

General Scheme

Criminal Justice (Miscellaneous Provisions) Bill 2020

Approved by Government 8 September 2020

CRIMINAL JUSTICE (MISCELLANEOUS PROVISIONS) BILL 2020

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Head 1 - Amendment of section 2 (Restriction on possession, use, and carriage of firearms) of the Firearms Act 1925

Provide for:

The amendment of subsection 2(3) of the Firearms Act 1925 as follows –

(a) the substitution in paragraph (g) of “humane slaughter of animals;” for “humane slaughter of animals.” and

(b) the addition of the following paragraph:

“(h) the possession, use or carriage of a firearm or ammunition in the course of his or her duties by a member of the staff of Forensic Science Ireland. For the purpose of this paragraph “a member of the staff of Forensic Science Ireland” means an officer of the Minister who is assigned to perform duties in FSI;”

Note

This Head provides for an exemption for FSI from the restrictions on possession, use and carriage of firearms as provided for in s. 2 of the Firearms Act 1925 (as amended).

The exemption applies to restricted and non-restricted firearms as subsection 2(6) does not limit the exemption.

The reference to “a member of the staff of Forensic Science Ireland” includes the Director of Forensic Science Ireland.



Head 2 – Insertion of a new section 3F (Restrictions on licensing of semi-automatic centre-fire rifles) into the Firearms Act 1925

Provide for:

The insertion of a new Section 3F after Section 3E of the Firearms Act 1925 (as amended) as follows -

“Restriction on licensing of semi-automatic centre-fire rifles.

3F. — (1) An application for a firearm certificate in respect of a semi-automatic centre-fire rifle shall be refused by an issuing person other than for a semi-automatic centre-fire rifle for which the applicant for the firearm certificate held a firearm certificate on or before 18 September 2015.

(2) Any firearm certificate in respect of a semi-automatic centre-fire rifle, other than one to which subsection (1) relates, granted between 18 September 2015 and the date of commencement of this section and in force shall stand revoked.

(3) For the purposes of this section, “semi-automatic centre-fire rifle” means rifled long firearms which use a round which is greater than .22 inch calibre and can reload automatically from a magazine or cylinder each time a round is discharged but can fire not more than one round with a single pull on the trigger.”

Note

This Head gives effect to the Minister’s commitment to introduce a cap on the licensing of centre-fire semi-automatic rifles.

The Head is modelled on section 3D of the Firearms Act 1925 as amended by section 30 of the Criminal Justice (Miscellaneous Provisions) Act 2009.



Head 3 - Insertion of a new section 3G (Altering the marking of a firearm) into the Firearms Act 1925

Provide for:

The insertion of a new Section 3G after Section 3F(above) of the Firearms Act 1925 (as amended), as follows –

“Altering the marking of a firearm.

3G. — (1) A person who intentionally falsifies, illicitly obliterates, removes or alters the marking of a firearm shall be guilty of an offence.

(2) A person who is guilty of an offence under this section is liable—

(a) in case the firearm is a restricted firearm —

(i) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, and

(ii) on conviction on indictment, to a fine not exceeding €20,000 or imprisonment for a term not exceeding 7 years or both, and

(b) in any other case—

(i) on summary conviction, to a fine not exceeding €2,500 or imprisonment for a term not exceeding 12 months or both, and

(ii) on conviction on indictment, to a fine not exceeding €10,000 or imprisonment for a term not exceeding 5 years or both.”

Note

Article 5(1)(c) of the UN Firearms Protocol* requires State Parties to establish criminal offences for persons falsifying or illicitly obliterating, removing or altering the marking on firearms as required under Article 8 of the Protocol. Although section 6 of the Firearms (Proofing) Act 1968 provides that a person shall not apply a mark to a firearm such as to be calculated to deceive, this would not fully meet the requirements of Article 5(1)(c). Accordingly, this Head seeks to introduce a new offence which complies with Article 5(1)(c).

*Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime. EU Directive 2008/51/EC integrates the appropriate provisions required by the Firearms Protocol as regards intra-Community transfers of weapons. S.I. 493 of 2010 transposed the Directive into Irish law.



