head “personal information” has the meaning given to it by section 2(1) of the Freedom of Information Act 2014 and includes personal information relating to a deceased individual.
Chapter 8   Special inquiries relating to administration, practice or procedure

Head 69   Special inquiries relating to administration, practice or procedure

Provide that –

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

(a) having consulted with the Authority, or
(b) on the request of the Authority, where the Authority is satisfied that an inquiry should be ordered,

by order appoint a person to—

(i) inquire into any aspect of the administration, operation, practice or procedure of An Garda Síochána, or the conduct of the members of garda personnel, and
(ii) make a report to the Minister on the conclusion of the inquiry.

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

(3) A person who, in the Minister’s opinion, has the experience, qualifications, training or expertise appropriate for the inquiry may be appointed to conduct the inquiry.

(4) The Minister shall, subject to subhead (5), specify the terms of reference of the inquiry in the order under subhead (1) and may, by order, made at any time before the submission of the final report, amend those terms of reference for the purpose of clarifying, limiting or extending the scope of the inquiry.

(5) Where the matter the subject of the inquiry relates to policing services, the Minister shall consult with the Authority before specifying or amending, as the case may be, the terms of reference of the inquiry.
(6) For the purpose of the inquiry, the appointed person—

(a) may require a member of garda personnel, a member of the Authority nominated for that purpose by the Authority, or any other person, who possesses information or possesses or controls a document or thing that is relevant to the inquiry to provide the information, document or thing to the appointed person, and

(b) where appropriate, may require the member, member of the Authority or other person to attend before the appointed person for that purpose.

(7) The member of garda personnel, the member of the Authority or other person shall co-operate with the inquiry and answer fully and truthfully any question put to him or her by the appointed person.

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

(a) order the member of garda personnel, 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.

(9) If the member of garda personnel, member of the Authority or other person fails to comply with such an order, the Court may treat the failure for all purposes as if it were a contempt of the Court.

(10) A failure by the member of garda personnel to comply with a requirement under subhead (6) may be the subject of action in accordance with the conduct regulations or conduct code applicable to the person concerned.

(11) Any information, document or thing provided by a person in accordance with a requirement under subhead (6) is not admissible in any criminal proceedings against the person, and this shall be explained to the person in ordinary language by the appointed person.

(12) The Minister may publish all or part of any report received under this head.

(13) This head applies even if the matter considered by the Minister to be of public concern arose before the passing of this Act.
(14) The power to order an inquiry under this Act is additional to any power conferred by this or another Act relating to inquiries or investigations.

(15) In this head—

“appointed person” means a person appointed under this head to conduct an inquiry;

“criminal proceedings” does not include conduct proceedings.
Chapter 9  Liability

Head 70  Liability for certain acts of members of An Garda Síochána

Provide that -

(1) Where a member commits an actionable wrong in the course of performing the functions of the member under this Act –

(a) the State is liable to an action for damages in respect of damage resulting from the wrong as if the State were the employer of the member, and
(b) the member is, for the purposes of such liability, deemed to be the servant of the State in so far as the member was acting in the course of performing his or her functions under this Act.

(2) In proceedings brought against the State by virtue of this head, the plaintiff need not name as a defendant the member or members alleged to have committed the actionable wrong.

(3) Nothing in this head affects any right of the State to –

(a) join an individual member as a defendant to proceedings in respect of an actionable wrong to which this head applies,
(b) recover contribution or seek indemnity from an individual member who is, or who, if sued at the time of the commission of that wrong, would have been, liable in respect of the same damage.

(4) This head applies to proceedings initiated after the commencement of this head.

(5) This head does not apply to a wrong committed by the use of a mechanically propelled vehicle belonging to the State.

(6) In this head –

“actionable wrong” means a tort or breach of a constitutional right, whether or not the wrong is also a crime and whether or not the wrong is intentional;

“damage” includes loss of property, loss of life and personal injury;

“damages” includes exemplary damages and aggravated damages";
“personal injury” includes any disease and any impairment of a person’s physical or mental condition.
Head 71  Legal aid for members of An Garda Síochána

Provide that -

(1) Subject to subhead (2) the Garda Commissioner may contribute to the legal costs of a member who is charged with a criminal offence if –

(a) any of the acts that are alleged to constitute the offence was directly related to the performance of the functions of the member,
(b) the Garda Commissioner is of the opinion that the financial circumstances of the member are such that those costs would result in undue hardship, and
(c) the contribution does not exceed the sum that would be payable if a legal aid certificate were granted in respect of the applicable court proceedings.

(2) Where the member concerned is charged with a criminal offence on foot of a private prosecution the Garda Commissioner may make a contribution not exceeding the legal costs incurred by the member notwithstanding that the amount may exceed the sum payable if a legal aid certificate were granted in respect of the applicable court proceedings.

(3) For the purposes of subheads (1) and (2) where the member charged with a criminal offence is the Garda Commissioner, then references to the Garda Commissioner in those subheads shall be read as references to the Board of An Garda Síochána.

(4) In this head –

“legal aid certificate” has the meaning given by section 9(2) of the Criminal Justice (Legal Aid) Act 1962;

“legal costs” means any fees, costs or other expenses properly incurred by a member referred to in subhead (1) in preparing and conducting –

(a) the defence of the member to the offence charged, and
(b) if applicable, the appeal by the member or stated case in relation to that offence;

“private prosecution” means a prosecution instituted by a common informant under the common law.
Chapter 10  International service and cooperation with police services, law enforcement agencies or other relevant person outside State

Head 72  Interpretation

Provide that –

(1) In this Chapter, unless the context otherwise requires –

“An tArd-Chláraitheoir” has the meaning given by section 1(1) of the Civil Registration Act 2004;

“Chief Constable” means the Chief Constable of the Police Service of Northern Ireland;

“disciplinary action” means –

(a) a written warning,
(b) temporary reduction in pay not exceeding 2 weeks’ pay,
(c) a final written warning,
(d) dismissal;

“eligible member” means a member who has offered in writing to be available during a specified period for international service and whose offer has been accepted by the Garda Commissioner;


“international organisation” includes –

(a) the United Nations,
(b) the Organisation for Security and Co-operation in Europe,
(c) the European Union or any institution or body of the European Union, and
(d) any force or mission organised by, or operating with the mandate of, an international organisation as defined in any of paragraphs (a) to (c);

“international service” means service outside the State under head 73;
“relevant person or body” means a person or body outside the State in whom or in which functions are vested under the law of a place other than the State that are equivalent, or similar, to the functions of –

(a) the Office of the Garda Síochána Ombudsman under this or any other enactment,
(b) the Policing and Community Safety Authority under this or any other enactment,
(c) a coroner under the Coroners Act 1962,
(d) a commission of investigation under the Commissions of Investigation Act 2004,
(e) a tribunal of inquiry under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011, or
(f) the Criminal Assets Bureau.

(2) The text of the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland on Police Co-operation, done at Belfast on 29 April 2002 and the text of the amendment to that Agreement which entered in force on 19 April 2010 are set out in Schedule 3 for convenience of reference.
General Scheme of the Policing, Security and Community Safety Bill

Head 73  International service

Provide that –

(1) Subject to subsection (3), the Garda Commissioner shall assign eligible members of An Garda Síochána in such numbers and of such rank, as the Government may determine for service outside the State—

(a) to carry out duties of a police character with an international organisation,
(b) to advise others on, or to monitor their performance of, such duties, or
(c) to participate in a special intervention unit, within the meaning of Part 7A (inserted by section 31 of the Criminal Justice (Mutual Assistance) (Amendment) Act 2015) of the Criminal Justice (Mutual Assistance) Act 2008, for the control of a crisis situation occurring in the territory of a member state.

(2) Subject to subsection (3), the Garda Commissioner may assign eligible members of An Garda Síochána for service outside the State—

(a) to carry out liaison duties with Europol or, subject to the agreement of the Government, with law enforcement agencies of states other than the State,
(b) as members of a joint investigation team within the meaning of the Criminal Justice (Joint Investigation Teams) Act 2004, as amended by section 96 of the Criminal Justice (Mutual Assistance) Act 2008,
(c) in connection with the making of a controlled delivery outside the State pursuant to a request under section 89 of the Criminal Justice (Mutual Assistance) Act 2008,
(d) on secondment to an international organisation with the consent of the Minister, or
(e) as members of an Irish diplomatic mission with the consent of the Minister and the Minister for Foreign Affairs.

(3) An eligible member may be assigned under this head only for the period specified by the member in his or her offer to be available for international service.

(4) This Act, the regulations, and the Garda Síochána Compensation Acts 1941 and 1945 continue to apply to members while on international service.
(5) Nothing in this head prevents members of An Garda Síochána stationed in the State from travelling outside the State in the course of carrying out their duties.
Head 74  Power to enter into agreements with other law enforcement agencies, relevant persons or bodies outside the State

Provide that –

(1) The Garda Commissioner may, with the prior consent of the Government, enter into on behalf of An Garda Síochána -

(a) an agreement with a police service or other law enforcement agency outside the State,
(b) an agreement with a relevant person or body for the purpose of facilitating the performance by each party to the agreement of their respective functions.

(2) An agreement under subhead (1) may provide for -

(a) the cooperation between the parties,
(b) the exchange of information between the parties, or
(c) such other matters as the Garda Commissioner thinks fit.

(3) Subject to the General Data Protection Regulation and the Data Protection Acts 1988 to 2018, the Garda Commissioner may, pursuant to and in accordance with the terms of an agreement under subhead (1)(b), provide information to, and receive information from, the other party to the agreement.
Head 75  Secondment from Police Service of Northern Ireland to certain ranks in An Garda Síochána.

Provide that –

(1) Subject to subhead (3) and in accordance with the regulations, the Garda Commissioner may, at the request of the Chief Constable –

(a) appoint a member of the Police Service of Northern Ireland to a rank in An Garda Síochána not above that of superintendent for a period not exceeding 3 years, or
(b) appoint such a member to a rank in An Garda Síochána of Assistant Garda Commissioner or chief superintendent subject to the approval of the Board.

(2) A person appointed under this head shall, during the appointment –

(a) be under the direction and control of the Garda Commissioner, and
(b) subject to subhead (4) have powers, immunities, privileges and duties of a member of An Garda Síochána of the rank to which he or she was appointed.

(3) The Garda Síochána Compensation Acts 1941 and 1945 do not apply in relation to a person appointed under this section.

(4) The Garda Commissioner may terminate an appointment under this head subject to the approval of the Board in the case of a member of the Police Service of Northern Ireland appointed to a rank in An Garda Síochána of Assistant Garda Commissioner or chief superintendent.
Head 76  Secondment from An Garda Síochána to Police Service of Northern Ireland

Provide that -

(1) Subject to and in accordance with the regulations the Garda Commissioner may, on application by a member of An Garda Síochána arrange with the Chief Constable, for the member’s secondment to the Police Service of Northern Ireland for a period not exceeding 3 years.

(2) The Garda Commissioner may terminate a secondment to the Police Service of Northern Ireland.

(3) During the period of secondment –

(a) the member shall continue to be paid as a member of An Garda Síochána, but shall not be subject to the direction or control of the Garda Commissioner or be entitled to exercise in the State any of such a member’s powers,

(b) the member’s service shall be regarded as service with An Garda Síochána for pension, promotion and seniority purposes, and

(c) the member is entitled to claim compensation under the Garda Síochána Compensation Acts 1941 and 1945 for malicious injuries received in the course of, or in relation to, the carrying out of his or her duties with the Police Service of Northern Ireland as if he or she had not been seconded and the injuries had been received in the course of, or in relation to, the carrying out of his or her duties as a member of An Garda Síochána.
Head 77  Breach of standards of professional behaviour by seconded member of Garda Síochána

Provide that -

(1) A member of An Garda Síochána who, while on secondment to the Police Service of Northern Ireland, does or omits to do any act the doing or omission of which by a member of that service would constitute a breach of standards of professional behaviour is liable on the expiry or termination of the period of secondment to disciplinary action by the Garda Commissioner in respect of the breach.

(2) Disciplinary action under subhead (1) may be based on –

(a) a finding under the law and procedure for the time being applicable in relation to the investigation of breaches of standards of professional behaviour by members of the Police Service of Northern Ireland, that the member of An Garda Síochána concerned is in breach of the standards of professional behaviour,
(b) a decision on any appeal against or review of the finding,
(c) any relevant court proceedings, and
(d) any related documents.

(3) Before taking any disciplinary action under subhead (1), the Garda Commissioner shall –

(a) send a copy of the findings to the member of An Garda Síochána concerned, and
(b) give that member an opportunity, within a specified period, to show cause why the action should not be taken against him or her.

(4) The Conduct Regulations may make provision for the procedures to be followed after the receipt by the member concerned of the copy of the findings referred to in subhead (3).

(5) In any proceedings –

(a) a document purporting to be a finding or decision mentioned in subhead (2) is evidence, unless the contrary is proved, of the finding or decision, and
(b) a document purporting to be a report of court proceedings or a related document mentioned in that subhead is evidence, unless the contrary is proved, of the matters referred to in the report or related document.

(6) In this head “breach of professional standards of behaviour” means an act or omission that if done or made by a member of the Police Service of Northern Ireland could be the subject of disciplinary action by the authorities in Northern Ireland.
Head 78 Breach of professional standards of behaviour by seconded member of Police Service of Northern Ireland

Provide that –

(1) Subject to subsections (2) to (4) and Part 6, the Conduct Regulations apply to a person appointed to a rank in An Garda Síochána under head 75 who does or omits to do any act the doing or omission of which would, if he or she were appointed otherwise than under that head, give rise to the taking of disciplinary action.

(2) For as long as a person referred to in subsection (1) is a member of the Police Service of Northern Ireland, an investigation under Part 6 and any investigation or proceeding under the Conduct Regulations in relation to that person may proceed to its conclusion even though his or her period of secondment has expired or been terminated.

(3) No disciplinary action may be taken against a person referred to in subhead (1), but the Garda Commissioner shall transmit to the Chief Constable the prescribed material relating to the person.

(4) The Garda Commissioner shall inform the Minister of any transmission of documents under subsection (3).
Head 79  Records relating to members serving outside the State

Provide that –

(1) The Minister may, by regulations made with the consent of the Minister for Health, provide for the keeping of a record of any of the following events occurring outside the State while a member of An Garda Síochána is on international service or is on secondment to the Police Service of Northern Ireland:

(a) the member’s death;
(b) the death, in such circumstances as may be specified in the regulations, of a member’s spouse or of such other relatives as may be specified in the regulations;
(c) the birth, in such circumstances as may be specified in the regulations, of a child of the member.

(2) Records kept pursuant to regulations made under this head must be –

(a) authenticated in such manner and by such person as may be specified for the purpose in those regulations, and
(b) transmitted to an tArd-Chláraitheoir in such manner as may be specified in the regulations.

(3) Every regulation under this head shall be laid before each House of the Oireachtas as soon as practicable after it is made.

(4) Either House of the Oireachtas may, by a resolution passed within 21 sitting days after the day on which a regulation is laid before it under subhead (3), annul the regulation.
Head 80  Duties of Ard-Chláraitheoir in relation to records transmitted under this Act

Provide that -

(1) An tArd-Chláraitheoir shall maintain a register to be known as the Garda Síochána Deaths Register Book (in this head referred to as the Deaths Book) and shall cause an entry to be made in the Deaths Book of each record of a death transmitted in accordance with head 79(2)(b).

(2) An tArd-Chláraitheoir shall maintain a register to be known as the Garda Síochána Births Register Book (in this head referred to as the Births Book) and shall cause an entry to be made in the Births Book of each record of a birth transmitted in accordance with head 79(2)(b).

(3) An entry made under subhead (1) or (2) must be in such form as may be specified in the regulations under head 79 and must contain such particulars as may be specified in those regulations.

(4) For the purposes of the Civil Registration Act 2004, the Deaths Book and the Births Book are deemed to be registered books within the meaning of those Acts, but section 27(3) of the Births and Deaths Registration Act (Ireland) 1880 has, in its application to the Deaths Book and the Births Book effect as if –

(a) “upon payment of the appointed fee, and” were deleted, and
(b) the reference to a statutory declaration made by one or more persons required by that Act to give information concerning the birth or death referred to in that paragraph were a reference to a statement in writing made by a person specified under head 79(2)(a).

(5) An tArd-Chláraitheoir shall keep at his or her office an index to the Deaths Book and an index to the Births Book.

(6) Any person is entitled to search the index to the Deaths Book and the index to the Births Book and to have a certified copy of an entry in either book or of items contained in the entry on the same terms and conditions in all respects as to fees and otherwise that are applicable under the Civil Registration Act 2004 or any other enactment in respect of the registers of births and deaths.
(7) Fees payable under subhead (6) are to be collected and disposed of in the same manner as fees payable under the Civil Registration Act 2004.
Chapter 11  Offences of causing disaffection, impersonation

Head 81  Causing disaffection

Provide that -

(1) A person is guilty of an offence if he or she induces, or does any act calculated to induce, any member of An Garda Síochána to withhold his or her services or to commit a breach of discipline.

(2) A person guilty of an offence under subsection (1) 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.
Head 82 Offence of impersonating member of Garda Síochána

Provide that -

(1) A person is guilty of an offence if he or she –

(a) impersonates a member of An Garda Síochána, or
(b) makes any statement or does any act calculated falsely to suggest that he or she is such a member.

(2) A person guilty of an offence under subsection (1) 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.
Head 83  Other offences relating to impersonation

Provide that -

(1) A person is guilty of an offence if he or she, not being a member of An Garda Síochána –

(a) has in his or her possession any article of garda uniform or any equipment supplied to a member of An Garda Síochána and is not able satisfactorily to account for possessing it,
(b) puts on or wears –
   (i) without the Garda Commissioner’s permission, any article of garda uniform of any rank or member of An Garda Síochána, or
   (ii) without reasonable excuse, any imitation of such article or uniform,
   or
(c) for the purpose of doing or procuring to be done any act that he or she would not by law be entitled to do or procure to be done of his or her own authority, assumes the name, designation, or description of any rank of or any member of An Garda Síochána.

(2) A person is guilty of an offence if he or she, without lawful authority, has in his or her possession or uses in connection with any trade, business, calling or profession or for any other purpose any article, equipment or vehicle containing or having on it any distinctive badge or crest so closely resembling the badge or crest of An Garda Síochána as to be likely to deceive.

(3) A person is guilty of an offence if he or she, without lawful authority, in a public place drives a mechanically propelled vehicle to which is fitted a lamp that is capable of showing a flashing light in blue which is visible outside of the vehicle and is such as to be likely to deceive another person that the vehicle is being used by a member of An Garda Síochána in the course of the performance of their duties.

(4) A person guilty of an offence under this head 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.

(5) Nothing in this head prevents the wearing of any uniform or dress in –
(a) a performance in a theatre, on film or on television or other media, or
(b) with the prior approval of the Garda Commissioner, a public place in the
course of making a film, television or other media production.

(6) In this head “mechanically propelled vehicle” and “public place” have the
meanings they have under section 3 of the Road Traffic Act 1961.
Part 3 – Community Safety

Head 84 Interpretation

Provide that –

(1) In this Part, unless the context otherwise requires, the following definitions will apply:

“administrative area” has the meanings given by section 2 of the Local Government Act 2001;

“approved national strategy” means a national strategy approved under head 85;

“committee of the Government” means a committee appointed by the Government whose membership consists of—

(a) members of the Government, or
(b) one or more members of the Government together with either or both of the following:
(i) one or more Ministers of State;
(ii) the Attorney General;

“Irish Prison Service” means those officers of the Minister assigned to perform functions in the part of the Department of State for which the Minister is responsible commonly known by that name, and which is charged with the management of prisons within the meaning of section 2 of the Prisons Act 2007;

“national strategy” means a national community safety strategy prepared under head 85;

“other relevant Minsters” means-
(a) the Minister for Children, Equality, Disability, Integration and Youth,
(b) the Minister for Education,
(c) the Minister for Health,
(d) the Minister for Higher Education, Research, Innovation and Science,
(e) the Minister for Housing, Local Government and Heritage,
(f) the Minister for Rural and Community Development
(g) Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, and
(h) such other Minister of the Government who may be prescribed;

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

“public service body” means—

(a) a board or other body (but not including a company under the Companies Acts, 1963 to 1999) established by or under statute,
(b) the Child and Family Agency established under section 7 of the Child and Family Agency Act 2013,
(c) the Commissioners of Public Works in Ireland,
(d) An Garda Síochána,
(e) the Health Service Executive established under section 6 of the Health Act 2004,
(f) a local authority,
(g) the Irish Prison Service,
(h) the Probation Service,
(i) a company under the Companies Acts, 1963 to 1999, in which all the shares are held—
   (i) by or on behalf of a Minister of the Government,
   (ii) by directors appointed by a Minister of the Government, or
   (iii) by a board, company or other body referred to in paragraph (a) or subparagraph (i) or (ii),
and

(j) subject to subhead (2) such other body as may be prescribed by the Minister for the purposes of any provision of this Part;

“Steering Group” means the National Community Safety Steering Group established pursuant to head 86.

(2) The Minister may not prescribe a body pursuant to subhead (1)(j) in respect of which another Minister of the Government is directly or indirectly responsible unless that Minister consents to that body being so prescribed.
Head 85 National Community Safety Strategy

Provide that –

(1) (a) The Minister, in conjunction with other relevant Ministers shall, not later than 12 months after the commencement of this head, prepare, and submit to the Government for approval, a national strategy for enhancing community safety (in this Act referred to as a “national strategy”).
(b) The Minister, in conjunction with other relevant Ministers—
   (i) shall review a national strategy approved by the Government under this head not less than once in every period of 6 years, and
   (ii) may, having regard to that review, make and submit to the Government for approval, a new or amended national strategy.

(2) The objective of a national strategy prepared under this head shall be to serve as an overarching policy framework and programme of actions to underpin a whole of government approach to enhancing community safety including –

(a) to promote multi-disciplinary approaches and inter-agency collaboration to enhance community safety;
(b) to promote engagement by communities in the development and implementation of strategies to enhance community safety in their localities; and
(c) to support coordination and cohesion with other relevant national and local strategies.

(3) Before preparing a national strategy the Minister, in conjunction with other relevant Ministers shall –

(a) request the Authority to provide its views on what the strategy should contain,
(b) make arrangements for public consultation, (including consultation with persons or groups representing community interests) on what the strategy should contain.

(4) The Minister, in conjunction with other relevant Ministers shall, before submitting a national strategy to the Government for approval –

(a) publish, in such manner as they consider appropriate, a draft of the national strategy,
(b) publish a notice on the internet and in more than one newspaper circulating in the State inviting members of the public and any interested parties to make submissions in writing in relation to the proposed national strategy within such period (not exceeding 2 months from the date of the publication of the notice) as may be specified in the notice, and
(c) have regard to any submissions made pursuant to, and in accordance with, a notice under paragraph (b).

(5) The Government may—

(a) approve, or
(b) approve, subject to such modification as they consider appropriate,

a national strategy submitted to them under this head.

(6) The Government may, at any time, vary or revise a national strategy approved by them under this head.

(7) (a) A national strategy shall be laid before each House of the Oireachtas as soon as may be after it is approved by the Government, and
(b) shall thereafter be published on the internet or in accordance with such other arrangements as considered appropriate.

(8) A Minister of the Government shall, in the performance of his or her functions, have regard to a national strategy approved by the Government under this head.
Head 86 National Community Safety Steering Group

Provide that –

(1) As soon as may be after the commencement of this head, the Minister shall establish a group to be known as Grúpa Stiúrtha Náisiúnta na Sábháilteachta Pobail or, in the English language, the National Community Safety Steering Group (in this Act referred to as the “Steering Group”), to perform the functions assigned to it by this Act and the regulations.

(2) The objective of the Steering Group shall be to provide high level support for a multi-stakeholder approach to the delivery of community safety through the implementation of an approved national strategy.

(3) The Steering Group shall consist of –

(a) a chairperson, and
(b) such number of ordinary members as are prescribed.

(4) The Minister shall, following consultation with other relevant Ministers, make regulations concerning the membership, procedures and functions of the Steering Group and such other matters as are incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purpose of the regulations.

(5) Regulations made under this head may make provision for:

(a) the appointment of a chairperson;
(b) the ordinary membership of the Steering Group, including the appointment of -
   (i) a senior officer of each Minister of the Government who has responsibility for any matter relating to the implementation of the national strategy,
   (ii) a senior representative of each public service body which has responsibility for any matter relating to the implementation of the national strategy,
   (iii) a representative of the Authority, and
   (iv) such other persons as may be provided for in the regulations;
(c) the terms and conditions of office of the chairperson and the ordinary members;
(d) the procedures to apply in relation to the conduct of the business of the Steering Group; and
(e) the establishment, membership and terms of reference and procedures of subgroups.

(6) Regulations made under this head may also make provision for the functions of the Steering Group which may include:

(a) promoting and monitoring compliance by Departments of State and public service bodies with their obligations under the Act and the regulations and fostering inter-agency collaboration in the delivery of community safety;
(b) providing direction to and monitoring implementation of an approved national strategy addressing any obstacles to timely progress on implementation;
(c) assessing the effectiveness of an approved national strategy;
(d) supporting local community fora to work with public service bodies to set local community safety objectives and priorities;
(e) supporting ongoing dialogue with stakeholders to enable the response to the delivery of community safety to evolve to address emerging needs and issues;
(f) mobilising and overseeing resources to support the delivery of an approved national strategy;
(g) assessing the impact of the National Office and the arrangements and systems it has put in place to drive the performance of Departments of State and public service bodies on community safety;
(h) approving an annual programme of work prepared by the Director of the National Office to direct implementation of an approved national strategy;
(i) providing such reports as required to the designated committee of the Government on the implementation of an approved national strategy;
(j) providing information, advising and making recommendations to the Minister in relation to any aspect of its functions;
(k) convening subgroups as necessary to support implementation of an approved national strategy;
(l) such other functions as may be conducive to supporting implementation of an approved national strategy and enhancing community safety; and
(m) such matters as the Minister considers necessary or expedient to matters ancillary to or arising out of any of the functions referred to in (a) to (k).
(7) The Steering Group shall, not later than 2 months after the end of each calendar year, prepare and submit to the Minister a report on the performance of its functions and activities during the preceding year or, in the case of the first such report, its functions and activities since the date it was established up to and including 31 December of the preceding year.

(8) The Minister shall, as soon as practicable after receiving the report under subhead (8), cause a copy to be laid before both Houses of the Oireachtas.

(9) The Steering Group shall ensure that the annual report is published on the Internet, or in accordance with such other arrangements as the Minister may specify, as soon as practicable after copies of the report are laid before the Houses of the Oireachtas.

(10) A report under subhead (8) shall be in such form as the Minister may approve and shall include such information in such form and regarding such matters as the Minister may from time to time direct.

(11) The Steering Group shall supply, when required by the Minister to do so, a report on any matter connected with the functions of the Group as may be specified by the Minister.

(12) A report under subhead (11) shall be in such form and shall be made within such period as the Minister may specify.

(13) The Steering Group shall report to the committee of the Government designated by the Taoiseach for such purpose at such interval as required by the committee concerned.
Head 87 National Office for Community Safety

Provide that –

(1) The Minister, following consultation with the Minister for Rural and Community Development, shall, by order, appoint a day to be the establishment day of the National Office for Community Safety (referred to in this Act as the “National Office”).

(2) On the establishment day of the National Office, a body to be known as An Oifig Náisiúnta Sábháileachta Pobail or in the English language, the National Office for Community Safety stands established to perform the functions assigned to it by this Act and the regulations.

(3) The National Office shall have responsibility for promoting and monitoring the delivery of the objectives of an approved national strategy under the direction of the Steering Group.

(4) The Minister shall, following consultation with other relevant Ministers, make regulations concerning the functions of the National Office which may include:

   (a) providing support to Departments of State and public service bodies in the implementation of an approved national strategy and fostering inter-agency cooperation;
   (b) developing annual work plans to support the delivery of an approved national strategy;
   (c) providing training, guidance and support to local community safety partnerships in their operation, in the development of local community safety strategies and plans and in their role in relation to the development and implementation of local policing plans;
   (d) monitoring progress on the implementation of an approved national strategy;
   (e) monitoring progress on local community safety partnership plans;
   (f) conducting or commissioning research and evaluations;
   (g) communicating the work of the National Office and raising public awareness of community safety;
   (h) disbursing resources to support local community safety plans;
   (i) providing such information and reports as required to the Steering Group and the designated committee of the Government;
(j) providing such other support as the Steering Group may require to perform its functions; and
(k) such matters as the Minister considers necessary or expedient to matters ancillary to or arising out of any of the functions referred to in (a) to (j).
Head 88  Director of National Office

Provide that –

(1) In accordance with this head there shall be a Director of the National Office who shall be appointed by the Minister following consultation with the Minister for Rural and Community Development and with the consent of the Minister for Public Expenditure and Reform.

(2) The Minister may, with the consent of the Minister for Public Expenditure and Reform, before the establishment day of the National Office, designate a person to be the first Director of the National Office.

(3) If, immediately before the establishment day of the National Office, a person stands designated by the Minister under subhead (2), the person shall, on that day, stand appointed as the first Director of the National Office.

(4) The Director of the National Office shall—

(a) hold office under a contract of service in writing (which contract may be renewed) for such period as is specified in the contract and subject to such terms and conditions (including terms and conditions relating to remuneration) as are determined by the Minister with the consent of the Minister for Public Expenditure and Reform, and

(b) be paid out of moneys at the disposal of the National Office.

(5) The Director of the National Office shall –

(a) have the appropriate experience, qualifications, training and expertise for the appointment, and

(b) be appointed by the Minister following a selection competition undertaken in accordance with the Public Service Management (Recruitment and Appointment) Act 2004.

(6) The Director of the National Office shall—

(a) implement the policies and decisions of the Steering Group,

(b) manage and control generally the staff, administration and business of the National Office,

(c) be an ex officio member of the Steering Group,
(d) perform such other functions (if any) as may be required by the Steering Group or as may be authorised under this Act and the regulations, and
(e) be accountable to the Minister for his or her own performance.

