



Number 19 of 2003

GARDA SÍOCHÁNA (POLICE CO-OPERATION) ACT 2003

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Appointment of members of Police Service of Northern Ireland to certain ranks in Garda Síochána.
3. Secondment from Police Service of Northern Ireland to certain ranks in Garda Síochána.
4. Secondment from Garda Síochána to Police Service of Northern Ireland.
5. Breach of discipline by seconded member of Garda Síochána.
6. Breach of discipline by seconded member of Police Service of Northern Ireland.
7. Regulations.
8. Laying of regulations before each House of the Oireachtas.
9. Short title, collective citation, construction and commencement.

SCHEDULE

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

[No. 19.]

*Garda Síochána (Police
Co-Operation) Act 2003.*

[2003.]

ACTS REFERRED TO

Garda Síochána (Complaints) Act 1986	1986, No. 29
Garda Síochána Act 1924	1924, No. 25
Garda Síochána Acts 1923 to 1989	
Garda Síochána Compensation Acts 1941 and 1945	
Police Forces Amalgamation Act 1925	1925, No. 7



Number 19 of 2003

GARDA SÍOCHÁNA (POLICE CO-OPERATION) ACT 2003

AN ACT TO MAKE PROVISION, IN ACCORDANCE WITH 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, IN RELATION TO THE APPOINTMENT AND SECONDMENT OF MEMBERS OF THE POLICE SERVICE OF NORTHERN IRELAND TO SUCH RANKS IN THE GARDA SÍOCHÁNA AS MAY BE PRESCRIBED, THE SECONDMENT OF MEMBERS OF THE GARDA SÍOCHÁNA TO THAT SERVICE AND OTHER CONNECTED MATTERS. [24th June, 2003]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, unless the context otherwise requires— Interpretation.

“1924 Act” means the Garda Síochána Act 1924;

“1925 Act” means the Police Forces Amalgamation Act 1925;

“1986 Act” means the Garda Síochána (Complaints) Act 1986;

“Acts” means the Garda Síochána Acts 1923 to 1989;

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

“Commissioner” means the Commissioner of the Garda Síochána;

“Disciplinary Regulations” means the Garda Síochána (Discipline) Regulations 1989 (S.I. No. 94 of 1989);

“Minister” means the Minister for Justice, Equality and Law Reform;

“prescribed” means prescribed by regulations made by the Minister under *section 7*.

(2) In this Act—

(a) a reference to a section is to a section of this Act,

[No. 19.] *Garda Síochána (Police Co-Operation) Act 2003.* [2003.]

S.1 (b) a reference to a paragraph is to the paragraph of the provision in which the reference occurs, and

(c) a reference to an enactment is to that enactment as amended by or under any other enactment, including this Act.

(3) 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, is set out in the Schedule to this Act for convenience of reference.

Appointment of members of Police Service of Northern Ireland to certain ranks in Garda Síochána.

2.—(1) The Government may appoint members of the Police Service of Northern Ireland to such ranks in the Garda Síochána not below superintendent as may be prescribed.

(2) The number or proportion of vacancies in each rank to which such members may be appointed may also be prescribed.

(3) In determining the eligibility of a member of the Police Service of Northern Ireland to apply for appointment to a rank in the Garda Síochána under this section, appropriate recognition shall be given to the rank, experience and qualifications that would be required for appointment to an equivalent rank in the Police Service of Northern Ireland.

(4) Such a member shall compete in a merit-based selection procedure with the other applicants for appointment to the rank in the Garda Síochána concerned.

Secondment from Police Service of Northern Ireland to certain ranks in Garda Síochána.

3.—(1) Subject to *subsection (2)*, the Commissioner may, at the request of the Chief Constable—

(a) appoint a member of the Police Service of Northern Ireland to a rank in the Garda Síochána not above that of inspector for a period not exceeding 3 years, or

(b) request the Government to appoint such a member to a rank in the Garda Síochána not below that of superintendent for such a period, and the Government may do so.

(2) The ranks in the Garda Síochána to which such members may be appointed under this section and the number of such members to be so appointed may be prescribed.

(3) A person appointed under this section shall, during the appointment—

(a) be under the direction and control of the Commissioner, and

(b) subject to *subsection (4)*, have the powers, duties, rights and obligations of a member of the Garda Síochána of the rank to which he or she was appointed.

(4) The following provisions do not apply in relation to a person appointed under this section:

(a) sections 10 and 11 of the 1924 Act,

[2003.]