Head 4 – Insertion of a new section 3H (Marking a firearm on import) into the Firearms Act 1925

Provide for:

The insertion of a new Section 3H after Section 3G(above) of the Firearms Act 1925 (as amended), as follows –

“Marking a firearm on import

3H. — (1) The Minister may make regulations to give effect to article 8(1)(b) of the Protocol against the illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime in relation to marking of each imported firearm, permitting identification of the country of import (Ireland) and the year of import.

(2) Such regulations shall apply where the State is the place of import onto the Community market of a firearm to which European Communities (Acquisition and Possession of Weapons and Ammunition) (Amendment) Regulations 2010 applies.

(3) Such regulations shall specify the unique markings of a firearm for the State [Ireland] as country of import and for the year of import.

(4) The unique markings referred to in subsection (3) shall be engraved upon an essential component of the firearm concerned, to be specified in the Regulations.”

Note

Article 8(1)(b) of the Firearms Protocol requires States to mark imported firearms permitting identification of the country of import and, where possible, the year of import, enabling the competent authorities to trace the firearm. A unique marking is required if the firearm does not bear such a marking.

Accordingly, Head 4 seeks to give effect to article 8(1)(b) by providing for the marking of the country of import and the year of import. It is envisaged, for example, where a firearm was imported into Ireland in 2014, the marking could simply read IMP IRL 2014.

To comply with the Protocol, all firearms imported into the EU for the first time should be stamped by the importing Member State with a mark identifying the country and year of import; The intra-EU trade in firearms will not require an additional import mark each time a firearm crosses an internal EU border. However, firearms permanently exported from the EU which subsequently return should be re-stamped with a new import mark and a fresh record made.



Head 5 – Insertion of a new section 6B (Disposal of firearms) into the Firearms Act 1925

Provide for:

The insertion of a new Section 6B after Section 6A of the Firearms Act 1925 (as amended), as follows –

“Disposal of firearms.

6B. — (1) The Minister may, following consultation with the Commissioner, make regulations to give effect to article 6(2) of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime on measures to destroy illicitly manufactured and trafficked firearms and ammunition.

(2) Subject to subsection (3), such regulations shall specify the conditions for the destruction of firearms and ammunition which have been illicitly manufactured or trafficked.

(3) Such regulations shall provide for disposal other than by destruction according to one or more of the following criteria:

- (a) Forensic purposes
- (b) [Scientific purposes]
- (c) Historical purposes
- (d) [Cultural purposes].”

Note

Article 6 of the Firearms Protocol provides for the confiscation, seizure and disposal of illicitly manufactured or trafficked firearms and ammunition.

Head 5 allows the Minister to make regulations to give effect to Article 6(2) of the Protocol.



Head 6 – Amendment of section 5 (an exemption for keeping of small quantities of low hazard explosives) of the Explosive Act 1875

Provide for:

The amendment of section 5 of the Explosives Act 1875 by the insertion of the following subsection after subsection (2) (that is, after the second subsection (2)) as an additional subsection to which section 5 shall not apply:

“(3). To the keeping of any gunpowder by any person to an amount not exceeding in a sales area eleven pounds where the gunpowder is a Category F1 firework or a Category P1 pyrotechnic article or an article classified as UN No 0014 and the following conditions are met:

The Category F1 fireworks, the Category P1 pyrotechnic articles or the articles classified as UN No. 0014, as the case may be, are kept in a designated area which prevents unauthorised access and which is located well away from sources of ignition, sparks and flammable materials and which does not compromise escape routes.

In this subsection:

- (a) “Sales Area” means the area of the shop where the public has access to.
- (b) “Category F1” firework means a firework which presents a very low hazard and negligible noise level and which is intended for use in confined areas and includes fireworks which are intended for use inside domestic buildings.
- (c) “Category P1” pyrotechnic article means a pyrotechnic article other than fireworks and theatrical pyrotechnic articles which presents a low hazard.
- (d) “UN No. 0014” means the United Nations Serial Number assigned in accordance with the recommendations contained in the manual published by the United Nations and entitled “Twentieth Revised Edition of the Recommendations by the United Nations Committee of Experts on the Transport of dangerous Goods” (ISBN 978-92-1-139159-6) or a later revised edition of those Recommendations.”