(7) The Director of the National Office shall provide the Steering Group or the Minister, as the case may be, with such information, including financial information, in respect of the performance of his or her functions as the Group or the Minister may require.

(8) The Director of the National Office may be removed or suspended from office by the Minister for stated reasons.

(9) If the Director of the National Office—

(a) dies, resigns or is removed from office, or
(b) is for any reason temporarily unable to continue to perform his or her functions,

the Minister in consultation with the Steering Group may designate such officer or officers of the National Office as he or she considers appropriate to perform the functions of the Director of the National Office until—

(i) in the circumstances mentioned in paragraph (a), a new Director of the National Office is appointed in accordance with this head, or
(ii) in the circumstances mentioned in paragraph (b), the Director of the National Office is able to resume the performance of his or her functions.
Head 89   Accountability to Oireachtas Committees

Provide that –

(1) In this head “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).

(2) Subject to subhead (3), the Director of the National Office shall, at the written request of a committee, attend before it to give account for the general administration of the National Office.

(3) The Director of the National Office shall not be required to give account before a committee for any matter that is or is likely to be, the subject of proceedings before a court or tribunal in the State, including a tribunal of inquiry established under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011 and a Commission of investigation established under the Commission of Investigation Act 2004.

(4) The Director of the National Office shall, if of the opinion that subhead (3) applies to a matter about which he or she is requested to give an account before a committee, inform the committee of that opinion and the reasons for the opinion.

(5) The information required under subhead (4) must be given to the committee in writing unless it is given when the Director of the National Office is before the committee.

(6) If, on being informed of the Director of the National Office’s opinion about the matter, the committee decides not to withdraw its request relating to the matter, the High Court may, on application under subhead (7), determine whether subhead (3) applies to the matter.

(7) Either the Director of the National Office or the committee may apply in a summary manner to the High Court for a determination under subhead (6), but only if the application is made within 21 days after the date on which the
Director of the National Office is informed of the committee’s decision not to withdraw its request.

(8) Pending the determination of an application under subhead (7), the Director of the National Office shall not attend before the committee to give account for the matter that is the subject of the application.

(9) If the High Court determines that subhead (3) applies to the matter, the committee shall withdraw its request in so far as it relates to the matter, but if the Court determines that subhead (3) does not apply, the Director of the National Office shall attend before the committee to give account for the matter.

(10) In carrying out duties under this head, the Director of the National Office shall not —

(a) 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 policy, or

(b) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of a person.
Head 90      Staff of National Office

Provide that –

(1) The Director of the National Office may, following consultation with the Steering Group, and with the consent of the Minister and the Minister for Public Expenditure and Reform, appoint such and so many persons as staff of the National Office as he or she may determine.

(2) The terms and conditions of service of a member of the staff of the National Office, and the grade at which he or she serves, shall be such as may be determined by the Director of the National Office with the consent of the Minister and the Minister for Public Expenditure and Reform.
Head 91  Provision of services to National Office

Provide that –

Such funds, premises, facilities, and services as may be necessary for the proper functioning of the National Office shall be provided to it by the Minister, following consultation with other relevant Ministers, with the consent of the Minister for Public Expenditure and Reform.
Head 92 Regulations concerning Local Community Safety Partnerships

Provide that –

(1) The Minister, following consultation with other relevant Ministers, shall make regulations concerning the establishment and maintenance of one or more entities in each local authority in respect of its administrative area, to be known as a local community safety partnership (in this Act referred to as a “safety partnership”) for the purposes of –

(a) providing a forum for discussion in relation to community safety concerns and developing, co-ordinating and implementing a coherent and integrated approach to enhancing community safety at local level, and

(b) providing a consultative forum for the preparation of the local policing plan and its implementation.

(2) Regulations to be made under this head may include provision for matters relating to:

(a) the establishment of the safety partnership and the circumstances in which a safety partnership may be dissolved and a new safety partnership established;

(b) the membership of the safety partnership which may include -

(i) the size and relative strength of sectors represented in the membership,

(ii) requirements for gender balance and diversity in the membership, and

(iii) the appointment to the safety partnership of –

(I) members of the local authority concerned nominated for that purpose,

(II) representatives of public service bodies involved in the delivery of community safety nominated for such purpose,

(III) representatives of local community and voluntary bodies involved in activities related to community safety, and

(IV) such other persons (including persons representing local community interests) as may be provided for in the regulations;

(c) the election of a chairperson and vice chairperson and the procedures to apply to ensure fairness and equity in the election process;
(d) the selection procedures to apply in the case of (b)(iii)(III) and (IV) to ensure fairness and equity;
(e) the terms and conditions of office of the chairperson, vice chairperson and ordinary members;
(f) the procedures to apply in relation to the conduct of the business of the safety partnership including to ensure fairness and equity in the decisions of the partnership;
(g) the circumstances in which meetings may be held including in public;
(h) the resources to be made available to the safety partnership;
(i) the procedures to apply in relation to acting as a consultative forum for the preparation of a local policing plan and its implementation;
(j) the establishment, membership and terms of reference and procedures of committees as the safety partnership considers necessary;
(k) the establishment and operation by the safety partnership of area based neighbourhood community safety fora within the administrative area of the local authority concerned;
(l) the attendance of representatives of the Policing and Community Safety Authority at meetings of the safety partnership and its committees for the purposes of performing its functions as set out in head 104;
(m) the convening by the Policing and Community Safety Authority of meetings of the chairpersons and vice chairpersons where such meetings would assist it in the performance of its functions under head 104;
(n) the cooperation of the safety partnership with other safety partnerships and local community development committees established pursuant to section 49A of the Local Government Act 2001 and such other bodies or persons as required; and
(o) such matters as the Minister considers necessary or expedient to matters ancillary to or arising out of any of the functions referred to in (a) to (n).
Head 93  Functions of Local Community Safety Partnerships

Provide that –

(1) Regulations under head 92 may also make provision for the functions of the safety partnership which may include:

(a) implementing an approved national strategy in respect of the functional area of the safety partnership;
(b) undertaking public consultation for the purpose of identifying local community safety objectives and priorities;
(c) developing and adopting a three year local community safety plan in accordance with any guidance issued by the National Office;
(d) implementing or arranging for the implementation of the local community safety plan;
(e) monitoring and reviewing on an ongoing basis, the implementation of the local community safety plan including performance against any benchmarks or indicators of performance set out in the plan or other relevant indicators;
(f) undertaking a review of the local community safety plan at least once within the lifecycle of the plan and, after any such review, to amend as appropriate;
(g) providing reports to the National Office and the Authority, relevant to the performance of their respective functions under this Act;
(h) collaborating and coordinating with relevant stakeholders in relation to community planning locally, including in relation to actions under the local community safety plan and the Local Economic and Community Plan prepared pursuant to section 66B of the Local Government Act 2001;
(i) providing views to the relevant divisional officer on the preparation of the local policing plan and on progress on the implementation of the plan in relation to its functional area;
(j) hosting public meetings concerning matters relating to community safety in the functional area of the partnership;
(k) coordinating and supporting, where appropriate, local community safety fora in its functional area;
(l) providing such information as may be requested by the National Office;
(m) preparing and submitting an annual report and such other reports as the National Office may request relating to the performance of its functions;

and

(n) such matters as the Minister considers necessary or expedient to matters ancillary to or arising out of any of the functions referred to in (a) to (m).
(2) Neither the safety partnership nor any of its committees may consider matters relating to a specific criminal investigation or prosecution or matters relating to the security of the State.

(3) A statement that, in the course of a discussion at a meeting of a safety partnership or of any of its committees, is made in any form and without malice by a member of the partnership or committee or by a person attending the meeting at the request of the partnership or committee is privileged for purposes of the law of defamation and so is any subsequent publication of the statement made without malice.
Head 94  Staffing of Local Community Safety Partnerships

Provide that –

(1) The chief executive officer of a local authority shall assign an employee or employees of the local authority (either by name or by reference to the employee for the time being holding or exercising the functions of a particular post in that authority);

(a) to assist a safety partnership established under head 92 in performing its functions, and
(b) one of whom shall be designated by the chief executive to be the chief officer of the safety partnership who will have responsibility for carrying out, managing and controlling generally the administration and business of the partnership and arranging for the provision of appropriate administrative, secretarial and other support.

(2) The chief executive officer of the local authority may delegate such of his or her functions as he or she considers necessary to an employee or employees of the local authority for the purposes of subhead (1).
Head 95  Duties of Departments of State and other public service bodies

Provide that –

(1) A Department of State or other public service body shall, in performing its functions, take account of the importance of taking steps to support the delivery of community safety including through the prevention of crime and the prevention of harm to individuals in particular those who are vulnerable or at risk.

(2) A Department of State or other public service body having by law, responsibility for any matter relating to the delivery of community safety including the prevention of crime and the prevention of harm to individuals in particular those who are vulnerable or at risk, shall in the performance of their respective functions, cooperate as appropriate with An Garda Síochána and each other.

(3) Cooperation as referred to in subhead (2) includes cooperating through the sharing of information in compliance with the law.

(4) Subheads (1) and (2) are not to be taken to confer on any person a right in law that the person would not otherwise have to require a Department of State or other public service body to take any steps referred to in that subhead or seek damages for the failure to take such steps.
Part 4 - Establishment and Functions of Policing and Community Safety Authority

Head 96 Interpretation

Provide that -

In this Part, unless the context otherwise requires, the following definitions will apply:

“previous service” means service with the Policing Authority or the Garda Síochána Inspectorate before the applicable transfer day;

“recognised trade union or association of employees” means

(a) a trade union, or
(b) an association of employees recognised by the Authority for the purposes of negotiations that are concerned with the terms and conditions of employment.
Head 97 Establishment day of Authority

Provide that -

The Minister shall, by order, appoint a day to be the establishment day of the Authority.
Head 98  Establishment of Authority

Provide that -

(1) On the establishment day of the Authority a body to be known as An tÚdarás Póilíneachta agus Sábháilteachta Pobail or, in the English language, the Policing and Community Safety Authority stands established to perform the functions assigned to it by this Act.

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

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

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

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

(5) Judicial notice shall be taken of the seal of the Authority and every document purporting—

(a) to be an instrument made by the Authority, and
(b) to be sealed with the seal of the Authority authenticated in accordance with subhead (4), shall be received in evidence and be deemed to be such instrument without proof, unless the contrary is shown.

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

(7) Subject to this Act, the Authority shall be independent in the performance of its functions.
Head 99  Membership of Authority

Provide that -

(1) Subject to this head, the Authority shall comprise 9 members who are to be appointed by the Government:

(a) a chairperson; and
(b) 8 ordinary members.

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

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

(4) If, immediately before the establishment day of the Authority, a person stands designated under subhead (3), the person shall, on that day, stand appointed as the first chairperson of the Authority.

(5) The Government may, before the establishment day of the Authority, designate persons to be appointed as the first ordinary members of the Authority.

(6) If, immediately before the establishment day of the Authority, a person stands designated under subhead (5), the person shall, on that day, stand appointed as an ordinary member of the Authority.

(7) Except for the first appointed members of the Authority and subject to head 101(5), a person shall not be appointed as a member of the Authority unless a resolution has been passed by each House of the Oireachtas recommending his or her appointment.

(8) Except for the first appointed ordinary members of the Authority and subject to head 101(5), the Government shall appoint the ordinary members of the Authority from among such persons as are recommended by the Service in accordance with head 100 for appointment as such ordinary members.
Head 100  Recommendations for appointment of ordinary members of Authority

Provide that -

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

(2) Subject to subhead (3), the Minister shall agree with the Service the selection criteria and process that are to apply to the selection competition.

(3) In making recommendations of persons who are suitable for appointment as ordinary members of the Authority under this head, the Service shall have regard to the desirability of the members of the Authority possessing knowledge of, and experience in, matters connected with the following:

(a) policing services;
(b) the criminal justice system;
(c) human rights, equality and diversity;
(d) services for victims of crime;
(e) healthcare, child and social services;
(f) enhancing the safety of communities including through inter-agency cooperation and community engagement to promote the prevention of crime and the prevention of harm to individuals who are vulnerable or at risk;
(g) public sector administration;
(h) business and innovation;
(i) board management and corporate governance; or
(j) financial management in particular regarding the allocation, management of and accountability for the effective use of financial resources.

(4) Subject to subhead (3), a person shall not be recommended by the Service under this head unless the Service is satisfied that the person is suitable for appointment as an ordinary member of the Authority by reason of his or her possessing such relevant experience, qualifications, training or expertise as is appropriate having regard, in particular, to the functions of the Authority under this Act.

(5) The Service shall provide the Minister with particulars of the experience, qualifications, training and expertise of each person whom it recommends
under this head as suitable for appointment as an ordinary member of the Authority.

(6) This head shall, with any necessary modifications, apply in relation to the filling of any vacancy that arises in the ordinary membership of the Authority.
Head 101 Terms and conditions of appointment of members of Authority

Provide that –

(1) Subject to subhead (2), a member of the Authority shall hold office, unless the member sooner dies, resigns, becomes disqualified or is removed from office, for such period, not exceeding 4 years from the date of his or her appointment, as the Government shall determine.

(2) Such 4 of the ordinary members of the Authority that is first constituted under this Act as are determined by the Government shall hold office for a period of 3 years from the date of their respective appointments as such ordinary members.

(3) A member of the Authority holds office on such terms and conditions as may be determined by the Government at the time of appointment or reappointment.

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

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

(a) to participate in a selection competition undertaken by the Service under head 100 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 Oirechta.

(6) A person who is reappointed as a member of the Authority in accordance with subhead (4) shall not hold office for periods the aggregate of which exceeds 8 years.

(7) A member of the Authority may resign from office by notice in writing addressed to the Minister and the resignation takes effect on the date the Minister receives the notice or, if a date is specified in the notice and the Government agrees to that date, on that date.
(8) Subject to head 106(5), the Authority may act notwithstanding one or more vacancies in its membership.
Head 102  Ineligibility for appointment, disqualification for office of member of Authority, cessation of membership, etc.

Provide that—

(1) A person is not eligible to be recommended for or appointed as a member of the Authority or a committee if he or she is—

(a) a member of either House of the Oireachtas,
(b) entitled under the rules of procedure of the European Parliament to sit in that Parliament,
(c) a member of a local authority,
(d) a member of the Board of An Garda Síochána,
(e) a member of garda personnel,
(f) the Garda Síochána Ombudsman or Deputy Garda Síochána Ombudsman, or
(g) was a member of the Policing Authority and held office for a period in excess of 4 years.

(2) A person shall be disqualified for holding 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 offence,
(d) is convicted of an offence involving fraud or dishonesty,
(e) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
(f) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act.

(3) Where a member of the Authority is—

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

he or she shall thereupon cease to be a member of the Authority or the committee, as the case may be.
Head 103  Removal of member of Authority

Provide that -

(1) The Government may only remove a member of the Authority from office where—

(a) one or more of the grounds referred to in subhead (2) apply,
(b) subheads (3) to (6) have been complied with, and
(c) a resolution is passed by both Houses of the Oireachtas calling for the removal of the member from office.

(2) The grounds referred to in subhead (1) are that, in the opinion of the Government, the member of the Authority –

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

(3) Where the Government propose to remove a member of the Authority pursuant to subhead (1), the Government shall notify, or cause to be notified, the member concerned in writing of the proposal.

(4) A notification under subhead (3) shall include—

(a) a statement of the reasons for the proposal,
(b) a statement that the member of the Authority concerned may, within 30 working days of the sending of the notification or such longer period as the Government may specify, make representations in the manner specified in the notification to the Government as to why the member should not be removed from office, and
(c) a statement that, where no representations are received within the period specified under paragraph (b), the Government will, without further notice, proceed with the removal of the member of the Authority from office in accordance with this head.
(5) In considering whether to remove a member of the Authority from office in accordance with this head, the Government shall take into account—

(a) any representations made pursuant to subhead (4)(b), and
(b) any other matter that the Government consider relevant for the purposes of the decision.

(6) Where, having taken into account the matters referred to in subhead (5), the Government decide to remove the member of the Authority from office, they shall notify that member in writing of the decision, of the reasons for it and of the intention of the Government to seek a resolution of both Houses of the Oireachtas calling for the removal of that member.
Head 104  Objective and functions of Authority

Provide that -

(1) The objective of the Authority is to oversee and assess in an independent and transparent manner the performance by An Garda Síochána of its functions relating to policing services in order to support the effective provision and continuous improvement of such services to the benefit of the safety of the public.

(2) Subject to this Act the functions of the Authority are as follows –

(a) to further its objective under subhead (1) as far as practicable;
(b) to keep under review the performance by An Garda Síochána of its functions relating to policing services and the arrangements and strategies in place to support and enhance the performance of those functions and, in particular to keep under review -
   (i) the delivery of the objectives of the annual service plan approved under head 53 insofar as it concerns policing services,
   (ii) the delivery of the objectives of the national community safety strategy approved under head 85 as they concern the performance by An Garda Síochána of its functions in relation to policing services,
   (iii) the corporate governance arrangements and structures within An Garda Síochána,
   (iv) the arrangements for the recruitment, training and development of members of garda personnel,
   (v) the mechanisms in place within An Garda Síochána for the measurement of performance and accountability of members of garda personnel, and
   (vi) the arrangements for managing and deploying the resources available to An Garda Síochána so as to ensure the most beneficial, effective and efficient use of those resources;
(c) to carry out at its own initiative or at the request of the Minister inspections in relation to any particular aspects of the operation and administration of An Garda Síochána relating to policing services (including in relation to adherence to human rights standards and cooperation with other public service bodies to enhance community safety) and make recommendations to the Garda Commissioner or the Minister as the case may be for any action that the Authority considers desirable;
(d) to carry out joint inspections as provided for under head 115;
(e) to advise on, and monitor the implementation of any recommendations arising from such inspections as it considers appropriate or at the request of the Minister;

(f) to advise on, and monitor the implementation by An Garda Síochána of any recommendations arising from investigations, inquiries or reviews carried out by bodies other than the Authority as it considers appropriate or at the request of the Minister;

(g) to promote the policing principles;

(h) to promote professional policing standards (including human rights standards) and the continuous improvement of policing having regard to best international practice;

(i) to promote public awareness of matters relating to policing services;

(j) to keep the Minister informed of developments in respect of matters relating to policing services and make recommendations to assist the Minister in co-ordinating and developing policy in that regard;

(k) to keep itself generally informed of -
   (i) trends and patterns in the use of force by members of An Garda Síochána,
   (ii) trends and patterns in crimes committed, and
   (iii) complaints made against members of garda personnel and the application of Conduct Regulations and the conduct code;

(l) to promote improvements in interagency cooperation and community engagement in the delivery of community safety;

(m) to undertake, commission or assist in research projects (including by way of public consultation) and other activities in respect of matters relating to policing services, which in the opinion of the Authority, may -
   (i) promote improvements in standards for those matters and public awareness of them,
   (ii) promote improvements in interagency cooperation and community engagement in the delivery of community safety, or
   (iii) contribute to a reduction in the number of complaints against members of garda personnel or An Garda Síochána in relation to those matters,

and make recommendations to the Garda Commissioner and the Minister arising from those projects or activities;

(n) to provide advice to the Minister with regard to best policing practice; and

(o) perform any other functions conferred on it by this Act or the regulations.

(3) In carrying out its functions the Authority shall have regard to -
(a) the policies and objectives of the Government or any Minister of the Government in so far as they may affect or relate to the functions of the Authority, and
(b) the need to co-operate with and coordinate its activities with public authorities, the performance of whose functions may affect or relate to the functions of the Authority.

(4) Subject to this Act, the Authority may do anything which it considers necessary or expedient to enable it to perform its functions.

(5) Any function of the Authority, may be performed through or by the Chief Executive of the Authority or other member of its staff duly authorised in that behalf by the Authority.

(6) The Chief Executive or other member of the staff of the Authority who, pursuant to subhead (6), performs any of its functions is presumed in any proceedings to have been authorised by it to do so on its behalf, unless the contrary is shown.

(7) The Authority may provide for the performance by a committee, under the general direction of the Authority, of one or more of its functions.

(8) The Authority shall furnish to the Minister such information regarding the performance of the Authority’s functions as the Minister may from time to time require.

(9) The Authority shall inform the Minister of matters relevant to the accountability of the Government to the Houses of the Oireachtas.
Head 105 Authority to have regard to security services

Provide that –

The Authority shall, in performing its functions under this Act and in addition to all other matters to which the Authority may properly have regard, have regard to the importance of the functions of An Garda Síochána concerning security services.
Head 106  Meetings and business of Authority

Provide that –

(1) The Authority shall hold such and so many meetings as may be necessary for the due performance of its functions, including meetings with the Garda Commissioner and the Director of the National Office.

(2) Subject to subheads (3) and (4), the Authority may, where it considers it appropriate to do so, permit—

(a) members of the public to attend, and
(b) the media to record and broadcast, any meeting or a part of a meeting of the Authority.

(3) The Authority shall have not less than 4 meetings with the Garda Commissioner in each year at which members of the public may attend, and the media shall be permitted to record and broadcast.

(4) The Authority may publish all or any of the following:

(a) agendas for its meetings and those of its committees;
(b) the papers relating to those meetings;
(c) such reports of those meetings as it considers appropriate.

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

(6) The chairperson of the Authority shall fix the date, time and place of the first meeting of the Authority and may call a meeting at any reasonable time.

(7) At a meeting of the Authority—

(a) if the chairperson thereof is present, he or she shall be the chairperson of the meeting, or
(b) if and for so long as the chairperson is not present or if the office of chairperson is vacant, the ordinary members of the Authority who are present shall choose one of their number to act as the chairperson of the meeting.
(8) Each member of the Authority present at a meeting of the Authority shall have a vote.

(9) At a meeting of the Authority, a question on which a vote is required shall be determined by a majority of the votes of the members of the Authority present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

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

(11) Subject to this Act, the Authority may determine its own procedures.
Head 107  Committees of Authority

Provide that—

(1) The Authority may establish committees to—

(a) assist and advise it in relation to the performance of all or any of its functions, and
(b) perform such functions of the Authority as may stand delegated to them.

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

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

(3) A committee—

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

(4) The Authority may—

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

(5) The Authority may at any time remove a member of a committee for stated reasons.

(6) The Authority may determine the terms of reference and procedures of a committee.

(7) A committee shall provide the Authority with such information as the Authority may from time to time require, in respect of the committee’s activities and operations, for the purposes of the performance by the Authority of its functions.
Head 108  Power to appoint consultants and advisers etc. and to enter into contracts

Provide that –

(1) The Authority may, with the consent of the Minister and the Minister for Public Expenditure and Reform, as it considers necessary to assist it in the performance of its functions—

(a) enter into contracts with persons,
(b) appoint consultants or advisers,
(c) arrange with a police service outside the State for the engagement of police officers from that service.

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

(3) The appointment of a person as a consultant or adviser, or the engagement of police officers from a service outside the State shall be for such period and on such terms and conditions as the Authority considers appropriate.
Head 109  Strategy statement of Authority

Provide that –

(1) Subject to subhead (2), every 3 years the Authority, shall prepare and submit to the Minister a strategy statement for the following 3 years.

(2) The first strategy statement shall be prepared by the Authority, and submitted to the Minister as soon as practicable after the establishment day of the Authority, and shall relate to the period from its submission to the Minister until the day immediately before the third anniversary of the establishment day of the Authority.

(3) A second or subsequent strategy statement shall be prepared by the Authority, and submitted to the Minister within the period of 6 months before the expiry of the period to which the previous strategy statement relates and the second or subsequent strategy statement shall relate to the period of 3 years from the anniversary of the establishment day of the Authority concerned.

(4) The Authority shall, in a strategy statement prepared under this head—

(a) set out the key objectives, outputs and related strategies of the Authority, including the use of its resources,
(b) have regard to the need to ensure the most beneficial and efficient use of the resources of the Authority, and
(c) except in the case of the first such statement, include a review of the evaluation of the work of the Authority in the performance of its statutory functions in the previous 3 years.

(5) In preparing the strategy statement, the Authority shall have regard to the policies of the Government or a Minister of the Government to the extent that those policies may affect or relate to the functions of the Authority.

(6) Before submitting a strategy statement to the Minister in accordance with this head, the Authority —

(a) shall publish in such manner as the Authority considers appropriate a draft of the strategy statement and shall allow persons 30 days from the date of that publication within which to make representations in writing to the Authority with regard to the draft strategy statement, and
(b) following consultation under paragraph (a) and, where appropriate, having considered the representations (if any) made, shall submit the strategy statement to the Minister with or without modifications to take account of such representations.

(7) The Minister shall cause a copy of a strategy statement prepared and submitted to him or her pursuant to this head to be laid before each House of the Oireachtas as soon as practicable after the strategy statement has been received by him or her.

(8) The Authority shall ensure that the statement of strategy is published on the Internet, or in accordance with such other arrangement as it considers necessary, as soon as practicable after copies have been laid before the Houses of the Oireachtas.
Head 110  Annual Business Plan

Provide that –

(1) Subject to subhead (2) the Authority shall before the end of each year prepare and submit to the Minister a business plan for the following year.

(2) The first business plan shall be prepared by the Authority, and submitted to the Minister as soon as practicable after the establishment day of the Authority, and shall relate to the period from its submission to the Minister to the end of the year concerned.

(3) The business plan shall for the year to which it relates indicate the Authority’s activities, and shall in particular –

(a) set out priorities for inspections to be carried out (including any joint inspections), and information on how such inspections will be carried out in a way which is -
   (i) proportionate, accountable and transparent, and
   (ii) ensures the integrity and objectively of the findings of such inspections,
(b) set out priorities for research projects and other activities to be carried out,
(c) contain estimates of the number of employees of the Authority, 
(d) be consistent with the resources expected to be available to the Authority for that year.

(4) In preparing the business plan the Authority shall have regard to the following:

(a) any priorities for An Garda Síochána approved under head 49; 
(b) the strategic plan approved under head 51; 
(c) the annual service plan approved under head 53; 
(d) a national community safety strategy approved under head 85; and 
(e) the strategy statement prepared under head 109 and in operation at that time.

(5) The Authority shall keep the business plan under review, and may from time to time revise the plan.
(6) The Minister shall cause a copy of the business plan (or revised plan) prepared and submitted to him or her pursuant to this head to be laid before each House of the Oireachtas as soon as practicable.

(7) The Authority shall ensure that the business plan (or revised plan) is published on the Internet, or in accordance with such other arrangement as it considers necessary, as soon as practicable after copies have been laid before the Houses of the Oireachtas.

(8) Nothing in the business plan prepared and submitted to the Minister under this head shall prevent the Minister from requesting the Authority to undertake an inspection under head 104(2)(c) where the Minister is of the opinion that such inspection is required.
Head 111 Appointment of Chief Executive of Authority

Provide that –

(1) There shall be a chief executive officer of the Authority who shall be appointed by the Authority, with the consent of the Minister and the Minister for Public Expenditure and Reform, and who is referred to in this Act as the “Chief Executive of the Authority”.

(2) The Minister may, before the establishment day of the Authority, designate a person to be the first chief executive officer of the Authority.

(3) If, immediately before the establishment day of the Authority, a person stands designated by the Minister under subhead (2), the Authority shall appoint that person to be the first chief executive officer of the Authority.

(4) The Chief Executive of the Authority shall—

(a) hold office under a contract of service in writing (which contract may be renewed) for such period as is specified in the contract and subject to such terms and conditions (including terms and conditions relating to remuneration) as are determined by the Authority with the consent of the Minister and the Minister for Public Expenditure and Reform, and

(b) be paid out of moneys at the disposal of the Authority.

(5) The Chief Executive of the Authority shall—

(a) have the appropriate experience, qualifications, training and expertise for the appointment, and

(b) be appointed by the Authority following a selection competition undertaken in accordance with the Public Service Management (Recruitment and Appointment) Act 2004.

(6) The Chief Executive shall—

(a) implement the policies and decisions of the Authority,

(b) manage and control generally the staff, administration and business of the Authority, and

(c) perform such other functions (if any) as may be required by the Authority or as may be authorised under this Act.
(7) The Chief Executive of the Authority may be removed or suspended from office by the Authority, with the consent of the Minister, for stated reasons.

(8) The Chief Executive of the Authority shall not be a member of the Authority or a committee, but he or she may, in accordance with procedures established by the Authority or such a committee, as the case may be, attend meetings of the Authority or a committee and shall be entitled to speak at and give advice at such meetings.

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

(10) The Chief Executive of the Authority shall not hold any other office or occupy any position in respect of which remuneration is payable, or carry on any business, trade or profession, without the consent of the Authority.

(11) If the Chief Executive of the Authority —

(a) dies, resigns or is removed from office, or
(b) is for any reason temporarily unable to continue to perform his or her functions,

the Authority may designate such member or members of the staff of the Authority as it considers appropriate to perform the functions of the Chief Executive of the Authority until—

(i) in the circumstances mentioned in paragraph (a), a new Chief Executive of the Authority is appointed in accordance with this section, or
(ii) in the circumstances mentioned in paragraph (b), the Chief Executive of the Authority is able to resume the performance of his or her functions.
Head 112  Staff of Authority

Provide that –

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

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

(3) Members of the staff of the Authority are civil servants in the Civil Service of the State.

(4) The Authority is the appropriate authority (within the meaning of the Public Service Management (Recruitment and Appointments) Act 2004 and the Civil Service Regulation Acts 1956 to 2005) in relation to the members of the staff.
Head 113  Appointment of Inspectors of Policing Services

Provide that –

(1) The Authority in accordance with head 112 and subject to this head, may appoint such number of persons as it may determine to carry out inspections under head 104(2)(c) or (d) and the persons appointed shall be known as Inspectors of Policing Services.

(2) A person appointed by the Authority under subhead (1) shall be -

   (a) designated in writing by the Authority for the purpose of performing such of the functions of an Inspector of Policing Services under this Part as the Authority determines, and
   (b) given, by the Authority, a certificate of his or her appointment and, when exercising any power duly conferred on an inspector under this Act, shall produce, on request by any person affected, the certificate or a copy of the certificate, together with a form of personal identification.

(3) A person appointed as an Inspector of Policing Services shall be a member of the staff of the Authority under head 112.

