



STATUTORY INSTRUMENTS.

S.I. No. 470 of 2013



GARDA SÍOCHÁNA (ADMISSIONS AND APPOINTMENTS)
REGULATIONS 2013

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I, ALAN SHATTER, Minister for Justice and Equality, in exercise of the powers conferred on me by sections 121, 122, 123 and 128 (2) of the Garda Síochána Act 2005 (No. 20 of 2005) (as adapted by the Justice and Law Reform (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No.138 of 2011)), after consultation with the Commissioner of the Garda Síochána and with the approval of the Government, hereby make the following regulations:

Short title

1. These Regulations may be cited as the Garda Síochána (Admissions and Appointments) Regulations 2013.

Commencement

2. These Regulations come into operation on 3rd day of December 2013.

Definitions

3. In these Regulations—

“Commissioner” means the Commissioner of the Garda Síochána;

“EEA Agreement” has the same meaning as it has in the European Communities (Amendment) Act 1993 (No. 25 of 1993);

“EEA State” means a state, other than a Member State, that is a contracting party to the EEA Agreement;

“Leaving Certificate Examination” means the Leaving Certificate Examination of the Department of Education and Skills;

“member” means a member of the Garda Síochána;

“Member State” means a Member State of the European Communities;

“National Framework of Qualifications” has the same meaning as it has in the Qualifications and Quality Assurance (Education and Training) Act 2012 (No. 28 of 2012);

“probationary period” means, in relation to a member on probation, a period of 2 years from the date on which that person is appointed to be a member or such longer period as may be directed by the Commissioner in accordance with Regulation 12;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 6th December, 2013.*

“probationer” means a member on probation in accordance with Regulation 12;

“registered medical practitioner” has the same meaning as it has in the Medical Practitioners Act 2007(No. 25 of 2007);

“Regulations of 2007” means the Garda Síochána (Discipline) Regulations 2007 (S.I. No. 214 of 2007);

“Regulations of 2013” means the European Union (Subsidiary Protection) Regulations 2013 (S.I. No. 426 of 2013);

“relevant person”, for the purpose of Regulation 4(b)(i)(III), means a person—

- (a) (i) who has been declared under Regulation 20 of the Regulations of 2013 to be a person eligible for subsidiary protection or who is deemed under Regulation 31(1) of those Regulations to be such a person,
- (ii) who remains, under those Regulations, a person eligible for subsidiary protection, and
- (iii) in relation to whom a subsidiary protection declaration remains in force under those Regulations, or
- (b) who is a family member within the meaning of Regulation 23(4) of the Regulations of 2013;

“trainee” means a person who, in relation to the admission to membership of the Garda Síochána, is admitted for training as a member of the Garda Síochána in accordance with these Regulations.

Application for admission as trainee

4. Subject to the provisions of these Regulations, a person is eligible to apply for admission as a trainee where, on the closing date specified in the advertisement for the competition to which the admission relates—

- (a) the person has attained 18 years of age but has not yet attained 35 years of age,
- (b) (i) he or she—
 - (I) is a national of a Member State, an EEA State or the Swiss Confederation,
 - (II) is entitled under section 3, 18 or 24 of the Refugee Act 1996 (No.17 of 1996) to the rights and privileges specified in section 3 of that Act,
 - (III) is a relevant person, or
 - (IV) has had a period of one year’s continuous residence in the State and, during the 8 years immediately preceding that

period, has had a total residence in the State amounting to 4 years.

- (ii) A period of residence in the State shall not be reckonable for the purposes of determining whether a person meets the 5 year residency requirement referred to in paragraph (b)(i)(IV) if—
 - (I) it is in contravention of section 5(1) of the Immigration Act 2004 (No. 1 of 2004), or
 - (II) it consists of a period during which the person was entitled to remain in the State in accordance only with section 9(2) of the Refugee Act 1996, whether that period occurred before or after the amendment of that section by section 7 (c) (i) of the Immigration Act 2003 (No. 26 of 2003),
- (c) he or she has obtained-
 - (i) a grade of not less than D3 in 5 subjects at not lower than ordinary level in the Leaving Certificate Examination,
 - (ii) a Level 5 Certificate (Major Award) or greater that is recognised within the National Framework of Qualifications, or
 - (iii) such other qualification that, in the opinion of Quality and Qualifications Ireland, is of a standard in terms of both level and volume of learning that is not lower than the standard of those qualifications specified at subparagraphs (i) and (ii), and
- (d) he or she has proven proficiency in 2 languages, one of which shall be either English or Irish, which may be proven—
 - (i) by the grades or qualifications specified at paragraph (c) or,
 - (ii) in relation to Irish or English only, by undergoing such assessment or assessments as the Public Appointments Service shall determine.