Note

The Explosives Act 1875 is the primary legislation within the State which regulates the storage of explosives¹. In accordance with section 5 of this Act all explosives must be kept in either a factory in which it is manufactured, a magazine² or a store³ licensed under the Act or in a premises registered⁴ under the Act. Section 5 also permits the keeping of up to 30 lbs (13.5Kg) of explosives by a person for private use and not for sale without any licence or registration. However this section does not provide any exemption for the keeping of small quantities of explosives, regardless of the quantity involved, by a company or individual which is not for private use e.g. the keeping of party poppers for sale in a retail outlet.

This Head amends section 5 of the Explosives Act by inserting a new subsection that will provide an exemption for the keeping of small quantities (11 lbs (5 Kg) net explosive content) of certain low hazard explosives in certain circumstances.

¹ The Act refers to gunpowder but under Section 39 of the Act this is made applicable to all other explosives. In modern times the term explosives includes all substances and articles that are classified as UN Class 1 and includes commercial explosives such as detonators, boosters, cartridged explosives. It also includes all pyrotechnics such as fireworks and marine flares as well as small arms ammunition.

² Factories and magazines are licensed by the Minister and are intended for the storage of large quantities of explosives (in excess of that which can be stored in a local authority store). The application process is specified in sections 6, 7 and 8 of the Act.

³ Provision for a local authority store is made under sections 15 to 20 of the Act and also in S.I 804 of 2007 Stores for Explosives Order 2007. The store is licensed by the local authority in whose jurisdiction the store is located and can be used for the storage of up to 2,000 Kgs of explosives and 50,000 Kgs of controlled substances.

⁴ Provision for a registered premises is made under sections 21 and 22 of the Act and up to 90 Kgs of explosives may be stored in a Mode A registered premises and 45 Kgs in a Mode B registered premises



Head 7 - Amendment of section 4 (Conspiring or soliciting to commit murder) of the Offences Against the Person Act 1861

Provide for:

The amendment of section 4* of the Offences Against the Person Act 1861 by the substitution in line 7 of –

“to a maximum sentence of life imprisonment.” for

“to be kept in penal servitude for any term not more than ten years.”

Note

This Head provides for an increase in the penalty for conspiring to commit murder and soliciting to commit murder from 10 years to up to life imprisonment. The penalty of up to life imprisonment, which is equivalent to that of attempted murder, is considered to be a more appropriate penalty given the seriousness of the offences in question.

See also related Head (8) – amendment to s.71 of the Criminal Justice Act 2006.

***Section 4 of Offences Against the Person Act 1861**

4. All persons who shall conspire, confederate, and agree to murder any person, whether he be a subject of Her Majesty or not, and whether he be within the Queen’s dominions or not, and whosoever shall solicit, encourage, persuade, or endeavour to persuade, or shall propose to any person, to murder any other person, whether he be a subject of Her Majesty or not, and whether he be within the Queen’s dominions or not, shall be guilty of a misdemeanor, and being convicted thereof shall be liable . . . to be kept in penal servitude for any term not more than ten . . . years . . .]



Head 8 - Amendment of section 71 (Offence of Conspiracy) of the Criminal Justice Act 2006

Provide for:

The amendment of subsection 71(1) of the Criminal Justice Act 2006 by the insertion of the following subsection after subsection 71(1) -

“(2) This section shall not apply to the offence of conspiring to commit murder or to the offence of soliciting to commit murder.”

Note

This Head clarifies that section 71 does not apply to the offence of conspiring to commit murder or to the offence of soliciting to commit murder. Those offences are provided for by s.4 (Conspiring or soliciting to commit murder) of the Offences Against the Person Act 1861.



Head 9 - Amendment of section 2 (Review of certain sentences) of the Criminal Justice Act 1993

Provide for:

The amendment of section 2 of the Criminal Justice Act 1993 by the insertion of the following subsection after subsection (4) –

“(5) Where a person is under the age of 18 when a sentence of detention is imposed and his 18th birthday occurs before a review of the sentence [is heard by] [comes before] the Court of Criminal Appeal, the Court may impose such sentence of imprisonment on the person, as it considers appropriate, being a sentence of imprisonment which is not greater than the maximum period of detention which could have been imposed on him by the sentencing court concerned.”