*Garda Síochána (Police
Co-Operation) Act 2003.*

[No. 19.]

- (b) the 1925 Act and regulations under it, other than regulations relating to the matters specified in paragraphs (c), (d) and (f) of section 14(1) of that Act, and
- (c) the Garda Síochána Compensation Acts 1941 and 1945.
- (5) The Commissioner or the Government, as the case may be, may terminate an appointment under this section.

4.—(1) The Commissioner may, on application by a member of the 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.

Secondment from Garda Síochána to Police Service of Northern Ireland.

- (2) The Commissioner may terminate any such secondment.
- (3) During the period of secondment—
- (a) the member shall continue to be paid as a member of the Garda Síochána, but shall not be subject to the direction or control of the 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 the Garda Síochána for pension, promotion and seniority purposes, and
- (c) the member shall be 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 performance 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 performance of his or her duties as a member of the Garda Síochána.
- (4) The number and rank of members of the Garda Síochána who may be seconded under this section may be prescribed.

5.—(1) A member of the Garda Síochána who, while on secondment to the Police Service of Northern Ireland, does any act which, if done by a member of that Service, would constitute a breach of discipline is liable, on the expiration or termination of the period of secondment, to disciplinary action by the Commissioner or the Government, as appropriate, in respect of the breach.

Breach of discipline by seconded member of Garda Síochána.

- (2) Disciplinary action under *subsection (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 discipline by members of the Police Service of Northern Ireland, that the member of the Garda Síochána concerned is in breach of discipline,
- (b) a decision on any appeal against, or review of, the finding,
- (c) any relevant court proceedings, and
- (d) any related documents.

S.5

(3) Before taking any such disciplinary action the Commissioner or Government shall—

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

(4) Within 21 days of—

- (a) receiving the decision of the Commissioner on the cause shown, or
- (b) if cause is not shown before the expiration of the specified period, the expiration of that period,

the member may apply to the Appeal Board for a review of the disciplinary action concerned.

(5) The Appeal Board shall recommend to the Commissioner that the disciplinary action be affirmed, varied or set aside.

(6) The procedure under the Disciplinary Regulations for making and dealing with applications to the Appeal Board for review of decisions of the Commissioner in relation to disciplinary action shall apply, with the necessary modifications, in relation to applications for review under this section.

(7) Subject to *subsection (6)*, the Disciplinary Regulations do not apply in respect of a breach of discipline referred to in *subsection (1)*.

(8) In any proceedings a document purporting to be—

- (a) a finding or decision mentioned in *subsection (2)* shall be evidence, until the contrary is shown, of the finding or decision, or
- (b) a report of court proceedings, or a related document, mentioned in that subsection shall be evidence, until the contrary is shown, of the matters referred to in the report or that document.

(9) In this section—

“Appeal Board” has the meaning given to it in the Disciplinary Regulations;

“disciplinary action” means one of the following actions:

- (a) dismissal;
- (b) requirement to retire or resign as an alternative to dismissal;
- (c) reduction in rank;
- (d) reduction in pay not exceeding in amount 4 weeks’ pay;
- (e) reprimand;
- (f) warning;
- (g) caution;
- (h) advice.

(10) A member of the Garda Síochána to whom *subsection (1)* S.5 applies shall, whether or not the period of secondment has expired or been terminated, co-operate with any investigation referred to in *subsection (2)(a)* into the alleged breach of discipline as if he or she were a member of the Police Service of Northern Ireland, and any failure or refusal to do so shall constitute a breach of discipline within the meaning of the Disciplinary Regulations.

6.—(1) Where a person appointed to a rank in the Garda Síochána under *section 3* admits a breach of discipline or is found to be in such breach, no disciplinary action shall be decided upon, recommended or taken, but the Commissioner shall transmit to the Chief Constable the report of the investigation and a copy of the admission or finding, together with a copy of the decision on any appeal, any related documents and a report of any relevant court proceedings; and the application of the Disciplinary Regulations in relation to such a person is modified accordingly.

Breach of discipline
by seconded
member of Police
Service of Northern
Ireland.