(4) A person shall not be appointed as an Inspector of Policing Services unless it appears to the Authority that the person is suitable for appointment by reason of –

   (a) his or her service as a senior officer or retired such officer in the police service of another state, or
   (b) having otherwise obtained such relevant experience, qualifications, training or expertise as, in the opinion of the Authority, is or are appropriate having regard, in particular to the functions of the Authority and the nature of the inspections to be carried out.
Head 114  Powers of Inspector of Policing Services

Provide that –

(1) Subject to this Part an Inspector of Policing Services shall have all such powers as are necessary or expedient for the carrying out or in connection with inspections under head 104(2)(c) or (d).

(2) As soon as practicable after the commencement of this head the Authority and the Garda Commissioner shall agree a memorandum of understanding concerning the conduct of inspections under head 104(2)(c) or (d) in order to ensure that they are carried out in an efficient and effective manner and do not adversely affect the performance by An Garda Síochána of its functions under this Act and in particular do not jeopardise criminal investigations or prosecutions or affect the management of persons in the custody of An Garda Síochána.

(3) Without prejudice to the generality of subhead (2) and subject to subhead (4) the memorandum of understanding shall provide for –

(a) visits including unannounced visits in connection with a planned inspection to a relevant location;
(b) the manner in which visits including unannounced visits may be conducted at a relevant location;
(c) the persons who may accompany an inspector on visits to a relevant location;
(d) the furnishing of information and the making available of records or documents held at a relevant location that are required for the purposes of the inspection; and
(e) the making of copies of records or other documents furnished or made available to facilitate their removal from a relevant location or the taking of possession of such records or other documents and their removal for the purposes of an inspection.

(4) A member of garda personnel may decline to provide any information, record or document required under this head on the ground that it relates to the security of the State or would endanger the life or safety of any person who has given information in confidence to a public body in relation to the enforcement or administration of the law.
(5) Where a member of garda personnel claims that subhead (4) applies the inspector of policing services shall inform the Authority.

(6) Where the Garda Commissioner on being further requested to provide the information, record or document concerned by the Authority, declines to comply with the request on the grounds that subhead (4) applies the Authority may refer the matter to the Independent Examiner of Security Legislation in accordance with head 206.

(7) A person who is or was –

(a) a member of the Authority,
(b) a member of a committee of the Authority,
(c) the Chief Executive of the Authority,
(d) other member of the staff of the Authority, or
(e) who is or was engaged under contract or other arrangement by the Authority,

shall not disclose, in or outside the State, other than in accordance with this Act, any information obtained by him or her in carrying out or in connection with an inspection under this Part.

(8) A person who contravenes subhead (7) 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,
(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years.

(9) Subhead (7) is in addition to, and not in substitution for, the relevant provisions of the Official Secrets Act 1963.

(10) In this head

“planned inspection” means an inspection included in the annual business plan published under head 110 or of which the Garda Commissioner has been informed prior to a visit to any relevant location;

“relevant location” means any garda station or other premises or facility where members of garda personnel are assigned in connection with the provision of policing services;
“unannounced visit” means a visit to a relevant location of which the Garda Commissioner has no prior notice as part of a planned inspection.
Head 115  Joint Inspections

Provide that –

(1) The Authority may undertake a joint inspection with one or more prescribed inspection bodies where it is appropriate to do so for the efficient and effective discharge of its function under head 104.

(2) Where the Authority and a prescribed inspection body propose to undertake a joint inspection the Authority, acting jointly with that body, shall prepare a joint inspection plan setting out—

(a) the purpose of the joint inspection and the reasons why such joint action is appropriate,
(b) the aspects of the inspection the Authority proposes to carry out in the exercise of the power conferred by subhead (1) and in accordance with its powers under this Part,
(c) the aspects of the inspection the prescribed inspection body proposes to carry out in the exercise of the corresponding powers conferred on it to undertake a joint inspection and in accordance with its powers under its establishing statute, and
(d) the arrangements for the joint undertaking of the inspection (including the sharing of information) and the joint reporting on the inspection.

(3) In this head –

“prescribed inspection body” means a body prescribed by the Minister following consultation with the relevant Minister as a body that is empowered to inspect jointly with the Authority where that body is of the opinion that it is appropriate to do so for the efficient and effective discharge of its functions;

“relevant Minister” means the Minister of the Government with responsibility for the body proposed to be prescribed.
Head 116  Reports of inspections requested by Minister

Provide that –

(1) The Authority shall submit to the Minister a report of any inspection that it carried out at the request of the Minister.

(2) As soon as practicable after submitting the report to the Minister the Authority shall give a copy to the Garda Commissioner.

(3) Subject to subhead (4) the Minister shall cause copies of a report received by him or her under subhead (1) to be laid before the Houses of the Oireachtas as soon as practicable.

(4) The Minister may exclude from the copies of a report which is to be laid before the Houses of the Oireachtas any matter which, in his or her opinion might facilitate the commission of an offence, prejudice a criminal investigation, or jeopardise the safety of any person.

(5) The Authority shall ensure that the report as laid before the Houses of the Oireachtas is published on the Internet, or in accordance with such other arrangement as it considers appropriate, as soon as practicable after it has been so laid.

(6) The Garda Commissioner shall, at the request of the Minister and within such period of time and in such format as may be specified by the Minister submit a written response to a report under subhead (1) setting out his or her consideration of the report and what actions (if any) he or she proposes to take in relation to the report.
Head 117  Reports of inspections undertaken at Authority’s own initiative

Provide that –

(1) The Authority, on completing an inspection at its own initiative under head 104(2)(c) or a joint inspection under head 115, shall give a report of the inspection to the Garda Commissioner and the Minister.

(2) As soon as practicable after giving a report to the Garda Commissioner and the Minister and subject to subhead (3) the Authority shall publish the report on the Internet, or in accordance with such other arrangement as it may consider appropriate.

(3) The Authority may exclude from the report to be published any matter which, in its opinion might facilitate the commission of an offence, prejudice a criminal investigation, jeopardise the safety of any person.

(4) The Garda Commissioner shall, at the request of the Authority and within such period of time and in such format as may be specified by the Authority submit a written response to a report under subhead (1) setting out his or her consideration of the report and what actions (if any) he or she proposes to take in relation to the report.

(5) The Authority shall copy the Garda Commissioner’s response under subhead (4) to the Minister as soon as practicable.
Head 118  Monitoring and assessment of measures in relation to recommendations in inspection reports

Provide that –

(1) Without prejudice to head 104(2)(e) the Minister may request the Authority to monitor and assess the measures taken by An Garda Síochána in relation to such of the recommendations contained in a report submitted to the Minister under head 116, as the Minister may specify in the request.

(2) The Garda Commissioner shall supply the Minister and the Authority with such information and documents as the Minister or the Authority, as the case may be, may require for the purposes of this head.

(3) The Authority shall, as soon as practicable after a request to it under subhead (1), submit to the Minister a report on the matter the subject of the request and may include in the report any other matter connected with the subject matter of the request that it considers should be brought to the attention of the Minister.
Head 119  Duty of Garda Commissioner to facilitate performance by Authority of its functions

Provide that-

(1) Subject to this Act the Garda Commissioner shall report to the Authority with regard to policing services in order to facilitate the performance by the Authority of its functions under this Act.

(2) The Garda Commissioner’s duty under subhead (1) shall include:

(a) the duty to keep the Authority fully informed of -
   (i) matters relevant to the functions of the Authority under this Act, and
   (ii) any other matters that, in the opinion of the Commissioner should be brought to the attention of the Authority having regard to its functions under the Act;
(b) the duty to provide on request by the Authority, any document relating to policing services in the power or control of An Garda Síochána;
(c) the duty to, whenever required by the Authority, to submit to the Authority a report on any matters connected with policing services or the performance of the Commissioner relating to such services as may be specified in the requirement.

(3) A report under subhead (2)(c) shall –

(a) address the matters of general or specific concern that are specified in the Authority’s requirement, and
(b) be made in the form and within the period specified in that requirement.

(4) The Authority may publish all or a part of a report submitted under this head.
Head 120  Duty of Director of National Office to assist Authority

Provide that –

(1) Subject to this Act the Director of the National Office shall provide such assistance to the Authority as is reasonably required to facilitate the performance by the Authority of its functions under this Act.

(2) In furtherance of the duty on the Director of the National Office under subhead (1) the Director shall –

(a) keep the Authority informed of matters that are relevant to the functions of the Authority under this Act;
(b) provide reports in a form and manner to be agreed with the Authority on matters that are relevant to the functions of the Authority under this Act; and
(c) attend such meetings of the Authority as the Authority may reasonably request including 1 meeting as referred to in head 106(2) in each year for the due performance of the Authority’s functions under the Act.

(3) The Authority may publish all or a part of a report submitted under this head.
Head 121  Accountability for accounts of Authority

Provide that –

The Chief Executive of the Authority is the accounting officer in relation to the appropriation accounts of the Authority for the purposes of the Comptroller and Auditor General Acts 1866 to 1998.
Head 122  Accountability of Authority to other Oireachtas Committees

Provide that –

(1) Subject to subhead (2), the Chief Executive of the Authority shall, at the request in writing of a committee, attend before it to give account for the general administration of the Authority.

(2) The Chief Executive of the Authority shall not be required to give account before a committee for any matter that is, or is likely to be, the subject of proceedings before a court or tribunal in the State, including a tribunal of inquiry established under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011 and a Commission of investigation established under the Commission of Investigation Act 2004.

(3) The Chief Executive of the Authority shall, if of opinion that subhead (2) applies to a matter about which he or she is requested to give account before a committee, inform the committee of that opinion and the reasons for the opinion.

(4) The information required under subhead (3) shall be given to the committee in writing unless it is given when the Chief Executive of the Authority is before the committee.

(5) If, on being informed of the opinion of the Chief Executive of the Authority about the matter, the committee decides not to withdraw its request relating to the matter, the High Court may, on application under subhead (6), determine whether subhead (2) applies to the matter.

(6) Either the Authority or the committee may apply in a summary manner to the High Court for a determination under subhead (5), but only if the application is made within 21 days after the date on which the Chief Executive of the Authority is informed of the decision of the committee not to withdraw its request.

(7) Pending the determination of an application under subhead (5), the Chief Executive of the Authority shall not attend before the committee to give account for the matter that is the subject of the application.
(8) If the High Court determines that subhead (2) applies to the matter, the committee shall withdraw its request insofar as it relates to the matter, but if the Court determines that subhead (2) does not apply, the Chief Executive of the Authority shall attend before the committee to give account for the matter.

(9) In carrying out duties under this head, the Chief Executive 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.

(10) In this head ‘committee’ means—

(a) a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee of Public Accounts, the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann), or
(b) a sub-committee of a committee falling under paragraph (a).
Head 123  Governance framework

Provide that –

(1) The Authority shall, as soon as practicable after it is established, submit to the Minister a governance framework document that includes an outline of—

(a) the guiding principles applicable to the Authority as a public body having functions relating to the oversight and assessment of the performance of An Garda Síochána in relation to policing services,
(b) the managerial, organisation and governance structures of the Authority, including the roles and responsibilities of the Authority chairperson and the Chief Executive of the Authority,
(c) the processes and guidelines to be followed to ensure compliance with the reporting requirements imposed on the Authority by or under this Act,
(d) the Authority’s internal controls, including its procedures relating to internal audits, risk management, public procurement and financial reporting, and
(e) the processes and guidelines to be followed to ensure that inspections are carried out in a proportionate, accountable and transparent manner and reported on in an objective and fair manner.

(2) The Authority shall review the governance framework document periodically and at such times as may be specified by the Minister and shall revise the document as the Authority considers appropriate.

(3) Following the submission of the governance framework document to the Minister the Authority shall arrange for the publication of the document or the revised document.

(4) The annual report prepared under head 124 shall set out the arrangements for implementing and maintaining adherence to the governance framework document.
Head 124  Annual and other reports to Minister

Provide that—

(1) Not later than 3 months after the end of each year, the Authority shall submit to the Minister a report on its activities in the immediately preceding year.

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

(3) The Minister may request the Authority to undertake, prepare and submit to him or her a report in respect of any matter relating to policing services and the Authority shall comply with the request as soon as practicable after receiving it.

(4) The Minister shall cause a copy of a report under this head to be laid before each House of the Oireachtas as soon as practicable after he or she receives the report.

(5) The Authority shall ensure that reports are published on the Internet, or in accordance with such other arrangement as the Minister may specify, as soon as practicable after copies have been laid before the Houses of the Oireachtas.
Head 125  Standards of integrity

Provide that -

(1) In performing functions under this or any other enactment as —

(a) a member of the Authority or a committee of the Authority,
(b) the Chief Executive of the Authority,
(c) a member of the staff of the Authority,
(d) a person engaged by the Authority under head 108, or
(e) an employee of a person referred to in paragraph (d),

a person shall maintain proper standards of integrity, conduct and concern for the public interest.

(2) Subhead (1) applies to a person referred to in subhead (1)(d) in respect only of duties of employment relating to the purposes for which the Authority has engaged that person.
Head 126  Codes of ethics for members, members of committees, advisors or consultants etc.

Provide that –

(1) For the purposes of head 125, the Authority shall issue codes of ethics for the guidance of persons who are—

(a) members of a committee of the Authority but are not members of the Authority,
(b) the Chief Executive of the Authority,
(c) staff of the Authority,
(d) persons engaged by the Authority under head 108, or
(e) employees of persons referred to in paragraph (d).

(2) A code of ethics issued under this head for the guidance of persons referred to in subhead (1) must indicate the standards of integrity and conduct to be maintained by them in performing their functions under this or any other enactment.

(3) A person to whom such a code of ethics relates is required to have regard to and be guided by the code in performing the person's functions under this or any other provision.

(4) The terms and conditions on which a person is employed by a person referred to in subhead (1)(d) or on which a person is engaged by the Authority under head 108, as the case may be, are deemed to include any requirements that apply to that person under subhead (3).

(5) Subject to subhead (6), the Authority shall as soon as practicable after issuing a code of conduct make the code available to the persons for whose guidance it was issued.

(6) A code of conduct for the guidance of employees of a person engaged by the Authority under head 108 shall be issued by the Authority to the employer and be made available by the employer to those employees.

(7) A document purporting to be a code of conduct issued under this head is, in the absence of evidence to the contrary, to be taken to be such code and is admissible in any proceedings before a court or other tribunal.
(8) Any provision of such code that appears to the court or other tribunal to be relevant to a question in the proceedings may be taken into account by it in determining the question.
Head 127  Confidentiality of certain information

Provide that –

(1) Without prejudice to head 114 a person who –

(a) is or was
   (i) a member of the Authority,
   (ii) a member of a committee of the Authority,
   (iii) the Chief Executive,
   (iv) a member of the staff of the Authority, or
   (v) was engaged under contract or other arrangement by the Authority,
   or

(b) was
   (i) a member of the Policing Authority,
   (ii) a member of a committee of the Policing Authority,
   (iii) the Chief Executive of the Policing Authority,
   (iv) a member of the staff of the Policing Authority, or
   (v) engaged under contract or other arrangement by the Policing Authority,

shall not disclose, in or outside the State, any information obtained in the course of carrying out the duties of that person’s office, employment, contract or other arrangement if the person knows the disclosure of that information is likely to have a harmful effect.

(2) For the purpose of this head, “likely to have a harmful effect” means likely to—

(a) facilitate the commission of an offence,
(b) prejudice the safekeeping of a person in legal custody,
(c) impede the prevention, detection or investigation of an offence,
(d) impede the apprehension or prosecution of a suspected offender,
(e) prejudice the security of any system of communication of An Garda Síochána,
(f) result 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 An Garda Síochána, and
   (ii) whose identity is not at the time of the disclosure a matter of public knowledge,
(g) result in the publication of information that—
   (i) relates to a person who is a witness to or a victim of an offence, and
   (ii) is of such a nature that its publication would be likely to discourage
       the person to whom the information relates or any other person from
       giving evidence or reporting an offence, or

(h) result in the publication of personal information and constitutes an
   unwarranted and serious infringement of a person’s right to privacy.

(3) For the purpose of this head, a person is presumed, unless the contrary is
   proved, to know that disclosure of information referred to in subhead (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) Subhead (1) does not prohibit a person from disclosing information referred
   to in that subhead 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 and the staff of the Office of the
            Comptroller and Auditor General,
       (viii) the Office of the Garda Síochána Ombudsman,
       (ix) the Revenue Commissioners, or
       (x) a member of either of the Houses of the Oireachtas where relevant to
           the proper discharge of the member’s functions,

   (b) is made to a court,

   (c) is made to a tribunal appointed under the Tribunals of Inquiry (Evidence)
       Acts 1921 to 2011, a commission of investigation established under
       Commissions of Investigation Act 2004 or a committee within the
       meaning of section 2 of the Houses of the Oireachtas (Inquiries, Privileges
       and Procedures) Act 2013 for the purposes of a Part inquiry, within the
       meaning of that section, under that Act,

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

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

   (f) is otherwise authorised by law.
(5) A person who contravenes subhead (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 subhead (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 head are in addition to, and not in substitution for, the provisions of the Official Secrets Act 1963.

(8) In this head “personal information” has the meaning given to it by section 2(1) of the Freedom of Information Act 2014 and includes personal information relating to a deceased individual.
Head 128  Dissolution of Policing Authority and Garda Síochána Inspectorate

Provide that –

On the establishment day of the Authority the Policing Authority and the Garda Síochána Inspectorate are dissolved.
Head 129  Transfer of staff of Policing Authority

Provide that -

(1) Every person who, immediately before the establishment day, is a member of the staff of the Policing Authority, shall on that day be transferred to and become a member of the staff of the Authority and shall continue to hold a position in the Civil Service of the State.

(2) Save in accordance with any enactment or a collective agreement negotiated with any recognised trade union or staff association; a person referred to in subhead (1) shall not on the establishment day be brought to less favourable terms and conditions than the terms and conditions of service relating to remuneration to which the person was subject immediately before that day.

(3) The terms and conditions to which a person is subject upon his or her becoming a member of the staff of the Authority in accordance with subhead (1) shall be deemed to have been determined by the Authority in accordance with head 112.

Head 130  Transfer of property, rights and liabilities, and continuance of leases, licences and permissions granted by Policing Authority

Provide that -

(1) On the establishment of the Authority day all property, including choses-in-action, that, immediately before that day, was vested in the Policing Authority, shall stand vested in the Authority without any assignment.

(2) Every chose-in-action vested in the Authority by virtue of subhead (1) may, on and from the establishment day, be sued on, recovered or enforced by the Authority in its own name, and it shall not be necessary for the Authority, or the Policing Authority, to give notice to any person bound the chose-in-action of the vesting effected by that subhead.

(3) All rights and liabilities of the Policing Authority subsisting immediately before the establishment day and arising by virtue of any contract, agreements, arrangements or commitment, (expressed or implied) shall on that day stand transferred to the Authority.

(4) Every right and liability transferred by subhead (3) to the Authority may, on and after the establishment day, be sued on, recovered or enforced by or against the Authority in its own name, and it shall not be necessary for the Authority, or the Policing Authority, to give notice to the person whose right or liability is transferred by that subhead of such transfer.

(5) Every lease, licence, wayleave or permission granted by the Policing Authority in relation property vested in the Authority by or under this Act, and in force immediately before the establishment day, shall continue in force as if granted by the Authority.
Head 131  Preservation of contracts, agreements or arrangements made by the Policing Authority

Provide that -

Every contract, agreement or arrangement made between the Policing Authority and any other person and which is in force immediately before the establishment day of the Authority, shall continue in force and shall be construed and have effect as if the name of the Authority were substituted therein for that of the Policing Authority and shall be enforceable by or against the Authority.
Head 132  Records of Policing Authority

Provide that -

(1) Each record held by the Policing Authority immediately before the establishment day of the Authority shall, on that day, stand transferred to the Authority and shall, on and after that day, be the property of the Authority and be regarded as being held by the Authority.

(2) Any rights or access, under the Freedom of Information Acts 1997-2015, to records that before the establishment day of the Authority were held by the Policing Authority and that are transferred to the Authority under subhead (1) is not affected by the transfer of such records.

(3) For the purposes of rights of a person to information regarding acts of public bodies affecting the person, any act done by the Policing Authority before the establishment day of the Authority is deemed to have been done by the Authority.
Head 133 Liability for loss on part of Policing Authority occurring before establishment day

Provide that –

(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the establishment day of any of the functions of the Policing Authority shall on and after that day, lie against the Authority and not against the Policing Authority.

(2) Any legal proceedings pending immediately before the establishment day to which the Policing Authority is a party, shall be continued, with the substitution in the proceedings of the Authority, in so far as they so relate, to the Policing Authority.

(3) Where, before the establishment day, agreement has been reached between the parties concerned in settlement of a claim to which subhead (1) relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the Policing Authority, shall be enforceable against the Authority and not the Policing Authority.

(4) Any claim made or proper to be made by the Policing Authority in respect of any loss or injury arising from the act or default of any person before the establishment day shall be regarded as having been made by or proper to be made by the Authority and may be pursued and sued for by the Authority as if the loss or injury had been suffered by the Authority.
Head 134 Final accounts and final annual report of Policing Authority

Provide that -

(1) As soon as may be, but not more than 3 months, after the establishment day of the Authority, the Authority shall cause to be prepared final accounts of the Policing Authority in respect of the accounting period or part thereof of the Policing Authority ending immediately before the establishment day.

(2) Accounts prepared pursuant to this head shall be submitted by the Authority to the Comptroller and Auditor General as soon as may be for audit and, immediately after the audit, a copy of the accounts as so audited and a copy of the Comptroller and Auditor General’s report thereon shall be presented to the Minister for Public Expenditure and Reform who shall cause copies of those accounts and that report to be laid before each House of the Oireachtas.

(3) For the purposes of subhead (1), the Minister for Public Expenditure and Reform may specify a period that is longer or shorter than a financial year of the Policing Authority.

(4) The Chief Executive of the Authority shall be the Accounting Officer for the purposes of the Comptroller and Auditor General Acts 1866 to 1998, in relation to the appropriation accounts of the Policing Authority for the period from the establishment day of the Policing Authority to the day of its dissolution.

(5) The Authority shall prepare the final annual report for the Policing Authority and submit the report to the Minister not later than 3 months after the establishment day.

(6) Head 124 shall apply with the necessary modifications in relation to an annual report prepared under this head.
Head 135  Transfer of staff of Garda Síochána Inspectorate

Provide that -

(1) Any member of the staff of the Department of Justice who on the establishment day is engaged in duties of the Garda Síochána Inspectorate, may be designated by order of the Minister and shall, on being so designated, be transferred to and become a member of the staff of the Authority.

(2) Before making an order for the purpose of this head, the Minister shall –

(a) notify in writing any recognised trade union or staff association concerned of the Minister’s intention to do so, and

(b) consider, within the time that may be specified in the notification, any representatives made by that trade union or staff association in relation to the matter.

(3) Save in accordance with any enactment or a collective agreement negotiated with any recognised trade union or staff association staff of the Department of Justice transferred to the Authority, shall not, on the establishment day, be subject to less beneficial terms and conditions of service (including those relating to tenure of office), or remuneration than the terms and conditions of service or remuneration to which he or she was subject to immediately before the establishment day.

(4) The terms and conditions to which a person is subject upon his or her becoming a member of the staff of the Authority in accordance with subhead (1) shall be deemed to have been determined by the Authority in accordance with head 112.

Head 136  Preservation of contracts, agreements or arrangements made by the Garda Síochána Inspectorate

Provide that -

Every contract, agreement or arrangement made between the Garda Síochána Inspectorate and any other person and which is in force immediately before the establishment day of the Authority, shall continue in force and shall be construed and have effect as if the name of the Authority were substituted therein for that of the Garda Síochána Inspectorate and shall be enforceable by or against the Authority.
Head 137  Records of Garda Síochána Inspectorate

Provide that -

(1) Subject to subhead (2) each record held by the Garda Síochána Inspectorate immediately before the establishment day of the Authority shall, on that day, stand transferred to the Authority and shall, on and after that day, be the property of the Authority and be regarded as being held by the Authority.

(2) Each record held in relation to the provision of security services by An Garda Síochána held by the Inspectorate immediately before the establishment day shall, on that day, stand transferred to the Minister and shall, on and after that day, be the property of the Minister and be regarded as being held by the Minister.

(3) Any rights or access, under the Freedom of Information Acts 1997-2015, to records that before the establishment day of the Authority were held by the Garda Síochána Inspectorate and that are transferred to the Authority under subhead (1) or the Minister under subhead (2) is not affected by the transfer of such records.

(4) For the purposes of rights of a person to information regarding acts of public bodies affecting the person, any act done by the Garda Síochána Inspectorate before the establishment day of the Authority is deemed to have been done by the Authority or the Minister as the case may be.
Head 138   Liability for loss on part of Garda Síochána Inspectorate occurring before establishment day

Provide that -

(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the establishment day of any of the functions of the Garda Síochána Inspectorate shall on and after that day, lie against the Authority and not against the Garda Síochána Inspectorate.

(2) Any legal proceedings pending immediately before the establishment day to which the Garda Síochána Inspectorate is a party, shall be continued, with the substitution in the proceedings of the Authority, in so far as they so relate, to the Garda Síochána Inspectorate.

(3) Where before the establishment day, agreement has been reached between the parties concerned in settlement of a claim to which subhead (1) relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the Garda Síochána Inspectorate, shall be enforceable against the Authority and not the Garda Síochána Inspectorate.

(4) Any claim made or proper to be made by the Garda Síochána Inspectorate in respect of any loss or injury arising from the act or default of any person before the establishment day shall be regarded as having been made by or proper to be made by the Authority and may be pursued and sued for by the Authority as if the loss or injury had been suffered by the Authority.
Part 5 - Office of the Garda Síochána Ombudsman

Head 139 Continuation of Garda Síochána Ombudsman Commission under name of Office of the Garda Síochána Ombudsman

Provide that -

(1) The body corporate known as the Garda Síochána Ombudsman Commission shall—

(a) continue in being under this Act, and
(b) from the date of commencement of this head, is to be known instead as Oifig Ombudsman an Gharda Síochána or, in the English language, as the Office of the Garda Síochána Ombudsman (in this Part and Part 6 referred to as the “Office of the Garda Ombudsman”) to perform the functions conferred on it by this Act.

(2) The Office of the Garda Ombudsman shall consist of –

(a) the Garda Síochána Ombudsman (in this Part and Part 6 referred to as the “Garda Ombudsman”),
(b) the Deputy Garda Síochána Ombudsman (in this Part and Part 6 referred to as the “Deputy Garda Ombudsman”),
(c) the Chief Administrative Officer of the Office of the Garda Ombudsman, and
(d) any officers appointed or deemed to be appointed under head 148.

(3) References to the Garda Síochána Ombudsman Commission in any enactment (other than this Act) or any instrument made under such an enactment shall be construed as references to the Office of the Garda Ombudsman.

(4) Unless otherwise provided for references to the Chairperson of the Garda Síochána Ombudsman Commission or to any member of the Commission in any enactment (other than this Act) or any instrument made under such an enactment shall be construed as references to the Garda Ombudsman.

(5) The body corporate known as the Garda Síochána Ombudsman Commission, which from the commencement of this head is known as the Office of the
Garda Síochána Ombudsman, continues to have perpetual succession and an official seal and may—

(a) sue and be sued in its corporate name,
(b) acquire, hold and dispose of land or an interest in land, and
(c) acquire, hold and dispose of any other property.

(6) The Office of the Garda Ombudsman shall, as soon as practicable after the commencement of this Act, provide itself with a seal which must be authenticated by the signature of the Garda Ombudsman and a person referred to in subhead (2)(b) to (d) authorised by the Garda Ombudsman to act in that behalf.

(7) Judicial notice is to be taken of the seal of the Office of the Garda Ombudsman and every document purporting to be an instrument made by the Office and to be sealed with its seal (purporting to be authenticated in accordance with this head) is to be received in evidence and is deemed to be such instrument without proof unless the contrary is shown.
Head 140  Appointment of Garda Ombudsman and Deputy Garda Ombudsman

Provide that –

(1) Subject to this head the appointment of a person to be the Garda Ombudsman shall be made by the President on —

(a) the nomination of the Government, and
(b) the passage of resolutions by Dáil Éireann and Seanad Éireann recommending the appointment of the person.

(2) Subject to this head the appointment of a person to be the Deputy Garda Ombudsman shall be made by the President on —

(a) the nomination of the Government, and
(b) the passage of resolutions by Dáil Éireann and Seanad Éireann recommending the appointment of the person.

(3) The Minister shall invite the Service to undertake a selection competition for the purpose of identifying and recommending persons for appointment as Garda Ombudsman or Deputy Garda Ombudsman as the case may be.

(4) The Minister shall agree with the Service the selection criteria and processes that are to apply to the competition.

(5) A person shall not be recommended by the Service under this head unless the Service is satisfied that the person is suitable for appointment as Garda Ombudsman or Deputy Garda Ombudsman as the case may be by reason of his or her possessing such relevant experience, qualifications or expertise having regard in particular to the functions of the Garda Ombudsman under this Act.

(6) A person is not eligible to be nominated or appointed under this head if the person 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 that Parliament,
(d) elected or co-opted as a member of a local authority,
(e) is or has been a member of garda personnel,
(f) is a member of the Policing and Community Safety Authority, or
(g) was reappointed as a member of the Garda Síochána Ombudsman Commission under section 66 of the former Act.

(7) A person who holds judicial office, without relinquishing that office, is eligible for appointment under this head, but, unless otherwise provided by the terms of the appointment, he or she shall not, while the Garda Ombudsman or Deputy Garda Ombudsman, be required to carry out duties under statute as the holder of that judicial office.

(8) Schedule 4 has effect if a person who holds judicial office is appointed as the Garda Ombudsman or Deputy Garda Ombudsman.
Head 141  Terms of appointment of Garda Ombudsman and Deputy Garda Ombudsman

Provide that -

(1) Subject to this Part a person appointed under head 140(1) or (2) to be the Garda Ombudsman or Deputy Garda Ombudsman, as the case may be, shall hold office for a term of 6 years and may be reappointed once only to that office for a second term.