Note

This amendment concerns the sentencing powers of the Court of Appeal in relation to offenders who are under the age of 18 at the time of initial sentence but who have attained the age of majority before the appeal against sentence is heard.

The amendment allows the Court of Appeal to impose a sentence of imprisonment in such cases.



Head 10 - Amendment of section 3 (Jurisdiction of Court of Criminal Appeal in relation to appeals) of the Criminal Procedure Act 1993

Provide for:

The amendment of section 3 of the Criminal Procedure Act 1993 by the insertion of the following subsection after subsection (2) –

“(2A) Where a person is under the age of 18 when a sentence of detention is imposed and his 18th birthday occurs before a review of the sentence [is heard by] [comes before] the Court of Criminal Appeal, the Court may impose such sentence of imprisonment on the person, as it considers appropriate, being a sentence of imprisonment which is not greater than the maximum period of detention which could have been imposed on him by the sentencing court concerned.”

Note

This amendment is similar to the amendment in Head (9) in that it concerns the sentencing powers of the Court of Appeal in relation to offenders who are under the age of 18 at the time of initial sentence but who have attained the age of majority before the appeal against conviction is heard.

The amendment allows the Court of Appeal, should it so decide, to impose a sentence of imprisonment in such cases.



Head 11 - Amendment of section 265 (Right of appeal) of the Children Act 2001

Provide for:

The amendment of section 265 of the Children Act 2001 by the insertion of the following subsection after subsection (2) –

“(2A) Where a person is under the age of 18 when a sentence of detention is imposed and his 18th birthday occurs before a review of the sentence [is heard by] [comes before] the Court of Criminal Appeal, the Court may impose such sentence of imprisonment on the person, as it considers appropriate, being a sentence of imprisonment which is not greater than the maximum period of detention which could have been imposed on him by the sentencing court concerned.”

Note

This amendment is similar to the amendment in Heads (9) and (10) in that it concerns the sentencing powers of the appeal court in relation to offenders who are under the age of 18 at the time of the initial sentence of detention but who have attained the age of majority before the appeal against the sentence of detention is heard.



Head 12 - Amendment of section 2 (Interpretation) of the European Arrest Warrant (EAW) Act 2003

Provide for:

Amendment of Section 2 of the European Arrest Warrant Act 2003 by the insertion of the following definition after the definition of “European Communities”:

““flag” means the addition of an indication to an alert on the SIS, pertaining to an EAW, that an alternative action is to be taken in accordance with Recitals (15) and (16) of Council Decision 2007/533/JHA.

Note

This Head relates to Head 13 and provides for the inclusion of a definition of the term “flag” in the EAW Act 2003.

The flag on an Article 26 Alert is an alternative action flag to change the request from arrest to the lesser action of providing location details.



Head 13 - Amendment of section 16 (Committal of person named in European Arrest Warrant) of the European Arrest Warrant (EAW) Act 2003

Provide for:

The amendment of section 16(7) of the EAW Act 2003 by

- (a) the substitution in paragraph (a) of “decision,” for “decision, and”
- (b) the substitution in paragraph (b) of “custody, and” for “custody.”
- (c) the insertion of the following paragraph after paragraph (b) –
 - “(c) where appropriate, it [the High Court] shall direct the Commissioner of the Garda Síochána to request the SIRENE Bureau of the Member State which entered the alert on the SIS to add a flag to that alert.”

Note

In anticipation of Ireland becoming operationally connected to the Schengen Information System (SIS II) in 2020, this Head provides for the flagging of alerts related to European Arrest Warrants on the SIS II.



Head 14 - Amendment of section 45 (Persons convicted in absentia) of the European Arrest Warrant (EAW) Act 2003

Provide for:

The amendment of section 45 of the European Arrested Warrant Act 2003 by the substitution in line 1 of –

“The High Court may refuse to order the surrender of a person under this Act” for

“A person shall not be surrendered under this Act”

Note

This Head provides alignment with Article 4a (1) of the Council Framework Decision of 13 June 2002 (2002/584/JHA) as inserted by Council Framework Decision 2009/299/JHA.