(2) Where a complaint against such a person is made under the 1986 Act, that Act shall have effect with the following modifications:

- (a) if the complaint is referred by the Garda Síochána Complaints Board to the Commissioner under *section 7(4)(a)* of the Act, the Commissioner shall not proceed to deal with the complaint by way of advice, admonition or warning, but shall transmit the relevant documents to the Chief Constable;
- (b) if the complaint is referred by that Board to a tribunal under *section 7(5)* of the Act and the person either admits a breach of discipline or is found by the tribunal to be in such breach, the tribunal shall not decide that any disciplinary action should be taken against the person, but shall send a copy of the admission or finding and of any other relevant documents to the Commissioner for transmission to the Chief Constable;
- (c) the Garda Síochána Complaints Appeal Board shall send to the Commissioner a copy of its decision on any appeal by such a person under *section 11(2)(a)* of the Act and any other relevant documents;
- (d) on the determination of any such appeal or, as the case may be, the expiration of the period within which a person must notify the Appeal Board of his or her intention to appeal, the Commissioner shall transmit to the Chief Constable the documents mentioned in *paragraph (b)* and, as appropriate, those mentioned in *paragraph (c)*;

and any other necessary modifications.

(3) For the purposes of proceedings against such a person under the Disciplinary Regulations or 1986 Act, those Regulations, that Act and this section shall, notwithstanding that the period of secondment has expired or been terminated and for as long as the person is a member of the Police Service of Northern Ireland, continue to apply in relation to the person as if he or she were a member of the Garda Síochána.

(4) The Commissioner shall inform the Minister of any transmission of documents to the Chief Constable under this section.

S.6 (5) The reference in *subsection (1)* to a breach of discipline is to a breach of discipline within the meaning of the Disciplinary Regulations and the reference in *subsection (2)(b)* to such a breach is to a breach of discipline within the meaning of the 1986 Act.

Regulations. 7.—(1) Notwithstanding anything in the Acts, the Minister may make regulations for any matter referred to in this Act as prescribed or for the purpose of giving full effect to this Act, and the regulations may contain such incidental, supplementary or consequential provisions as appear to the Minister to be necessary or expedient for that purpose.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may provide for—

(a) specifying—

(i) the ranks that members of the Police Service of Northern Ireland must hold to be eligible for appointment under *section 2* or *3* to specified ranks in the Garda Síochána, and

(ii) any experience or qualifications that may be necessary or desirable for appointment to any of those ranks,

(b) any necessary amendments of regulations for the time being in force under *section 14(1)(a)* of the 1925 Act and relating to the admission and appointment of members of the Garda Síochána, and

(c) procedural matters relating to—

(i) appointments under *sections 2* and *3* to ranks in the Garda Síochána, including, in relation to appointments under *section 2*, the conduct of competitions for vacancies in the ranks concerned,

(ii) secondments to the Police Service of Northern Ireland under *section 4*, or

(iii) the taking of disciplinary action under *section 5*.

(3) Regulations under *subsection (2)(b)* shall be made with the approval of the Government.

Laying of regulations before each House of the Oireachtas.

8.—Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and, if either such House shall, within 21 days on which the House has sat after the regulation was laid before it, pass a resolution annulling it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.

Short title, collective citation, construction and commencement.

9.—(1) This Act may be cited as the Garda Síochána (Police Co-Operation) Act 2003.

(2) The Acts and this Act may be cited together as the Garda Síochána Acts 1923 to 2003 and shall be construed as one.

(3) *Sections 3(4)(c)*, *4(3)(c)* and the Garda Síochána Compensation Acts 1941 and 1945 may be cited together as the Garda Síochána Compensation Acts 1941 to 2003 and shall be construed as one.

[2003.] *Garda Síochána (Police Co-Operation) Act 2003.* [No. 19.]

(4) Sections 6(2) and 6(4) and the 1986 Act may be cited together as the Garda Síochána (Complaints) Acts 1986 and 2003 and shall be construed as one. S.9

(5) This Act shall come into operation on such day as the Minister may appoint by order.

(6) An order under subsection (5) shall be laid by the Minister before each House of the Oireachtas.

SCHEDULE

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

SCH.

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

[2003.]

*Garda Síochána (Police
Co-Operation) Act 2003.*

[No. 19.]

addressing detailed aspects of co-operation between them, including SCH.
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

SCH. 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

Entry into force

Each Government shall notify the other in writing of the completion, so far as it is concerned, of the requirements for entry into

[2003.]

*Garda Síochána (Police
Co-Operation) Act 2003.*

[No. 19.]

force of the Agreement. This Agreement shall enter into force on SCH.
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: For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

JOHN O'DONOGHUE

JOHN REID