(2) Where the Government proposes to nominate a person for reappointment under subhead (1), head 140 other than subheads (3) to (5) shall apply.

(3) The Garda Ombudsman or Deputy Garda Ombudsman holds office on the terms and conditions relating to remuneration (including allowances for expenses, benefits in kind and superannuation) or other matters that may be determined by the Government at the time of appointment or reappointment.

(4) The Garda Ombudsman or Deputy Garda Ombudsman may resign from office at any time by letter addressed to the President and copied to the Minister, and the resignation takes effect on the date the President receives the letter.

(5) The President may remove the Garda Ombudsman or Deputy Garda Ombudsman from office but only for stated misbehaviour or for incapacity and then only on resolutions passed by Dáil Éireann and Seanad Éireann calling for the removal.

(6) A person ceases to be the Garda Ombudsman or Deputy Ombudsman as soon as he or she—

(a) is nominated as a member of Seanad Éireann,
(b) is elected as a member of either House of the Oireachtas or of the European Parliament,
(c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament to fill a vacancy, or
(d) becomes a member of a local authority.
(7) A person who holds the office of Garda Ombudsman or Deputy Garda Ombudsman shall not hold any other office or employment in respect of which emoluments are payable.
Head 142  Acting Garda Ombudsman

Provide that –

(1) The Deputy Garda Ombudsman may act as the Garda Ombudsman -

(a) where the Garda Ombudsman is temporarily unavailable to carry out the duties of the office, or
(b) during a vacancy in the office of the Garda Ombudsman.

(2) The Deputy Garda Ombudsman does not have the power to act by virtue of (1)(a) or (1)(b) for a continuous period exceeding 2 months, except with the consent of the Minister.

(3) For as long as the Deputy Garda Ombudsman is acting in place of the Garda Ombudsman under this head references in this Act to the Garda Ombudsman, are to be read as references to that office holder.
Head 143  Objectives, functions and powers of Garda Ombudsman

Provide that –

(1) Subject to this Act the Garda Ombudsman shall be independent in the performance of his or her functions.

(2) The objectives of the Office of the Garda Ombudsman are—

(a) to ensure that the functions of the Office are performed in an efficient and effective manner and with full fairness to all persons involved in complaints and investigations under Part 6, and
(b) to promote public confidence in the processes for the resolution of complaints made by members of the public and in the investigations referred to in paragraph (a).

(3) The functions of the Garda Ombudsman are—

(a) to receive complaints made by members of the public concerning the conduct of a member of garda personnel (within the meaning of Part 6) under head 159,
(b) to receive notifications from the Garda Commissioner under head 165 about incidents of concern in relation to the conduct of members of garda personnel that are not the subject of a complaint from a member of the public,
(c) to carry out the duties and exercise the powers assigned to the Garda Ombudsman under Part 6 in relation to the matters referred to in (a) and (b),
(d) to undertake, in accordance with Part 6, investigations of other matters concerning the conduct of members of garda personnel or the Garda Commissioner,
(e) to report the results of investigations under Part 6 (including making such recommendations as are appropriate) to the Garda Commissioner, the Minister or the Policing and Community Safety Authority as the case may be,
(f) in appropriate cases, to report the results of investigations to the Director of Public Prosecutions and to send him or her a copy of each investigation file,
(g) to draw up with the Garda Commissioner protocols in accordance with head 181,
(h) to undertake research and analysis to identify trends and patterns arising from the performance of its functions under Part 6, and
(i) to carry out any other duties and exercise any other powers assigned to the office under this Act.

(4) The Garda Ombudsman has all powers that are necessary for, or incidental to, the performance of his or her functions under this Act.

(5) The Garda Ombudsman shall —

(a) endeavour to improve public understanding of the role and functions of the Office of the Garda Ombudsman, and
(b) engage with An Garda Síochána to promote public understanding in respect of their arrangements for the handling of complaints suitable for resolution by An Garda Síochána established and maintained under head 162.

(6) The Garda Ombudsman shall establish and maintain efficient and effective systems and procedures for the handling of complaints and the conduct of investigations in a fair, timely and effective manner.

(7) The Garda Ombudsman shall furnish to the Minister such information regarding the performance of his or her functions as the Minister may from time to time request.

(8) The Garda Ombudsman may authorise and direct —

(a) the Deputy Garda Ombudsman,
(b) the Chief Administrative Officer,
(c) any officer of the Garda Ombudsman, or
(d) any person engaged under head 150,

to perform any of the Garda Ombudsman’s functions under this Act, including his or her functions under Part 6 other than under head 169 (2) or head 170 (1).

(9) An authorisation or direction under subhead (8) 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 Ombudsman at any time.

(10) An authorisation or direction under subhead (8) does not preclude the Garda Ombudsman from performing the function.

(11) Where a person is authorised or directed by the Garda Ombudsman to perform any function of the Garda Ombudsman under a provision of this Act, any reference in that provision to the Garda Ombudsman is to be read as a reference to that person.
Head 144  Functions of Deputy Garda Ombudsman

Provide that –

(1) Within the scope of the authority conferred on the Garda Ombudsman under head 143(2) and (3), the Deputy Garda Ombudsman may perform any of the functions conferred on the Garda Ombudsman by this Act or any other enactment.

(2) Any act done or omitted to be done by the Deputy Garda Ombudsman in accordance with subhead (1) is deemed to have been done or omitted to have been done by the Garda Ombudsman.

(3) The Deputy Garda Ombudsman shall, subject to the Act, be independent in the performance of the functions under subhead (1), except that he or she shall –

(a) comply with a direction given by the Garda Ombudsman under head 143(8), and

(b) keep the Garda Ombudsman informed about the performance of his or her functions generally.
Head 145  **Strategy statement of Office of the Garda Ombudsman**

Provide that –

(1) Subject to subhead (2), every 3 years the Garda Ombudsman shall prepare and submit to the Minister a strategy statement for the Office of the Garda Ombudsman for the following 3 years.

(2) The first strategy statement shall be prepared by the Garda Ombudsman and submitted to the Minister as soon as practicable after the commencement of head 139 and shall relate to the period from its submission to the Minister until the day immediately before the third anniversary of the commencement of head 139.

(3) A second or subsequent strategy statement shall be prepared by the Garda Ombudsman and submitted to the Minister within the period of 6 months before the expiry of the period to which the previous strategy statement relates and the second or subsequent strategy statement shall relate to the period of 3 years from the anniversary of the commencement of head 139.

(4) The Garda Ombudsman shall, in a strategy statement prepared under this head—

(a) set out the key objectives, outputs and related strategies of the Office of the Garda Ombudsman including the use of its resources,
(b) have regard to the need to ensure the most beneficial and efficient use of the resources of the Office of the Garda Ombudsman, and
(c) except in the case of the first such statement, include a review and evaluation of the work of the Office of the Garda Ombudsman in the performance of its statutory functions in the previous 3 years.

(5) Before submitting a strategy statement to the Minister in accordance with this head, the Garda Ombudsman—

(a) shall publish in such manner as the Garda Ombudsman considers appropriate a draft of the strategy statement and shall allow persons 30 days from the date of that publication within which to make representations in writing to the Ombudsman with regard to the draft strategy statement, and
(b) following consultation under paragraph (a) and, where appropriate, having considered the representations (if any) made, shall submit the
strategy statement to the Minister with or without modifications to take account of such representations.

(6) The Minister shall cause a copy of a strategy statement prepared and submitted to him or her under subhead (5) to be laid before each House of the Oireachtas as soon as practicable after the strategy statement has been received by him or her.
Head 146  Annual and other reports by Office of the Garda Ombudsman

Provide that –

(1) Not later than 3 months after the end of each year, the Office of the Garda Ombudsman shall submit to the Minister a report on its activities in the immediately preceding year.

(2) The Garda Ombudsman may make any other reports that he or she considers appropriate for drawing to the Minister’s attention matters that have come to his or her notice and that, in his or her opinion, should, because of their gravity or other exceptional circumstances, be the subject of a special report to the Minister.

(3) As soon as practicable after receiving a report under this head, the Minister shall cause a copy of the report to be laid before each House of the Oireachtas.
Head 147   Appointment of Chief Administrative Officer of Garda Ombudsman

Provide that -

(1) There shall be a Chief Administrative Officer of the Office of the Garda Ombudsman who shall be appointed by the Office of the Garda Ombudsman, with the consent of the Minister and the Minister for Public Expenditure and Reform.

(2) The Chief Administrative Officer shall—

(a) hold office under a contract of service in writing (which contract may be renewed) for such period as is specified in the contract and subject to such terms and conditions (including terms and conditions relating to remuneration) as are determined by the Office of the Garda Ombudsman with the consent of the Minister and the Minister for Public Expenditure and Reform, and

(b) be paid out of moneys at the disposal of the Office of the Garda Ombudsman.

(3) The Chief Administrative Officer shall —

(a) have the appropriate experience, qualifications, training and expertise for the appointment, and

(b) be appointed by the Office of the Garda Ombudsman following a selection competition undertaken in accordance with the Public Service Management (Recruitment and Appointment) Act 2004.

(4) The Chief Administrative Officer shall—

(a) implement the Garda Ombudsman’s policies and decisions,

(b) manage and control generally the staff, administration and business of the Office of the Garda Ombudsman, and

(c) perform such other functions (if any) as may be required by the Garda Ombudsman or as may be authorised under this Act.

(5) The Chief Administrative Officer may be removed or suspended from office by the Garda Ombudsman, with the consent of the Minister, for stated reasons.
(6) The Chief Administrative Officer shall provide the Garda Ombudsman with such information, including financial information, in respect of the performance of his or her functions as the Garda Ombudsman may require.

(7) The Chief Administrative Officer shall not hold any other office or occupy any position in respect of which remuneration is payable, or carry on any business, trade or profession, without the consent of the Garda Ombudsman.

(8) If the Chief Administrative Officer —

(a) dies, resigns or is removed from office, or
(b) is for any reason temporarily unable to continue to perform his or her functions,

the Garda Ombudsman may designate such officer or officers of the Garda Ombudsman as it considers appropriate to perform the functions of the Chief Executive until—

(i) in the circumstances mentioned in paragraph (a), a new Chief Administrative Officer is appointed in accordance with this head, or
(ii) in the circumstances mentioned in paragraph (b), the Chief Administrative Officer is able to resume the performance of his or her functions.
Head 148  Officers of Garda Ombudsman

Provide that –

(1) The Office of the Garda Ombudsman may, with the consent of the Minister and the Minister for Public Expenditure and Reform, appoint such and so many persons as officers of the Garda Ombudsman as the Garda Ombudsman may determine.

(2) The terms and conditions of service of an officer of the Garda Ombudsman, and the grade at which he or she serves, shall be such as may be determined by the Garda Ombudsman with the consent of the Minister and the Minister for Public Expenditure and Reform.

(3) Officers of the Garda Ombudsman are civil servants in the Civil Service of the State.

(4) The Garda Ombudsman is the appropriate authority (within the meaning of the Public Service Management (Recruitment and Appointments) Act 2004 and the Civil Service Regulation Acts 1956 to 1996) in relation to the officers of the Garda Ombudsman.

(5) On the commencement of this head, each person who immediately before that day was an officer of the Ombudsman Commission under section 71 of the former Act, shall be deemed to have been appointed under this head on such terms and conditions of service relating to remuneration and superannuation as are not less favourable than the terms and conditions of service relating to remuneration and superannuation to which the person was subject immediately before that day.
Head 149  Designation of officers and others for purpose of investigations under Part 6

Provide that -

(1) A person who is appointed as or becomes an officer of the Garda Ombudsman under head 148 or who is engaged by the Garda Ombudsman under head 150 may be designated in writing by the Garda Ombudsman as a designated officer or a senior designated officer for the purpose of performing functions under any of the provisions of Part 6 specified in the instrument of designation.

(2) The Garda Ombudsman shall provide each person designated under this head with a warrant card identifying the person, specifying whether the person is a designated officer or a senior designated officer and the provisions of Part 6 in relation to which the person is authorised to perform functions.

(3) A person provided with a warrant card shall carry it at all times while performing functions under Part 6 and, if requested, shall produce the card for inspection.
Head 150  Special Assistance

Provide that –

(1) The Office of the Garda Ombudsman may, for the purposes of performing its functions under this Act, enter into arrangements as follows:

(a) with the Garda Commissioner for the engagement of members of garda personnel below the rank of Garda Commissioner who have agreed to be considered for service under such arrangement;
(b) with any police service outside the State for the engagement of police officers from that service;
(c) with any other body for the engagement of other persons.

(2) Arrangements under subhead (1) may provide for the persons concerned to be engaged (on contract or otherwise) for a period of temporary service with the Office of the Garda Ombudsman.

(3) If designated by the Garda Ombudsman for the purpose of conducting an investigation under head 168 a person who is a member of An Garda Síochána or another police service and who is engaged under this head for a period of temporary service with the Office of the Garda Ombudsman, has, in relation to that investigation, only the powers, immunities and privileges conferred and the duties imposed under heads 169 and 171.

(4) During a period of temporary service with the Office of the Garda Ombudsman, a member of garda personnel is not subject to the direction or control of the Garda Commissioner, but—

(a) the member is entitled to continue to be paid as a member of garda personnel,
(b) the member’s service with the Office of the Garda Ombudsman is considered to be service as a member of garda personnel for pension, seniority and promotion purposes, and
(c) the member (other than a member of garda staff) is entitled to claim compensation under the Garda Síochána Compensation Acts 1941 and 1945 for malicious injuries received in the course of, or in relation to, the carrying out of duties with the Office of the Garda Ombudsman.
Head 151  Power to appoint consultants and advisers and to enter into contracts

Provide that –

(1) The Office of the Garda Ombudsman may, with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, as it considers necessary to assist in the performance of its functions –

(a) enter into contracts with persons, or
(b) appoint consultants or advisers.

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

(3) The appointment of a person or consultant or adviser shall be for such period and on such terms and conditions as the Office of the Garda Ombudsman considers appropriate.
Head 152  Accountability for accounts of Office of Garda Ombudsman

Provide that –


(2) Whenever required to do so by the Committee of Public Accounts, the Chief Administrative Officer shall give evidence to it on the following matters:

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or record of account subject to audit by the Comptroller and Auditor General;
(b) the economy and the efficiency of the Office of the Garda Ombudsman in using its resources;
(c) the systems, procedures and practices employed by the Office of the Ombudsman for evaluating the effectiveness of its operations; and
(d) any matter affecting the Office of the Garda Ombudsman that is referred to in—
   (i) a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or
   (ii) any other report of the Comptroller and Auditor General that is laid before Dáil Éireann in so far as the report relates to a matter specified in any of paragraphs (a) to (c).

(3) In carrying out duties under subhead (2), the Chief Administrative Officer shall not—

(a) 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 policy, or
(b) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of a person.
Head 153  Accountability to other Oireachtas committees

Provide that -

(1) In this head -

(a) “committee” means—
   (i) 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
   (ii) a sub-committee of a committee as defined in paragraph (i).

(b) “relevant person” means—
   (i) the Garda Ombudsman,
   (ii) the Chief Administrative Officer.

(2) Subject to subhead (3), a relevant person shall, at the written request of a committee, attend before it to give account for the general administration of the Office of the Garda Ombudsman.

(3) A relevant person shall not be required to give account before a committee for any matter that is or is likely to be, the subject of proceedings before a court or tribunal in the State including a tribunal of inquiry established under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011 and a commission of investigation established under the Commissions of Investigation Act 2004.

(4) A relevant person shall, if of the opinion that subhead (3) applies to a matter about which he or she is requested to give an account before a committee, inform the committee of that opinion and the reasons for the opinion.

(5) The information required under subhead (4) must be given to the committee in writing unless it is given when the relevant person is before the committee.

(6) If, on being informed of the relevant person’s opinion about the matter, the committee decides not to withdraw its request relating to the matter, the High Court may, on application under subhead (7), determine whether subhead (3) applies to the matter.

(7) A relevant person or the committee may apply in a summary manner to the High Court for a determination under subhead (6), but only if the application
is made within 21 days after the date on which the relevant person is informed of the committee’s decision not to withdraw its request.

(8) Pending the determination of an application under subhead (7), the relevant person shall not attend before the committee to give account for the matter that is the subject of the application.

(9) If the High Court determines that subhead (3) applies to the matter, the committee shall withdraw its request in so far as it relates to the matter, but if the Court determines that subhead (3) does not apply, the relevant person shall attend before the committee to give account for the matter.

(10) In carrying out duties under this head, the relevant person shall not —

(a) 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 policy, or

(b) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or prosecution or jeopardise the safety of a person.
Head 154  Confidentiality of information obtained by Garda Ombudsman

Provide that -

(1) A person who –

(a) was a member of the Garda Síochána Ombudsman Commission,
(b) is or was the Garda Ombudsman, Deputy Garda Ombudsman or the Chief Administrative Officer,
(c) was an officer of the Ombudsman Commission,
(d) is or was an officer of the Garda Ombudsman, or
(e) who is or was engaged under contract or other arrangement by either the Commission or the Garda Ombudsman,

shall not disclose, in or outside the State, information obtained in carrying out the duties of that person’s office or of his or her contract or other arrangement with the Commission or the Office of the Garda Ombudsman if the disclosure is likely to have a harmful effect.

(2) For the purpose of this head, “likely to have a harmful effect” means likely to —
(a) impede an investigation under Part 6 or otherwise prejudices the effective performance of the Garda Ombudsman’s functions,
(b) result in the identification of a person—
(i) who is a complainant or the subject of a complaint or the subject of any matter under investigation by the Garda Ombudsman or An Garda Síochána, and
(ii) whose identity is not at the time of the disclosure a matter of public knowledge,
(c) result in the publication of information that—
(i) relates to a person who is a complainant or the subject of a complaint or the subject of any matter under investigation by the Garda Ombudsman or An Garda Síochána or who has given evidence to the Ombudsman or An Garda Síochána, 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 reporting a complaint or giving evidence to the Garda Ombudsman or An Garda Síochána,
(d) result in the publication of personal information (within the meaning of section 2(1) of the Freedom of Information Act 2014) obtained in the course of an investigation and constitutes an unwarranted and serious infringement of a person’s right to privacy, or
(e) impede an investigation by An Garda Síochána or otherwise prejudices the effective performance of An Garda Síochána’s functions.

(3) For the purpose of this head, a person is presumed, unless the contrary is proved, to know that disclosure of information referred to in subhead (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) Subhead (1) does not prohibit a person referred to in that subhead from disclosing information 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 and the staff of the Office of the Comptroller and Auditor General,
   (viii) the Policing and Community Safety Authority or an officer of that body,
   (ix) the Revenue Commissioners, or
   (x) a member of either of the Houses of the Oireachtas where relevant to the proper discharge of that member’s functions,
(b) is made under Part 6 to a person in relation to—
   (i) a complaint made by the person, or
   (ii) an investigation concerning the person,
(c) is made to a court,
(d) is made to a tribunal appointed under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011, a commission of investigation established under the Commissions of Investigation Act 2004 or a committee within the meaning of section 2 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 for the purposes of a Part 2 inquiry, within the meaning of that section, under that Act,
(e) is made in the course of, and in accordance with, the duties of that person’s office or employment or of his or her duties under a contract or other arrangement to work with or for the Ombudsman,

(f) is authorised by the Garda Ombudsman, or

(g) is otherwise authorised by law.

(5) A person who contravenes subhead (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 subhead (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 head are in addition to, and not in substitution for, the provisions of the Official Secrets Act 1963.
Head 155 Final accounts and final annual report of Ombudsman Commission

Provide that –

(1) The Chief Administrative Officer shall, in respect of the period specified under subhead (3), prepare final accounts of the Garda Síochána Ombudsman Commission.

(2) The Chief Administrative Officer shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after the commencement of this head and, immediately after the audit, a copy of the account and a copy of the Comptroller and Auditor General’s report on the accounts shall be presented to the Minister who shall, as soon as may be after they are so presented, cause copies thereof to be laid before each House of the Oireachtas.

(3) For the purposes of subhead (1), the Minister may specify a period that is longer or shorter than an ordinary financial year of the Garda Síochána Ombudsman Commission.

(4) The Garda Ombudsman shall prepare the final annual report for the Garda Síochána Ombudsman Commission and submit the report to the Minister not later than 6 months after the commencement of this Act.

(5) Head 146 shall apply with the necessary modifications in relation to an annual report prepared under this head.
Head 156   Records of Ombudsman Commission

Provide that –

(1) Each record held by the Ombudsman Commission immediately before the commencement of head 139 shall, on and after that day, be the property of the Office of the Garda Ombudsman and be regarded as being held by that Office.

(2) Any rights or access, under the Freedom of Information Acts 1997-2015, to records that before the commencement of head 139 were held by the Ombudsman Commission and that are the property of the Office of the Garda Ombudsman under subhead (1) are not affected by subhead (1).

(3) For the purposes of rights of a person to information regarding acts of public bodies affecting the person, any act done by the Ombudsman Commission before the commencement of head 139 is deemed to have been done by the Office of the Garda Ombudsman.
Part 6 – Complaints, incidents of concern, investigations and other matters

Head 157 Interpretation

Provide that -

(1) In this Part unless the context otherwise requires —

“admissible complaint” means a complaint determined by the Garda Ombudsman under head 160 to be admissible;

“conduct” includes acts, omissions, statements and decisions (whether actual, alleged or inferred);

“complaint” means a statement (whether oral, written or electronic) expressing dissatisfaction with an act or omission by a person who, at the time of the act or omission concerned, was a member of garda personnel;

“complaint suitable for resolution by An Garda Síochána” means a compliant that is within a list of categories of complaint approved under head 161;

“conduct proceedings”

(a) in relation to a member means proceedings conducted in accordance with the Conduct Regulations; and

(b) in relation to a member of garda staff, means proceedings conducted in accordance with the conduct code applicable to a member of garda staff under his or her terms and conditions of employment;

“designated officer” means an officer of the Garda Ombudsman designated under head 149;

“Garda Commissioner” includes a Deputy Garda Commissioner or an Assistant Garda Commissioner acting in place of the Garda Commissioner under head 21;

“gross misconduct” means a breach of the standards of professional behaviour that is so serious as to justify dismissal;
“incident of concern in relation to the conduct of a member of garda personnel” means any matter which is not and has not been the subject of a complaint under head 159 or a referral under head 165 but in the case of which there is an allegation that a person,

(a) who is a serving member of garda personnel, or
(b) who, at the time of the conduct concerned was a member of garda personnel, may have -
   (i) committed an offence, or
   (ii) behaved in a manner that constitutes notifiable misconduct;

“member of garda personnel” does not include the serving Garda Commissioner;

“misconduct” means conduct that does not meet the standards of professional behaviour and includes gross misconduct;

“notifiable misconduct” means misconduct that if proved would justify the bringing of conduct proceedings or dismissal proceedings and which has been prescribed by the Minister as notifiable to the Garda Ombudsman for the purposes of head 165 due to –

(a) the nature or gravity of the misconduct,
(b) the seniority in rank or grade of a member of garda personnel,
(c) the nature of the duties which a member of garda personnel is assigned to undertake, or
(d) the importance of maintaining public confidence in the arrangements for the investigation of allegations of misconduct by a member of garda personnel;

“performance management system”

(a) in relation to a member, means the Performance Regulations, and
(b) in relation to a member of garda staff, means the management of underperformance policy applicable to the member of garda staff under his or her terms and conditions of employment;

“Performance Regulations” means any regulations in force under head 220;

“serious harm” means -
(a) injury that—
   (i) creates a substantial risk of death,
   (ii) causes serious disfigurement,
   (iii) causes substantial loss or impairment of mobility of the body as a
        whole or of the function of any particular bodily member or organ,
(b) being subjected to a sexual offence, or
(c) being the subject of an abuse of power for sexual gain;

“sexual offence” means a scheduled offence under the Sex Offenders Act
2001;

“standards of professional behaviour” means the standards prescribed under
head 222;

(2) A reference in any provision of this Part to a designated officer of the Garda
Ombudsman is to be understood as a reference to a person designated under
head 149 as a designated officer of the Garda Ombudsman or a senior
designated officer of the Garda Ombudsman unless the context requires
otherwise.

(3) A reference in any provision of this Part to a notification is to be understood
as referring to a notification in writing or by electronic means.

(4) A member of garda staff shall not be subject to a complaint or formal
investigation under this Part until such time as the Minister has made an
order for the purposes of head 45(5).
Head 158 Supplementary provisions in relation to complaints

Provide that -

(1) A complaint under this Part may relate to—

(a) any action taken, or failed to be taken, by a member of garda personnel concerned, or
(b) the standard of any service the member of garda personnel concerned provided or failed to provide.

(2) A complaint under this Part shall not apply to —

(a) the general direction and control of An Garda Síochána by the Garda Commissioner,
(b) the conduct of a member while the member was not on duty, unless the conduct alleged would, if proved, be likely to bring discredit on the Garda Síochána, or
(c) the conduct of a member of garda staff while the member of garda staff was not on duty.

(3) A complaint under this Part need not identify the member of garda personnel who is the subject of the complaint in order to fall within subhead (1).

(4) (a) The following persons may make a complaint under this Part (referred to as “the complainant”)—

(i) a member of the public who has been directly affected by, or who has witnessed the act or omission that is the subject of the complaint;
(ii) a person acting on behalf of a person falling within paragraph (i) if the member of the public on whose behalf the complaint is being made consents in writing or orally to it being made or is, because of age or a mental or physical condition, incapable of giving consent.

(b) For the purposes of this subhead a “member of the public” means a person other than —

(i) the serving Garda Commissioner;
(ii) a member of the Garda Síochána; or
(iii) a member of garda staff in so far as the subject of the person’s complaint is connected with his or her employment.
(5) (a) A complaint to which this Part applies must be made within the period of 12 months beginning on the date of the act of omission giving rise to the complaint or within any extension of that period allowed under paragraph (b).
(b) The Garda Ombudsman may extend the time limit for making a complaint if he or she considers that there is good reason for doing so.

(6) A complaint may be made directly to the Office of the Garda Ombudsman by stating it to an officer of the Garda Ombudsman or by giving or sending it to the Office of the Garda Ombudsman or an officer of the Garda Ombudsman.

(7) A complaint is considered to be made as soon as it is received by—

(a) the Garda Ombudsman if made directly to him or her under head 159(1)(a), or
(b) An Garda Síochána for referral to the Garda Ombudsman under head 159(1)(b).

(8) Where a complaint is made orally, references in this Part to a complaint being referred to a person or body shall be read as references to particulars of the complaint being so referred.
Head 159  Making, recording of complaints etc.

Provide that—

(1) For the purposes of this Part all complaints shall be made to either—

(a) the Office of the Garda Ombudsman directly, or
(b) An Garda Síochána for referral to the Office of the Garda Ombudsman.

(2) Where a complaint is made to An Garda Síochána it may be made to—

(a) the Garda Commissioner,
(b) any member of garda personnel at a Garda Síochána station, or
(c) a member not below the rank of superintendent or a senior garda staff member at a place other than a Garda Síochána station.

(3) Subject to subhead (6) to (7) a complaint made to An Garda Síochána concerning a member of garda personnel shall be referred to the Office of the Garda Ombudsman without delay.

(4) The Garda Commissioner shall ensure that appropriate arrangements are in place for recording a complaint, acknowledging the receipt of a complaint and the referral of a complaint to the Office of the Garda Ombudsman without delay.

(5) The Garda Ombudsman shall ensure that appropriate arrangements are in place for recording and acknowledging a complaint made directly to it, and for recording a complaint referred to it under subhead (3).

(6) (a) The Minister shall, not later than 3 years after the commencement of this head, review the operation of this head in so far as it requires An Garda Síochána to refer all complaints received concerning a member of garda personnel to the Office of the Garda Ombudsman, and thereafter the Minister may conduct similar reviews as he or she considers appropriate.

(b) The Minister shall consult with the Garda Ombudsman, the Garda Commissioner and the Authority in the course of conducting a review referred to in paragraph (a).

(7) If arising from a review referred to in subhead (6) the Minister considers that the efficiency and effectiveness of the processes for resolving complaints and
public confidence therein does not require complaints received by An Garda Síochána to be referred to the Garda Ombudsman in all instances the Minister may by order specify categories of complaints suitable for resolution by An Garda Síochána to which subhead (3) shall not apply and that may be dealt with instead in accordance with arrangements established by the Garda Commissioner under head 162 subject to any necessary modifications.
Head 160  Determination of admissibility of complaint, suitability for resolution by An Garda Síochána etc.

Provide that -

(1) On receipt of a complaint under head 159(1) or on referral of a complaint under head 159(3) the Garda Ombudsman shall determine whether the complaint is admissible or inadmissible.

(2) Subject to subhead (10) a complaint is admissible if the Garda Ombudsman determines that –

(a) it is a complaint to which heads 157 and 158 apply, and
(b) it is necessary and reasonably practicable to handle the complaint in accordance with the following provisions of this Part.

(3) Where the Garda Ombudsman has determined that a complaint is an admissible complaint the Garda Ombudsman shall determine—

(a) whether the complaint is suitable for resolution by An Garda Síochána under head 163, or
(b) whether the complaint warrants a formal investigation under head 168.

(4) A complaint is suitable for resolution by An Garda Síochána under head 163 if it is –

(a) a complaint that is within a list of categories of complaint approved under head 161; and
(b) there are no special circumstances that would warrant a formal investigation under head 168.

(5) For the purposes of making a determination under subhead (1) or (3) the Garda Ombudsman may make such enquiries as he or she thinks fit.

(6) On determining that a complaint is admissible and suitable for resolution by An Garda Síochána the Garda Ombudsman shall as soon as practicable—
(a) notify the complainant of his or her determination and include in the notification information in relation to the arrangements for the resolution by An Garda Síochána of complaints established under head 162, and
(b) refer the complaint together with the information gathered from any enquiries made under subhead (5) to An Garda Síochána for resolution by An Garda Síochána in accordance with the arrangements established under head 162.