Head 15 - Amendment of section 23A (Fixed charge offences) of the Criminal Justice (Public Order) Act 1994

Provide for:

The substitution of subsection (1) of section 23A of the Criminal Justice (Public Order) Act 1994 with the following subsection -

“23A. – (1) A member of the Garda Síochána who has reasonable grounds for believing that a person is committing, or has committed, an offence under section 5, section 21 or section 22 (in this section referred to as a “fixed charge offence”) may serve on the person personally or by post the notice referred to in subsection (5) or cause it to be so served.”

Note

In its report to the Criminal Justice Strategic Committee in December 2016, the Working Group on Alternatives to Prosecution recommended that offences under section 21 (Control of access to certain events) and 22 (Surrender and seizure of intoxicating liquor) of the Public Order Act 1994 should also be made available for disposal under the Fixed Charge Penalty Notice system.

This amendment provides for the application of the Fixed Charge Penalty notice system to the offences in question as recommended.



Head 16 - Amendment of section 16 (Admissibility of certain witness statements) of the Criminal Justice Act 2006

Provide for:

The amendment of section 16(1) of the Criminal Justice Act 2006 by the insertion, after “arrestable offence,” in line 1 of “or brought before a sitting of the Special Criminal Court and there charged with an offence in accordance with section 47 of the Offences against the State Act 1939,”

Note

The purpose of this amendment is to clarify that the provisions of s.16 of the Criminal Justice Act 2006 apply to persons brought before the Special Criminal Court pursuant to s.47 (Charge before Special Criminal Court in lieu of District Court) of the Offences against the State Act 1939.



Head 17 - Amendment of Schedule 1 to Criminal Justice Act 2011

Provide for:

The amendment of Schedule 1 to the Criminal Justice Act 2011 by the Amendment of the following paragraph for paragraph 28A –

“28A. An offence under section 5, 6, 7, 8, 9, 10 or 12 of the Criminal Justice (Corruption Offences) Act 2018.”.

Note

The purpose of this amendment is to correct an omission – the inclusion of section 12 of the Criminal Justice (Corruption Offences) Act 2018 as a relevant offence for the purpose of the Criminal Justice Act 2011.



Head 18 - Amendment of section 30 (Arrest and detention of suspected persons) of the Offences Against the State Act 1939

Provide for:

The amendment of subsection 30(1) of the Offences Against the State Act 1939 with the deletion of the text “or whom he suspects of being in possession of information relating to the commission or intended commission of any such offence as aforesaid.” in lines 9 and 10.

Note

This amendment gives effect to recommendations of the Hederman Committee on the Reform of the Offences Against the State Act in respect of subsection 30(1).



Head 19 - Amendment of section 9 (Withholding information) of the Offences Against the State (Amendment) Act 1998

Provide for:

The amendment of section 9 of the Offences Against the State (Amendment) Act 1998 by the substitution of the following subsection for subsection (3)

"(3) In this section "serious offence" means -

- (a) an offence within the meaning of section 8, or
- (b) a scheduled offence for the purposes of Part V of the Act of 1939.

Note

This amendment concerns the relationship between section 30 of the Offences Against the State Act 1939 and section 9 of the Offences Against the State (Amendment) Act 1998.

Section 9 of the 1998 Act is amended to ensure that the offences covered by section 30 of the 1939 Act, namely, scheduled offences under Part V of that Act, are also covered by section 9.



Head 20 - Amendment of section 75 (Search for **and access to** particular evidence for use outside State) of the Mutual Legal Assistance Act 2008

Provide for:

The amendment of s. 75 of the Mutual Legal Assistance Act by the substitution of the following section for section 75 -

“75.— (1) Subject to *subsections (2) and (3)*, this section applies to a request for assistance in obtaining specified evidential material or evidential material of a specified description for the purposes of criminal proceedings, or a criminal investigation, in a designated state, where there is power under any enactment to issue a warrant for the search of a place in respect of an offence constituted by the conduct giving rise to the request.