Admission as a trainee

5. (1) Subject to the provisions of these Regulations, where a person has made an application for admission under Regulation 4, the Commissioner may arrange for the admission of the person as a trainee with a view to his or her subsequent appointment and enrolment as a member where the Commissioner is satisfied that, at the time of that arrangement for admission, that person-

- (a) continues to meet the requirements of Regulation 4(b),
- (b) has been successful in a competitive selection process organised by the Public Appointments Service that is of such a standard and takes into account such matters, including the giving of due recognition to any satisfactory service by the person as a reserve member of the

Garda Síochána, as the Public Appointments Service and the Commissioner, after consultation with the Minister, determine,

- (c) is of good character,
- (d) is certified by a registered medical practitioner nominated by the Commissioner to be in good health, of sound constitution and suited physically and mentally to performing the duties of a member,
- (e) has passed a physical competence test and such other tests as may be determined by the Commissioner, after consultation with the Minister,

and

- (f) is available to commence training within a reasonable time of being offered admission as a trainee.

(2) Notwithstanding any other provision of these Regulations, the Commissioner shall not admit a person for training as a member of the Garda Síochána with a view to his or her subsequent appointment and enrolment as a member unless it appears to the Commissioner that the person is generally suitable for such admission.

Conditions of service of trainees.

6. (1) The Commissioner may make provision for the admission and training of trainees (subject, in matters involving expenditure, to the approval of the Minister) and, without prejudice to the generality of the foregoing, may—

- (a) pay trainees sums by way of remuneration and expenses, and
- (b) provide premises for training purposes and other training facilities.

(2) The conditions of service of a trainee shall be governed by a contract entered into between the Commissioner and the trainee.

Number of persons to be admitted as trainees.

7. The number of persons to be admitted as trainees by reference to a particular competition shall be determined by the Commissioner with the consent of the Minister.

Qualifications for appointment and enrolment as member.

8. (1) The Commissioner shall not appoint and enrol a person as a member unless he or she is satisfied that the person—

- (a) has successfully completed such period of employment as a trainee as the Commissioner may, with the consent of the Minister, determine, and
- (b) at the time of the appointment and enrolment, meets the requirements of Regulation 4(b).

(2) A person who has been offered appointment and enrolment as a member shall not be so appointed and enrolled unless he or she has taken up the offer within a reasonable time.

(3) Notwithstanding any other provision of these Regulations, the Commissioner shall not appoint and enrol a person as a member unless he or she is satisfied that—

- (a) the person is certified by a registered medical practitioner nominated by the Commissioner to be in good health, of sound constitution and suited physically and mentally to perform the duties of a member, and
- (b) the person is generally suitable for appointment.

Appointment on authority of Government.

9. The Government, if they think it is in the public interest to do so, may authorise the Commissioner to appoint and enrol a specified person as a member without regard to the requirements of these Regulations and, upon being so authorised, the Commissioner shall duly appoint and enrol such person as a member.

Appointment of former member.

10. The Commissioner may, with the consent of the Minister, appoint and enrol any person as a member without regard to the requirements of these Regulations if that person has at any previous time served as a member.

Appointment of person having special or other technical qualifications.

11. The Commissioner may, with the consent of the Minister, duly appoint and enrol a person as a member without regard to the requirements of these Regulations where the Commissioner is satisfied that—

- (a) the person has special aptitudes, knowledge, skills or technical qualifications which justify his or her appointment and enrolment under this Regulation as a member, and
- (b) the person is of good character, in good health and of sound constitution and is suited physically and mentally to perform the duties to which he or she will be assigned in the Garda Síochána.

Probation

12. (1) Upon the first appointment under these Regulations of a person by the Commissioner to be a member, the member shall hold the rank of Garda and shall be on probation for the probationary period.

- (2) (a) The probationary period stands suspended where a probationer is absent due to maternity leave or adoptive leave and shall be completed on the return to work of the probationer.
- (b) Where the Commissioner considers that a probationer's absence while on parental leave would not be consistent with the continuance of the probationer's probation, the Commissioner may require that the

probation be suspended during the period of parental leave and be completed by that probationer at the end of that period.

(3) (a) Where a probationer is absent due to a period of suspension having been imposed on him or her, the period of the absence shall not be reckonable for probationary purposes whether such suspension is imposed under the Regulations of 2007 or otherwise.

(b) Where a probationer is absent for a consecutive period of 4 weeks or more for a reason other than one referred to at subparagraph (a) or paragraph (2), that period of absence shall not be reckonable for probationary purposes.

(4) Where a probationer has not demonstrated to the satisfaction of the Commissioner an ability to perform the functions of a member efficiently and effectively or otherwise to conduct himself or herself in a manner befitting a member, the Commissioner may, if he or she considers it necessary or expedient for the purpose of ascertaining whether the probationer concerned will demonstrate such ability, direct, on or before the expiration of the probationer's probationary period, that the probationer's probationary period be extended for such further period as may be specified in the direction.

(5) Where—

(a) it appears to the Commissioner that a probationer has committed a breach of discipline under the Regulations of 2007,

(b) a complaint has been made against a probationer under the Garda Síochána Acts 2005 to 2007, or

(c) a probationer, either within the State or otherwise, is the subject of a criminal investigation or criminal proceedings are pending against him or her,

the Commissioner may, from time to time, direct that the probationary period of the probationer be extended for such period as is specified in the direction.