(7) On determining that a complaint is admissible and warrants a formal investigation under head 168 the Garda Ombudsman shall—

(a) notify the complainant and the Garda Commissioner of his or her determination,
(b) where the complaint was made to the Garda Ombudsman directly send the Garda Commissioner a copy of the complaint, and
(c) subject to subhead (8), notify, where known, the member of garda personnel who is the subject of the complaint and specify the nature of the complaint and the name of the complainant.

(8) (a) Where the Garda Ombudsman has good reason to do so he or she may postpone a notification under subhead (7)(c).
(b) Where the Garda Ombudsman postpones a notification under paragraph (a) the Garda Ombudsman shall inform the Garda Commissioner that he or she has done so and the reason for the postponement.

(9) On determining that a complaint is inadmissible, the Garda Ombudsman shall—

(a) notify the complainant and include in the notification the reason for the determination, and
(b) notify the Garda Commissioner including in the notification a copy of the complaint where it was received directly by the Garda Ombudsman under head 159(1)(a) and the reason for the determination.

(10) A complaint concerning a person who, at the time of the act or omission that is the subject matter of the complaint, was a member of garda personnel is not inadmissible by reason only that the person—

(a) at the time the complaint is made, is no longer a member, or
(b) retires or resigns from An Garda Síochána at any time after the making of the complaint.
(11) Where the Garda Commissioner is notified under subhead (9)(b) that a complaint has been determined to be inadmissible, nothing in this Part shall prevent the Garda Commissioner from taking any action he or she deems appropriate in relation to the inadmissible complaint.
Head 161  Categories of complaints suitable for resolution by An Garda Síochána

Provide that –

(1) The Garda Ombudsman, in conjunction with the Garda Commissioner shall, as soon as practicable after the commencement of this head, prepare for submission to the Minister a draft list of categories of complaints suitable for resolution by An Garda Síochána under this Part.

(2) The draft list of categories of complaints prepared under this head may not include complaints –

(a) where the act or omission complained of would (if proved) constitute a criminal offence,
(b) where the act or omission complained of would, (if proved) constitute a breach of the standards of professional behaviour that would justify conduct proceedings in relation to the member of garda personnel who is the subject of the complaint, or
(c) which concern the death of, or serious harm to, a person as a result of garda operations or while in the custody or care of the Garda Síochána.

(3) A draft list of categories of complaints prepared under this head shall be submitted to the Minister for approval.

(4) The Minister may approve, or approve subject to modification, a list of categories of complaints submitted under subhead (3) as constituting complaints suitable for resolution by An Garda Síochána under this Part and when approved the list shall apply and take effect in accordance with its terms.

(5) (a) The Garda Ombudsman in conjunction with the Garda Commissioner may propose amendments to a list of categories of complaints approved under this head having regard to the experience of their respective organisations of the operation of this Part.
(b) Amendments to such a list shall be submitted to the Minister for approval and the provisions of this head shall apply with any necessary modifications.

(6) A list of categories of complaints or an amended list, approved by the Minister under this head, shall be made publicly available by the Garda Ombudsman.
Head 162   Arrangements for handling complaints suitable for resolution by An Garda Síochána

Provide that -

(1) The Garda Commissioner shall, as soon as practicable after the commencement of this head, establish and maintain efficient and effective arrangements for the handling of complaints determined by the Garda Ombudsman under head 160 as suitable for resolution by An Garda Síochána.

(2) Before establishing arrangements under subhead (1) the Garda Commissioner shall consult with the Garda Ombudsman and such other persons as he or she thinks fit.

(3) Without prejudice to the generality of subhead (1) the arrangements shall provide for:

(a) such complaints to be dealt with in a transparent, timely, fair, objective, and proportionate manner;
(b) procedures for the resolution of such complaints at local level where appropriate;
(c) the resolution of such complaints through the provision of information, explanation, assurance or an apology to complainants, where appropriate;
(d) relevant parties to such complaints to be informed as to the progress of a complaint and its resolution;
(e) the provision of advice, guidance, or training to the member of garda personnel concerned, where appropriate;
(f) the recording of such complaints and the documentation of their resolution; and
(g) the circumstances in which a complainant may request An Garda Síochána to review the manner in which it has handled such a complaint.

(4) The Garda Commissioner shall keep under review the operation and adequacy of the arrangements established under this head and may, following consultation with the Garda Ombudsman and such other persons as he or she thinks fit, modify the arrangements to better support the resolution of complaints determined by the Garda Ombudsman under head 160 as suitable for resolution by An Garda Síochána.
(5) The arrangements established or modified under this head shall be made publicly available by the Garda Commissioner.

(6) The Garda Commissioner shall, at such intervals and in such form as required by the Garda Ombudsman, provide a report on any matters connected with the operation of the arrangements established or modified under this head.

(7) The Garda Ombudsman may publish all or part of a report received under this head.
Head 163  If complaint suitable for resolution by An Garda Síochána is referred under head 160

Provide that -

(1) On referral of a complaint under head 160(6), the Garda Commissioner shall ensure that it is dealt with in accordance with the arrangements established and maintained under head 162.

(2) Subhead (1) shall apply notwithstanding that the person who is the subject of the complaint –

(a) at the time the complaint is referred, is no longer a member of garda personnel, or
(b) retires or resigns from An Garda Síochána at any time after the referring of the complaint.

(3) If, in the course of seeking to resolve a complaint in accordance with the arrangements established and maintained under head 162, it appears to the Garda Commissioner that the complaint may not be suitable for resolution by An Garda Síochána by reason of its seriousness the Garda Commissioner shall refer the complaint to the Garda Ombudsman together with the reason for the referral.

(4) Where a complaint is referred under subhead (3) it shall be subject to a formal investigation under head 168 and the Garda Ombudsman shall notify the complainant accordingly.
Head 164 Matter concerning death of, or serious harm to, a person

Provide that –

(1) The Garda Commissioner shall, without delay, refer to the Garda Ombudsman any matter that appears to the Garda Commissioner to indicate that the conduct of a member of garda personnel may have resulted in the death of, or serious harm to, a person.

(2) The Garda Ombudsman shall ensure that the following matters are subject to a formal investigation under head 168:

(a) any matter referred to the Garda Ombudsman under subhead (1);
(b) any matter that appears to the Garda Ombudsman to indicate that the conduct of a member of garda personnel may have resulted in the death of, or serious harm to, a person.
Head 165  Notification to Garda Ombudsman of incident of concern in relation to conduct of member of garda personnel

Provide that -

(1) Subject to subhead (5) the Garda Commissioner shall, as soon as practicable, and in accordance with protocols agreed under head 181, notify the Garda Ombudsman of any incident of concern in relation to the conduct of a member of garda personnel (an “incident of concern”).

(2) On receipt of a notification of an incident of concern under subhead (1) the Garda Ombudsman, following consultation with the Garda Commissioner, and in accordance with protocols agreed under head 181, may decide –

(a) that no further action is required by the Office of the Garda Ombudsman,
(b) to require the Garda Commissioner to notify the Garda Ombudsman of the outcome of the investigation undertaken by An Garda Síochána of the incident of concern,
(c) to require the Garda Commissioner to keep him or her informed of progress on the investigation undertaken by An Garda Síochána of the incident of concern or to submit to him or her such interim reports at such times and in relation to such matters as the Garda Ombudsman may direct, or both, or
(d) without prejudice to paragraphs (a) to (c) where the incident of concern relates to the commission of an offence,
   (i) establish in conjunction with the Garda Commissioner, a joint investigation team to undertake the investigation of the incident of concern, or
   (ii) determine that the matter warrants an investigation under head 168 and direct the Garda Commissioner to forward, without delay, all material in relation to the incident of concern to the Garda Ombudsman.

(3) The Garda Ombudsman shall inform the Garda Commissioner of his or her decision under subhead (2) without delay.

(4) (a) Nothing in this head shall prevent the Garda Commissioner or a member of garda personnel from taking any lawful action to prevent the commission of an offence or a breach of the standards of professional behaviour, or commencing or continuing a criminal investigation or conduct proceedings in relation to an incident of concern pending a notification to the Garda
Ombudsman under subhead (1) or the making of a determination by the Garda Ombudsman under subhead (2) and informing the Garda Commissioner of same under subhead (3).

(b) The Garda Commissioner shall inform the Garda Ombudsman of any action taken under paragraph (a) and the reason for same as soon as practicable.

(5) The Garda Commissioner shall be required to notify an incident of concern under subhead (1) only to the extent that to do so -
   (i) would not be prejudicial to the security of the State, or
   (ii) would not endanger the life or safety of any person who has given information in confidence to a public body in relation to the enforcement or administration of the law.

(6) Where the Garda Commissioner invokes subhead (5) he or she shall, without delay, notify the Independent Examiner and the Garda Ombudsman.

(7) The Garda Ombudsman, in conjunction with the Garda Commissioner shall keep under review the operation of the protocols agreed under head 181 and may agree such amendments to the protocols as appear to be necessary or desirable for the proper application of this head.

(8) This head is not to be taken to limit the application of head 41(2) and (3).

(9) Where a joint investigation is established pursuant to subhead (2)(d)(i), and in accordance with protocols agreed under head 181, a designated officer undertaking the joint investigation concerned shall have the same powers, privileges and immunities as if he or she had been appointed to undertake a formal investigation under head 168.
Head 166  Investigation of matters in the public interest

Provide that –

(1) The Garda Ombudsman, in relation to a matter that may not be the subject of a complaint under this Part or within the meaning of an incident of concern, may if it appears to him or her desirable in the public interest to do so undertake a formal investigation under head 168 into any matter that appears to the Garda Ombudsman to indicate that a member of garda personnel may have—

(a) committed an offence, or
(b) behaved in a manner that may have breached the standards of professional behavior and which if proved would justify conduct proceedings.

(2) Subject to head 167 the Minister may, if he or she considers it desirable in the public interest to do so, request the Garda Ombudsman to investigate any matter that gives rise to a concern that a member of garda personnel may have—

(a) committed an offence, or
(b) behaved in a manner that may have breached the standards of professional behaviour and which if proved would justify conduct proceedings

and the Garda Ombudsman shall investigate the matter under head 168.

(3) Notwithstanding subhead (2) and subject to head 167 the Minister may refer any matter to the Garda Ombudsman that gives rise to a cause for concern that a member of garda personnel may have –

(a) committed an offence, or
(b) behaved in a manner that may have breached the standards of professional behaviour and which if proved would justify conduct proceedings

and the Garda Ombudsman shall consider whether the matter is one that he or she should investigate under subhead (1).
(4) Where the Minister refers a matter to the Garda Ombudsman under subhead (2) or (3), the Minister shall notify the Garda Commissioner of the matter that has been so referred.

(5) The Policing and Community Safety Authority may refer any matter to the Garda Ombudsman that gives rise to a cause for concern that a member of garda personnel may have—

(a) committed an offence, or
(b) behaved in a manner that may have breached the standards of professional behaviour and which if proved would justify conduct proceedings

and the Garda Ombudsman shall consider whether the matter is one that he or she should investigate under subhead (1).

(6) Where the Policing and Community Safety Authority refers a matter to the Garda Ombudsman under subhead (5), the Authority shall notify the Garda Commissioner of the matter that has been so referred.

(7) Without prejudice to any other provision of this Part the Garda Commissioner may, if he or she considers it desirable in the public interest to do so, refer to the Garda Ombudsman any matter that appears to the Garda Commissioner to indicate that a member of garda personnel may have—

(a) committed an offence, or
(b) behaved in a manner that may have breached the standards of professional behaviour and which if proved would justify conduct proceedings,

and the Garda Ombudsman shall consider whether the matter is one that he or she should investigate under subhead (1).

(8) Where the Garda Ombudsman decides that a matter referred under subhead (3), (5) or (7) is not a matter that he or she should investigate under subhead (1) he or she shall notify—

(a) the Minister or the Policing and Community Safety Authority as the case may be,
(b) the person who brought the matter to the attention of the Minister or the Policing and Community Safety Authority as the case may be or on whose
behalf the matter was brought to the attention of either the Minister or the Authority, and
(c) the Garda Commissioner,

of his or her decision and the reason for same.
Head 167  Protected disclosures relating to Garda Síochána

Provide that -

(1) Where a disclosure of relevant wrong doing relating to An Garda Síochána is made to the Garda Ombudsman as a prescribed person under section 7 of the Act of 2014 in respect of disclosures so relating, it shall consider whether the disclosure should be investigated in the public interest under head 166(1), even if the worker making the disclosure is a member of garda personnel.

(2) Where a disclosure relating to An Garda Síochána is made to the Minister under section 8 of the Act of 2014 in respect of disclosures so relating, the Minister may refer such a disclosure to the Garda Ombudsman.

(3) Where the Minister refers a disclosure to the Garda Ombudsman under subhead (2) the Garda Ombudsman shall treat the disclosure as if it had been made to the Garda Ombudsman under subhead (1).

(4) In the case of a disclosure referred to the Garda Ombudsman under subhead (2) the Act of 2014 shall apply as if the disclosure had been made to the Garda Ombudsman under subhead (1).

(5) For the purposes of making a determination under subhead (1) the Garda Ombudsman may make such enquiries as he or she thinks fit.

(6) Where the Garda Ombudsman has decided to undertake a formal investigation under head 166(1) in relation to a disclosure referred to him or her in subhead (1) of this head the Garda Ombudsman may proceed with the investigation notwithstanding that the person making the disclosure has withdrawn or abandoned the disclosure and may in accordance with section 16 of the Act of 2014 disclose the identity of the person concerned.

(7) Where the Garda Ombudsman decides that a disclosure made to him or her under subhead (1) or referred to him or her under subhead (2) is not a matter that he or she should investigate under head 166(1) he or she shall notify—

(a) the worker making the disclosure, and

(b) where the disclosure was made to the Garda Ombudsman under subhead (2), the Minister,
of his or her decision and the reason for same.

(8) For the purposes of this head—

“Act of 2014” means the Protected Disclosures Act 2014;

“worker” has the meaning it has in section 3 of the Act of 2014;

“relevant wrong doing” has the meaning it has in section 5 of the Act of 2014.
Head 168  Formal Investigation

Provide that -

(1) Subject to subhead (2) where a formal investigation is required under head 160(3)(b), 163(4), 164(2), 165(2)(d)(ii), 166(1) or (2), or 175 the Garda Ombudsman shall appoint a designated officer to undertake the investigation in accordance with this Part.

(2) The Garda Ombudsman may defer the making of an appointment under subhead (1) or where such an appointment has already been made, direct that the investigation concerned be suspended where:

(a) the subject matter of the investigation is already under investigation by another body; and

(b) the Garda Ombudsman is of the opinion that to continue with an investigation under subhead (1) would -

(i) interfere, or conflict, with the functions of the other body, or

(ii) in all the circumstances the investigation under subhead (1) should await the conclusion of the investigation by the other body and any subsequent proceedings.

(3) The Garda Ombudsman may investigate a matter under this head notwithstanding that —

(a) the identity of the member of garda personnel concerned may not be known when the investigation is undertaken,

(b) the member of garda personnel who is the subject of the investigation is no longer a member, or retires or resigns from An Garda Síochána at any time after the making of a decision by the Garda Ombudsman under this Part to undertake a formal investigation, or

(c) the matter under investigation may also involve or have involved a person who is not a member of garda personnel.

(4) On completing an investigation under this head the designated officer concerned shall submit a report on the investigation to the Garda Ombudsman.

(5) Subject to this Part, the Garda Ombudsman may make rules governing the procedure to be followed for formal investigations under this head.

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Head 169  Powers equivalent to member of An Garda Síochána when undertaking formal investigation

Provide that –

(1) Following his or her appointment under head 168(1) a designated officer has, for the purpose of undertaking, or assisting in an investigation under this head and any matters ancillary or consequential to such an investigation, all the powers, immunities and privileges conferred and all the duties imposed on any member of An Garda Síochána by or under any enactment or the common law, including those relating to the following matters:

(a) the entry and search of any place (other than a Garda Síochána premises) pursuant to a warrant issued in accordance with law and the seizure of things authorised by the warrant;
(b) the arrest, with or without a warrant, of a person;
(c) the bringing of a charge against a person;
(d) the issue of a summons to a person;
(e) the search of a person and the taking of his or her photograph, fingerprints and palmprints;
(f) the detention and questioning of a person;
(g) the taking of bodily samples or other things from a person for the purpose of forensic testing.

(2) For the purpose of subhead (1), an enactment conferring a power, immunity or privilege or imposing a duty on a member of An Garda Síochána in relation to any of the matters specified in that subhead applies with the following modifications and any other necessary modifications:

(a) subject to paragraph (c), a reference in the enactment to a member of An Garda Síochána is to be read as a reference to a designated officer of the Garda Ombudsman;
(b) a reference in section 4 of the Criminal Justice Act 1984 or in the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 (S.I. No. 119 of 1987) to a member in charge of a Garda Síochána station is to be read as a reference to a designated officer of the Garda Ombudsman;
(c) subject to paragraphs (d) and (e) a reference in the enactment to a member of An Garda Síochána not below the rank of inspector is to be
read as a reference to a senior designated officer of the Garda Ombudsman; olfactory

(d) a reference in section 98(2B) of the Postal and Telecommunications Services Act 1983 to a member of An Garda Síochána not below the rank of chief superintendent shall be read as a reference to the Garda Ombudsman or the Deputy Garda Ombudsman;

(e) a reference in the Criminal Justice (Surveillance) Act 2009 to a superior officer in the case of An Garda Síochána shall be read as a reference to a senior designated officer of the Garda Ombudsman and a reference to a member of An Garda Síochána of the rank of Assistant Commissioner shall be read as a reference to the Garda Ombudsman or the Deputy Garda Ombudsman.

(3) Any person who delays, obstructs or interferes with a designated officer in the exercise of the powers conferred or the carrying out of the duties imposed under subheads (1) and (2) is liable on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months or both.

(4) For the purposes of this head—

“enactment” means a statute or statutory instrument, whether passed or made before or after the passing of this Act or any portion of such a statute or statutory
Head 170  Search of Garda Premises

Provide that –

(1) Subject to this head, a designated officer undertaking a formal investigation under head 168 may carry out a search of a Garda Síochána premises in accordance with an authorisation issued by the Garda Ombudsman.

(2) Subject to subhead (3), the Garda Ombudsman may issue to a designated officer an authorisation to search a Garda Síochána premises, if the Garda Ombudsman is satisfied that the officer—

(a) with reasonable cause, suspects the member of garda personnel who is the subject of the investigation to be guilty of an offence, and

(b) has reasonable grounds for suspecting that evidence of, or relating to, the commission of the offence is to be found in the premises or in the possession of any person to be found there.

(3) Before issuing an authorisation to search a Garda Síochána premises the Garda Ombudsman shall consult with the Garda Commissioner to ensure that he or she does not object to the search on grounds relating to the security of the State.

(4) The consultation process referred to in subhead (3) shall be strictly confidential and the Garda Commissioner shall put in place procedures to ensure that the process does not impair the integrity of the investigations by the Garda Ombudsman.

(5) If, on being informed of the intention to issue the authorisation, the Garda Commissioner objects to the search of a Garda Síochána premises on grounds relating to the security of the State, the Garda Commissioner shall without delay notify the Garda Ombudsman and the Independent Examiner of Security Legislation, and the Examiner shall consider the matter in line with head 206.

(6) If satisfied, after considering the recommendation of the Independent Examiner, that the search of a Garda Síochána premises or of a part thereof would not be prejudicial to the security of the State or that such search is proportionate and necessary for the proper investigation of a matter concerning the death of, or serious harm to, a person as a result of Garda operations or while in the care or custody of the Garda Síochána, the
Minister shall issue directions specifying the part of the document storage facility or the part of the premises that may be searched.

(7) A direction under subhead (6) may contain any conditions or restrictions relating to the search that the Minister considers necessary in the interests of the security of the State.

(8) Subject to any directions under subhead (6), an authorisation issued under this head permits a designated officer, accompanied by any other designated officer, to—

(a) enter, within one week after the date specified on the authorisation, the Garda Síochána premises specified on the authorisation,
(b) search that premises and any persons found there, and
(c) seize anything found in that premises, or found in the possession of a person present in the premises at the time of the search, that the designated officer reasonably believes to be evidence of, or relating to, the commission of the offence in question.

(9) A designated officer acting under an authorisation issued under this head may—

(a) require any person present at the Garda Síochána premises where the search is carried out to give to the officer his or her name and address, and
(b) arrest without warrant any person who—
   (i) obstructs or attempts to obstruct the officer, or any other designated officer accompanying the officer, in carrying out his or her duties,
   (ii) fails to comply with a requirement under paragraph (a), or
   (iii) gives a name or address that the officer has reasonable cause for believing is false or misleading.

(10) A person who—

(a) obstructs or attempts to obstruct a designated officer acting under an authorisation issued under this section,
(b) fails to comply with a requirement under subhead (9)(a), or
(c) gives a false name or address to that officer,

is guilty of an offence and is liable on summary conviction, to a class C fine or imprisonment for a term not exceeding 6 months or both.
(11) In this head —

“commission”, in relation to an offence, includes an attempt to commit the offence;

“document storage facility” means any place or thing or part of a place in which documents are held or stored manually, mechanically or electronically;

“Garda Síochána premises” means any premises where a member of garda personnel is stationed or assigned.
Head 171  Additional powers for purpose of undertaking formal investigation

Provide that –

(1) For the purpose of a formal investigation under head 168 the designated officer (in addition to the powers he or she has under head 169) –

(a) may require any person who, in his or her opinion, possesses information or has a document or thing in his or her power or control that is relevant to the investigation, to provide that information, document or thing to the designated officer, and

(b) where appropriate, may require that person to attend before the designated officer for that purpose,

and the person shall, subject to subhead (4), comply with the requirement.

(2) A requirement under subhead (1) shall specify—

(a) a period within which the person is to comply with the requirement, and

(b) as appropriate—

(i) the place at which the person shall attend to give the information concerned or to which the person shall deliver the document or thing concerned, or

(ii) the place to which the person shall send the information, document or thing concerned.

(3) A person required to attend before the designated officer under subhead (1)—

(a) shall answer fully and truthfully any question put to him or her by the designated officer, and

(b) if so requested by the designated officer, shall sign a declaration of the truth of his or her answer to the question.

(4) A person may not be required under subhead (1)(a) or (3)(a) to provide any information, document or thing that is considered by that person as relating to the security of the State, except in accordance with a direction of the Minister.
(5) If a person required under subhead (1)(a) or (3)(a) to provide any information, document or thing claims that subhead (4) applies in relation to the matter, the designated officer shall report the matter to the Ombudsman who, subject to his or her agreement, shall refer the matter to the Independent Examiner to review the said application and, if necessary, to issue a recommendation to the Minister for his or her adjudication.

(6) If the Minister determines that the disclosure of all or part of the information, document or thing specified in the requirement would not be prejudicial to the security of the State or that its disclosure is necessary for the proper investigation of a matter concerning the death of, or serious harm to, a person as a result of Garda operations or while in the care or custody of An Garda Síochána, the Minister may issue a direction—

(a) specifying that all or part, as the case may be, of the document, information or thing be disclosed, and
(b) imposing any conditions or restrictions relating to the security of the State that the Minister considers appropriate.

(7) If it appears to the designated officer that a person has failed to comply with a requirement under subhead (1)(a) or (3)(a) for any reason other than one relating to the security of the State, the designated officer may apply to the Circuit Court for an order under subhead (8).

(8) If satisfied after hearing the application about the person’s failure to comply with the requirement in question, the Circuit Court may, subject to subhead (9), make an order requiring that person to comply with the requirement.

(9) If the Circuit Court is of opinion that the requirement in question purports to require the person concerned to provide any information, document or thing—

(a) in respect of which he or she is entitled to claim legal professional privilege, or
(b) the disclosure of which would—
   (i) jeopardise a person’s safety, or
   (ii) for any other reason not be in the public interest,

the Court shall, to that extent, set aside, vary or attach conditions to the requirement.
(10) Any information provided by a person in accordance with a requirement under subhead (1)(a) or (3)(a), with a direction under subhead (6) or pursuant to subhead (8) is not admissible against that person in criminal proceedings and this shall be explained to the person in ordinary language by the designated officer.

(11) A person who fails to comply with a direction under subhead (6) or an order under subhead (8) is guilty of an offence and is liable on summary conviction, to a class C fine or imprisonment for a term not exceeding 6 months or both.

(12) An application under subhead (7) to the Circuit Court shall be made to a judge of the Circuit Court for the circuit in which the respondent resides or ordinarily carries on any profession, business or occupation.

(13) For the purpose of subhead (10), “criminal proceedings” does not include conduct proceedings.
Head 172  Power to discontinue formal investigation

Provide that –

(1) Notwithstanding any other provision of this Act, the Garda Ombudsman may direct that a formal investigation of a complaint be discontinued if the Garda Ombudsman is:

(a) of the opinion that –
   (i) the subject matter of the complaint is trivial,
   (ii) the complainant has withdrawn the complaint,
   (iii) the complaint is vexatious,
   (iv) the complaint was made in the knowledge that it was false or misleading,
   (v) further investigation is not necessary or reasonably practicable, or
   (vi) continuing with the investigation would interfere with, or conflict with the functions of another statutory body, or
(b) is satisfied that the complaint has been resolved.

(2) Notwithstanding any other provision of this Act, the Garda Ombudsman may direct that a formal investigation of any other matter under this Part (other than a complaint) be discontinued if the Garda Ombudsman is of the opinion that –

(a) further investigation is not necessary or reasonably practicable, or
(b) continuing with the investigation would interfere with, or conflict with the functions of another statutory body.

(3) Where a direction is made under subhead (1) or (2) the Garda Ombudsman shall notify such of the following as are appropriate of his or her decision and the reason:

(a) the complainant;
(b) the member of garda personnel whose conduct is the subject of the complaint;
(c) the Garda Commissioner, the Minister, the Policing and Community Safety Authority or in the case of a disclosure, the person who made the disclosure concerned;
(d) any other person the Garda Ombudsman considers appropriate.
Head 173  Garda Ombudsman referral to the Director of Public Prosecutions

Provide that –

(1) If the Garda Ombudsman is of the opinion that a report under head 168(4) discloses conduct that may constitute an offence by a member of garda personnel, he or she shall –

(a) send a copy of the report and of the investigation file to the Director of Public Prosecutions together with any recommendations that appear to the Garda Ombudsman to be appropriate, and

(b) at the Director’s request, provide him or her with any other information relating to the investigation that appears to the Director to be necessary for performing his or her functions under the Prosecution of Offences Act 1974.

(2) The Director of Public Prosecutions shall inform the Garda Ombudsman of—

(a) a decision of the Director about whether or not to institute a prosecution in relation to the conduct that is the subject of a report received from the Garda Ombudsman under subhead (1), and

(b) if a prosecution is instituted, the progress of the prosecution and whether it results in the conviction or acquittal of the member of garda personnel whose conduct was the subject of the report.

(3) Subhead (1) is not to be taken to limit the power of the Garda Ombudsman to forward to the Director of Public Prosecutions at any time a report on an investigation that, in his or her opinion, discloses the commission of an offence.

(4) Notwithstanding that a member of garda personnel is convicted or acquitted on the merits, of an offence in respect of a matter reported to the Director of Public Prosecutions under this head or if the Director decides not to institute a prosecution in relation to that matter, the Garda Commissioner is not precluded from instituting conduct or dismissal proceedings in relation to the matter by reason only that the conduct under investigation is in substance the same as the conduct constituting the offence of which the member of garda personnel is acquitted or convicted or in respect of which no prosecution is instituted.
(5) Nothing in this head shall preclude the Garda Ombudsman from making a report under head 174 whether in addition to a report to the Director of Public Prosecutions or otherwise and providing a copy to the Garda Commissioner, the Minister or the Policing and Community Safety Authority as appropriate.
Head 174  Other actions by Garda Ombudsman following formal investigation

Provide that -

(1) If the Garda Ombudsman is of the opinion that a report under head 168(4) discloses:

(a) a matter that should be dealt with under An Garda Síochána’s performance arrangements;
(b) a matter that should be dealt with under An Garda Síochána’s misconduct arrangements; or
(c) a concern in relation to the practices, policies or procedures of An Garda Síochána or any other issue of a general or systemic nature in relation to An Garda Síochána,

the Garda Ombudsman shall provide a copy of the report to the Garda Commissioner, to the Minister or the Policing and Community Safety Authority, as appropriate with such recommendations as he or she sees fit.

(2) The Garda Commissioner shall, after being provided with a report under subhead (1) and in accordance with protocols agreed under head 181 notify the Garda Ombudsman as soon as practicable of the action (if any) that will be taken on foot of the report and the rationale for same.

(3) In any performance, conduct or dismissal proceedings instituted on foot of a recommendation in a report provided under subhead (2), a document that purports to be that report —

(a) is evidence of the facts stated in the document unless the contrary is proved, and
(b) is deemed to be such document unless the contrary is proved.

(4) Where performance, conduct or dismissal proceedings are instituted following a report provided under subhead (1) the Garda Commissioner shall following the completion of those proceedings and in accordance with protocols agreed under head 181 notify the Garda Ombudsman of the outcome and rationale for same.
(5) Nothing in this head shall preclude the Garda Commissioner from putting conduct or dismissal proceedings in abeyance pending the conclusion of proceedings for an offence in relation to all or part of the conduct that is subject of the conduct or dismissal proceedings.

(6) Subhead (1) is not to be taken to limit the power of the Garda Ombudsman to forward at any time to the Garda Commissioner for any action that he or she sees fit a report on a complaint, or other matter, that, in the opinion of the Garda Ombudsman, discloses a concern in relation to the performance or conduct of a member of garda personnel.
Head 175 Investigation of matters relating to Garda Commissioner by Garda Ombudsman

Provide that –

(1) The Garda Ombudsman may, if it appears to him or her desirable in the public interest to do so and subject to the consent of the Minister given with the approval of the Government, investigate any matter that gives rise to a concern that the Garda Commissioner may have—

(a) committed an offence, or
(b) behaved in a manner that would constitute serious misconduct.

(2) The Minister may, with the approval of the Government and if he or she considers it desirable in the public interest to do so, request the Garda Ombudsman to investigate any matter that gives rise to a concern that the Garda Commissioner may have done anything referred to in subhead (1), and the Garda Ombudsman shall investigate that matter.