(2) This section does not apply to such a request from a member state unless the act is punishable—

(a) under the law of the State and the member state by imprisonment for a maximum period of at least 6 months, or

(b) under the law of the State by such imprisonment and under the law of the member state by virtue of being an infringement of the rules of law which is being prosecuted by the administrative authorities and where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.

(3) This section does not apply to such a request from a designated state (other than a member state) unless the conduct giving rise to the request is punishable under both the law of the State and the law of that state.

(4) This section also applies to such a request from a member state which is made in connection with a request under ***Part 4*** for the freezing of evidence in proceedings for an offence which may be punished in that state by imprisonment for a term of not less than 3 years.

(5) The Minister, if of opinion that this section applies to the request, may, subject to *subsection (6)*, send the request and any accompanying and related documents to the Commissioner of the Garda Síochána to arrange for the request to be complied with.

(6) The Minister shall not proceed in accordance with *subsection (5)* unless an assurance is given by the requesting authority—



(a) that any material that may be furnished in response to the request will not, without his or her prior consent, be used for any purpose other than that permitted by the relevant international instrument or specified in the request,

(b) that the material will be returned when no longer required for the purpose so specified (or any other purpose for which such consent has been obtained), unless he or she indicates that its return is not required, and

(c) that the material that may be furnished in response to the request may be challenged by the defendant at trial in the requesting state.

(7) A member of the Garda Síochána shall not enter any place in furtherance of the request without the consent of the occupier or the entry being authorised by an order under this section.

(8) Unless the material sought is already in the custody of the Garda Síochána, a member of the Garda Síochána not below the rank of inspector shall, on production of a copy of the request and of any accompanying or related documents, apply to **any** judge of the District Court ~~for the district where the evidential material is situated~~ for an order under *subsection 10*.

(8A) Where the material sought is already in the custody of the Garda Síochána or has been obtained on foot of an order under *subsection 10*, the Commissioner of the Garda Síochána shall arrange for the material to be transmitted to the requesting authority —

(a) without delay,

(b) in accordance with the request, and

(c) in accordance with any directions that the Minister may give.

(9) If, on the application, the judge is satisfied that this section applies to the request and it appears to him or her that there are reasonable grounds for believing that the person named in the request possesses, **controls or has lawful access to** the evidential material, the judge may make an order under subsection (10)

(10) An order under this subsection—

(a) shall require any person who appears to the judge to be in possession of **or to have control of or to have lawful access to** the evidential material—

(i) to produce it to a named member of the Garda Síochána so that he or she may take it away, or



(ii) to give the member access to it, either immediately or within a period specified in the order,

(b) may, if the order relates to evidential material at any place and on application by a member of the Garda Síochána, require any person who appears to the judge to be entitled to grant entry to the place to allow the member to enter it to obtain access to the material,

(c) shall authorise such a member, if the person who is so required to grant entry to the place **or to provide lawful access to the material** does not do so—

(i) to enter the place, accompanied by such other members or persons or both as the member thinks necessary, on production if so requested of the order and, if necessary, by the use of reasonable force,

(ii) to search the place and any persons present there,

(iii) to access, examine, seize, take away and retain any evidential material which is found at the place or in the possession **of or in the control of or which can be lawfully accessed by** a person so present and which the member reasonably believes to be the material concerned, and

(iv) to take such other steps as appear to the member to be necessary for preserving the evidential material and preventing interference with it.

(11) Where the evidential material consists of information contained in a computer, an order under this section has effect as an order to produce the material, or to give access to it, in a form which is legible and comprehensible or can be made so and in which it can be taken away.

(12) Such an order—

(a) in so far as it may empower a member of the Garda Síochána to take away a document or to be given access to it, authorises him or her to make a copy of it and to take the copy away,

(b) does not confer any right to production of, or access to, any evidential material subject to legal privilege, and

(c) subject to *paragraph (b)* and *subsection (17)*, has effect notwithstanding any other obligation as to secrecy or other restriction on disclosure of information imposed by statute or otherwise.

(13) Any evidential material taken away by a member of the Garda Síochána under this section shall be dealt with in accordance with the request.



(14) A judge of the District Court may at a sitting of the Court vary or discharge an order under this section on the application of a member of the Garda Síochána or of any person to whom the order relates.