(6) For the purposes of paragraph (5), a period of extension (or where more than one direction is given, the first of any such periods) shall commence on the expiration of the probationer's probationary period and the period of the extension (or where more than one direction is given, the last of any such periods) shall end not later than 28 days from the date of—

(a) the conclusion of any investigation, inquiry or appeal, as the case may be, under the Regulations of 2007 or of the breach of discipline being otherwise dealt with under those Regulations,

(b) the conclusion of any investigation or appeal, as the case may be, under the Garda Síochána Acts 2005 to 2007 or of the complaint being otherwise dealt with under those Acts, or

- (c) the conclusion of the criminal investigation or, where proceedings for an offence are pending, the conclusion of such investigation or such proceedings and any appeals or proceedings connected therewith, as appropriate.

(7) A direction under paragraph (5) shall not be given unless the Commissioner considers that—

- (a) in a case to which subparagraph (5)(a) applies, the breach of discipline, if proven,
- (b) in a case to which subparagraph (5)(b) applies, the complaint, if upheld,

or

- (c) in a case to which subparagraph (5)(c) applies, the conviction of the member of the offence to which the investigation relates or proceedings relate,

would be sufficient grounds for dispensing with the services of the probationer.

- (8) (a) The Commissioner may, at any time, subject to the provisions of this Regulation, having assessed the suitability of a probationer for retention in the Garda Síochána, dispense with the services of the probationer if he or she considers that—

- (i) that probationer is not suited, physically or mentally, to performing the functions of a member, or
- (ii) having regard to one or more of—
 - (I) the performance of that probationer,
 - (II) the behaviour of that probationer,
 - (III) assessments made by that probationer's Superintendent of the matters specified at (I) or (II) or of matters otherwise relating to that probationer's competence to serve as an efficient and effective member, or
 - (IV) the disciplinary record of that probationer,

that probationer has not demonstrated during the probationary period the competence to serve as an efficient and effective member.

- (b) The Regulations of 2007 shall not affect the application of subparagraph (a).

(9) Where the Commissioner proposes to dispense with the services of a probationer under paragraph (8),

- (a) the Commissioner shall notify the probationer in writing of the proposal and the reasons for that proposal, and
- (b) the probationer shall have 28 days from the date of the Commissioner's notification to make submissions to the Commissioner regarding the proposal.

(10) Where the Commissioner proposes to dispense with the services of a probationer under paragraph (8), he or she shall, if he or she considers it appropriate and necessary, for the purpose of enabling the probationer to—

- (a) make submissions to the Commissioner regarding the proposal, or
- (b) obtain advice, including professional legal advice in relation to the matter,

direct that the probationary period of the probationer be extended for a period not exceeding 28 days, and such period shall be specified in the direction.

(11) The period of 28 days referred to in paragraph (10) may be extended by the Commissioner in exceptional circumstances.

(12) A probationer whose probation has been extended under a direction to which this Regulation applies, shall be given a copy of it and the direction shall specify the period of extension of probation and the reason or reasons for such extension.

(13) A probationary period shall not, save in exceptional circumstances and with the consent of the Minister, exceed a total of 3 years.

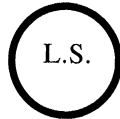
Revocations

13. (1) Subject to paragraph (2), the following Regulations are revoked:
- (a) Garda Síochána (Admissions and Appointments) Regulations 1988 (S.I. No. 164 of 1988);
 - (b) Garda Síochána (Admissions and Appointments) (Amendment) Regulations 1997 (S.I. No. 470 of 1997);
 - (c) Garda Síochána (Admissions and Appointments) (Amendment) Regulations 2000 (S.I. No. 164 of 2000);
 - (d) Garda Síochána (Admissions and Appointments) (Amendment) Regulations 2001 (S.I. No. 498 of 2001);
 - (e) Garda Síochána (Admissions and Appointments) (Amendment) Regulations 2004 (S.I. No. 749 of 2004);
 - (f) Garda Síochána (Admissions and Appointments) (Amendment) Regulations 2005 (S.I. No. 560 of 2005);

(g) Garda Síochána (Admissions and Appointments) (Amendment) Regulations 2006 (S.I. No. 509 of 2006).

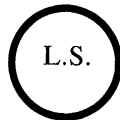
(2) Notwithstanding paragraph (1), where, immediately before the coming into operation of these Regulations, a member is on probation in accordance with the Regulations referred to at paragraph (1), those Regulations shall continue to apply to the member as if these Regulations had not been made.

The Government hereby approve of the making of the foregoing Regulations.



GIVEN under the Official Seal of the Government,
3 December 2013.

EAMON GILMORE,
Tánaiste.



GIVEN under my Official Seal,
this 3 day of December 2013.

ALAN SHATTER,
Minister for Justice and Equality.

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