(3) The Minister may, with the approval of the Government, for stated reasons refuse to consent to an investigation by the Garda Ombudsman of any matter under subhead (1).

(4) The Minister may issue a directive to a Deputy Garda Commissioner or an Assistant Garda Commissioner requiring him or her to take any lawful measures that appear to him or her to be necessary or expedient for the purposes of—

(a) preserving evidence relating to the conduct of the Garda Commissioner that is the subject of an investigation of a matter under subhead (1) or (2), and
(b) facilitating the Garda Ombudsman to obtain that evidence.

(5) A Deputy Garda Commissioner or an Assistant Garda Commissioner to whom a directive is issued under subhead (4) shall comply with the directive.

(6) The Garda Ombudsman may, for the purposes of an investigation of a matter under subhead (1) or (2), appoint a designated officer to undertake a formal investigation under head 168.
Head 176  Duty to keep certain persons informed

Provide that -

(1) The Garda Ombudsman shall of his or her own initiative or on request provide the following persons with sufficient information to keep them informed of the progress and results of a formal investigation under this Part:

(a) if the investigation is pursuant to a complaint, the complainant;
(b) if the investigation is pursuant to a matter concerning death of, or serious harm to, a person under head 164, the Minister;
(c) if the investigation is pursuant to a request or referral by the Minister under head 166(2) or (3) or head 167(2);
   (i) the person who brought the subject matter of the referral to the attention of the Minister or on whose behalf it was brought to his or her attention; and
   (ii) the Minister;
(d) if the investigation relates to the Garda Commissioner pursuant to head 175, the Minister;
(e) if the investigation is pursuant to a referral by the Policing and Community Safety Authority under head 166(5);
   (i) the person who brought the subject matter of the referral to the attention of the Authority or on whose behalf it was brought to his or her attention;
   (ii) the Authority; and
   (iii) the Minister;
(f) if the investigation is pursuant to a referral by the Garda Commissioner under head 166(7), the Minister;
(g) if known and subject to head 160(8), a member of garda personnel whose conduct or performance is the subject matter of the investigation;
(h) the Garda Commissioner save for an investigation referred to under (d); and
   (i) any other person that the Garda Ombudsman considers has a sufficient interest in the matter.

(2) The duties imposed by this head do not extend to requiring the Garda Ombudsman to provide information the disclosure of which would, in his or her opinion—

(a) prejudice a criminal investigation or prosecution,
(b) jeopardise a person’s safety,
(c) be contrary to section 16 of the Protected Disclosures Act 2014, or
(d) for any other reason not be in the public interest.
Head 177  Provision of information to Garda Ombudsman by Garda Síochána

Provide that –

(1) Subject to this Act the Garda Commissioner shall, as soon as practicable, provide the Garda Ombudsman with such information and documents as the Garda Ombudsman may request for the purpose of, or in connection with, the exercise of any of his or her functions.

(2) The Garda Commissioner may not be required under subhead (1) to provide any information or documents that is considered by the Garda Commissioner as relating to the security of the State, except in accordance with a direction of the Minister.

(3) If the Garda Commissioner claims that subhead (2) applies, the Garda Ombudsman shall refer the matter to the Independent Examiner to review the said application and, if necessary, to issue a recommendation to the Minister for his or her adjudication.

(4) If the Minister determines that disclosure of all or part of the information or documents specified in the requirement would not be prejudicial to the security of the State or that its disclosure is necessary for the proper investigation of a matter concerning the death of, or serious harm to, a person as a result of Garda operations or while in the care or custody of the Garda Síochána, the Minister may issue a direction—

(a) specifying that all or part, as the case may be, of the document, information or thing be disclosed, and

(b) imposing any conditions or restrictions relating to the security of the State that the Minister considers appropriate.
Head 178  Duty to preserve evidence

Provide that-

(1) The Garda Commissioner shall ensure that members of garda personnel, on becoming aware of a complaint under this Part or of any matter notified or referred to the Garda Ombudsman under this Part, take any lawful measures that appear to them to be necessary or expedient for the purpose of obtaining and preserving evidence relating to that complaint or other matter.

(2) Subhead (1) applies whether or not a determination has been made under head 160 about the admissibility of a complaint.
Head 179  Extension of time limit for instituting summary proceedings for offences

Provide that -

(1) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings in respect of a matter relating to an offence reported to the Director of Public Prosecutions under this Part may be instituted within 18 months from the date of the offence.

(2) For the purpose of this head, it shall be presumed, unless the contrary is proved, that the offence was reported by the Office of the Garda Ombudsman to the Director of Public Prosecution in accordance with this Part.
Head 180  Same conduct may form basis for complaint or charge

Provide that -

(1) Nothing in this Part precludes a member of An Garda Síochána from charging a member of garda personnel with an offence or issuing a fixed charge notice in respect of an offence as permitted by law, even though the conduct to which the offence relates could be the subject matter of a complaint under this Part.

(2) However, if a complaint has been made concerning the conduct of a member of garda personnel, the person concerned may not be charged with an offence relating to that conduct except by or with the consent of the Director of Public Prosecutions.
Head 181  Protocols

Provide that -

1) As soon as practicable after the commencement of this head, the Garda Ombudsman and the Garda Commissioner shall, by written protocols, make arrangements concerning the following matters:

(a) the sending of notifications under head 165 in relation to incidents of concern;
(b) the arrangements for consultation between the Garda Ombudsman and the Garda Commissioner prior to the making of a decision under head 165(2);
(c) (i) the factors to be considered when making a decision under head 165(2) having regard to the functions of An Garda Síochána under head 8 and the functions of the Garda Commissioner under head 25; and (ii) the consideration of any submissions from the Garda Commissioner that a decision by the Garda Ombudsman to undertake an investigation under head 165(2)(d)(ii) in relation to a particular incident of concern could put in jeopardy another criminal investigation in train;
(d) the establishment and management of joint investigation teams established under head 165(2)(d)(i);
(e) the use of detention facilities at Garda Síochána stations by designated officers of the Garda Ombudsman for the purpose of exercising their powers and carrying out their duties under head 168;
(f) the application of the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Stations) Regulations 1987 (S.I. No. 119 of 1987) when those detention facilities are used by designated officers for the purpose referred to in paragraph (e);
(g) the handling of any investigations by the Garda Ombudsman under this Act that coincide with investigations by An Garda Síochána into the same matters;
(h) the sharing with each other of information (including evidence of offences) obtained by either the Garda Ombudsman or the Garda Commissioner;
(i) the sending of notifications under head 174(2) and (4);
(j) the provision of training in relation to the conduct of investigations to officers of the Garda Ombudsman by An Garda Síochána; and
(k) such other matters as the Garda Ombudsman and Garda Commissioner consider would support the proper performance of their respective functions under this Part.
(2) Protocols agreed pursuant to section 108 of the former Act shall continue to have effect, in so far as they are compatible with this Act, until they have been superseded by a protocol made under this head.
Head 182  Review of decisions by Garda Ombudsman

Provide that -

(1) Where a complainant is informed of a decision –

(a) pursuant to head 160(9) that a complaint is inadmissible, or
(b) pursuant to head 172 that the investigation of a complaint is to be discontinued,

he or she may, within 21 days of the decision being issued, submit a request to Garda Ombudsman for a review of the decision concerned.

(2) The period referred to in subhead (1) may be extended where the Garda Ombudsman is satisfied that circumstances exist that warrant the extension.

(3) A request for a review under this head shall be made in such form and shall contain such information as the Garda Ombudsman may specify.

(4) Where the Garda Ombudsman receives a request for a review under this head, the Garda Ombudsman shall carry out the review or arrange for a review to be carried out.

(5) The Garda Ombudsman shall notify the complainant, or arrange for the complainant to be notified of the outcome of the review as soon as practicable.

(6) Nothing in this head shall prevent the Garda Ombudsman from reviewing a decision that he or she has made under this Part, and, subject to this Act, taking any appropriate action to redress or reconsider any decision found to be incorrect.
Head 183 Judicial inquiry into conduct of Office of the Garda Ombudsman and procedures, policies and practices of that Office

Provide that -

(1) After consulting with the Garda Ombudsman, the Minister may if he or she considers it desirable in the public interest to do so request the Chief Justice to invite a judge to inquire (while serving as a judge) into -

(a) the conduct of the Office of the Garda Ombudsman, including a designated officer of the Garda Ombudsman, in undertaking a formal investigation under head 168 or a joint investigation under head 165(2)(d)(i); and
(b) the policies, practices or procedures of the Office of the Garda Ombudsman in relation to formal investigations under head 168 or joint investigations under head 165(2)(d)(i).

(2) The Chief Justice may invite—

(a) a judge of the Supreme Court,
(b) with the consent of the President of the Court of Appeal, a judge of the Court of Appeal, or
(c) with the consent of the President of the High Court, a judge of the High Court,

to conduct the inquiry and, if the invitation is accepted, the Chief Justice shall appoint that judge to conduct the inquiry.

(3) The appointed judge’s terms of reference shall be specified in the request and may relate to -

(a) the conduct of the Office of the Garda Ombudsman including a designated officer’s conduct either on a particular occasion or in general in undertaking an investigation under head 168 or head 165(2)(d)(i); and
(b) the policies, practices or procedures of the Office of the Garda Ombudsman on a particular occasion or in general in undertaking investigations under head 168 or head 165(2)(d)(i).

(4) Where a member of garda personnel was involved in the investigation concerned, the Minister may, following consultation with the Garda
Commissioner, specify that the terms of reference of an inquiry under subhead (3) may relate to the conduct of the member concerned.

(5) The appointed judge may conduct the inquiry in the manner he or she thinks proper, whether by examining witnesses or otherwise, and may, in particular, conduct any proceedings relating to the inquiry otherwise than in public.

(6) For the purpose of the inquiry, the appointed judge has the powers, rights and privileges vested in a judge of the High Court on the hearing of an action, including the power to—

(a) enforce the attendance of witnesses, and
(b) compel the production of records.

(7) On completing the inquiry, the appointed judge shall report its results to the Minister who shall forward a copy of the report to the Garda Ombudsman for such action as it considers appropriate in the circumstances.

(8) A report under subhead (7) may include such recommendations as the appointed judge considers relevant arising out of the matters investigated in accordance with the terms of reference of the inquiry.
Head 184   Offence of providing false or misleading information

Provide that -

(1) A person who, in relation to a complaint or investigation under this Part, provides to the Garda Ombudsman or to a member of An Garda Síochána, information that the person knows to be false or misleading is guilty of an offence and is liable on summary conviction, to a class C fine or imprisonment for a term not exceeding 6 months or both.

(2) A prosecution for an offence under this head shall not be instituted except by or with the consent of the Director of Public Prosecutions on the referral of the matter to the Director by the Garda Ombudsman.
Head 185  Jurisdiction to investigate offence under this Part

Provide that —

(1) The Garda Ombudsman shall have jurisdiction to investigate an offence under this Part.

(2) Where a designated officer is appointed by the Garda Ombudsman to investigate an offence under this Part all the powers, immunities and privileges conferred and all the duties imposed under heads 169 shall apply to the officer concerned for the purposes of that investigation and any matters ancillary or consequential to the investigation.

(3) Head 170 shall also apply to an investigation under this head.

(4) On completing an investigation under this head the designated officer concerned shall submit a report on the investigation to the Garda Ombudsman.

(5) If the Garda Ombudsman, after considering the designated officer’s report, is of the opinion that the report discloses that an offence may have been committed, the Ombudsman shall —

(a) send a copy of the report and of the investigation file to the Director of Public Prosecutions, and
(b) at the Director’s request, provide him or her with any other information relating to the investigation that appears to the Director to be necessary for performing his or her functions under the Prosecution of Offences Act 1974.

(6) The Director of Public Prosecutions shall inform the Ombudsman of —

(a) a decision of the Director about whether or not to institute a prosecution in relation to the alleged offence that is the subject of a report received from the Ombudsman under subhead (5), and
(b) if a prosecution is instituted, the progress of the prosecution and whether it results in the conviction or acquittal of the person whose conduct was the subject of the report.

(7) Notwithstanding that a member of garda personnel is convicted or acquitted of an offence in respect of a matter reported to the Director of Public
Prosecutions under this head or if the Director decides not to institute a prosecution in relation to that matter, the Garda Commissioner is not precluded from instituting conduct proceedings in relation to the matter by reason only that the conduct under investigation is in substance the same as the conduct constituting the offence of which the member of garda personnel is acquitted or convicted or in respect of which no prosecution is instituted.

(8) The duty on the Garda Ombudsman under head 176 to provide, of his or her own initiative or on request, the Garda Commissioner with sufficient information to keep him or her informed of the progress and results of a formal investigation shall apply to an investigation under this head subject to any necessary modification.
Head 186   Transitional provisions relating to complaints under the Garda Síochána Act 2005

Provide that -

(1) Where a determination as to the admissibility of a complaint under section 87 of the former Act has not been made before the repeal of the section concerned pursuant to this Act, the complaint is deemed to have been made under this Act.

(2) Where an admissible complaint is subject to the guidelines under section 90 of the former Act and the process has not been concluded before the repeal of the section concerned pursuant to this Act, the former Act continues to apply in relation to the complaint as though no provision of that Act had been repealed.

(3) Where a complaint has been referred under section 92(a) of the former Act and the investigation of the complaint has not been completed before the repeal of the section concerned pursuant to this Act, the former Act continues to apply in relation to the complaint as though no provision of that Act had been repealed.

(4) Where an investigation under section 95 or section 98 of the former Act of a complaint made under that Act has not commenced before the repeal of the section concerned pursuant to this Act, the complaint is deemed to have been made under this Act.

(5) Where an investigation under section 95 or section 98 of the former Act has commenced before the repeal of the section concerned pursuant to this Act but all matters relating to the complaint have not been completed before the repeal, the former Act continues to apply in relation to the complaint as though no provision of that Act had been repealed.

(6) Where an investigation pursuant to section 102 or 102A of the former Act has not commenced before the repeal of the section concerned pursuant to this Act, the matter concerned shall be deemed to be a matter to which this Act applies.

(7) Where an investigation pursuant to section 102 or 102A of the former Act has commenced before the repeal of the section concerned pursuant to this Act but all matters relating to the investigation have not been completed
before the repeal, the former Act continues to apply in relation to the investigation as though no provision of that Act had been repealed.

(8) For the purpose of this head, an investigation under section 95 or section 98 of the former Act commences when a designated officer of the Ombudsman Commission is appointed under either of those sections to conduct an investigation under that Act.
Head 187  Qualified privilege for certain statements and publications

Provide that

(1) A statement made in any form and without malice at a meeting or hearing with the Garda Ombudsman, Deputy Garda Ombudsman or officers of the Garda Ombudsman is privileged for the purposes of the law of defamation, and so is any subsequent publication of the statement made without malice.

(2) Where the statements in a document of, or in a report by, the Garda Ombudsman, the Deputy Garda Ombudsman or any officers of the Garda Ombudsman are made without malice, the subsequent publication of the document or report is privileged for purposes of the law of defamation.

(3) For the purposes of this head, a statement made by, or a document or report of, a person to whom a function is delegated under head 143 is deemed to be—

(a) a statement made by the Garda Ombudsman, or
(b) a document of, or a report made by, the Garda Ombudsman,

if the statement, document or report, as the case may be, is connected with the performance of the delegated function.
Head 188 Power of Garda Ombudsman to enter into agreements with law enforcement agencies or other relevant persons or bodies outside the State

Provide that –

(1) The Garda Ombudsman may, with the prior consent of the Government, enter into an agreement with a relevant person or body for the purpose of facilitating the performance by each party to the agreement of their respective functions, which agreement may, for that purpose, provide for —

(a) the co-operation of the parties,
(b) the exchange of information between the parties, or
(c) such other matters as the Garda Ombudsman thinks fit.

(2) Subject to the General Data Protection Regulation and the Data Protection Acts 1988 to 2018, the Garda Ombudsman may, pursuant to and in accordance with the terms of an agreement under this head, provide information to, and receive information from, the other party to the agreement.

(3) In this head —


‘relevant person or body’ means —

(a) a police service or other law enforcement agency outside the State, or
(b) a person or body outside the State in whom or in which functions are vested under the law of a place other than the State that are equivalent, or similar, to the functions of the Garda Ombudsman under this or any other enactment.
Head 189  Performance of functions by designated officers of Garda Ombudsman under Coroners Act 1962

Provide that –

(1) The Garda Ombudsman may, in connection with the investigation of a complaint or matter under this Part that concerns the death of a person, direct a designated officer—

(a) to perform the functions conferred on such an officer by the Coroners Act 1962 in relation to the inquiry by a coroner into the death of the person under that Act, and

(b) to provide to the coroner, at his or her request, such assistance with regard to the holding of an inquest in relation to the death of that person as would be provided by a member of An Garda Síochána in the case of any other inquest under that Act,

and a designated officer so directed shall perform those functions and provide such assistance whether or not the investigation under this Part is completed.

(2) A designated officer has, for the purposes of performing the functions of such an officer referred to in paragraph (a) of subhead (1) and of providing the assistance referred to in paragraph (b) of that subhead, all the powers, immunities and privileges conferred and all the duties imposed on a member of An Garda Síochána by or under any enactment or the common law.

(3) In this head ‘enactment’ has the meaning it has in head 169.
Head 190 Duty of members of garda personnel to account to designated officer

Provide that –

(1) A member of garda personnel shall, when directed to do so by a designated officer account for any act done or omission made by the member concerned while on duty.

(2) A failure to comply with a direction under subhead (1) shall be the subject of action in accordance with the Conduct Regulations or conduct code.

(3) The member of the garda workforce concerned shall be informed by the designated officer that such failure may lead to dismissal from the Garda Síochána.

(4) Any information provided by a member of garda personnel in accordance with a direction under subhead (1) is not admissible in any criminal proceedings against the member concerned and this shall be explained to him or her in ordinary language by the designated officer concerned.
Part 7 - Independent Examiner of Security Legislation

Head 191 Interpretation

Provide that –

In this Part, unless the context otherwise requires, the following definitions will apply:

“Act of 1993” means the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993;

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

“Act of 2011” means the Communications (Retention of Data) Act 2011;

“information holder” means any public body—

(a) with responsibilities relating to the protection of national security,
(b) responsible for or involved in the formulation, implementation or operation of security legislation, or
(c) in possession of information or a document or thing relevant to the work of the Independent Examiner,

or an individual representative thereof;

“independent oversight body” means any statutory public body, independent in the performance of its functions, which has as its purpose the oversight, inspection, investigation or otherwise examining material held by an information holder;

“security legislation” means the laws or parts thereof subject to review by the Independent Examiner under head 195, as set out in Schedule 5;

“sensitive information” has the meaning given to it by head 199;

“security services” for the purposes of this Part refers to information holders who hold sensitive information related to protecting the security of the State having regard to the matters set out in head 3(1).
Head 192 Establishment day

Provide that –

(1) The Government shall, by order, appoint a day to be the establishment day for the purposes of this Part.

(2) An order under this head shall be laid before each House of the Oireachtas.
Head 193   Establishment of office of Independent Examiner

Provide that-

(1) On the establishment day a body to be known as Scrúdaitheoir Neamhspleách na Reachtaíochta Slándála or, in the English language the office of Independent Examiner of Security Legislation stands established to perform the functions assigned to it by this Act. The holder of the office shall be known as the Independent Examiner of Security Legislation (referred to in this Part as “the Examiner”).

(2) Subject to this Act, the Examiner shall be independent in the performance of his or her functions.
Head 194  Objectives

Provide that -

The objectives of the Examiner are –

(a) to promote public confidence in the measures being taken to protect the security of the State, including by assessing whether security legislation is necessary, proportionate and effective while containing the appropriate safeguards for human rights and by preparing reports for publication,
(b) to support the Government in protecting the security of the State, including by assessing whether security legislation is adequate and is effective in combatting threats to the security of the State and by promoting efficiency and effectiveness in addressing threats to the security of the State,
(c) in pursuing his or her objectives to ensure that information is made available to the greatest extent that is possible without prejudicing the security of the State or risking a threat to life, and
(d) to ensure that his or her functions are performed in an efficient and effective manner.
Head 195  Functions

Provide that -

(1) The functions of the Examiner are—

(a) to keep under review the operation and effectiveness of security legislation;
(b) as part of the review provided for in paragraph (a), to consider whether security legislation—
   (i) is effective and proportionate in its objective and in respect of protecting the security of the State,
   (ii) is adequate for the purposes for which it was put in place,
   (iii) contains appropriate safeguards for protecting the rights of individuals, and
   (iv) remains necessary in the context of protecting the security of the State;
(c) to act as a reviewer in respect of requests for information made by oversight bodies to information holders and where necessary to submit a report of his or her review and recommendation to the relevant Minister for adjudication in such matter;
(d) to examine whether the delivery of security services is to the highest levels of efficiency and effectiveness having regard to international standards;
(e) to carry out any other functions relevant to the objectives set out in head 194 that may be assigned by the Taoiseach to the Examiner; and
(f) to prepare reports on his or her work in accordance with heads 207, 208 and 209.

(2) Subject to this Act, the Examiner may do anything which he or she considers necessary or expedient to enable him or her to perform his or her functions.

(3) In carrying out his or her functions, the Examiner shall consult with the bodies or offices that are relevant to those functions.

(4) To avoid doubt, it is not a function of the Examiner to consider any individual complaints about the activities of information holders.
Head 196  Review of other laws

Provide that -

(1) Where, in the course of performing his or her functions, the Examiner forms a view that the operation of certain laws or parts of laws, which are not classed as security legislation, relate to the protection of national security, the Examiner may review the operation of those laws or parts of laws in the manner provided for in head 195.

(2) Before undertaking a review in accordance with subhead (1), the Examiner shall notify the Minister responsible for that law of the law or part thereof to be reviewed.
Head 197  Responsibilities of other bodies

Provide that -

(1) In the performance of his or her functions, the Examiner shall have regard to the statutory responsibilities of other public bodies.

(2) Without prejudice to the generality of subhead (1), when undertaking a review in accordance with head 196(1), the Examiner shall take due care that the exercise of his or her functions will not duplicate, nor interfere with or come into conflict with the exercise by other oversight bodies of their functions.

(3) Where, in the course of the performance of his or her functions, the Examiner becomes aware of an incident of concern that is relevant to the statutory responsibilities of another independent oversight body, the Examiner shall notify the matter to that body.
Head 198  Access to information and individuals

Provide that -

(1) Information holders shall cooperate with the Examiner in the performance of his or her functions.

(2) Information holders shall, subject to subhead (5), provide the Examiner with any information, document or thing sought in the performance of his or her functions.

(3) The Examiner may require an information holder or a person nominated on his or her behalf to attend officially before him or her and the said individual shall comply with the requirement.

(4) A person attending before the Examiner under subhead (3)—

(a) shall, subject to subhead (5), answer fully and truthfully any question put to him or her by the Examiner, and

(b) if so requested by the Examiner, shall sign a declaration of the truth of his or her answer to the question.

(5) In fulfilling their obligations under this head, information holders shall ensure that any information, document or thing provided to the Examiner is subject to any exclusions or redactions the information holder considers are necessary to safeguard international intelligence sources and/or conceal the identity of a person, where revealing the person’s identity might endanger the life or safety of any person.

(6) Appropriate facilities and accommodation shall be made available to the Examiner within the premises of information holders to permit examination of documents and things and interviewing of individuals by the Examiner.
Head 199   Sensitive information

Provide that -

(1) For the purposes of this Part, sensitive information is information received by the Examiner in the course of carrying out his or her functions that, were it to be disclosed—

(a) might be in contravention or prejudicial or contrary to the security of the State, defence or international relations or to matters relating to Northern Ireland, or information originating from the international intelligence community that might affect the vital interests of the State;
(b) might endanger the life or safety of any person;
(c) might identify or provide details of a source of information, other assistance or operational methods used by a department, law enforcement agency or security agency;
(d) might reveal information about particular operations that have been, are being or are proposed to be undertaken;
(e) might reveal information provided by an international body or another country where the international body or Government of that country does not consent to its disclosure;
(f) might prejudice the giving to the State of further similar information by an international body or another country, or prejudice the giving to an international body of further similar information by other countries; or
(g) might prejudice proper cooperation of an international body or another country with the State.
Head 200  Confidentiality of sensitive information

Provide that -

(1) The Examiner, or any person who was the Examiner, or any person who is or was a member of staff of his or her office, or any person who is or was engaged under contract or other arrangement by it, shall not disclose, in or outside the State, other than in accordance with this Act, any sensitive information obtained by them in the course of their work as or for the Examiner.

(2) A person who contravenes subhead (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.

(3) A person who contravenes subhead (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.

(4) The provisions of this head are in addition to, and not in substitution for, the provisions of the Official Secrets Act 1963.
Head 201 Protection of information

Provide that -

(1) The Examiner shall put in place all necessary and reasonable measures to ensure the security of any information, document or thing provided to him or her or otherwise garnered by him or her in the course of performing his or her functions.

(2) The measures referred to in subhead (1) shall include—

(a) measures of physical and electronic security, and
(b) procedures for the appropriate handling of sensitive information by the office of the Independent Examiner.

(3) The Examiner shall secure the agreement of information holders that the measures referred to in subhead (1) are of an acceptable standard before any information, document or thing can be removed, reproduced or stored outside of an information holder’s control on a case by case basis.
Head 202  Amendment of Schedule 5

Provide that -

(1) The Minister responsible for a law may, with the approval of the Taoiseach (where the Taoiseach is not the responsible Minister), add that law, or part thereof, to the laws subject to review by the Examiner under head 195 ("security legislation"), as set out in Schedule 5, by way of Statutory Instrument.

(2) The Minister responsible for a law may, with the approval of the Taoiseach (where the Taoiseach is not the responsible Minister), remove that law, or part thereof, from the laws subject to review by the Examiner under head 195 ("security legislation"), as set out in Schedule 5, by way of Statutory Instrument.
Head 203  Amendment of Section 8 of Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993

Provide that -

The Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 is amended by the substitution of the following section for section 8—"

(1) The Independent Examiner, as established under head 193 of the Policing, Security and Community Safety Act 2021, shall undertake the duties specified in this section.

(2) For the purpose of performing his or her functions under head 195(1)(a) and (b) of the Policing, Security and Community Safety Act 2021, the Independent Examiner—

(a) shall have the power to examine any case in which an authorisation has been given, and

(b) without prejudice to the provisions contained in head 198 of the Policing, Security and Community Safety Act 2021, shall have access to and may inspect any official documents relating to an authorisation or the application therefore.

(3) The Independent Examiner may, if he or she thinks it desirable to do so, communicate with the Taoiseach or the Minister on any matter concerning interceptions.

(4) Without prejudice to the provisions contained in head 198 of the Policing, Security and Community Safety Act, every person who was concerned in, or has information relevant to, the making of the application for, or the giving of, an authorisation, or was otherwise concerned with the operation of any provision of this Act relating to the application or authorisation, shall give the Independent Examiner, on request by him or her, such information as is in his or her possession relating to the application or authorisation.

(5) If the Independent Examiner informs the Minister that he or she considers that a particular authorisation that is in force should not have been given or (because of circumstances arising after it had been given) should be cancelled or that the period for which it was in force should not have been extended or further extended, the Minister shall, as soon as may be, inform the Minister
for Transport, Energy and Communications and shall then cancel the authorisation.”.
Head 204 Amendment of Section 12 of Criminal Justice (Surveillance) Act 2009

Provide that -

The Criminal Justice (Surveillance) Act 2009 is amended by the substitution of the following section for section 12—”

(1) The Independent Examiner, as established under head 193 of the Policing, Security and Community Safety Act 2021 shall undertake the duties specified in this section.

(2) For the purpose of performing his or her functions under head 195(1)(a) and (b) of the Policing, Security and Community Safety Act 2021, the Independent Examiner may examine any case in which an authorisation is issued under section 5 or renewed or varied under section 6 or an approval is granted under section 7 or 8.

(3) Without prejudice to the provisions contained in head 198 of the Policing, Security and Community Safety Act 2021, a person in charge of a Garda Síochána premises within the meaning of head 170(11) of the Policing, Security and Community Safety Act, a place under the control of the Defence Forces or the Revenue Commissioners or any other place in which documents relevant to the performance of the functions of the Independent Examiner are kept shall ensure that the Independent Examiner has access to those places, and to the authorisations, written records of approval, reports and other relevant documents that the Independent Examiner may request.

(4) Where the Independent Examiner examines a case under subsection (2) and is of the opinion that it is in the interests of justice to do so, he or she may refer that case to the Referee for an investigation under section 11(11).”
Head 205  Amendment of Communications (Retention of Data) Act 2011

Provide that –

The Communications (Retention of Data) Act 2011 is amended by the deletion of section 11 and the substitution of the following section for section 12—“

(1) The Independent Examiner, as established under head 193 the Policing, Security and Community Safety Act 2021, shall undertake the duties specified in this section.

(2) Subsection (1) does not affect the functions of the Data Protection Commissioner under section 10 of the Data Protection Act 1988.

(3) As part of performing his or her functions under head 195(1)(a) and (b) of the Policing, Security and Community Safety Act 2021, the Independent Examiner shall ascertain whether An Garda Síochána, the Permanent Defence Force, the Revenue Commissioners and the Competition and Consumer Protection Commission are complying with the provisions of this Act.

(4) Without prejudice to the provisions contained in head 198 of the Policing, Security and Community Safety Act 2021, for the purpose of carrying out the duties assigned under this section, the Independent Examiner—

(a) has the power to examine any case in which a disclosure request is made, and

(b) may access and inspect any official documents or records relating to the request.

(5) Without prejudice to the provisions contained in head 198 of the Policing, Security and Community Safety Act 2021, any person who was concerned in, or has information relevant to, the preparation or making of a disclosure request shall give the Independent Examiner, on his or her request, such information relating to the request as is in the person’s possession.