(15) A member searching a place under the authority of an order under *subsection (10)* may—

(a) require any person present at the place where the search is being carried out to give his or her name and address to the member, and

(b) arrest without warrant any person who—

(i) obstructs or attempts to obstruct the member in carrying out his or her duties,

(ii) fails to comply with a requirement under *paragraph (a)*, or

(iii) gives a name or address which the member has reasonable cause for believing is false or misleading.

(16) A person who—

(a) obstructs or attempts to obstruct a member of the Garda Síochána acting under the authority of an order under this section,

(b) fails to comply with a requirement in an order under this section, or

(c) gives a false or misleading name or address to a member,

is guilty of an offence and liable on summary conviction to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both.

(17) Where—

(a) material has been supplied to a Government department or other authority by or on behalf of the government of another state,

(b) an undertaking was given that the material would be used only for a particular purpose or purposes,

an order under this section does not have the effect of requiring or permitting the production of, or the giving of access to, the material for any other purpose without the consent of that government.

(18) This section is without prejudice to **section 74** .

(19) In this section—

“evidential material” includes any such material or any data relating to assets or proceeds deriving from criminal conduct in the designated state concerned or their identity or whereabouts;

“member state” includes the Swiss Confederation; “

Note

The amendments to section 75 allow the Garda Síochána to respond to mutual assistance requests from designated states for access to material held in the Cloud.



Head 21 – Repeal of Part 4 (Requirements relating to Construction and Extensions of Prisons) of the Prisons Act 2007

Provide for:

The repeal of Part 4 (Requirements relating to Construction and Extensions of Prisons) of the Prisons Act 2007.

Note

Part 4 the Prisons Act is not compatible with Directive 2014/52/EU of 16 April 2014 and is being repealed. Instead, Part 9 of S.I. 600/2001 Planning and Development Regulations 2001, as amended, will be relied on.



Head 22 – Amendment of section 10 of Misuse of Drugs Act 1984 (as amended by section 170 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014)

Provide for:

The substitution of the following for section 10:

“10. In any criminal proceedings, the production of a certificate purporting to be signed by an officer of Forensic Science Ireland of the Department of Justice and relating to the receipt, handling, transmission and storage of anything specified in the certificate shall, until the contrary is proved, be evidence of any fact thereby certified without proof of any signature thereon or that any such signature is that of such an officer.”

Note

The amendment will extend the use of certificates of receipt, handling, transmission and storage to all evidential items submitted to FSI for analysis thereby bringing FSI into line with the practice of using certificates for expert analysis, such as, for example, in relation to drugs and drink driving.



Head 23 - Amendment of Schedule 1 (Common Law Offences) to the Bail Act 1997

Provide for:

The amendment of the Schedule to the Bail Act 1997 by the renumbering of the second numbered paragraph 39 (“Any offence under the Prevention of Corruption Acts 1889 to 2010”) as paragraph 39A.

Note

This is a technical amendment to correct a typing error which has resulted in the inclusion of two offences in the Schedule being numbered as “39”.



Head 24 – Amendment of Section 17 (Staff of Board) of the Parole Act 2019

Provide for:

The amendment of section 17(3) of the Parole Act by the substitution of the term 'Board' for the term 'Commission' in subsection (3)"

Note

This is a technical amendment. Section 17 of the 2019 Act deals with matters related to the staff of the Parole Board. A reference to "Commission" rather than Parole Board or 'Board' has been included in subsection 3 in error.



Head 25 - Amendment of Section 24 (Eligibility for parole) of the Parole Act 2019

Provide for:

The amendment of subsection 24(12) of the Parole Act 2019 by the deletion of “or (3F) of that section” from lines 3 and 4.

Note

This Head is a technical amendment which provides for the deletion of the reference to subsection 27 (3F) of the Misuse of Drugs Act 1977 – following the repeal of that subsection by the Criminal Justice (Repeal of certain provisions of the Firearms and Misuse of Drugs Acts) Bill 2020.



Head 26 - Short Title and Commencement

1. -(1) This Act may be cited as the Criminal Justice (Miscellaneous Provisions) Act 2020.

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