(6) The Independent Examiner may, if he or she considers or deems it prudent to do so, communicate with the Taoiseach or the Minister concerning disclosure requests and with the Data Protection Commission in connection with its functions under the Data Protection Regulation and the Data Protection Acts 1988 to 2018.
(7) In this section, ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”
Head 206  Adjudication of requests for information

Provide that –

(1) This head relates to a situation where—

(a) the Authority has sought information, a record or document from An Garda Síochána under head 114 and the Garda Commissioner has declined to comply with this request under head 114(6);
(b) the Office of the Garda Ombudsman has sought information, a document or a thing from An Garda Síochána under head 171 or 177 and the Garda Commissioner has declined to share that information, document or thing on the grounds of the security of the State under head 171(5) or head 177(3) as the case may be;
(c) other than in the circumstances set out in subheads (a) and (b), an independent oversight body has, on the basis of a statutory provision, sought access to information, a document or a thing from an information holder and the information holder has declined to share or to provide access to that information, document or thing on the grounds of the security of the State.

(2) In the circumstances described in subhead (1), the relevant statutory body or the Garda Commissioner may request the Independent Examiner to review the matter in question with a view to issuing a recommendation where necessary to the relevant Minister for his or her adjudication.

(3) The Examiner may seek further information or interview individuals in order to make a recommendation to the relevant Minister in respect of the disclosure of relevant information by the relevant information holder to the statutory body.

(4) Where an application for a review is received from a statutory body by the Independent Examiner under subhead (2), or a notification under head 170(5), the Independent Examiner shall review the said case and submit a recommendation for a determination by the relevant Minister.

(5) Where a request for a review under subhead (2) or a notification under subhead (4) is received by the Examiner, the independent oversight body submitting the request for review and An Garda Síochána or other information holder shall submit all relevant information to the Examiner to allow an adjudication to be made.
(6) Having consulted with the relevant independent oversight body and information holder, the Examiner may put in place guidance to be followed by an independent oversight body and information holder for the processing of requests for information, with a view to reducing the number of requests refused and the number of requests appealed.
Head 207  Annual report

Provide that -

(1) Subject to the provisions of this head, the Examiner shall, not later than 3 months after the end of each year, submit to the Taoiseach a report on his or her activities in the immediately preceding year (referred to in this head as the “annual report”).

(2) Subject to subhead (6), the annual report shall, at least once every three years, include a report on the performance of the functions contained in head 195(1)(a) and (b) in respect of each law falling within the category of security legislation, with the exception of the Act of 1993, Act of 2009 and Act of 2011, which shall be reported on every year.

(3) The annual report shall include –

(a) a general statement on the performance during the reporting period of the functions contained in head 195(1)(c); and
(b) a general statement on the notifications received under head 165(6).

(4) Subject to subhead (6), the annual report shall include a report on the performance during the reporting period of any functions assigned to the Examiner under head 195(1)(d).

(5) A report submitted under this head may contain any recommendations the Examiner considers appropriate in pursuit of the objectives set out in head 194, for the consideration of the Taoiseach.

(6) Should the Examiner wish to delay the delivery of the annual report or postpone the inclusion in the report of a matter that would normally be required to be reported on under subheads (2) or (4), the Examiner may submit a reasoned request to the Taoiseach to this effect.

(7) Without prejudice to the generality of subhead (6), reasons that may be considered by the Taoiseach in respect of a request under subhead (6) shall include to enable the Examiner to manage his or her workload, including in respect of reports being prepared under head 208.

(8) In the event that the Taoiseach agrees to a request under subhead (6)—
(a) a delay of up to six months may be granted for the delivery of the annual report, or
(b) a matter that would normally be required to be reported on under subheads (2) or (4) may instead be included in the following annual report.

(9) Details of any request made to the Taoiseach under subhead (6) should be included in the following annual report, along with the Taoiseach’s response.
Head 208  Other reports

Provide that -

(1) The Examiner may make any other reports that he or she considers appropriate for drawing to the attention of the Taoiseach matters relating to the Examiner’s objectives or functions that have come to the Examiner’s notice and that, in his or her opinion, should, because of their gravity or other exceptional circumstances, be the subject of a special report to the Taoiseach.

(2) The Taoiseach may request the Examiner—

(a) to prepare and submit to him or her a report on the actions taken by, or conduct of, a public body in respect of a specific security incident or operation; or
(b) to prepare and submit to him or her a report in respect of any other matter relating to the Examiner’s objectives or functions,

and the Examiner shall comply with the request and submit the report to the Taoiseach as soon as practicable after receiving it.

(3) A report submitted under this head may contain any recommendations the Examiner considers appropriate in pursuit of the objectives set out in head 194, for the consideration of the Taoiseach.
Head 209  Reviews

Provide that -

(1) The Examiner shall submit to the Taoiseach a report reviewing the general performance of his or her functions as may be requested by the Taoiseach from time to time.

(2) The report submitted under subhead (1) may contain recommendations for improving the effectiveness of the office of Independent Examiner, including in respect of the functions and powers assigned to it by this Act.
Head 210  Inclusion of sensitive information in reports of Examiner

Provide that -

(1) In this head, “relevant information holder” means the public body which provided the sensitive information in question and “relevant Minister” means the Minister (including where applicable the Taoiseach) responsible for the relevant information holder.

(2) Sensitive information shall not be included in reports of the Examiner published in accordance with head 211 other than with the agreement of the relevant information holder and relevant Minister in accordance with this head.

(3) Before formally submitting a report to the Taoiseach, the Examiner shall consult with relevant information holders and relevant Ministers in order that they may form a view on whether the report contains any sensitive information that is not suitable for publication, having regard to the potential consequences of disclosure set out in head 199.

(4) As part of the process set out in subhead (3), where a relevant information holder or relevant Minister forms the view that the report contains sensitive information that is not suitable for publication, the Examiner shall agree with the relevant information holder or relevant Minister redactions or amendments to the report in order to render the report suitable for publication.

(5) Where the Examiner is of the view that it is necessary for the proper discharge of his or her functions to include sensitive information that is not suitable for publication in a report submitted to the Taoiseach under heads 207, 208, or 209, the Examiner shall also submit an unclassified version of the report, which shall be subject to the procedures set out in subheads (3) and (4).

(6) Where the Examiner submits two versions of a report to the Taoiseach in accordance with subhead (5), only the unclassified version shall be published in accordance with head 211.
Head 211  Publication of reports

Provide that -

Subject to head 210(6), the Taoiseach shall lay reports submitted to him or her by the Examiner under heads 207, 208 and 209 before the Houses of the Oireachtas within 6 weeks of their having been submitted to him or her.
Head 212  Response to reports of Examiner

Provide that -

(1) Following the publication in accordance with head 211 of a report submitted by the Independent Examiner under heads 207, 208 or 209, the Taoiseach shall issue a response on behalf of the Government within 3 months.

(2) The response referred to in subhead (1) shall address any recommendations made in the report of the Examiner referred to in subhead (1).

(3) Subject to subhead (4), the response referred to in subhead (1) shall be laid before the Houses of the Oireachtas.

(4) Where the Examiner has submitted two versions of a report to the Taoiseach in accordance with head 210 (6), the Taoiseach may respond privately on behalf of the Government in respect of the version of the report containing sensitive information not suitable for publication.
Head 213   Appointment of Examiner

Provide that -

(1) Subject to this head, the Examiner shall be appointed by the Government on the passage of resolutions by Dáil Éireann and Seanad Éireann recommending his or her appointment.

(2) The Government may, before the establishment day of the office of Independent Examiner of Security Legislation, designate a person to be appointed as the first holder of the office of Independent Examiner of Security Legislation (“the Examiner”).

(3) If, immediately before the establishment day of the office of Independent Examiner of Security Legislation, a person stands designated under subhead (2), the person shall, on that day, stand appointed as the Examiner.

(4) Except for the first appointed Examiner, a person shall not be appointed as the Examiner unless a resolution has been passed by each House of the Oireachtas recommending his or her appointment.

(5) In considering the nomination of a person to be appointed as the Examiner, the Government shall satisfy themselves that the person has the appropriate experience, qualifications, training or expertise.

(6) A person is not eligible to be nominated or appointed as the Examiner unless he or she—
   (a) has been granted a Patent, as defined in Section 170 of the Legal Services Regulation Act 2015, or
   (b) holds or has held judicial office in a superior court.

(7) A person is not eligible to be nominated or appointed as the Examiner 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) perceived as having a conflict of interest that may arise from previous employment or professional experience or any matter of significance related therein.
(8) A person who holds judicial office in a superior court may, without relinquishing that office, be appointed, with his or her consent, as the Examiner, but, unless otherwise provided by the terms of the appointment, he or she shall not, while Examiner, be required to carry out duties under statute as the holder of that judicial office.

(9) Schedule 6 has effect if a person who holds judicial office in a superior court is appointed as the Examiner.
Head 214 Terms and conditions of appointment

Provide that -

(1) Subject to head 215, the Examiner holds office for such period, not exceeding 5 years from the date of his or her appointment, as the Government shall determine.

(2) The Examiner is eligible for reappointment for a second term.

(3) The Examiner holds office on the terms and conditions relating to remuneration (including allowances for expenses, benefits in kind and superannuation) or other matters that may be determined by the Government at the time of appointment or reappointment.

(4) Whenever a vacancy occurs in the office of Examiner caused by the resignation, removal from office or the death of the Examiner, the vacancy is to be filled by appointment in the manner specified in head 213, within three months of the vacancy having arisen.

(5) Where it does not prove possible to fill a vacancy in the office of Examiner caused by the resignation, removal from office or the death of the Examiner within three months of the vacancy having arisen, the Taoiseach shall nominate a person to perform the functions of the Examiner on an acting basis until an appointment is made.

(6) Where the Examiner is unable to discharge the functions of the office of Examiner for a temporary but extended period, the Taoiseach may nominate a person to perform the functions of the Examiner on an acting basis until such time as the Examiner is able to reassume his or her position.

(7) For as long as a person is acting in place of the Examiner under subheads (5) and (6) references in this Act to the Examiner are to be read as references to that person.
Head 215 Disqualification, resignation and removal from office

Provide that -

(1) The Examiner may resign from office by letter addressed to the Taoiseach, and the resignation takes effect on the date the Taoiseach receives the letter.

(2) The Government may remove the Examiner from office, but only for stated misbehaviour or for incapacity.

(3) A person shall be disqualified for holding and shall cease to hold office as the Examiner if he or she—
   (a) is adjudicated bankrupt,
   (b) makes a composition or arrangement with his or her creditors,
   (c) is convicted on indictment of an offence,
   (d) is convicted of an offence involving fraud or dishonesty,
   (e) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
   (f) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act.

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

he or she shall thereupon cease to be the Examiner, as the case may be.
Head 216  Provision of services and staff to Examiner

Provide that -

(1) Such funds, premises, facilities, services and staff as may be necessary for the proper functioning of the office of the Examiner shall be provided to it by the Minister with the consent of the Minister for Public Expenditure and Reform.

(2) The Minister may appoint such and so many persons to be members of the staff of the office of the Examiner as he or she considers necessary to assist the Examiner in the performance of his or her functions.

(3) Such persons shall be appointed on such terms and subject to such conditions and shall receive such remuneration as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine.
Head 217  Power to enter into contracts

Provide that -

(1) Subject to subhead (2), the Examiner may, with the consent of the Minister and the Minister for Public Expenditure and Reform, as he or she considers necessary to assist him or her in the performance of his or her functions, enter into contracts with suitable persons.

(2) Having regard to the responsibility of the Minister for protecting the security of the State, he or she may, by regulations made with the consent of the Taoiseach, provide for procedures to determine the suitability of, and any requirements to be met by, persons referred to in subhead (1).

(3) The Minister may, in consultation with the Taoiseach, decline to approve the entering into a contract by the Examiner with a person on the basis of the procedures provided for in subhead (2).

(4) There may be paid by the office of the Examiner, out of the resources at its disposal, to persons referred to in subhead (1), such fees (if any) or allowances for expenses (if any) incurred by them as the Examiner, with the consent of the Taoiseach and the Minister for Public Expenditure and Reform, may determine.
Part 8 - Regulations and Miscellaneous Provisions

Head 218  General power to make regulations

Provide that -

(1) The Minister may, with the approval of the Government—

(a) by regulation provide for any matter referred to in this Act as prescribed or to be prescribed, and
(b) in addition to any other power conferred on him or her to make regulations, make regulations generally for the purposes of and for the purposes of giving full effect to this Act.

(2) Before making regulations under this head, the Minister shall consult with any or all of the following as the Minister considers appropriate:

(a) the Garda Commissioner;
(b) the Board;
(c) the Authority;
(d) the Office of the Garda Síochána Ombudsman.

(3) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.
Head 219 Regulations relating to management of Garda Síochána

Provide that –

(1) The Minister may, after consulting with the Garda Commissioner and the Authority and with the approval of the Government, make regulations for the management of An Garda Síochána, including regulations relating to any or all of the following matters:

(a) the addition or removal of any rank below the rank of Assistant Commissioner specified in head 36(2);
(b) the duties of the different ranks in An Garda Síochána;
(c) the admission, appointment and enrolment of members, including members who have served with other police services and members with different ethnic or national origins or different religious beliefs or backgrounds;
(d) the selection processes to apply to appointments to different ranks including the nomination by the Authority of a representative to participate in selection boards;
(e) the term of appointment to a rank of Deputy Garda Commissioner or Assistant Commissioner to be for a fixed term;
(f) the appointment to An Garda Síochána of members on secondment from any other police service;
(g) the training of members;
(h) the pay and allowances of members, including the conditions under which they are payable;
(i) the retirement of members, including the retirement ages of reserve members and other ranks in An Garda Síochána;
(j) the payment of pensions, allowances and gratuities to members and their spouses or civil partners within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, children and dependents, including—
(i) the conditions under which those pensions, allowances and gratuities are payable,
(ii) the rates and scales of payment, and
(iii) the penalties for fraudulent conduct in relation to an application for a pension, allowance or gratuity;
(k) the promotion of members;
(l) requirements relating to the resignation of members;
(m) the use of facilities, equipment, arms or services by An Garda Síochána;
(n) the formation of associations referred to in head 48 and matters relating to the role, status and carrying out of business within An Garda Síochána of those associations;
(o) the limitations, restrictions or conditions applicable to the exercise of the Garda Commissioner’s powers under head 32;
(p) the circumstances in which and the extent to which police services for certain events referred to in head 34(3) may be provided by An Garda Síochána;
(q) the costs to be taken into account under head 34(4) in relation to the provision of police services;
(r) the limitations, restrictions or conditions applicable to the delegation of the Garda Commissioner’s functions under head 31;
(s) the recruitment, training and terms and conditions of reserve members appointed under head 42; and
(t) any other matter relating to the organisation, training, carrying out of duties, efficiency, management or administration of An Garda Síochána.

(2) In making regulations, the Minister shall consider the objective of promoting effectiveness, efficiency and economy in An Garda Síochána.

(3) A regulation under this head may—

(a) apply generally to all ranks and grades in An Garda Síochána and to reserve members,
(b) apply only to—
   (i) specified ranks and grades in An Garda Síochána,
   (ii) members on secondment to an international organisation under head 73(2)(d),
   (iii) members appointed to An Garda Síochána under head 75 on secondment from the Police Service of Northern Ireland,
   (iv) members on secondment to the Police Service of Northern Ireland under head 76,
   (v) members appointed to An Garda Síochána on secondment from any other police service, or
   (vi) reserve members,
(c) make different provision for different ranks or grades in An Garda Síochána or for different categories of members mentioned in paragraph (b)(ii) to (v), and
(d) authorise any matter or thing to be determined or applied by a specified person or body.
Head 220  Performance regulations

Provide that —

(1) The Minister may, after consulting with the Garda Commissioner, and with the approval of the Government, make regulations concerning the management of the performance and attendance of members, including, but not limited to, regulations relating to the matters provided for in subhead (2).

(2) The regulations relating to the management of the performance and attendance of members under subhead (1) may specify—

(a) performance or attendance matters that may be subject to address under regulations,
(b) procedures to be followed when addressing such performance or attendance matters,
(c) actions to be taken to improve the performance or attendance of a member based on the findings or outcomes of procedures established in line with subparagraph (b),
(d) procedures allowing for the review of findings or outcomes of procedures established in line with subparagraph (b), and
(e) the ongoing monitoring and recording of performance or attendance matters dealt with under these regulations.

(3) The regulations may confirm that, having commenced actions relating to a matter under these regulations, those actions may be ceased and actions, provided for in regulations made under head 221, may be commenced should evidence suggest that the matter in question relates to the conduct of a member.

(4) The regulations made under subhead (1) may—

(a) make different provisions under subhead (2) for different categories of acts or omissions referred to in subhead (2) based on whether the acts or omissions were the subject of a complaint referred by the Garda Ombudsman under head 160(6)(b) or based on any other factor, and
(b) provide for the taking of different forms of action under the regulations in relation to members based on their rank or on any other factor.
Head 221  Conduct regulations

Provide that —

(1) The Minister may, after consulting with the Garda Commissioner, and with the approval of the Government, make regulations concerning the conduct of members, including, but not limited to, regulations relating to the matters provided for in subheads (2) to (6).

(2) The regulations relating to the conduct of members made under subhead (1) may specify—

(a) the conduct matters subject to address under these regulations,
(b) the procedures to be followed where such conduct matters are alleged,
(c) The disciplinary action or any other action to be taken to address any such allegation whether it is substantiated or otherwise, and
(d) the ongoing monitoring and recording of conduct matters dealt with under these regulations.

(3) The regulations may specify acts or omissions that may be the subject of action under the regulations made under subhead (1), including—

(a) any matter constituting a breach of standards of professional behaviour as provided for in regulations under head 222,
(b) failure to co-operate with an investigation under the law and procedures referred to in head 77(2)(a),
(c) any matter constituting a breach of standards of professional behaviour as defined in head 77(6),
(d) failure to co-operate with an investigation conducted under this Scheme or the regulations or with a panel established under the regulations to make determinations in relation to a conduct matter, and
(e) any abuse of procedure by a member with respect to a search of a garda premises under head 170.

(4) The regulations may also provide for the procedures to be followed if the Garda Ombudsman makes a recommendation in a report to the Garda Commissioner under head 174(1).

(5) Regulations relating to the procedures to be followed in the circumstances referred to in this head may, where appropriate, include provision for—
(a) an investigation, the manner in which the investigation is to be conducted and the appointment of a member of An Garda Síochána to conduct the investigation,

(b) the making of recommendations or reports following an investigation, the persons to whom the recommendations or reports are to be made and the action to be taken as a result of the reports,

(c) hearings by a panel to determine whether or not the act or omission was done or made,

(d) the taking of action under the regulations made under subhead (1) and the circumstances in which a decision concerning that action may be taken by a panel, the Garda Commissioner, the Board of An Garda Síochána or the Government, and

(e) an appeal from a determination referred to in paragraph (c) or from a decision of a panel, the Garda Commissioner or the Board of An Garda Síochána relating to an action taken under the regulations made under subhead (1) and for the time limits and other restrictions or conditions subject to which the right of appeal may be exercised.

(6) The regulations may also—

(a) provide for the establishment of a panel referred to in subhead (6)(c), for the appointment of its members and for the conduct of its business,

(b) specify the powers of a panel,

(c) specify the persons who are entitled to attend hearings before a board panel,

(d) empower a panel to require persons to attend before it,

(e) empower a panel to require persons to give evidence or produce documents to it,

(f) enable a panel to administer oaths or take affirmations,

(g) provide for the admissibility of evidence,

(h) specify any matters that a panel is to have regard to in making a determination, including in appropriate cases, a report by the Ombudsman under head 174,

(i) empower a board panel to make a determination or decision in relation to a member of An Garda Síochána notwithstanding his or her absence from a hearing, if, after being notified of it, the member fails without proper cause to attend the hearing,

(j) provide for an appeals process as referred to in subhead (6)(e) and for the appointment of its members,

(k) appoint persons to conduct appeals and specify the powers available to those persons, and
(l) provide for privilege under the law of defamation in relation to reports published by or statements made by a board [panel] or the appeal body under the regulations.

(7) The regulations made under subhead (1) may—

(a) make different provisions under subhead (2) for different categories of acts or omissions referred to in subhead (2) based on whether the acts or omissions were the subject of a report by the Garda Ombudsman or based on any other factor, and
(b) provide for the taking of different forms of disciplinary action under the regulations in relation to members based on their rank or on any other factor.

(8) A person who—

(a) without reasonable excuse, does not comply with a requirement imposed under the regulations by a panel to attend before it or to give evidence or produce documents to it, or
(b) gives to a panel evidence that he or she knows to be false or misleading,

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

(9) The regulations may provide that if, having commenced actions relating to a matter under these regulations, those actions may be ceased and actions, provided for in regulations made under head 220, may be commenced should evidence suggest that the matter in question relates to the performance of a member.

(10) In this head—

“panel” means a panel established by regulation under subhead (6)(a);

“disciplinary action” means—

(a) a written warning;
(b) temporary reduction in pay not exceeding 2 weeks’ pay;
(c) a final written warning; or
(d) dismissal.
Head 222 Regulations relating to standards of professional behaviour

Provide that -

(1) The Minister may, after consulting with the Garda Commissioner and the Garda Síochána Ombudsman, and with the approval of the Government, make regulations prescribing the standards of professional behaviour applicable to members of garda personnel.

(2) The Minister may make different provision under subhead (1) for members and members of garda staff.
Head 223  Regulations relating to fees for provision of vetting services

Provide that –

(1) The Minister may -

(a) after consultation with the Garda Commissioner, and
(b) with the consent of the Minister for Public Expenditure and Reform,

make regulations prescribing fees in relation to the provision of vetting services in accordance with head 8(1).
Head 224 Continuation of certain regulations and orders

Provide that –

(1) The regulations and orders made or continued under an enactment repealed by head 4 with the exception of each regulation or order specified in Schedule 7 continue in force until they are revoked by the Minister under this head or others are made in their place under this Part.

(2) The Minister may, with the approval of the Government, amend or revoke an order or regulation continued in force under this head.
**Head 225  Dissolution of the Garda Síochána Reward Fund**

Provide that –


2. Any sums standing to the credit of the Garda Síochána Reward Fund and any sums that, but for subhead (1) of this head, would be paid into that Fund shall be paid into, or disposed of in accordance with the directions of the Minister for the benefit of the Exchequer.

3. This head shall come into operation on such day as may be fixed by order made by the Minister.
Head 226  Certificate evidence

Provide that —

(1) In any legal proceedings, a certificate signed by the Garda Ombudsman or Deputy Garda Ombudsman and stating that the person named in the certificate was a designated officer of the Office of the Garda Síochána Ombudsman for a specified purpose during a specified period is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.

(2) In any legal proceedings, a certificate signed by the Garda Ombudsman or Deputy Garda Ombudsman and stating that a specified function of the Office of the Garda Síochána Ombudsman was on a specified date delegated by it in accordance with head 143(8) to (11) to a specified person and specifying the restrictions or conditions, if any, imposed on the delegation is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.

(3) A certificate referred to in subhead (1) or (2) that purports to be signed by Garda Ombudsman or Deputy Garda Ombudsman is admissible in evidence in any legal proceedings without proof of the member’s signature.
Head 227    Proof of membership, rank or grade in Garda Síochána

Provide that —

In legal proceedings, a person purporting to be a member of An Garda Síochána of any rank, a reserve member, or a member of garda staff of any grade is, in the absence of evidence, to the contrary, presumed to be a member of that rank, a reserve member or a member of garda staff of that grade.
Head 228  Exercise of special powers by security officers

Provide that –

(1) The Minister may, by order, designate as an authorised body for the purposes of this head any of the following:

(a) the Courts Service;
(b) a Department of State;
(c) the Office of the Attorney General;
(d) the Houses of the Oireachtas Commission;
(e) the National Gallery of Ireland;
(f) the Board of the National Museum of Ireland.

(2) For the purposes of this head, the head of an authorised body may, in writing—

(a) specify any premises in which any activity relating to the functions of that body is carried out, and
(b) designate a person as a security officer in relation to those premises if satisfied that—
   (i) the person is a suitable person to exercise the powers of a security officer under this head in relation to specified premises,
   (ii) the person has received adequate training for that purpose, and
   (iii) where the person is an employee of a person with whom the authorised body or its head has entered into a contract for the provision of security services (“the contractor”), the contractor and employee shall be the holder of a security guard licence required under the Private Security Services Act 2004.

(3) A security officer may, in carrying out his or her duties in relation to specified premises, exercise any of the powers set out in subhead (4) or, if applicable, subhead (5), but only if—

(a) the security officer is identifiable as such by means of a badge or uniform, and
(b) the powers are exercised in accordance with any general or special instruction of the person by whom the security officer is designated.

(4) Subject to subhead (7), a security officer has the following powers:
(a) to search any person who is in or seeks entry to the specified premises in relation to which the officer is designated;
(b) to examine any article that is in or is being delivered to or brought into those premises;
(c) to exclude or remove from the premises any person who, without good cause—
   (i) refuses to be searched, or
   (ii) refuses to allow an article in his or her possession to be examined;
(d) to exclude or remove any person from the premises if it is necessary to do so—
   (i) to protect a person or any property, or
   (ii) to allow the business of the authorised body to proceed without interference or delay;
(e) to require any person who is in or seeks entry to the premises to identify himself or herself;
(f) to seize, in exercising powers under this head, any weapon other than one in the possession of a person with lawful authority;
(g) to seize any article that the officer has reason to believe is being unlawfully removed from the premises;
(h) to use reasonable force where necessary in exercising a power conferred under paragraph (c), (d), (f) or (g).

(5) In addition, a security officer designated under subhead (2) by the Chief Executive of the Courts Service may, in carrying out the officer’s duties in relation to specified premises all or part of which is a court, at the oral direction of a judge—

(a) remove from the court any person who commits contempt of court, or
(b) take into custody any person who commits contempt of court and deliver that person into the custody of a member of An Garda Síochána as soon as practicable.

(6) Unless the court has ordered by warrant or otherwise that a person taken into custody under subhead (5)(b) be committed to prison or be released, that person shall, before the court rises, be brought by—

(a) the security officer concerned, if still in his or her custody, or
(b) a member of An Garda Síochána, if already delivered into the custody of An Garda Síochána,

before the court for it to deal with the matter.
(7) A security officer may use reasonable force where necessary in complying with a direction under subhead (5) or carrying out a duty under subhead (6).

(8) The powers conferred on security officers under this head do not authorise a security officer to—

(a) require a person to remove clothing other than outer garments, such as coats, hats, jackets and shoes, or
(b) read any document that would be exempt from production in any proceedings in a court on the ground of legal professional privilege.

(9) Nothing in this head affects any power of arrest conferred by law, including the power conferred under section 4 of the Criminal Law Act 1997.

(10) In this head—

“authorised body” means a body that for the time being is designated by the Minister under subhead (1);

“head of an authorised body” means—

(a) in relation to a Department of State, the Minister of the Government having charge of the Department,
(b) in relation to the Office of the Attorney General, the Attorney General, and
(c) in relation to any other authorised body, the person who holds or performs the functions of the chief executive officer (by whatever name called) of that body;

“premises” includes—

(a) any building or part of a building, and
(b) any land ancillary to a building;

“security officer” means a person who for the time being is designated by the head of an authorised body under subhead (2) as a security officer for the purpose of guarding, patrolling or providing any other protective services in relation to specified premises and persons on those premises;
“specified premises” means premises specified in accordance with subhead (2) by the head of an authorised body.
Head 229  Sharing of information for the performance of functions

Provide that –

(1) For the performance of their respective functions under this Act and the regulations or any other enactment -

(a) the Garda Commissioner,
(b) the Policing and Community Safety Authority, and
(c) the Office of the Garda Síochána Ombudsman

may share information, including personal information, with each other in accordance with the law.
Part 9 - Consequential Amendments

Head 230 Amendment of Public Service Superannuation (Miscellaneous Provisions) Act 2004

Provide that –

The Public Service Superannuation (Miscellaneous Provisions) Act 2004 is amended in section 4(4) (as inserted by section 1 of the Public Service (Superannuation) Amendment Act 2018), by the substitution of “the Policing, Security and Community Safety Act 2021” for “the Garda Síochána Act 2005”.

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Head 231   Amendment of Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013

Provide that -

The Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 is amended in section 9(6)(i), by the substitution of “section 141(5) of the Policing, Security and Community Safety Act 2021” for “section 68(2) of the Garda Síochána Act 2005”.
Head 232 Amendment of Animal Health and Welfare Act 2013

Provide that -

The Animal Health and Welfare Act 2013 is amended in section 55(1)(c) by the substitution of “in accordance with section 9 of the Policing, Security and Community Safety Act 2021” for “in accordance with section 8 of the Garda Síochána Act 2005”.

Head 233  Amendment of Welfare of Greyhounds Act 2011

Provide that -

The Welfare of Greyhounds Act 2011 is amended in section 26(3)(d), by the substitution of “in accordance with section 9 of the Policing, Security and Community Safety Act 2021” for “in accordance with section 8 of the Garda Síochána Act 2005”.

Head 234 Amendment of Road Traffic Act 2010

Provide that -

The Road Traffic Act 2010 is amended -

(a) in section 81(8) by the substitution of “a member of garda staff” for “a member of the civilian staff of An Garda Síochána”; and

(b) in section 81(9) by the substitution of –

(i) “’member of An Garda Síochána’ other than in subsections (4) and (7), includes a member of garda staff” for “’member of the Garda Síochána’ other than in subsections (4) and (7), includes a member of the civilian staff of the Garda Síochána”; and

“’member of garda staff’ means a person appointed under section 45(1) or who becomes a member of garda staff under section 45(5) of the Policing, Security and Community Safety Act 2021” for “’member of the civilian staff of the Garda Síochána’ means a person appointed or designated as being transferred under section 19 of the Garda Síochána Act 2005”.

Head 235  Amendment of Industrial Relations Act 1990

Provide that -

The Industrial Relations Act 1990 is amended –

(a) in section 3(1) by the substitution of the following definitions –

(i) for the definition of ‘Act of 2005’:
(ii) for the definition of ‘Garda Commissioner’:
   “ ‘Garda Commissioner’ has the same meaning as it has in the Act of 2021;”,
(iii) for the definition of ‘Garda Síochána’:
   “ ‘Garda Síochána’ means the police service referred to in section 6 of the Policing, Security and Community Safety Act 2021;”, and
(iv) for the definition of ‘member’:
   “ ‘member’, in relation to An Garda Síochána, has the same meaning as it has in the Act of 2021, but does not include-
   (a) the Garda Commissioner, or
   (b) a reserve member within the meaning of the Act of 2021;”,

(b) in section 23 –

(i) in subsection (1B)(c) by the substitution of “section 48 of the Act of 2021” for “section 18 of the Act of 2005”, and
(ii) in subsection (1C)(a) by the substitution of “section 48(3) of the Act of 2021” for “section 18(3) of the Act of 2005”. 


Head 236 Amendment of Criminal Justice (Offences relating to Information Systems) Act 2017

Provide that –

The Criminal Justice (Offences relating to Information Systems) Act 2017 is amended in section 7(9) by the substitution of the following definition for the definition of “member”:

“‘member’ means a member of An Garda Síochána who falls within paragraph (a) of the definition of “member” in section 2 of the Policing, Security and Community Safety Act 2021.”
Head 237  Amendment of Criminal Justice (Victims of Crime) Act 2017

Provide that -

The Criminal Justice (Victims of Crime) Act 2017 is amended in section 2(1) by the substitution of the following definitions –

(a) for the definition of “Act of 2005”:
   “‘Act of 2021’ means the Policing, Security and Community Safety Act 2021;”,

(b) for the definition of “member of An Garda Síochána”:
   “‘member of An Garda Síochána’ has the same meaning as it has in section 2 of the Policing, Security and Community Safety Act 2021;”, and

(c) for the definition of “officer of the Ombudsman Commission”:
   “‘officer of the Garda Ombudsman’ means

   (i) a person who is appointed, or becomes an officer of the Garda Síochána Ombudsman, under section 148 of the Policing, Security and Community Safety Act 2021, and
   (ii) a person who is engaged by the Garda Síochána Ombudsman, pursuant to an arrangement under section 150 of that Act;”,
Head 238 Amendment of Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016

Provide that -

The Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 is amended in Schedule 2 –

(a) in para. 1 by the deletion of “(e) the Garda Inspectorate” and insertion of “(p) the Policing and Community Safety Authority”, and

(b) in para. (3)(b) by the substitution of “section 2 of the Policing, Security and Community Safety Act 2021” for “section 3 of the Garda Síochána Act 2005”. 
Head 239 Amendment of Freedom of Information Act 2014

Provide that -

The Freedom of Information Act 2014 is amended –

(a) in section 42(d)(i) and 42(d)(i)(A) by the substitution of “section 69 of the Policing, Security and Community Safety Act 2021” for “section 42 of the Garda Síochána Act 2005”,

(b) in section 42 by the addition of paragraph “(n) a record held or created by the Independent Examiner of Security Legislation.”

(c) in Schedule 1, Part 1 –

(i) in paragraph (o) by the substitution of “the Policing and Community Safety Authority, insofar as it relates to records concerning an inspection carried out by that Authority under section 104(2)(c) or (d) of the Policing, Security and Community Safety Act 2021” for “the Garda Síochána Inspectorate, insofar as it relates to records concerning an inspection or inquiry carried out by that Inspectorate under section 117(2) of the Garda Síochána Act 2005”, and

(ii) in paragraph (y) by the substitution of “Part 6 of the Policing, Security and Community Safety Act 2021” for “Part 4 of the Garda Síochána Act 2005”.

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Head 240 Amendment of National Vetting Bureau (Children and Vulnerable Persons) Act 2012

Provide that -

The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 is amended in section 7(2) by the substitution of “section 8 of the Policing, Security and Community Safety Act 2021” for “section 7 of the Garda Síochána Act 2005”.

Head 241  Amendment of Europol Act 2012

Provide that –

The Europol Act of 2012 is amended in section 6(4) by the substitution of “under section 41 of the Policing, Security and Community Safety Act 2021” for “under section 14 of the Garda Síochána Act 2005”
Head 242 Amendment of Criminal Justice (Corruption Offences) Act 2018

Provide that –

The Criminal Justice (Corruption Offences) Act 2018 is amended in Schedule 1 by the deletion of “(m) the Garda Síochána Inspectorate, (o) the Policing Authority” and the insertion of “(y) the Policing and Community Safety Authority”.
Head 243  Amendment of Criminal Justice (Surveillance) Act 2009

Provide that –

The Criminal Justice (Surveillance) Act 2009, as amended by Garda Síochána (Amendment) Act 2015, is amended –

(a) in section 1 by the –

(i) deletion of “‘chairperson’, in relation to the Ombudsman Commission, means the member of the Ombudsman Commission who is appointed or acting as its chairperson under section 65 of the Garda Síochána Act 2005”;

(ii) deletion of “‘member of the Ombudsman Commission’ means a member of the Ombudsman Commission appointed under section 65 of the Garda Síochána Act 2005”;

(iii) deletion of “‘ Ombudsman Commission ’ means the Garda Síochána Ombudsman Commission”;

(iv) insertion of “‘Garda Ombudsman’, means the Garda Síochána Ombudsman who is appointed under section 140 of the Policing, Security and Community Safety Act 2021”;

(v) insertion of “‘Deputy Garda Ombudsman’ means the Deputy Garda Síochána Ombudsman who is appointed under section 140 of the Policing, Security and Community Safety Act 2021”;

(vi) insertion of “’Office of the Garda Ombudsman’ means the Office of the Garda Síochána Ombudsman continued in being under section 139 of the Policing, Security and Community Safety Act 2021”;

(vii) insertion of “‘Independent Examiner’ means the Independent Examiner of Security Legislation, as appointed under section 193 of the Policing, Security and Community Safety Act 2021; and

(viii) substitution of -

(I) “designated officer of the Garda Ombudsman” means –

(a) an officer of the Garda Ombudsman appointed under section 148 of the Policing, Security and Community Safety Act 2021, or

(b) a person engaged by the Garda Ombudsman under section 150 of the Policing, Security and Community Safety Act 2021, who is designated by the Garda Ombudsman under section 149 of that Act for the purpose of performing functions under any provision of Part 6 of that Act” for the definition of “designated officer of the Ombudsman Commission”;

(II) “member of An Garda Síochána” means a member of An Garda Síochána within the meaning of section 2 of the Policing, Security
and Community Safety Act 2021, other than a person referred to in paragraph (b) of that definition” for the definition of “member of the Garda Síochána”;

(III) “(aa) in the case of the Office of the Garda Ombudsman, the Deputy Garda Ombudsman as appointed under section 140 of the Policing, Security and Community Safety Act 2021;” for “(aa) in the case of the Ombudsman Commission, a member of the Ombudsman Commission other than its chairperson;” under the definition of “superior officer”;

(IV) “(ii) in relation to approvals granted by a superior officer of, and documents and information in the custody of, the Office of the Garda Síochána Ombudsman”, for “(ii) in relation to approvals granted by a superior officer of, and documents and information in the custody of, the Ombudsman Commission” under (a) of the definition of “relevant Minister”,

(b) in section 4(1A), section 11(5)(c)(i), section 11(5)(c)(ia), section 13(4) under the definition of ‘relevant person’ subsection (e) and section 15(2)(c), by the substitution of “Office of the Garda Ombudsman” for “Ombudsman Commission”,

(c) in section 2(1), section 2(4)(b), section 3; section 5(7); section 7(1), section 7(7)(c), section 7(12)(aa), section 8(1), section 8(7)(c) , section 8(10)(aa), section 13(4) under the definition of “relevant person” under subsection (a), section 14(4)(a) and section 14 (5), by the substitution of “designated officer of the Garda Ombudsman” for “designated officer of the Ombudsman Commission”,

(d) in section 4(1A), by the substitution of “Deputy Ombudsman” for “superior officer of the Ombudsman Commission”,

(e) in section 7(12)(aa), section 8(10)(aa) and section 13(4) under the definition of “authorised person” subsection (d)(i) by the substitution of “Garda Ombudsman” for “chairperson of the Ombudsman Commission”,

(f) in section 11(10) by the substitution of “A person in charge of a Garda Síochána premises within the meaning of section 170(11) of the Policing, Security and Community Safety Act 2021, a place under the control of the Office of the Garda Ombudsman” for “A person in charge of a Garda Síochána station within the meaning of section 99(10) of the Garda Síochána Act 2005, a place under the control of the Ombudsman Commission”,

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(g) in section 13(4) under the definition of ‘authorised person’ by the substitution of “(a) a person referred to in section 68(4)(a) of the Policing, Security and Community Safety Act 2021” for “(a) a person referred to in section 62(4)(a) of the Garda Síochána Act 2005”,

(h) in section 13(4) under the interpretation of ‘relevant person’ by the substitution of “(b) a reserve member of An Garda Síochána within the meaning of the Policing, Security and Community Safety Act 2021” for “(b) a reserve member of the Garda Síochána within the meaning of the Garda Síochána Act 2005”,

(i) in section 13(4) under the interpretation of ‘relevant person’ by the substitution of “(ba) an officer of the Garda Ombudsman other than a designated officer of the Garda Ombudsman” for “(ba) an officer of the Ombudsman Commission other than a designated officer of the Ombudsman Commission”,

(j) in section 13(4) under the interpretation of ‘relevant person’ by the substitution of “(d) a member of garda staff of An Garda Síochána or of the Defence Forces, or” for “(d) a member of the civilian staff of the Garda Síochána or of the Defence Forces, or”,

(k) in section 11(5)(d) and section 11(11)(b) by the substitution of “Independent Examiner” for “designated judge”.

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Head 244 Amendment of Children Act 2001

Provide that –

The Children Act 2001 is amended in section 257C(5) by the substitution of “including a member of a community safety fora (within the meaning of the Policing, Security and Community Safety Act 2021)” for “including a member of the local policing forum (within the meaning of the Garda Síochána Act 2005)”.
Head 245 Amendment of Ombudsman Act 1980

Provide that –

The second Schedule to the Ombudsman Act 1980 (Exempt Agencies) (as replaced by the Part 2 of the Schedule to the Ombudsman (Amendment) Act 2012) is amended by the deletion of “42. Garda Síochána Inspectorate” and the insertion of “111. Policing and Community Safety Authority”.
Head 246  Amendment of Criminal Justice (International Cooperation) Act 2019

Provide that –

The Criminal Justice (International Cooperation) Act 2019 is amended in section 3(4)(c) by the substitution of “section 8 of the Policing, Security and Community Safety Act 2021” for “section 7 of the Act of 2005”. 
Head 247 Amendment of Coroners Act 1962

Provide that –

The Coroners Act 1962 (as amended by the Coroners Act 2019) is amended –

(a) in section 2 by the substitution of -

(i) “‘designated officer of the Garda Ombudsman’ means –

(a) an officer of the Garda Síochána Ombudsman, or

(b) a person engaged by the Garda Síochána Ombudsman under section 149 of the Policing, Security and Community Safety Act 2021, who is designated by the Garda Síochána Ombudsman under section 150 of that Act for the purpose of performing functions under Part 6 of that Act relating to a relevant Garda Síochána Ombudsman Investigation;” for the definition of ‘designated officer of the Ombudsman Commission’;

(ii) “‘relevant Garda Ombudsman investigation’ means an investigation by the Garda Síochána Ombudsman under Part 6 of the Policing, Security and Community Safety Act 2021 concerning the death of the person in relation to whose death a coroner is performing functions under this Act;” for the definition of ‘relevant Ombudsman Commission investigation’;

(iii) “‘Office of the Garda Ombudsman’ means the Office of the Garda Síochána Ombudsman” for the definition of ‘ Ombudsman Commission’;

(b) in section 20(1), section 25(1)(c), section 25(1)(c)(ii), section 25(2)(c), section 27(1), section 33A(2)(d), section 33E(3)(d), section 36, section 40(3), section 43, section 47(1A), section 49A(3) and section 49(A)(5) by the substitution of “Garda Ombudsman” for “ Ombudsman Commission”;

(c) in section 29(3)(e) and section 29(4)(e), by the substitution of “Garda Ombudsman” for “Garda Síochána Ombudsman Commission”.

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Head 248 Amendment of Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Provide that -

The Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 is amended –


(b) in section 40 by the substitution of the following definition for the definition of “member of the Garda Síochána”: “ ‘member of An Garda Síochána’ has the meaning it has in section 2 of the Policing, Security and Community Safety Act 2021;”,

(c) in section 41(2)(b), 41(3)(b), 42(2)(b) and 42(3)(b) by the substitution of “admitted in accordance with the Act of 2021 to training for membership (including as a reserve member within the meaning of section 2 of the Act) of An Garda Síochána” for “admitted in accordance with the Act of 2005 to training for membership (including as a reserve member within the meaning of section 3 of that Act) of the Garda Síochána”,

(d) in section 45(2)(b) by the substitution of “in accordance with the Act of 2021 admitted to training for membership (including as a reserve member within the meaning of section 2 of that Act) of An Garda Síochána” for “in accordance with the Act of 2005 admitted to training for membership (including as a reserve member within the meaning of section 3 of that Act) of the Garda Síochána”,

(e) in section 146 by the substitution of “section 74 of the Policing, Security and Community Safety Act 2021” for “section 28 of the Garda Síochána Act 2005”.

(f) In section 157(2) by the substitution of “Part 6 of the Act of 2021” for “Part 4 of the Act of 2005”. 
Head 249   Amendment of Housing Miscellaneous (Provisions) Act 2009

Provide that –

The Housing Miscellaneous Provisions Act 2009 is amended in section 35(5)(a) by the substitution of “(a) any local community safety partnership established under section 92 of the Policing, Security and Community Safety Act 2021 in respect of its administrative area” for “(a) any joint policing committee established under section 36 of the Garda Síochána Act 2005 in respect of its administrative area”.
Head 250  Amendment to Taxes Consolidation Act 1997

Provide that -

The Taxes Consolidation Act 1997 is amended in Schedule 13 by the substitution of the “201. Policing and Community Safety Authority” for “201. Policing Authority”.

Head 251 Amendment of Comptroller and Auditor General (Amendment) Act 1993

Provide that —

The Comptroller and Auditor General (Amendment) Act 1993 is amended by the substitution of section 18A by the following:

“Application of this Act to Garda Síochána and other bodies.

18A. This Act applies to An Garda Síochána, the Office of the Garda Síochána Ombudsman and the Policing and Community Safety Authority as though they were Departments.”
Head 252   Amendment of Fisheries (Consolidation) Act 1959

Provide that –

The Fisheries (Consolidation) Act 1959 is amended –

(a) by the substitution of section 315 with -

“Payments to Inland Fisheries Ireland in respect of fines for certain offences

(1) This section applies to –
   (a) an offence under any section of this Act (other than a section contained in Part XV or XVI or section 217, 290 or 323), or
   (b) an offence against any bye-law made under section 57 of the Inland Fisheries Act 2010.
(2) Where a fine imposed for an offence to which this section applies has been paid or levied, then, unless the fine has been wholly remitted, there shall be paid to Inland Fisheries Ireland a sum equal to the fine, or, if the fine was remitted in part, of so much thereof as was not remitted.
(3) All moneys payable under subsection (2) of this section shall be paid by the Minister out of moneys provided by the Oireachtas at such times as he thinks fit.”;

(b) by the substitution of section 318 with -

“Payments to Inland Fisheries Ireland in respect of proceeds of certain forfeitures.

(1) Where –
   (a) Any thing is forfeited under any section of this Act (other than one contained in Parts XV or XVI or under any bye-law made under section 57 of the Inland Fisheries Act 2010 is forfeited under paragraph (b) of section 302, and
   (b) Such thing is sold by direction of the Minister under section 317 there shall be paid to Inland Fisheries Ireland a sum equal to the said net proceeds.
(2) All moneys payable under subsection (1) of this section shall be paid by the Minister out of moneys provided by the Oireachtas at such times as he thinks fit.”

(c) in section 319 -
(i) by the substitution of “where the said net proceeds are to be dealt with
in accordance with paragraph (a) of this subsection such proceeds shall
be paid to Inland Fisheries Ireland.” for subsection (1)(c).
## SCHEDULE 1 (Head 4)
### Repeals

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<td>Sections 5, 6 and 7</td>
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SCHEDULE 2 (Head 45(7))

Terms and conditions of civilian staff who become garda staff

(1) Except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person who under head 45(5) becomes a member of garda staff shall not, while in the service of An Garda Síochána receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service than the scale of pay to which he or she was entitled and the terms and conditions of service to which he or she was subject immediately before he or she became a member of garda staff.

(2) Until such time as the scale of pay and the terms and conditions of service of a person who became a member of garda staff are varied by the Garda Commissioner with the agreement of the Minister and the Minister for Public Expenditure and Reform, following consultation with any recognised trade union or staff association concerned, the scale of pay to which he or she was entitled and the terms and conditions of service, restrictions, requirements and obligations to which he or she was subject immediately before the person became a member of garda staff shall continue to apply to him or her and may be applied or imposed by the Garda Commissioner while he or she is a member of garda staff and no such variation shall operate to worsen that scale of pay or those terms or conditions of service applicable to such person immediately before the person became a member of garda staff, except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned.
SCHEDULE 3 (Head 72(2))

Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland on Police Co-Operation, done at Belfast on 29 April 2002

The Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland:

Having regard to the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland done at Belfast on 10 April 1998 (“the British-Irish Agreement”) and to the Multi-Party Agreement reached at Belfast on 10 April 1998 annexed to the aforesaid Agreement;

Having regard also to the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland done at Dublin on 8 March 1999 establishing a British-Irish Intergovernmental Conference;

Considering the report of the Independent Commission on Policing for Northern Ireland published in September 1999 (“the Patten Report”);

Taking into account the progress made within the European Union on improving police co-operation pursuant to the provisions of Title VI of the Treaty on European Union;

Recalling the discussions that took place between the two Governments at Weston Park in July 2001, the measures announced on 1 August 2001 and the Updated Implementation Plan for the Patten Report published in August 2001;

Noting the establishment of the new Policing Board for Northern Ireland;

Have agreed as follows:

Article 1

Eligibility to apply for posts

(1) (a) The Government of the United Kingdom of Great Britain and Northern Ireland shall introduce the necessary administrative and legislative measures to enable members of the Garda Síochána to apply for posts at ranks of above Inspector level in the Police Service of Northern Ireland.

(b) When determining the eligibility of a member of the Garda Síochána to apply for such posts in the Police Service of Northern Ireland, appropriate recognition will be
given to the rank, experience and qualifications that would be required for an equivalent rank in the Garda Síochána. An eligible applicant will be required to compete in a merit-based selection procedure with all other applicants.

(2) (a) The Government of Ireland shall introduce the necessary administrative and legislative measures to enable members of the Police Service of Northern Ireland to apply for posts at ranks of above Inspector level in the Garda Síochána.

(b) When determining the eligibility of a member of the Police Service of Northern Ireland to apply for a post in the Garda Síochána, appropriate recognition will be given to the rank, experience and qualifications that would be required for an equivalent rank in the Police Service of Northern Ireland. An eligible applicant will be required to compete in a merit-based selection procedure with all other applicants.

Article 2

Secondment with Policing Powers

(1) (a) The Government of the United Kingdom of Great Britain and Northern Ireland shall introduce the necessary administrative and legislative measures to enable members of the Garda Síochána to be seconded to the Police Service of Northern Ireland for periods not exceeding three years.

(b) For the duration of such secondments, the member in question shall have the same powers, duties, rights and obligations, including as appropriate the wearing of the uniform, as an attested member of the Police Service of Northern Ireland. For the duration of the secondment, the member shall not be subject to the direction and control of the Garda Commissioner and shall not exercise police powers within the jurisdiction of the Government of Ireland.

(2) (a) The Government of Ireland shall introduce the necessary administrative and legislative measures to enable members of the Police Service of Northern Ireland to be seconded to the Garda Síochána for periods not exceeding three years.

(b) For the duration of such secondments, the member in question shall have the same powers, duties, rights and obligations, including as appropriate the wearing of the uniform, as an attested member of the Garda Síochána. For the duration of the secondment, the member shall not be subject to the direction and control of the Chief Constable of the Police Service of Northern Ireland and shall not exercise police powers within Northern Ireland.
Article 3

Police Protocols

(1) The Police Service of Northern Ireland and the Garda Síochána shall, as appropriate, draw up written Protocols between them addressing detailed aspects of co-operation between them, including in particular the issues referred to in Articles 2, 3, 5, 6, 7, 8, 9 and 10 of this Agreement.

(2) Such Protocols shall be signed by the Commissioner of the Garda Síochána and the Chief Constable of the Police Service of Northern Ireland or persons authorised to do so on their behalf. Copies of all such Protocols shall be forwarded to the Minister for Justice, Equality and Law Reform, the Secretary of State for Northern Ireland and the Northern Ireland Policing Board.

(3) Such Protocols shall not constitute international agreements and shall not have binding effect on either Government.

Article 4

Annual Conference

An annual conference shall be convened between the Police Service of Northern Ireland and the Garda Síochána. It shall be hosted by each service on an alternating basis and the conference topics shall be decided by mutual arrangement between the two services. The costs of the conference shall be met by the host service and each service shall meet their own travel costs in attending the conference.

Article 5

Personnel Exchanges

(1) A programme shall be introduced to facilitate members of the Police Service of Northern Ireland being placed in the Garda Síochána, and members of the Garda Síochána being placed in the Police Service of Northern Ireland for periods not exceeding one year.

(2) The purpose of these placements will be to further enhance links and to transfer experience and expertise, including in the area of training.

(3) Members of the Garda Síochána will, for the duration of their placement, report to and work with the Police Service of Northern Ireland. However the member
placed will remain a full member of the Garda Síochána subject to the overall
direction and control of the Garda Commissioner and shall not exercise any police
powers in Northern Ireland.

(4) Members of the Police Service of Northern Ireland will, for the duration of their
placement, report to and work with the Garda Síochána. However the member
placed will remain a full member of the Police Service of Northern Ireland subject to
the overall direction and control of the Chief Constable and shall not exercise any
police powers in the jurisdiction of the Government of Ireland.

Article 6
Liaison

(1) Officers in both services shall be designated as liaison officers as considered
appropriate to enhance co-operation between the Garda Síochána and the Police
Service of Northern Ireland.

(2) The Commissioner of the Garda Síochána and the Chief Constable of the Police
Service of Northern Ireland shall, in consultation with the respective Governments,
explore other methods of enhancing liaison including the possible exchange of
liaison officers.

Article 7
Training

The Police Service of Northern Ireland and the Garda Síochána shall enhance
structures for co-operation in the area of training.

Article 8
Disaster Planning

The Police Service of Northern Ireland and the Garda Síochána shall, in consultation
with other authorities responsible for the emergency services in both jurisdictions,
work together in promoting improved joint planning.

Article 9
Joint Investigations

(1) The Police Service of Northern Ireland and the Garda Síochána shall, as appropriate, make full use of existing arrangements for facilitating joint investigations and additional arrangements that are put in place in the context of European Union developments.

(2) An expert group shall be established by both Governments to review the existing arrangements and to make recommendations on legal and administrative measures that could be taken to facilitate further the operation of joint Police Service of Northern Ireland and Garda Síochána investigations.

Article 10

Communications

(1) The Police Service of Northern Ireland and the Garda Síochána shall review communication links on an ongoing basis with a view to establishing and enhancing fast, effective and reliable communications.

(2) The Police Service of Northern Ireland and the Garda Síochána shall, as appropriate, consult with one another in the context of the procurement and development of their communications and information technology systems, and shall take into account the desirability of achieving greater compatibility between their systems.

Article 11

Relationship with other international agreements

This Agreement shall not affect the rights and obligations of the Parties under other international agreements.

Article 12

Each Government shall notify the other in writing of the completion, so far as it is concerned, of the requirements for entry into force of the Agreement. This Agreement shall enter into force on the date of the receipt of the later of the two notifications.
In witness whereof the undersigned, being duly authorised thereto by the respective Governments, have signed this Agreement.

Done in two originals at Belfast on the Twenty-ninth day of April 2002.

For the Government of Ireland: JOHN O’DONOGHUE

For the Government of the United Kingdom of Great Britain and Northern Ireland: JOHN REID

**AMENDMENT TO THE AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ON POLICE COOPERATION**

Dermot Ahern TD
Department for Justice, Equality and Law Reform
94 St Stephen’s Green Dublin

28 April 2010

Dear Dermot

**INTERTOVERNMENTAL AGREEMENT ON POLICE CO-OPERATION**

I have the honour to refer to the Agreement between our two Governments on Police Co-operation, signed in 2002, following talks at Weston Park.

I further have the honour to refer to recent discussions between our two Governments confirming that the continued operation of the Agreement is an important expression of co-operation between our two Governments, who have introduced the necessary legislation to allow for lateral entry and secondments of police officers between the forces. The Agreement takes account of the framework within which the PSNI and An Garda Síochána might agree operational protocols on subjects specified in the Agreement, viz secondments, exchanges, liaison officers, training, disaster planning, joint investigations, and communications.

Having regard to the above discussions, I have the honour to propose that the Agreement shall be amended as follows:

**Article 3 Police Protocols:**
(2) Such Protocols shall be signed by the Commissioner of the Garda Síochána and the Chief Constable of the Police Service of Northern Ireland or persons authorised to do so on their behalf. Copies of all such Protocols shall be forwarded to the Minister for Justice, Equality and Law Reform, the Department of Justice in Northern Ireland, the Secretary of State for Northern Ireland and the Northern Ireland Policing Board.

If the foregoing proposals are acceptable to your Government, I have the honour to propose that this letter and your reply to that effect shall be regarded as constituting an Agreement between our two Governments which shall enter into force immediately on the date of your reply.

Yours

The RT Hon Paul Goggins MP
Minister of State for Northern Ireland

RT Hon Paul Goggins MP
Minister of State for Northern Ireland
Castle Buildings
Belfast BT4 3SG
Northern Ireland

Dear Paul

I have the honour to acknowledge your letter of 8 April 2010 which reads as follows:

“I have the honour to refer to the Agreement between our two Governments on Police Co-operation, signed in 2002, following talks at Weston Park.

I further have the honour to refer to recent discussions between our two Governments confirming that the continued operation of the Agreement is an important expression of co-operation between our two Governments, who have introduced the necessary legislation to allow for lateral entry and secondments of police officers between the forces. The Agreement takes account of the framework within which the PSNI and An Garda Síochána might agree operational protocols on subjects specified in the Agreement, viz secondments, exchanges, liaison officers, training, disaster planning, joint investigations, and communications.

Having regard to the above discussions, I have the honour to propose that the Agreement shall be amended as follows:

**Article 3 Police Protocols:**
(2) Such Protocols shall be signed by the Commissioner of the Garda Síochána and the Chief Constable of the Police Service of Northern Ireland or persons authorised to do so on their behalf. Copies of all such Protocols shall be forwarded to the Minister for Justice, Equality and Law Reform, the Department of Justice in Northern Ireland, the Secretary of State for Northern Ireland and the Northern Ireland Policing Board.

If the foregoing proposals are acceptable to your Government, I have the honour to propose that this letter and your reply to that effect shall be regarded as constituting an Agreement between our two Governments which shall enter into force immediately on the date of your reply.”

In reply, I have the honour to inform you that the foregoing proposals are acceptable to the Government of Ireland, who will regard your letter and this reply as constituting an Agreement between our two Governments which shall enter into force on today’s date.

Dermot Ahern TD
Minister For Justice Equality & Law Reform
19 April 2010
SCHEDULE 4 (Head 140(8))

Appointment of Person Holding Judicial Office as Garda Ombudsman or Deputy Garda Ombudsman

If Supreme Court judge or former Supreme Court judge is appointed as Garda Ombudsman or Deputy Garda Ombudsman

1. (1) If a person appointed as the Garda Ombudsman or Deputy Garda Ombudsman 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 Garda Ombudsman or Deputy Garda Ombudsman 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 is appointed as Garda Ombudsman or Deputy Garda Ombudsman

2. (1) If a person appointed as the Garda Ombudsman or Deputy Garda Ombudsman 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 Garda Ombudsman or Deputy Garda Ombudsman 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 as Garda Ombudsman or Deputy Garda Ombudsman, 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.
3. (1) If a person appointed as the Garda Ombudsman or Deputy Garda Ombudsman is, when so appointed, 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 the Garda Ombudsman or Deputy Garda Ombudsman 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 the Garda Ombudsman or Deputy Garda Ombudsman, 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.

4. (1) If a person appointed as the Garda Ombudsman or Deputy Garda Ombudsman is, when so appointed, an ordinary judge of the Circuit Court, then, for so long as he or she continues to hold that judicial office, the number of ordinary judges of the Circuit 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 the President of the Circuit Court, for so long as he or she continues to be the Ombudsman or Deputy Ombudsman, another judge may be appointed to the role of President of the Circuit Court subject to Part 3 section 9 of the Courts of Justice Act 1947 and exercise on his or her behalf (and which judge is hereby empowered to exercise) all jurisdiction exercisable by the President of the Circuit Court under Part 3 section 10 of the Courts of Justice Act 1947.
SCHEDULE 5 (Section 202)

Security legislation

1. For the purposes of this Act, security legislation means —

   (a) the laws listed in head 3(1)(a)(i)
   (b) the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993
   (c) the Criminal Justice (Surveillance) Act 2009
   (d) the Communications (Retention of Data) Act 2011

2. Further laws, or parts thereof, may be added to Paragraph (1) of this Schedule in accordance with the procedure laid down in head 202.
SCHEDULE 6 (Section 213)

Appointment as Independent Examiner of person holding judicial office

If Supreme Court judge or former Supreme Court judge is appointed as Independent Examiner

1. (1) If a person appointed as the Independent Examiner 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 Independent Examiner 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 Independent Examiner

2. (1) If a person appointed as the Independent Examiner 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 Independent Examiner 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 as Independent Examiner, 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 as Independent Examiner

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3. (1) If a person appointed as the Independent Examiner is, when so appointed, 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 the Independent Examiner 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 the Independent Examiner, 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.
SCHEDULE 7 (Head 224)

Regulations and orders made under or continued under an enactment repealed by head 4 which are not to be continued in force under this Act

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